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Finance Act 2017

The Finance Act 2017 has been gazetted on 16th January 2017 to take effect the proposals made in the 2017 Budget with the following notable changes:-

- i. Relief for Purchase of Breastfeeding Equipment
 - As proposed previously, effective year of assessment ["YA"] 2017, relief of RM1,000 shall be given to a female taxpayer with child aged 2 years and below, claimable once in every 2 years.
 - Additionally, it is stated that the maximum deduction of RM1,000 shall be allowed notwithstanding that the taxpayer has more than one child.

Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)

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- ii. Relief for Fees Paid to Child Care Centres and Kindergartens
 - As proposed previously, effective YA 2017, relief of up to RM1,000 shall be given to either parent of a child on fees paid to child care centres and kindergartens for:-
 - child aged 6 and below; and
 - child care centres registered with the Director General of Social Welfare under the Child Care Centre Act 1984 or kindergartens registered under the Education Act 1996
 - Additionally, it is stated that the maximum deduction of RM1,000 shall be allowed notwithstanding that the taxpayer has more than one child.

Country-by-Country Reporting

In line with the Guidance on the Implementation of Transfer Pricing Documentation and Country-by-Country Reporting of the Organisation for Economic Co-operation and Development on Base Erosion and Profit Sharing, the Income Tax (Country-by-Country Reporting) Rules 2016 has recently been gazetted. The Rules specify the application, requirements and filing obligation of the country-by-country reporting by a reporting entity of a multinational corporation group ["MNC Group"].

Salient points of the above Rules include:-

- i. Application
 - The Rules shall apply to a MNC group where:-
 - any of its constituent entities having cross border transaction with its other constituent entities;
 - the total consolidated group revenue in the financial year preceding the reporting financial year is at least RM3 billion;
 - the ultimate holding company is incorporated under the Companies Act 1965 or under any written law and is resident in Malaysia; and
 - its constituent entities are incorporated or registered under the Companies Act 1965 or under any written law or under the laws of a territory outside Malaysia and resident in Malaysia.
- ii. Requirements of the Country-by-Country Report ["CbCR"]
 - A CbCR with respect to a MNC Group shall contain the following:-
 - aggregate information relating to the amount of revenue, profit or loss before tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNC Group operates; and

➤ [Income Tax \(Country-by-Country Reporting\) Rules 2016](#)

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- an identification of each constituent entity of the MNC Group setting out the jurisdiction of tax residence of such constituent entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such constituent entity is organised, and the nature of the main business activity or activities of such constituent entity.
 - The financial information shall be denominated in Ringgit Malaysia.
 - The CbCR should be filed with the Malaysian Inland Revenue Board ["MIRB"] on an electronic medium or through electronic transmission in extensible markup language format.
- iii. Filing Obligation
- For Malaysian MNC Groups, i.e. where the ultimate holding company is incorporated and resident in Malaysia and the Group satisfied the conditions mentioned in item (i) above, the ultimate holding company is required to file the CbCR.
 - For foreign MNC Groups, i.e. where the ultimate holding company is not incorporated and not resident in Malaysia, a constituent entity which is resident in Malaysia and appointed by the MNC Group as a sole substitute for the holding company as the "surrogate holding company" may also be required to file the CbCR with the MIRB in certain cases.
- iv. Time for Filing
- The CbCR must be filed with the MIRB not later than 12 months after the last day of the reporting financial year end of the MNC Group.
- v. Use and Confidentiality
- The CbCR may be used for the purposes of assessing high-level transfer pricing risks in Malaysia, including assessing the risk of non-compliance by constituent entities of the MNC Group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis.
 - The CbCR shall not be used as a substitute for a detailed transfer pricing analysis for the purpose of transfer pricing adjustments.
 - The confidentiality of the information shall be preserved at least to the same extent that would apply if such information were provided under the provisions of the Convention on Mutual Administrative Assistance in Tax Matters.

The above Rules come into operation on 1st January 2017.

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Stamp Duty Exemption on Instruments relating to Islamic Banking, *Takaful* Activities and Islamic Centre

Pursuant to the Stamp Duty (Exemption) (No. 3) Order 2016, exemption from stamp duty is granted to the following instruments relating to Islamic banking, *takaful* activities and Islamic capital market under a scheme to promote Malaysia International Islamic Financial Centre :-

- Instruments on transaction in currencies other than ringgit between a qualifying person (i.e. the International Currency Business Unit in an Islamic bank / bank / investment bank / *takaful* operator or an international Islamic bank / *takaful* operators licensed under the relevant laws) and a resident or non-resident customer; and
- Instruments relating to the issuance of Islamic bonds in ringgit or foreign currencies.

The above exemption applies to instruments executed or instruments relating to the issuance of Islamic bonds approved by the Securities Commissions from 1st January 2017 to 31st December 2020.

Stamp Duty Remission on Instruments of Transfer of Ownership for Residential Property

Pursuant to the Stamp Duty (Remission) Order 2016, an amount according to the value of residential property shall be remitted from the stamp duty chargeable on any instrument of transfer to a Malaysian citizen for the purchase of only 1 residential property (i.e. a house, a condominium unit, an apartment or a flat to be used as a dwelling house) costing not more than RM500,000 as follows:-

<u>Value of Residential Property</u>	<u>Stamp Duty Remitted</u>
• RM300,000 or less	100%
• More than RM300,000 until RM500,000	RM5,000 from the total amount of stamp duty chargeable

The remission is given on the conditions that:-

- the sale and purchase agreement ["SPA"] is executed between 1st January 2017 and 31st December 2018; and
- the individual has never owned any other residential property or part thereof, including residential property obtained by way of inheritance or gift, supported by a statutory declaration confirming as such.

The above remission applies to instruments executed on or after 1st January 2017.

- [Stamp Duty \(Exemption\) \(No. 3\) Order 2016](#)

- [Stamp Duty \(Remission\) Order 2016](#)

Stamp Duty Remission on Loan Agreements to Purchase Residential Property

Pursuant to the Stamp Duty (Remission) (No. 2) Order 2016, an amount according to the loan amount shall be remitted from the stamp duty chargeable on loan agreement to a Malaysian citizen for the purchase of only 1 residential property (i.e. a house, a condominium unit, an apartment or a flat to be used as a dwelling house) costing not more than RM500,000 as follows:-

<u>Loan Amount</u>	<u>Stamp Duty Remitted</u>
<ul style="list-style-type: none"> • RM300,000 or less 	100%
<ul style="list-style-type: none"> • More than RM300,000 until RM500,000 	RM1,500 from the total amount of stamp duty chargeable

The remission is given on the conditions that:-

- the SPA is executed between 1st January 2017 and 31st December 2018; and
- the individual has never owned any other residential property or part thereof, including residential property obtained by way of inheritance or gift, supported by a statutory declaration confirming as such.

The above remission applies to instruments executed on or after 1st January 2017.

Hyperlinks

- [Income Tax \(Remission\) \(No.2\) Order 2016](#)

Hyperlinks

GST Guides

The Royal Malaysian Customs Department has recently issued the following revised guides on Goods and Services Tax ["GST"]:-

- i. General Guide (revised as at 13.02.2017)
 - The salient amendments to the General Guide are summarised below:-
 - Paragraph 101
 - Effective 1st January 2017, a non-GST registrant is required to account for GST on imported services not later than the last day of the subsequent month:-
 - from the month in which the payment for the supply of imported services is made; or
 - from the date (or month) in which the invoice is received from the foreign supplier
 - whichever is the earlier.
 - Paragraph 188
 - Deletion of the permissible timeframe for a taxable person to claim input tax credit within six (6) years from the date of supply or importation
 - Paragraph 192
 - The definition of "passenger motor vehicle" has been redefined as a vehicle which is legally licensed and constructed, modified or adapted for the purpose of carrying or capable of transporting and is commonly available or used on public roads in Malaysia
 - Paragraph 198
 - Inclusion of investment holding company as an entity which is not eligible to claim input tax attributable to exempt financial supplies
 - Paragraph 199
 - The timeframe to process refund of input tax within 28 working days for manual submission of GST return has been removed
 - Paragraphs 202(c)(ii), 202(c)(iii), 202(c)(iv), 202(d)(ii)
 - Amendment of commentary relating to input tax incurred prior to registration or due to late registration
- ii. Specific Guides
 - Guide on Free Zone (revised as at 01.01.2017)
 - Employee Benefits (revised as at 23.01.2017)
 - Guide on Supply (revised as at 13.02.2017)
 - Guide on Import (revised as at 25.01.2017)
 - The salient amendments to the Guide on Import are as follows:-

Hyperlinks

- Updated Table 1 :
GST Treatment on the Supply or Removal of Goods from Free Commercial Zone ["FCZ"] to Principal Customs Area ["PCA"] / Free Industrial Zone ["FIZ"] / Licensed Manufacturing Warehouse ["LMW"]

No	Supply or Removal From	To	Customs Form	GST Treatment
1.	FCZ	PCA	K1	With Approved Trader Scheme ["ATS"] – GST is suspended; No ATS – subject to GST, payable through K1.
2.	FCZ	FIZ	K8	Suspended
3.	FCZ	LMW	K1 / K9	With ATS – GST is suspended; No ATS – subject to GST, payable through K1.

- Updated Table 2 :
GST Treatment on the Supply of Imported Goods in a Bonded Warehouse to PCA / FIZ / LMW

No	Supply or Removal From	To	Customs Form	GST Treatment
1.	Bonded Warehouse	PCA	K1 / K9	With ATS – GST is suspended; No ATS – subject to GST, payable through K1 / K9.
2.	Bonded Warehouse	FIZ	K8	Suspended
3.	Bonded Warehouse	LMW	K1 / K9	With ATS – GST is suspended; No ATS – subject to GST, payable through K1 / K9.

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- Updated Table 3 :
GST Treatment on the Supply of Goods in a Bonded Warehouse that Belongs to LMW or FIZ Companies

No	Supply or Removal From	To	Customs Form	GST Treatment
1.	Bonded Warehouse	PCA	K1 / K9	GST to be charged in tax invoice; Only Customs duties to be charged through K1 / K9.
2.	Bonded Warehouse	FIZ	K8	Suspended
3.	Bonded Warehouse	LMW	K1 / K9	Relief from charging GST under Paragraph 56(3)(b) of the GST Act 2014; Customs duties exempted.

GST Order

The Free Zones (Exclusion of Goods and Services) (Amendment) Order 2017 has recently been gazetted.

The above Order comes into operation on 1st February 2017.

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