

2016 Budget Highlights

Executive Summary

A tweet by our honourable Prime Minister cum Minister of Finance, Y.A.B. Dato' Sri Mohd Najib Tun Haji Abdul Razak seeking contribution of ideas for the 2016 Budget went out on 6th September 2015; a silent chime that the budget season is here.

Events plaguing our beloved country leading up to the 2016 Budget has been worrying, if not painful. The setting up of the Special Economic Committee indicated serious economic woes. The free fall of the *ringgit* contributed by the drop in crude Brent oil prices and slowdown in global economy became the talk of the town, even piquing interest of nonchalant people who once was not bothered by the country's economic issues.

Complaints from the man in the street on the diminishing purchasing power are resounding loudly after the effects of the implementation of GST gradually sinks in. Not forgetting the mother of all issues, the 1MDB saga that has yet to see an end.

The *rakyat*, keeping their fingers crossed, wished that the 2016 Budget will not be as choking as the haze which brought cheers to the children though it could not be said the same for the parents, hoping for the right goodies for the feel-good factor.

Tabled on 23rd October 2015, the 2016 Budget entails to address key issues to strike a balance between Capital Economy and People Economy whilst setting up the first phase of the 11th Malaysia Plan, the final leg towards our final push to achieving high-income nation status come year 2020.

Hyperlinks

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

- [2016 Budget Speech and Appendices](#)
- [Finance Bill 2015](#)
- [2015 Budget Seminar](#)

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“Prospering the *Rakyat*,” the theme for 2016 Budget appears to be people-centric, focusing on the 5 priorities of:-

1. Strengthening Economic Resilience
2. Increasing Productivity, Innovation and Green Technology
3. Empowering Human Capital
4. Advancing *Bumiputera* Agenda
5. Easing the Cost of Living of the *Rakyat*

Increase in Personal Tax Rate

The poor getting poorer and the rich getting richer.

The saying seems to be addressed in the latest budget. While the floor wishes for a reduction in tax rates, it came as a surprise that the trend of gradually reducing the personal income tax rates since YA 2008 has been broken!

This time around, the lower and middle income earners are the top gainers with the increase in the amount for relief claims across the board while the upper echelons will feel the pinch with the increase of tax rate by 1% to 3% on the chargeable income band of RM600,001 onwards from YA 2016.

Expanding the Zero-Rated and Exemption List of GST

The bad news is GST is here to stay for good.

The good news is the zero-rated list is being expanded and more GST reliefs are being given.

Addressing the issue of rising cost in health care, the government has taken the initiative to expand the zero-rated list for medicines from 4,215 to 8,630 number of brands. Amongst those are additional 95 brands of over-the-counter medicines used for treating 30 types of illness, namely the four major killers amongst Malaysian i.e. cancer, diabetes, hypertension and heart disease.

Aside from medicines, food items like soybean-based milk and organic-based milk for infant and children, chickpeas, green and white beans and a few others are also being included in the zero-rated list now.

Rebate on GST paid on prepaid telecommunication services is also made available for the period of 1st January 2016 to 31st December 2016.

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Easing the Burden of the *Rakyat*

With the current economic climate coupled with the ever rising cost of living, the lower and middle income earners will certainly find it overbearing.

In addressing the above, the national minimum wage will be increased from RM900 to RM1,000 per month for Peninsular Malaysia and from RM800 to RM920 for East Malaysia for all sectors except for domestic maid.

Personal reliefs on child, wife, parental care, education and contribution to SOCSO have either been enhanced or introduced from YA 2016.

Failure to Furnish Tax Returns and Electronic Submission

Errant taxpayers beware.

It is now a criminal offence for failure to furnish tax returns for 2 or more consecutive years. Upon conviction, taxpayers will be liable to a fine of RM1,000 to RM20,000 or imprisonment for a term not exceeding 6 months or both. A special penalty treble the amount of tax charged on the chargeable income may also be imposed by the DGIR to his best judgment.

Even a failure to furnish correct particulars could get you into trouble and liable to a fine or imprisonment or both as mentioned above.

Another notable highlight from Budget 2016 is the requirement to file certain prescribed forms by way of electronic medium.

It has always been the intention of the IRB to adopt the paperless approach. Taxpayers who have yet to adopt the practice of electronic submission will be left with no choice when the new provision is enacted. The new provision will require taxpayers to file the prescribed forms electronically beginning from YA 2016.

Incentives and Special Reinvestment Allowance

It is not about the cards you are dealt, but how you play the hand. To turn the weakening *ringgit* into a good card, the criteria for the tax incentives has been relaxed slightly to boost exports of the manufacturing and agriculture companies. Coupling with it are efforts to boost tourism in Malaysia by extending additional 3 years for the tax incentives to tour operating companies.

Also, a good cheer for companies who has exhausted their eligibility to qualify for RA. Budget 2016 brought along a favourable proposal whereby a special RA be made available for reinvestments made in a period of 3 years of assessment, i.e. from YA 2016 to YA 2018. However, it is important to note that the qualifying capital expenditure for the purposes of the special RA does not include GST input tax.

Conclusion

Without doubt, for the past few months, we were in the international spotlight for all the wrong reasons. Foreign investors' confidence towards our nation has taken a huge nose-dive. The *ringgit* has faltered. Speculation of the possibility of our beloved nation being bankrupt has hit the grapevines and every single day, news inciting racial discord colours the pages of our media.

The odds seems to not be in our favour.

Cushioning the impact, various efforts have been made. To counter the rising cost of living, improvement on infrastructures together with the increase in reliefs and extension of incentives were proposed in the 2016 Budget.

For this, we have summarised the key amendments outlined in the 2016 Budget into the following broad categories:-

- A. Income Tax – Changes Affecting Individuals
- B. Income Tax – Changes Affecting Companies and Unincorporated Businesses
- C. Investment Incentives
- D. Real Property Gains Tax
- E. Petroleum Income Tax
- F. Stamp Duty
- G. Goods and Services Tax
- H. Others

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Legend

DGIR	=	Director General of Inland Revenue
DGRMC	=	Director General of Royal Malaysian Customs
GST	=	Goods and Services Tax
GST Act 2014	=	Goods and Services Tax Act 2014
IRB	=	Inland Revenue Board
ITA	=	Investment Tax Allowance
ITA 1967	=	Income Tax Act 1967
LBATA 1990	=	Labuan Business Activity Tax Act 1990
MOF	=	Ministry of Finance
PIA 1986	=	Promotion of Investments Act 1986
PITA 1967	=	Petroleum (Income Tax) Act 1967
R&D	=	Research and Development
RA	=	Reinvestment Allowance
REITs	=	Real Estate Investment Trusts
RMC	=	Royal Malaysian Customs
RPGT	=	Real Property Gains Tax
RPGT Act 1976	=	Real Property Gains Tax Act 1976
SC	=	Securities Commission
SME	=	Small and Medium Enterprise
SOCSSO	=	Social Security Organisation
WT	=	Withholding Tax
YA	=	Year of Assessment

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A. *Income Tax – Changes Affecting Individuals*

1. **Review of Basis Period in which Employment Income is Subject to Tax**

- Employment income be subject to tax in the year of receipt instead of the year where the said income is receivable
- The related provisions governing, amongst others, the basis period in which employment income receivable in respect of a period should be subject to tax, the manner of apportionment of employment income receivable in respect of a period which overlaps the basis period, be removed as such provisions are no longer applicable
- Employment income receivable by an employee who has left Malaysia or who will be leaving Malaysia in respect of a subsequent period be treated as deemed to have been received in the basis period prior to the subsequent period
- Effective YA 2016

2. **Increase in Relief for Taxpayer Whose Spouse has No Income and Who Pays Alimony to Former Wife**

- Relief for taxpayer whose spouse has no income and/or who pays an alimony to his former wife be increased from RM3,000 to RM4,000
- Effective YA 2016

3. **Increase in Relief for Study Fees Incurred on Tertiary Education**

- Relief for study fee incurred on pursuing selected fields of study up to tertiary level, or on pursuing any field of study at Master or Doctorate level at any approved institution or professional body in Malaysia be increased from RM5,000 to RM7,000
- Effective YA 2016

4. **Relief for Employees' Contribution to SOCSO**

- Relief of up to RM250 be given on contributions made by a resident individual to SOCSO
- Effective YA 2016

5. **Relief for Parental Care**

- Relief for parental care of RM1,500 be given to a resident individual for each parent
- Sharing of relief in equal proportion between siblings be allowed provided that the total relief claimed for each parent does not exceed RM1,500
- Eligibility criteria:-
 - parent aged 60 years and above;
 - parent is a tax resident of Malaysia;

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- annual income of each parent does not exceed RM24,000;
 - relief is claimable for a maximum of 2 parents; and
 - no claim has been made by the taxpayer in the basis year in respect of the expenses incurred on medical treatment, special needs and/or care of parents
 - Effective YA 2016 to YA 2020
- 6. Relief for Child**
- Child relief claimable by a resident individual be increased from RM1,000 to RM2,000 in respect of the expenses incurred in the maintenance of an unmarried child who is under the age of 18 years
 - Child relief claimable by a resident individual be increased from RM6,000 to RM8,000 in respect of the expenses incurred in the maintenance of an unmarried child who is:-
 - above the age of 18 years; and
 - receiving full-time instruction at any university, college, school or other similar educational establishment (degree level and above if pursuing full-time instruction outside Malaysia); or
 - serving under articles or indentures with a view to qualifying in a trade or profession
 - Effective YA 2016
- 7. Review of Penalties for Failure to Furnish Return or Give Notice of Chargeability**
- Please refer to B9 below
- 8. Penalty for Failure to Furnish Correct Particulars as Required by DGIR**
- Please refer to B10 below
- 9. Furnishing of Prescribed Forms Electronically by Companies**
- Please refer to B7 below
- 10. Increase in Individual Tax Rates**
- Tax rates for resident individuals be increased by 1% to 3% for chargeable income bands exceeding RM600,000
 - Chargeable income band currently subject to maximum tax rate be broaden from RM400,001 to RM1,000,001 with increased tax rates
- A comparison is as shown below:-

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Chargeable Income RM	Current Tax Rates %	Proposed Tax Rates %	Increase %
5,001 – 20,000	1	1	-
20,001 – 35,000	5	5	-
35,001 – 50,000	10	10	-
50,001 – 70,000	16	16	-
70,001 – 100,000	21	21	-
100,001 – 250,000	24	24	-
250,001 – 400,000	24.5	24.5	-
400,001 – 600,000	25	25	-
600,001 – 1,000,000	25	26	1
Exceeding 1,000,000	25	28	3

- Tax rate for non-resident individuals be increased from 25% to 28%
- Effective YA 2016

11. Exemption of Income Received by way of Gratuity

- Tax exemption of RM1,000 for each completed year of service be given to amounts received by way of gratuity on retirement from an employment under any written law or termination of contract
- The above partial exemption does not apply to the amounts of gratuity received under the following circumstances in which full tax exemption will be given:-
 - gratuity received on retirement from an employment where the retirement is due to ill-health;
 - gratuity received on retirement from an employment where the retirement takes place on or after reaching the age of 55 or on reaching the compulsory age of retirement from employment under any written law and the employment has lasted 10 years with the same employer or with companies in the same group;
 - gratuity received on retirement from an employment where the retirement takes place on reaching the compulsory age of retirement pursuant to a contract of employment or collective agreement at the age of 50 but before 55 and the employment has lasted 10 years with the same employer or with companies in the same group;
 - amount received by way of gratuity or payment in lieu of leave paid out of public funds on retirement from an employment under any written law;
 - amount received by way of gratuity paid out of public funds on termination of a contract of employment; or

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- gratuity or pension derived from Malaysia and paid to a resident individual under any written law applicable to the President, Deputy President or member of the Senate, Speaker, Deputy Speaker or member of the House of Representatives, Speaker or member of the State Legislative Assembly [hereinafter referred to as “the Relevant Position”] if that individual has attained the age of 55 or that individual ceased to assume the Relevant Position due to ill-health
- Effective YA 2016

12. Apportionment of Foreign Income for Overlapping Period

- Please refer to B17 below

B. Income Tax – Changes Affecting Companies and Unincorporated Businesses

1. Extension of WT Rate Applicable to Investors of REITs

- The existing final WT rate of 10% applicable to foreign institutional investors and other entities (except for resident company and non-resident company) in respect of distribution of income from REITs listed on Bursa Malaysia be extended for another 3 years
- Effective up to 31st December 2019

2. Debts Arising from Services to be Rendered, or Use or Enjoyment of Property to be Dealt With

- Debt owing to a person in a basis period in respect of services to be rendered, or use or enjoyment of any property to be dealt with at any time in the course of carrying on a business be treated as the gross income of the person from the business for that period
- Any sum received by a person in a basis period in the course of carrying on a business from any services to be rendered, or the use or enjoyment of any property to be dealt with be treated as gross income of the person from the business in that period regardless whether any debt is owing to the person in respect of such services or such use or enjoyment
- Where any amount in respect of the sum received which has been taxed is refunded, such amount shall be allowed a tax deduction
- Effective YA 2016

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3. Deduction of Interest on Money Borrowed

- Where interest accrued for the basis period for a year of assessment is due to be paid in any following year of assessment, the taxpayer is required to notify the DGIR in writing not later than 12 months from the end of the basis period for the year of assessment when the sum is due to be paid to make a claim for tax deduction of the interest expense for that period
- Upon receipt of such notice sent by the taxpayer, the DGIR may reduce the assessment accordingly
- Effective YA 2016

4. Deduction Not Allowed for Input Tax

- A new Section 39(1)(o) of the ITA 1967 be introduced to provide that where a person is liable but has failed to be registered under the GST Act 2014, any amount paid or to be paid in respect of GST as input tax by that person or he is entitled to under the GST Act 2014 is not allowed for deduction
- Effective YA 2015

5. Deduction Not Allowed for Output Tax

- A new Section 39(1)(p) of the ITA 1967 be introduced to provide that any amount of output tax paid or to be paid under the GST Act 2014 borne by a person who is registered or liable to be registered under the GST Act 2014 is not allowed for deduction
- Effective YA 2015

6. Review of Deductibility of Payments Made to Public Entertainers and Penalty for Incorrect Return for Non-Compliance with WT

- A new Section 39(1)(q) of the ITA 1967 be introduced to provide that where a person fails to remit the WT and penalty imposed in respect of the payments made to a foreign public entertainer for services performed or rendered in Malaysia, such payments made by that person shall not be allowed for deduction
- In addition, the DGIR is empowered to impose a penalty for incorrect return under Section 113(2) of the ITA 1967 if a deduction on the expenses mentioned above is made and the WT and the penalty are not paid by the due date for submission of the tax return that relates to such expenses
- Effective 1st January 2016

7. Furnishing of Prescribed Forms Electronically by Companies

- A new Section 83(1B) of the ITA 1967 be introduced to provide that an employer's return of a company be furnished on an electronic medium or by way of electronic transmission

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- A new Section 107C(7A) of the ITA 1967 be introduced to provide that an estimate of tax payable or a revised estimate of tax payable of a company be furnished on an electronic medium or by way of electronic transmission
 - Effective YA 2016
- 8. Power to Raise Assessment in respect of Input Tax Adjustment**
- A new Section 91(6) of the ITA 1967 be introduced to empower the DGIR to make an assessment or reduced assessment in relation to the adjustment of input tax paid or payable under the GST Act 2014
 - The assessment or reduced assessment be made in the basis period for the year of assessment in which the adjustment relates or in the basis period for the year of assessment in which the DGIR discovers the adjustment
 - Effective YA 2015
- 9. Review of Penalties for Failure to Furnish Return or Give Notice of Chargeability**
- Amendments are made to Section 112(1) of the ITA 1967 to clarify that the current fine of RM200 to RM20,000, or imprisonment for a term not exceeding 6 months, or to both imposed to a person who fails to furnish a return to the DGIR in accordance with Sections 77(1) or 77A(1) of the ITA 1967 is in respect of any 1 year of assessment
 - A new Section 112(1A) of the ITA 1967 be introduced to impose penalty for failure to furnish returns to the DGIR in accordance with Sections 77(1) or 77A(1) of the ITA 1967 for 2 years of assessment or more be:-
 - a fine of RM1,000 to RM20,000, or imprisonment for a term not exceeding 6 months, or to both; and
 - a special penalty of treble the amount of the tax charged for those years of assessment as determined by the DGIR to the best of his estimate
 - Effective upon coming into operation of the Finance Act 2015
- 10. Penalty for Failure to Furnish Correct Particulars as Required by DGIR**
- A new Section 120(1)(h) of the ITA 1967 be introduced to provide that any person who fails to furnish the correct particulars as required by the DGIR under Sections 77(4)(b) or 77A(3)(b) of the ITA 1967 shall be an offence under that Section
 - Effective upon coming into operation of the Finance Act 2015
- 11. Reduction of WT Rate Applicable to Non-Resident Company Investors of Unit Trusts**
- The WT rate applicable to distribution of income from unit trusts to a unit holder which is a non-resident company be reduced from 25% to 24%
 - Effective YA 2016

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12. Exclusion of Input Tax as Part of Qualifying Expenditure

- A new Paragraph 2E, Schedule 3 of the ITA 1967 be introduced to exclude the input tax incurred by a person who is liable to be registered under the GST Act 2014 but failed to do so; or who is entitled to claim the input tax under the GST Act 2014, as part of the qualifying plant expenditure or qualifying building expenditure
- Effective YA 2015

13. No Claim of Industrial Building Allowance in relation to Building Used for Letting Purposes

- No industrial building allowance shall be given to a person in respect of any expenditure incurred in relation to the following if the building or part thereof is used by that person for the purpose of letting of property including the business of letting of such property:-
 - Licensed private hospital, maternity home and nursing home
 - Building used for research
 - Building used for warehouse
 - Building used for approved service project
 - Building used for hotel
 - Airport
 - Motor racing circuit
 - Building used for living accommodation for employees
 - Building used for a school or an educational institution approved by the Minister of Education or Minister of Higher Education or any relevant authority
- Effective YA 2016

14. Review of Special Allowances on Small Value Assets

- Currently, a SME which is resident in Malaysia is not subject to the maximum limit of RM13,000 per year in respect of special allowances claimable on small value assets
- An additional requirement be imposed such that the SME has to be incorporated in Malaysia to be eligible for the above
- Effective YA 2016

15. Deemed Disposal of Part of an Asset Ceases to be Used for the Purposes of Business due to Replacement of a New Part

- Where any part of an asset ceases to be used for the purposes of a business in a basis period for a year of assessment due to:-
 - replacement with a new part; and
 - the new part is depreciated separately in accordance with the generally accepted accounting principles, that part of an asset be deemed to have been disposed of in that basis period for that year of assessment
- Provisions under Schedule 3 of the ITA 1967 be applicable to the new part of the asset
- Effective YA 2016

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16. Adjustment to Qualifying Expenditure Arising from Input Tax Adjustment Made under the GST Act 2014

- Where a person has incurred qualifying plant expenditure, qualifying building expenditure, qualifying agriculture expenditure or qualifying forest expenditure in respect of an asset and the input tax incurred on the asset is subject to any adjustment under the GST Act 2014 (e.g. capital goods adjustment), the qualifying expenditure of the asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to that asset as provided under the GST Act 2014 ends
- If the adjustment made under the GST Act 2014 results in:-
 - an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred and shall be included in the residual expenditure of the asset
 - a reduced amount, the qualifying expenditure and residual expenditure shall be reduced by such amount. If the allowances under Schedule 3 of the ITA 1967 made or ought to have been made in respect of the asset exceeds the residual expenditure, the excess (restricted to the amount of allowances given under Schedule 3 of the ITA 1967) shall form part of the statutory business income in the basis period in which the adjustment is made
- However, if the asset is disposed of at any time during the period of adjustment under the GST Act 2014, the adjustment to the qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made
- In the event that the adjustment to the qualifying expenditure relates to assets subject to the control transfer provisions, the appropriate tax adjustment shall also be accorded
- Effective YA 2015

17. Apportionment of Foreign Income for Overlapping Period

- As a consequence of the deletion of Section 25(4) of the ITA 1967, a new Paragraph 3A, Schedule 7 of the ITA 1967 be introduced to govern the manner of apportionment in relation to foreign income receivable in respect of a period which overlaps the basis period for a year of assessment (note: the period in which the foreign income is receivable is hereinafter referred to as “the overlapping period”)

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- The above foreign income shall be apportioned based on the following manner:-

$$\frac{A}{B}$$

Where A is the number of days of the overlapping period that fall into the basis period

B is the total number of days of the overlapping period

- Effective YA 2016

18. Debt Due to Government Arising from Reduction in Section 108 Balance

- Where in the basis period for YA 2016 or any subsequent years of assessment:-
 - the tax charged on the chargeable income of a company for YA 2000 (current year basis) or prior is discharged or remitted; or
 - any amount of tax paid by that company which has been taken into account for the purpose of computing the Section 108 balance is refunded,
 the Section 108 balance of that company as at 31st December 2013 shall on the day the tax is discharged, remitted or refunded, be reduced by such amount of the tax discharged, remitted or refunded
- Where the amount of tax discharged, remitted or refunded exceeds the Section 108 balance, the amount of the excess shall be regarded as a debt due from the company to the Government and be payable upon service of a written requisition by the DGIR
- If the debt due is not paid within 30 days after the service of the written requisition, the amount unpaid shall without any further notice be increased by 10%
- Effective upon coming into operation of the Finance Act 2015

19. Deduction for Expenditure Incurred on Issuance of Sustainable and Responsible Investment *Sukuk*

- Deduction against the business income of the issuer for expenditure incurred on the issuance of *sukuk* that complies with the requirements of Sustainable and Responsible Investment approved or authorised by, or lodged with the SC be given for 5 years
- Sustainable and Responsible Investment *Sukuk* refers to the financing of projects with the following objectives:-
 - preserve and protect the environment and natural resources;
 - conserve the use of energy;
 - promote the use of renewable energy;
 - reduce the greenhouse gas emission; or
 - improve the quality of life for society
- Effective YA 2016 to YA 2020

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20. Extension of Double Deduction for Additional Costs Incurred on Issuance of Retail Bonds and Retail *Sukuk*

- Double deduction for additional costs incurred on issuance of retail bonds and *sukuk* under the principles of *Mudharabah*, *Musyarakah*, *Istisna'*, *Murabahah*, *Bai' Bithaman Ajil* based on *tawarruq*, *Ijarah* and *Wakalah* be extended for another 3 years
- Effective up to YA 2018

21. Double Deduction for Expenditure Incurred on R&D Project by SME

- Companies with paid-up capital not exceeding RM2.5 million (SME) be allowed to claim double deduction automatically for expenditure of up to RM50,000 per year of assessment incurred on R&D project
- However, the companies are required to submit application for the R&D project to the IRB
- Effective YA 2016 to YA 2018

C. Investment Incentives

1. Adjustment to Qualifying Capital Expenditure for RA Arising from Input Tax Adjustment Made under the GST Act 2014

- A new Paragraph 1D, Schedule 7A of the ITA 1967 be introduced to exclude the input tax incurred by a person who is liable to be registered under the GST Act 2014 but failed to do so; or who is entitled to claim the input tax under the GST Act 2014, as part of the capital expenditure for RA purposes
- Where a person has incurred capital expenditure for RA purposes and the input tax incurred on the asset is subject to any adjustment under the GST Act 2014 (e.g. capital goods adjustment), the qualifying expenditure of the asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to that asset as provided under the GST Act 2014 ends
- If the adjustment made under the GST Act 2014 results in:-
 - an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred and there shall be given to the company for a year of assessment the RA in respect of such additional amount
 - a reduced amount, any amount of RA that ought not to have been given in consequence of such reduction shall form part of the statutory business income in the basis period in which the adjustment is made
- However, if the asset is disposed of at any time during the period of adjustment under the GST Act 2014, the adjustment to the qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made

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- In the event that the adjustment to the qualifying expenditure relates to an asset disposed of to a person (acquirer) under control transfer, the provisions under Schedule 7A of the ITA 1967 shall not apply to the acquirer in respect of the asset
- Effective YA 2015

2. Special RA Incentive

- RA is currently given to a company that has incurred capital expenditure on a factory, plant or machinery for the purposes of a qualifying project
- A company be entitled to RA for 15 consecutive years of assessment commencing from the year of assessment in which the first RA claim is made
- It is now proposed that a company be entitled to make a claim for special RA for another 3 years of assessment to encourage reinvestments by companies that have exhausted their eligibility to RA claim. For illustration:-

15 Consecutive Years of RA Ended in:-	Special RA Incentive		
	YA 2016	YA 2017	YA 2018
YA 2015 or prior years	√	√	√
YA 2016	N/A	√	√
YA 2017	N/A	N/A	√

- Effective YA 2016 to YA 2018

3. Definition in Schedule 7A (RA) of the ITA 1967

- It is now proposed that the following words and phrases in Schedule 7A of the ITA 1967 be clearly defined:-
 - “automating” refers to a process whereby manual operations are substituted by mechanical operations with minimal or reduced human intervention
 - “ceased to be used” in relation to an asset includes an asset classified as held for sale under Paragraph 61A of Schedule 3 of the ITA 1967
 - “diversifying” means to enlarge or vary the range of product of a company related to the same industry
 - “expanding” refers to an increase of a product capacity or expansion of factory area
 - “machinery” means a device or apparatus consisting of fixed and moving parts that work together to perform function in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory
 - “modernising” means an upgrading of manufacturing equipment and process
 - “plant” means an apparatus used in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory

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- The definition of “disposed of” is amended to include assets ceased to be used
 - The definition of “manufacturing” is amended to exclude changing of “size” and “shape”
 - “simple” has been redefined as generally describes an activity which does not need special skills, special machines, special apparatus or special equipment especially produced or installed for carrying out that activity
- 4. Adjustment to Qualifying Capital Expenditure for Investment Allowance for Service Sector Arising from Input Tax Adjustment Made under the GST Act 2014**
- To mirror the changes made to Schedule 7A of the ITA 1967, a new Paragraph 1A, Schedule 7B of the ITA 1967 be introduced to exclude the input tax incurred by a person who is liable to be registered under the GST Act 2014 but failed to do so; or who is entitled to claim the input tax under the GST Act 2014, as part of the capital expenditure for investment allowance purposes
 - Where a person has incurred capital expenditure for investment allowance purposes and the input tax incurred on the asset is subject to any adjustment under the GST Act 2014 (e.g. capital goods adjustment), the qualifying expenditure of the asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to that asset as provided under the GST Act 2014 ends
 - If the adjustment made under the GST Act 2014 results in:-
 - an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred and there shall be given to the company for a year of assessment the investment allowance in respect of such additional amount
 - a reduced amount, any amount of investment allowance that ought not to have been given in consequence of such reduction shall form part of the statutory business income in the basis period in which the adjustment is made
 - However, if the asset is disposed of at any time during the period of adjustment under the GST Act 2014, the adjustment to the qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made
 - Effective YA 2015

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5. Exclusion of Input Tax as Part of Qualifying Capital Expenditure for ITA

- A new Section 29P of the PIA 1986 be introduced to exclude the input tax incurred by a person who is liable to be registered under the GST Act 2014 but failed to do so; or who is entitled to claim the input tax under the GST Act 2014, as part of the qualifying capital expenditure for ITA
- Effective YA 2015

6. Adjustment to Qualifying Capital Expenditure for ITA Arising from Input Tax Adjustment Made under the GST Act 2014

- A new Section 29Q of the PIA 1986 be introduced to provide that where a person has incurred qualifying capital expenditure for ITA and the input tax incurred on the asset is subject to any input tax adjustment under the GST Act 2014, the qualifying expenditure of the asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to that asset as provided under the GST Act 2014 ends (e.g. in the case of capital goods adjustment), or in any other case, the basis period for the year of assessment the adjustment is made or at any time as may be necessary to give effect to such adjustment
- If the adjustment made under the GST Act 2014 results in:-
 - an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred and there shall be given to the company for a year of assessment the ITA in respect of such additional amount
 - a reduced amount, any amount of ITA that ought not to have been given in consequence of such reduction shall form part of the statutory business income in the basis period in which the adjustment is made
- However, if the asset is disposed of at any time during the period of adjustment under the GST Act 2014, the adjustment to the qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made
- Effective YA 2015

7. Extension of Tax Exemption on Income from Managing Syariah-compliant Funds

- Currently, a company that provides *Syariah*-compliant fund management services and certified by the SC is given 100% tax exemption on the following:-
 - Statutory income derived from business of providing fund management services to foreign investors in Malaysia
 - Statutory income derived from business of providing fund management services to local investors in Malaysia

Hyperlinks

- Statutory income derived from business of providing fund management services to business trusts or REITs in Malaysia
- The above income tax exemption be extended for another 4 years of assessment until YA 2020

8. Tax Incentives for the Establishment of ICAB

- Independent Conformity Assessment Bodies ["ICAB"] is a company that offers independent conformity assessment services to its client to test their products, materials, systems or services for conformance to international specifications or safety standards and other conformities
- To promote the development of independent conformity assessment services in Malaysia, the following tax incentives be given:-
 - For a new ICAB
 - 100% income tax exemption for a period of 5 years; or
 - ITA of 60% on the qualifying capital expenditure incurred for a period of 5 years to be set off against 100% of statutory income
 - For existing ICAB
 - ITA of 60% on the qualifying capital expenditure incurred for a period of 5 years on additional qualifying activities to be set off against 100% of statutory income
- The above incentives are given to the following sectors:-
 - Machinery and equipment;
 - Electrical and electronics;
 - Chemicals;
 - Aerospace;
 - Medical devices; and
 - Fresh and processed food
- The qualifying activities are as follows:-
 - Testing laboratories;
 - Calibration laboratories;
 - Certifications;
 - Inspections; or
 - Good laboratory practice
- The ICAB must obtain accreditation from the following bodies:-
 - Department of Standards Malaysia;
 - Accrediting bodies recognised by the International Laboratory Accreditation Cooperation under Mutual Recognition Arrangement;
 - International Accreditation Forum under Multi-Lateral Agreement; or
 - OECD Good Laboratory Practice Mutual Acceptance Data
- Effective for applications received by Malaysian Investment Development Authority from 1st January 2016 to 31st December 2018

Hyperlinks

9. Extension of Tax Incentive for Food Production Projects

- The following tax incentives currently given to companies carrying out food production projects be extended for another 5 years:-
 - The company that makes an investment in a subsidiary company carrying out new food production project is given tax deduction equivalent to the amount of investment made in that subsidiary for that year of assessment; and
 - A company carrying out:-
 - a new food production project is given 100% income tax exemption of statutory income for 10 years of assessment; or
 - an expansion of the existing food production project is given 100% income tax exemption of statutory income for 5 years of assessment
(The exemption period will commence from the first year of assessment in which the company derives statutory income)
- The approved food production project be extended to include a project in relation to:-
 - planting of coconuts, mushrooms, cash crops and animal feed crops;
 - rearing of deer and honey (bees and *kelulut*); and
 - cultivation of seaweed
- Effective for application made to the Ministry of Agriculture and Agro-Based Industry from 1st January 2016 to 31st December 2020

10. Extension of Tax Incentives for Tour Operating Companies

- The following tax incentives currently given to tour operating companies be extended for another 3 years of assessment until YA 2018:-
 - Income tax exemption of 100% on statutory income from the business of operating domestic tour packages participated by not less than 1,500 local tourists per year; and
 - Income tax exemption of 100% on statutory income from the business of operating group inclusive tour packages participated by not less than 750 inbound tourists per year
- Effective YA 2016 to YA 2018

Hyperlinks

11. Allowance for Increased Exports Incentive to SME

- The following increased export incentives are currently given to manufacturing and agriculture companies:-
 - a. Income tax exemption on statutory income equivalent to 10% of the value of the increased exports of manufactured goods where the goods exported attain at least 30% of value added;
 - b. Income tax exemption on statutory income equivalent to 15% of the value of the increased exports of manufactured goods where the goods exported attain at least 50% of value added; and
 - c. Income tax exemption on statutory income equivalent to 10% of the value of the increased exports of agricultural produce
- The tax exemption is restricted to 70% of the statutory income
- It is now proposed that the value add criteria be revised to encourage companies with paid up capital not exceeding RM2.5 million to increase their export markets:-
 - The percentage of value add be revised from 30% to 20% (for incentive (a) above)
 - The percentage of value add be revised from 50% to 40% (for incentive (b) above)
- Effective YA 2016 to YA 2018

D. Real Property Gains Tax

1. Penalty on Additional RPGT for Late Filing

- Where a taxpayer fails to furnish the RPGT return within a stipulated deadline, the DGIR is empowered to impose additional penalty if there is any additional tax payable for a year of assessment
- Effective upon coming into operation of the Finance Act 2015

2. Incidental Costs and Excluded Expenditure of a Chargeable Asset

- The incidental costs of acquisition or disposal of an asset incurred by a disposer be proposed to include any GST paid or payable by the disposer who:-
 - is not liable to be registered under the GST Act 2014; or
 - is a GST registered person but not entitled to claim the GST as input tax credit
- However, it is proposed that the following expenditure be excluded in computing the acquisition price or disposal price of an asset:-
 - GST paid by the disposer who is liable to be registered under the GST Act 2014 but failed to register, or is entitled to claim the GST as input tax credit; and
 - any output tax which is borne by the disposer if he is registered or liable to be registered
- Effective YA 2015

Hyperlinks

3. Exemption to Individuals

- In 2013 Budget, RPGT exemption given to individuals of RM10,000 or 10% of chargeable gain, whichever is greater, was extended to cover partial disposal of a chargeable asset based on the following formula:-

$$\frac{A}{B} \times C$$

- where
- | | |
|---|---|
| A | is part of the area of the chargeable asset disposed |
| B | is the total area of the chargeable asset |
| C | is RM10,000 or 10% of the chargeable gain, whichever is greater |

- In order to allow a fairer comparison, it is proposed that the RPGT exemption be given on an amount computed based on the following amended formula or 10% of the chargeable gain, whichever is greater:-

$$\frac{A}{B} \times C$$

- where
- | | |
|---|--|
| A | is part of the area of the chargeable asset disposed |
| B | is the total area of the chargeable asset |
| C | is RM10,000 |

- After the amendment, the apportionment shall only be applied to the RM10,000 since the chargeable gain is referring to the part of the area disposed of
- Effective upon coming into operation of the Finance Act 2015

E. Petroleum Income Tax**1. Deduction Not Allowed for Input Tax**

- To mirror the changes made under the ITA 1967, a new Section 18(1)(p) of the PITA 1967 be introduced to provide that where a person is liable but has failed to be registered under the GST Act 2014, any amount paid or to be paid in respect of GST as input tax by that person or he is entitled to under the GST Act 2014 is not allowed for deduction
- Effective YA 2015

Hyperlinks

2. Deduction Not Allowed for Output Tax

- To mirror the changes made under the ITA 1967, a new section 18(1)(q) of the PITA 1967 be introduced to provide that any amount of output tax paid or to be paid under the GST Act 2014 borne by a person who is registered or liable to be registered under the GST Act 2014 is not allowed for deduction
- Effective YA 2015

3. Deduction Not Allowed for Failure to Furnish Information Requested

- To mirror the changes made under the ITA 1967, a new Section 18(1A) of the PITA 1967 be introduced to provide that where a person fails to furnish any information as requested by the DGIR in accordance with Section 34 of the PITA 1967 to justify the person's claim for deduction in arriving at his adjusted income within the time specified in the notice or such other period as may be allowed by the DGIR, such claim for deduction made by that person shall not be allowed
- Effective YA 2016

4. Power to Raise Assessment in respect of Input Tax Adjustment

- To mirror the changes made under the ITA 1967, a new Section 39(6) of the PITA be introduced to empower the DGIR to make an assessment or reduced assessment in relation to the adjustment of input tax paid or payable under the GST Act 2014
- The assessment or reduced assessment be made in the basis period for the year of assessment in which the adjustment relates or in the basis period for the year of assessment in which the DGIR discovers the adjustment
- Effective YA 2015

5. Exclusion of Input Tax as Part of Qualifying Exploration Expenditure

- To mirror the changes made under the ITA 1967, a new Paragraph 1A, First Schedule of the PITA 1967 be introduced to exclude the input tax incurred by a person who is liable to be registered under the GST Act 2014 but failed to do so; or who is entitled to claim the input tax under the GST Act 2014, as part of the qualifying exploration expenditure
- Effective YA 2015

Hyperlinks

6. Adjustment to Qualifying Expenditure Arising from Input Tax Adjustment made under the GST Act 2014

- To mirror the changes made under the ITA 1967, a new Paragraph 13A, First Schedule and Paragraph 45A, Second Schedule of PITA 1967 be introduced to provide that where a person has incurred qualifying exploration expenditure or qualifying expenditure in relation to an asset and the input tax incurred on the asset is subject to any adjustment under the GST Act 2014 (e.g. capital goods adjustment), the qualifying expenditure of the asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to that asset as provided under the GST Act 2014 ends
- If the adjustment made under the GST Act 2014 results in:-
 - an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred and shall be included in the residual expenditure of the asset
 - a reduced amount, the qualifying expenditure and residual expenditure shall be reduced by such amount. If the allowances under First Schedule 3 of the PITA 1967 made or ought to have been made in respect of the asset exceeds the residual expenditure, the excess (restricted to the amount of allowances given under First Schedule of the PITA 1967) shall form part of the statutory business income in the basis period in which the adjustment is made
- However, if the asset is disposed of at any time during the period of adjustment under the GST Act 2014, the adjustment to the qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made
- In the event that the adjustment to the qualifying expenditure relates to assets subject to the control transfer provisions, the appropriate tax adjustment shall also be accorded
- Effective YA 2015

7. Exclusion of Input Tax as Part of Qualifying Expenditure

- To mirror the changes made under the ITA 1967, a new Paragraph 2B, Second Schedule of the PITA 1967 be introduced to exclude the input tax incurred by a person who is liable to be registered under the GST Act 2014 but failed to do so; or who is entitled to claim the input tax under the GST Act 2014, as part of the qualifying plant expenditure or qualifying building expenditure
- Effective YA 2015

Hyperlinks

8. Deemed Disposal of Part of an Asset Ceases to be Used for the Purposes of Business due to Replacement of a New Part

- To mirror the changes made under the ITA 1967, a new Paragraph 40A, Second Schedule of PITA 1967 be introduced to provide that where any part of an asset ceases to be used for the purposes of a business in a basis period for a year of assessment due to:-
 - replacement with a new part; and
 - the new part is depreciated separately in accordance with the generally accepted accounting principles, that part of an asset be deemed to have been disposed of in that basis period for that year of assessment
- Provisions under Second Schedule of the PITA 1967 be applicable to the new part of the asset
- Effective YA 2016

F. Stamp Duty

1. Extension on Stamp Duty Exemption for Revival of Abandoned Housing Projects

- The stamp duty exemption given to the following parties on instruments executed from 1st January 2013 to 31st December 2015 be extended for another 2 years:-
 - Rescuing contractor / developer
 - Loan agreements to finance the revival of the abandoned housing project
 - Instruments of transfer of land or houses in the abandoned housing project
 - Original house purchaser in the abandoned housing project
 - Loan agreements for additional financing facilities
 - Instruments of transfer of the house
- The abandoned housing projects must be certified by the Ministry of Housing and Local Government
- Effective for loan agreements and memorandums of transfer executed from 1st January 2016 to 31st December 2017

2. Extension of Stamp Duty Exemption on Islamic Financing Instruments

- The stamp duty exemption of 20% given on principal or primary instruments of Islamic financing executed from 2nd September 2006 to 31st December 2015 be extended for another 2 years
- The Islamic financial products have to be approved by *Syariah* Advisory Council of the BNM or the *Syariah* Advisory Council of the SC
- Effective for the instruments executed from 1st January 2016 to 31st December 2017

Hyperlinks

G. Goods and Services Tax**1. Amendment of Time of Supply Rule for Imported Services**

- It is proposed that the time of supply for importation of services under Section 13(4) of GST Act 2014 be determined based on the earlier of the following:-
 - Date of payment made by the recipient; or
 - Date of invoice issued by the overseas supplier or supplier who carries on business outside Malaysia
- With the above proposed amendment, item 2 of the DGRMC's Decision 1/2014 giving the flexibility of opting the date of invoice to be the time of supply will be irrelevant
- Effective 1st January 2016

2. Penalties for Non-Payment of GST Due and Payable

- A new Section 41(8) of the GST Act 2014 be introduced to impose late payment penalty on taxable person who fails to make payment of GST within the stipulated time frame and where no prosecution is instituted
- The proposed penalty rates are summarised as follows:-

Period from the Due Date of Furnishing GST Return	Penalty Rate*
Within 30 days	5%
31 to 60 days	15%
61 to 90 days	25%

* The above rate will be imposed on the outstanding GST payment

- The following amendments will also be made pursuant to the above new penalty provisions:-
 - No prosecution be taken against the offender who has settled the GST payable and the above late payment penalty within 90 days from the due date of furnishing GST return;
 - The above penalty shall not be applicable where an instalment payment scheme has been granted by the DGRMC to settle the outstanding GST and penalty due before the instalment
- Effective 1st January 2016

3. Warehousing Scheme

- To streamline the GST treatment for Warehousing Scheme to be in tandem with the latest RMC's Guide on Warehousing Scheme, it is proposed that Section 70(1) of GST Act 2014 be expanded to include the following provisions:-
 - Payment of GST on imported goods be suspended when the goods are deposited in the warehouse
 - Supplies of goods made between the warehouses be disregarded
- Effective 1st January 2016

Hyperlinks

4. Expanding the list of GST Zero Rated Food Products

- The existing list of food products subject to GST at zero rate be extended to cover the following items:-

Type of Food Products	Tariff Code
Milk for infant and children for ages 0 to 36 months to include:- - Organic-based milk; and - Soy bean-based milk The food products must comply with the requirements under the Food Regulations 1985, Food Act 1983	0402.10 000 2106.90 910
Dhal bean to include:- - Chickpeas (garbanzos); - Green and white bean [beans of the species <i>Vigna mungo</i> (L.) Hepper or <i>Vigna radiata</i> (L.) Wilczek]; - Lentils; and - Pigeon peas (<i>Cajanus cajan</i>)	0713.20 000 0713.31 000 0713.40 000 0713.60 000
Vegetables to include:- - Lotus root and water chestnut	0714.90 900
Spices to include:- - Mustard seeds	1207.50 000
Sugar to include:- - Jaggery powder	1701.13 000; and 1701.14 000
Noodle products to include:- - Mi kolok (dry)	1902.19 400

- Effective 1st January 2016

5. Expanding the Scope of GST Zero Rated Drugs

- It is proposed that the list of medicines subject to GST at zero rate be widen to cover the following items:-
 - All types of controlled drugs in Poisons Group A, B, C and D under the Poisons Act 1952 with the registration number under Suffix A and this covers additional 4,320 brands of drugs bringing the total brands to 7,397;
 - Over-the-counter medicines with the registration number under Suffix X and Suffix N and this covers additional 92 brands of drugs bringing the total brands to 1,105; and
 - Drugs under National Essential Medicines List ["NEML"] classified as medical devices be expanded from 125 brands to 128 brands
- The controlled drugs and over-the-counter medicines above refer to items that are registered by the Drug Control Authority through the National Pharmaceutical Control Bureau
- Effective 1st January 2016

Hyperlinks

6. **GST Treatment on Domestic Air Passenger Transport Services in Sabah and Sarawak including Labuan**

- It is proposed that no GST be imposed on domestic air transportation services for economy class passengers under the Rural Air Services within and between Sabah, Sarawak and Labuan
- Effective 1st January 2016

7. **Extension of Entities Eligible for Approved Trader Scheme**

- Companies undertaking maintenance, repair and overhaul ["MRO"] activities in the aerospace sector be eligible for approval under the Approved Trader Scheme
- Conditions:-
 - Have a valid Approval of Organisation of Aircraft & Components issued by the Department of Civil Aviation under Section 2B of the Civil Aviation Act 1969;
 - Have a valid approval from:-
 - Design Authority of Original Equipment Manufacturer;
 - Design Organisation Approval
- Effective 1st January 2016

8. **GST Relief on Procurement of Goods by Skills and Vocational Training Centre**

- It is proposed that GST relief on procurement of teaching materials and equipment given to private educational institutions for childcare, pre-schools, primary and secondary schools and private higher educational institutions be extended to skills training providers that conduct approved and accredited programs under National Skills Development Act 2006
- The list of the teaching materials and equipment are as approved by the MOF
- Effective 1st January 2016

9. **GST Relief on Re-importation of Goods Exported Temporarily for the Purpose of Promotion, Research or Exhibition**

- It is proposed that relief from payment of GST be given for re-importation of goods exported temporarily for the purpose of promotion, research or exhibition
- Effective 1st January 2016

Hyperlinks

10. GST Relief on Re-importation of Goods Exported Temporarily for the Purpose of Rental and Lease

- It is proposed that relief on payment of GST be given to re-importation of eligible equipment that were exported temporarily for the purpose of rental and lease outside the country
- The list of the eligible equipment and conditions are as approved by the MOF
- Effective 1st January 2016

11. Reduction of Annual Turnover Threshold for Registration under Flat Rate Scheme

- In order to increase the number of small-scale farmers eligible for Flat Rate Scheme, the following measures are proposed:-
 - Annual turnover threshold for registration under Flat Rate Scheme for small-scale farmers be reduced from RM100,000 to RM50,000
 - Record-keeping requirements for Flat Rate Scheme approved persons be simplified

12. Rebate for GST paid by Prepaid Mobile Phone Users

- It is proposed that prepaid telecommunication service users be given rebates equivalent to the amount of GST paid by them. The rebate will be credited directly to the respective prepaid accounts
- Further details in relation to the above rebate mechanism is expected to be announced by the relevant authorities at a later date
- Effective from 1st January 2016 to 31st December 2016

Hyperlinks

H. Others

1. SOCSO

- The eligibility for mandatory contribution to SOCSO be increased from monthly salary of RM3,000 to RM4,000

2. Minimum Wage

- National minimum wage be increased:-
 - from RM900 to RM1,000 per month for Peninsular Malaysia; and
 - from RM800 to RM920 per month for Sabah, Sarawak and the Federal Territory of Labuan
- The new minimum wage shall apply to all sectors (except for domestic services or domestic maids)
- Effective 1st July 2016

3. Mutual Administrative Assistance Arrangement

- The existing Sections 22 and 22A of the LBATA 1990 be amended to extend the application of the provision for exchange of information to mutual administrative assistance arrangement with treaty countries
- Effective upon coming into operation of the Finance Act 2015

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