

## 2009 Mini Budget Highlights

### *Introduction*

Corporate giants fall, stock prices slump, costs of living increase and economic activities unprecedented decline – these are the indicators of an economic and financial crisis. The root for the crisis started in the United States in mid 2007 and the crisis engulfed the world. By early 2009, the crisis had spread to many countries with governments responded with massive emergency measures. However, solutions are complicated by the depth and the magnitude of the crisis. Malaysia is not spared from the impact of the global crisis and many believe that the real pinch of the crisis has yet to be felt. Nonetheless, appropriate measures have been taken by the Malaysian Government to mitigate the impact of the global contraction on the domestic economy.

On 10<sup>th</sup> March 2009, our honourable Deputy Prime Minister cum Finance Minister, Y.A.B. Dato' Sri Mohd Najib Tun Abdul Razak, announced the second stimulus package – “**RM60bil Stimulus Package**” or more commonly quoted as the “**2009 Mini Budget**”. It is in addition to the initial stimulus package of RM7bil announced on 4<sup>th</sup> November 2008.

The thrusts of the 2009 Mini Budget are reducing unemployment and increasing employment opportunities, easing the burden of the *rakyat*, assisting the private sector in facing the crisis and building capacity for the future.

Allowing double tax deduction on remuneration paid on employment of retrenched employees is a timely measure in the face of economic turmoil. Granting tax relief on interest paid on housing loans up to RM10,000 a year for 3 years will stimulate investment sentiment in the housing sector. Increasing tax exempt retrenchment benefits from RM6,000 to RM10,000 per completed year of service provides relief to the retrenched employees.

Expanding eligible list for claiming of accelerated capital allowance [“ACA”] on expenditure incurred on plant and machinery to all businesses and allowing claim for ACA on expenditure incurred on renovation and refurbishment of business premises are good news to many corporate taxpayers, not to mention the introduction of carry back of current year losses to immediate preceding year.

We have summarised below the key amendments outlined in the 2009 Mini Budget.

### Note:-

*The summary below serves as a quick guide for general information. Should further information, clarification or advice be required on any of the proposed changes contained therein, please feel free to contact our tax team at +603 7710 8288/89 or email to us at [admin@adventconsulting.com.my](mailto:admin@adventconsulting.com.my).*

## **A. Income Tax – Changes Affecting Individuals**

### **1. Interest on Housing Loan**

- Relief of up to RM10,000 per YA on interest paid to finance the purchase of a residential property (i.e. house, condominium, apartment and flat)
- Relief given is for 3 consecutive YA starting from the basis year in the YA which the interest is first expended
- Conditions:-
  - o Individual must be a citizen and resident of Malaysia
  - o Limited to only 1 unit of residential property
  - o Sale and Purchase Agreement is executed on or after 10<sup>th</sup> March 2009 but not later than 31<sup>st</sup> December 2010
  - o The individual has not derived any income in respect of the residential property (i.e. rental income)
- Relief will be apportioned accordingly where 2 or more individuals are each entitled to claim the relief in respect of the same residential property
- Effective from YA 2009

### **2. Increase in Tax Exemption on Compensation Received for Loss of Employment**

- The maximum amount of compensation for loss of employment that can be exempted from tax be increased from RM6,000 to RM10,000 for every completed year of service with the same employer or with companies in the same group
- Employees who are eligible for the exemption include those retrenched under Voluntary Separation Scheme or Mutual Separation Scheme
- Effective from 1<sup>st</sup> July 2008

## **B. Income Tax – Changes Affecting Companies and Unincorporated Businesses**

### **1. Carry Back of Current Year Adjusted Loss**

- Current year adjusted loss of up to RM100,000 each for the YA 2009 and YA 2010 [“Current YA”] is allowed to be carried back to the “Immediate Preceding YA” (i.e YA 2008 and YA 2009 respectively) for deduction in arriving at the total income of the Immediate Preceding YA.
  - Conditions:-
    - o An irrevocable election is made in the tax return of the Current YA
    - o The person is subject to tax under Part I of Schedule 1 of the Income Tax Act 1967
    - o The basis period for the Current YA and the Immediate Preceding YA ends on the same day
    - o The current year adjusted loss should be net of any adjusted loss surrendered as group relief under Section 44A of the Income Tax Act 1967
    - o The person is not granted pioneer status or approval for investment tax allowance under the Promotion of Investments Act 1986 for the Current YA and the Immediate Preceding YA
    - o The person did not claim for reinvestment allowance under Schedule 7A of the Income Tax Act 1967 for the Current YA and the Immediate Preceding YA
    - o The person is not exempted from tax under Section 54A, Section 127(3)(b) or Section 127(3A) of the Income Tax Act 1967 for the Current YA and the Immediate Preceding YA
    - o The person did not claim for deduction under:-
      - Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006
      - Income Tax (Deduction for Cost of Acquisition of Proprietary Rights) Rules 2002
      - Income Tax (Deduction for Cost of Acquisition of a Foreign Owned Company) Rules 2003
      - any rules made under the Income Tax Act 1967 which disallow the claim of adjusted loss carried back
- for the Current YA and the Immediate Preceding YA

- o The tax paid or payable by the person is not remitted under Section 129 of the Income Tax Act 1967
- o The person is not an investment holding company listed on the Bursa Malaysia under Section 60FA of the Income Tax Act 1967 for the Current YA and the Immediate Preceding YA
- o The person does not carry on insurance business under Section 60, inward re-insurance business under Section 60A or offshore insurance business under Section 60B of the Income Tax Act 1967 for the Current YA and the Immediate Preceding YA
- o The person does not carry on takaful business under Section 60AA of the Income Tax Act 1967 for the Current YA and the Immediate Preceding YA
- o In the case of an individual, has a source consisting of a business for the Immediate Preceding YA
- Tax and penalty will be assessed and imposed in the event that the adjusted loss carried back is insufficient which results in over-claimed
- The company's Section 108 credit balance will not be reduced by the tax refunded in the Immediate Preceding YA as a result of the claim
- Effective for YA 2009 and YA 2010

## **2. Accelerated Capital Allowance for Renovation and Refurbishment of Business Premises**

- Accelerated Capital Allowance ["ACA"] to be claimed within 2 years be granted to persons who incurred qualifying renovation or refurbishment expenditure within the period from 10<sup>th</sup> March 2009 to 31<sup>st</sup> December 2010 on the premises used for the purpose of the business
- The amount of qualifying renovation or refurbishment expenditure is limited to RM100,000
- The qualifying renovation or refurbishment expenditure shall be prescribed by the Minister of Finance and does not include qualifying plant expenditure, qualifying agriculture expenditure, qualifying forest expenditure and qualifying mining expenditure
- If the expenditure qualifies for both qualifying renovation or refurbishment expenditure and qualifying building expenditure, an election shall be made to claim either the renovation or refurbishment allowances or industrial building allowances
- Effective from YA 2009

## **3. Relaxation on Taxing of Interest Income**

- Interest income of banks and financial institutions from housing loans granted to individual borrowers which have been approved for moratorium (i.e. deferment) on the repayment will be taxed on receipt basis instead of accrual basis
- The interest income which can be deferred to be taxed on receipt basis refers to the interest receivable for a period of 12 consecutive months beginning from the month the moratorium is approved by the banks and financial institutions
- Conditions:-
  - o The banks and financial institutions are licensed under the Banking and Financial Institutions Act 1989, Islamic Banking Act 1983 or Development Financial Institutions Act 2002
  - o The individual borrower must be a citizen of Malaysia
  - o The employment of the individual borrower has been terminated on or after 1<sup>st</sup> July 2008 pursuant to a retrenchment or separation scheme (including Voluntary Separation Scheme or Mutual Separation Scheme) that has been registered with the Director General of Labour, the Ministry of Human Resources
  - o The housing loan was granted to the individual borrower prior to the termination of the employment
  - o The housing loan is in respect of loan granted to finance the purchase of residential property
  - o The application for the moratorium must be made by the individual borrower within the period from 10<sup>th</sup> March 2009 to 9<sup>th</sup> March 2010
- Apart from those licensed banks and financial institutions mentioned above, other institutions approved by the Minister of Finance will also enjoy the above incentive
- Effective from YA 2009

#### 4. Incentive for Employing Local Retrenched Workers

- Double deduction on remuneration expenses (i.e. wages, salary and allowances) not exceeding RM10,000 per month for each retrenched employee employed and limited to a maximum period of 12 consecutive months commencing from the first month the employee is employed
- Conditions:-
  - o The employee employed must be a citizen and a resident of Malaysia
  - o The previous employment of the employee has been terminated on or after 1<sup>st</sup> July 2008 pursuant to a retrenchment or separation scheme (including Voluntary Separation Scheme and Mutual Separation Scheme) that has been registered with the Director General of Labour, the Ministry of Human Resources
  - o The appointment of the employee on a full time basis falls within the period from 10<sup>th</sup> March 2009 to 31<sup>st</sup> December 2010
  - o The employee is not employed to replace a former employee for the purpose of carrying out the same or similar function of the former employee
  - o The former employer and the present employer are not associates (e.g. husband or wife, parent or remoter forebear, child or remoter issue, brother, sister and partner)
  - o The former employer and the present employer are not such that one has control over the other, or both of whom are controlled by the same person
- Effective from YA 2009

#### 5. Accelerated Capital Allowance for Plant and Machinery

- Qualifying plant expenditure incurred within the period from 10<sup>th</sup> March 2009 to 31<sup>st</sup> December 2010 by persons who are residents of Malaysia carrying on business (e.g. sole proprietors, partnerships and companies) be granted ACA to be claimed within 2 years instead of 4 to 8 years
- Conditions:-
  - o The person is not granted any incentive under the Promotion of Investments Act 1986 such as pioneer status, investment tax allowance, infrastructure allowance and double deduction for promotion of exports
  - o The person did not make a claim for reinvestment allowance under Schedule 7A of the Income Tax Act 1967
  - o The person is not granted exemption under Section 127(3)(b) or Section 127(3A) of the Income Tax Act 1967
  - o The person does not qualify for initial or annual allowance at a higher fraction under the existing income tax law
- Effective from YA 2009