

2008 Budget Highlights

Introduction

“Together Building the Nation and Sharing Prosperity”, the theme of 2008 Budget, a clear message from the Malaysian Government to all.

2008 Budget focuses on enhancing the nation's competitiveness, strengthening human capital development and ensuring the well-being of all Malaysians.

Transition from imputation system to single tier system for dividends is a major change to the corporate tax system, a welcoming move to enhance efficiency and administration of this system.

Further reduction in corporate tax rate to 25% for year of assessment [“YA”] 2009 coupled with numerous tax incentives, especially in the energy generation and environmental protection aspects will enhance Malaysia's global competitiveness.

Tax incentives for companies undertaking community projects, non-profit oriented schools, Islamic financing sector show clear concerns from the Government that the well-being of all is its top priority, not to mention the bucket of goodies available to individual taxpayers, both locals and expatriates.

We believe 2008 Budget will expedite the nation's economic expansion and wealth creation to enable holistic transformation of Malaysia into a developed nation in a near future.

We have summarised the key amendments outlined in the 2008 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. Stamp Duty
- E. Indirect Taxes
- F. Others

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.

A. Income Tax – Changes Affecting Individuals

1. Post Graduate Studies

- Relief of up to RM5,000 per year for pursuing any course of study for a degree at Masters or Doctorate level in Malaysia for any skill or qualification
- Effective from YA 2008

2. Deposits to SSPN

- Relief of up to RM3,000 per year for amount deposited (net of withdrawal) into Skim Simpanan Pendidikan Nasional [“SSPN”] account established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997 by an individual for his child
- Effective from YA 2007

3. Purchase of Sports Equipment

- Relief of up to RM300 per year on purchase of sports equipment for any sports activity defined under the Sports Development Act 1997 [“SDA”]
- 39 sports activities listed in the First Schedule of SDA
- Effective from YA 2008

4. Dividends Received by Individuals

- Tax exemption on dividend income received by individuals under single-tier system
- Please refer to B2 below
- Effective from YA 2008

5. Retirement Benefits

- 100% exemption on sum received by way of gratuity on reaching the compulsory retirement age of between 50 and 55 (compulsory retirement age is provided for under employment contract or collective agreement)
- Condition: the employment must be with the same employer or with companies in the same group for at least 10 years
- Effective from YA 2007

6. Tax Exemption on Interest

- Please refer to B12 below

7. Gifts of New Computers and Payments of Broadband Subscription Fees by Employers

- Gifts of new computers or payment of broadband subscription fees by employers:-
 - o employer’s perspective – tax deductible
 - o employee’s perspective – exempted from income tax
- Effective from YA 2008 to YA 2010

8. Expatriates Working for IPC and RDC

- Expatriates working for International Procurement Centre [“IPC”] and Regional Distribution Centre [“RDC”] will only be taxed on the portion of employment income attributable to the number of days they are in Malaysia in a calendar year
- Effective from YA 2008

9. Islamic Financing Experts

- Income tax exemption on income received by non-resident individual experts in Islamic finance
- Condition: experts have to be verified by the Malaysian Islamic Financial Centre [“MIFC”] Secretariat
- Effective from 8th September 2007 until 31st December 2016

10. Approved Donations

- Please refer to B6 below

B. Income Tax – Changes Affecting Companies and Unincorporated Businesses

1. Reduction in Corporate Tax Rate

- Corporate tax rate for YA 2007 is 27%
- Corporate tax rate for YA 2008 is 26%
- Corporate tax rate will be reduced to 25% effective YA 2009

2. Review of Company Tax System

- Introduction of single-tier system
- Profits are only taxed at company's level
- Dividends received are exempted in hands of the shareholders
- Capital gains can be distributed to shareholders without the need to pay income tax
- Companies with tax franking credit (Section 108 credit) can continue to declare dividends from the credit balance up to 31st December 2013
- Transitional period of 6 years (1st January 2008 to 31st December 2013) – additional issues arising if the existing imputation system is utilised:-
 - o Only cash dividends to be paid out of ordinary shares
 - o Shareholders must have held the shares for at least 90 days
 - o Current year loss cannot be set-off against dividend income
 - o Prescribed form to be filed within 30 days from the date dividend is paid or credited
- Option to elect for single-tier system with effect from 1st January 2008 – irrevocable election
- Effective from YA 2008

3. Tax Treatment on Bonds

- Discount or premium earned/incurred from subscription or issuance of a bond shall accrue over the whole period of the bond
- Amount of discount or premium taxable/deductible for a YA is computed based on the formula specified in the Income Tax Act 1967 or any other formula which is in accordance with the generally accepted accounting principles
- Effective from YA 2006

4. Renovation of Workplace For Disabled Workers

- Expenses incurred by a person on the alteration or renovation of the premises to provide facilities for the disabled workers be allowed as tax deduction
- Effective from YA 2008

5. Provision of Infrastructure for Public Use

- Expenses incurred by a company in the provision of infrastructure in relation to its business which is available for public use and approved by the Minister of Finance ["MOF"] be allowed as tax deduction
- Effective from YA 2008

6. Approved Donations

- Restriction of deduction up to 7% of aggregate income will now apply to all persons (including individuals, body of persons, etc.) as in the case of companies
- Effective from YA 2008

7. Takaful Business

- Greater tax efficiency for takaful operators as compared to conventional insurance operator where the tax treatments of various types of funds and businesses that could be undertaken by takaful operators are now elaborated, particularly on the following items which were not catered for previously:-
 - o Management expenses borne from the shareholders' fund be allowed as a tax deduction from the gross income of the shareholders' fund
 - o Share of profits distributed from the family takaful fund and general takaful fund be allowed as a tax deduction
 - o Share of profits distributed to the participants in relation to the investment income be taxed on the participants through a final withholding tax mechanism
 - o Tax be imposed on the *Wakalah* fee (i.e. agency fee) received by the shareholders' fund from the family takaful fund and general takaful fund
 - o Deduction be allowed for *Qard* (i.e. interest-free loan) from the shareholders' fund
 - o Tax is imposed on repayment of *Qard*
- Effective from YA 2008

8. SPV for Issuance of Islamic Securities

- Income of the special purpose vehicle ["SPV"] established solely by a company for the purpose of issuing Islamic securities are treated as income of the company that established the SPV
- The SPV is therefore exempted from complying with all the provisions of the Income Tax Act 1967 (i.e. not required to submit tax return and comply with all the administrative requirements)
- Effective from YA 2007

9. Submission of Tax Estimates for SME

- Small and medium enterprises ["SME"] which first commence operations in a YA are not required to furnish estimated tax payable or make instalment payments for the first 2 YA.
- The tax payable for the first 2 YA will be settled upon submission of the income tax returns
- SME are defined as companies with paid-up capital in respect of ordinary shares of RM2.5 million and below at the beginning of the basis period for the relevant YA
- Effective from YA 2008

10. Life Insurance Business

- The 8% tax charged on the actuarial surplus transferred from the life fund to the shareholders' fund will be given tax set-off from the total tax charged on the shareholders' fund to avoid double taxation
- The amount of tax set-off shall be ascertained in accordance with the formula prescribed by the MOF
- Condition: the tax set-off is applicable only where there is a chargeable income for the shareholders' fund
- Effective from YA 2008

11. Transfer of Industrial Buildings to REIT

- Disposal of industrial buildings from companies to real estate investment trusts ["REIT"] will not be subject to balancing charge
- REIT are eligible to claim the balance of unclaimed industrial building allowance ["IBA"] of the disposer
- Effective from YA 2008

12. Tax Exemption on Interest

- Interest income received by all persons (including individuals, body of persons, etc.) from Islamic Securities originating from Malaysia, other than convertible loan stock, issued in any currency other than Ringgit and approved by the Securities Commission will be exempted from income tax (including withholding tax)
- Effective from YA 2008

13. Gifts of New Computers and Payments of Broadband Subscription Fees by Employers

- Tax deductions to be granted on expenses incurred by employers on employees in relation to gift of new computer and broadband subscription fee
- Effective from YA 2008 to YA 2010

14. Accelerated Capital Allowance for Security and Surveillance Equipment

- Security and surveillance equipment to be granted accelerated capital allowance to fully write off the expenses within 1 year
- List of eligible security and surveillance equipments will be issued by the MOF
- Effective from YA 2008 to YA 2012

15. Professional Indemnity Insurance

- Premium paid for professional indemnity insurance will be allowed as a tax deduction regardless of whether it is compulsory under the Act, rules or by-laws of the respective professions
- Effective from YA 2008

16. Non-Profit Oriented Schools

- All income received by non-profit oriented Government assisted and private schools will be exempted from income tax
- Effective from YA 2008

C. Investment Incentives

1. New Tax Incentives for Medical Devices Testing Laboratories

- Companies investing in a new testing laboratory for testing medical devices are eligible to either:-
 - o Pioneer status with tax exemption of 100% of statutory income for 5 years; or
 - o Investment tax allowance of 60% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
- Companies upgrading an existing testing laboratory for testing medical devices are eligible to investment tax allowance of 60% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
- Effective for applications made to Malaysian Industrial Development Authority ["MIDA"] from 8th September 2007 to 31st December 2012

2. New Tax Incentives for Last Mile Network Facilities Provider for Broadband

- Companies investing in last mile broadband infrastructure are eligible to the following:-
 - o Income tax exemption equivalent to 100% of the qualifying capital expenditure incurred with the allowance to be set off against 70% of statutory income. Applications have to be submitted to MOF; and
 - o Import duty and sales tax exemption on broadband equipment and consumer access devices which are basic in providing the broadband services and not produced locally. Applications have to be submitted to MIDA
- Effective for investments made and equipment purchased from 8th September 2007 to 31st December 2010

3. New Tax Incentives for Reduction of Greenhouse Gas Emission

- Income derived from trading of certified emission reduction ["CER"] certificates to be tax exempted for companies that have been successful in reducing emission of greenhouse gases ["GHG"] and granted CER certification as Clean Development Mechanism projects under the Kyoto Protocol
- Effective from YA 1998 to YA 2010

4. Extending Tax Incentives to Recipients of Export Excellence Award (Services) and Brand Excellence Award

- 100% tax exemption on the value of increased exports currently given to recipients of the Export Excellence Award (Merchandise) will be extended to recipients of the Export Excellence Award (Services) and the Brand Excellence Award
- Effective from YA 2008

5. Enhancing Tax Incentives for Generation of Renewable Energy

- Companies undertaking the generation of renewable energy will be accorded the following tax incentives even though related companies within the same group have been granted the same incentive (i.e. previous restriction has now been removed):-
 - o Pioneer status with tax exemption of 100% of statutory income for 10 years; or
 - o Investment tax allowance of 100% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
- For companies generating renewable energy for own consumption, accelerated capital allowance will be replaced with investment tax allowance of 100% on qualifying capital expenditure incurred within 5 years to set off against 100% of statutory income
- Effective for applications made to MIDA from 8th September 2007 to 31st December 2010

6. Enhancing Tax Incentives for Energy Conservation

- Companies providing energy conservation services be given either:-
 - o Pioneer status with tax exemption of 100% of statutory income for 10 years; or
 - o Investment tax allowance of 100% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
- Companies that incur capital expenditure for energy conservation for own consumption be given investment tax allowance of 100% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
- Effective for applications made to MIDA from 8th September 2007 to 31st December 2010

7. Enhancing Tax Incentives for Companies Managing Islamic Funds

- Income tax exemption currently enjoyed by management companies incorporated in Malaysia from managing the Islamic funds for foreign investors will be extended to managing of the Islamic funds for local investors
- Effective from YA 2008 to YA 2016

8. Rationalisation of Tax Incentives for ICT and Computer Software Development Activities

- Companies undertaking information and communication technology ["ICT"] activities including computer software development located outside Cybercities and Cybercentres be centralised in the Cybercities and Cybercentres and be given MSC status incentives
- Incentives for companies undertaking ICT activities including computer software development located outside Cybercities and Cybercentres to be discontinued
- Multimedia Development Corporation Sdn Bhd ["MDeC"] to be the sole agency to process and recommend incentives for companies undertaking ICT activities, i.e. MIDA will no longer process such applications
- Effective from 8th September 2007

9. Expediting Investment for Companies Involved in an Industrial Linkage Programme

- Small and Medium Industries ["SMI"] involved in an Industrial Linkage Programme will be accorded the following tax incentives:-
 - o SMI that supply components, technology or R&D
 - Pioneer status with tax exemption of 100% of statutory income for 5 years; or
 - Investment tax allowance of 60% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
 - o SMI which are capable of achieving world class standards in terms of pricing, quality and capacity
 - Pioneer status with tax exemption of 100% of statutory income for 10 years; or
 - Investment tax allowance of 100% on qualifying capital expenditure incurred within 5 years to set-off against 100% of statutory income
- These incentives will be discontinued for applications received by MIDA after 31st December 2010

10. Expediting Investment for Transforming the Chicken and Duck Rearing Systems

- Chicken and duck rearers who reinvest for the purpose of shifting from opened house system to closed house system will be eligible for reinvestment allowance of 60% on qualifying capital expenditure incurred to set off 70% of statutory income for a period of 15 consecutive years
- This incentive will no longer be applicable after YA 2010

11. Expediting Investment for Plantation of Rubber Wood Trees

- Non-rubber plantation company that plants at least 10% of the plantation with rubber wood trees will be eligible for accelerated agriculture allowance on capital expenditure incurred for land preparation, planting and maintenance of rubber wood cultivation to fully write off the expenditure within 1 year
- This incentive will no longer be applicable after YA 2010

D. Stamp Duty

1. Mergers of Petronas Vendors

- All instruments relating to mergers of vendors involved in upstream activities and licensed with Petronas be given stamp duty exemption
- Effective from 8th September 2007 to 31st December 2010

2. Purchase of Residential Property

- Instruments of transfer for purchase of a house not exceeding RM250,000 be given 50% stamp duty exemption
- Condition: One house per individual
- Effective for sale and purchase agreements executed from 8th September 2007 to 31st December 2010

3. Enhancing the Exemption of Stamp Duty on Transfer of Real Property between Husband and Wife

- The 50% stamp duty exemption on instruments for transfer of real property between husband and wife be increased to 100%
- Effective from 8th September 2007

4. Extending the Exemption of Stamp Duty for Mergers and Acquisitions of Listed Companies

- Stamp duty exemptions currently given to companies listed on Bursa Malaysia that undertake mergers and acquisitions approved by the Securities Commission will be extended to 31st December 2010
- Condition: The mergers and acquisitions must be completed by 31st December 2011
- Effective from 8th September 2007 to 31st December 2010

5. Payment of Stamp Duty using Private Valuation

- In order to expedite the transfer of real property pending the official valuation issued by the Valuation and Property Services Department ["JPPH"], private valuation by a practicing valuer will now be accepted for the determination of initial duty payable
- Condition: A bank guarantee has to be given to the Collector of Stamp Duty of which the value of the bank guarantee shall be determined based on the difference between the JPPH valuation and the private valuation, with the private valuation deemed to be 35% lower than the JPPH valuation
- Additional duty will be payable if the proper stamp duty based on the JPPH valuation is higher than the initial duty paid
- The Collector of Stamp Duty will call upon the bank guarantee where the additional duty is not paid within 30 days, with 10% penalty being imposed if the bank guarantee amount is insufficient
- Where the proper stamp duty chargeable exceeds the sum of the initial duty plus the bank guarantee ["exceeding amount"] by more than 30% of the proper stamp duty, the difference between the exceeding amount and the 30% of the proper duty shall be increased by 10%
- Effective from 1st January 2008

E. Indirect Taxes

1. Abolition of Service Tax Threshold for Professional, Consultancy and Management Services

- The service tax licensing threshold of RM150,000 annual sales turnover for professional, consultancy and management service providers be abolished
- Effective from 1st January 2008

2. Composite Customs Forms

- The 16 customs forms with similar information will be combined into 4 forms as follows:-

Current Forms		Proposed Forms
CJ3 CP3	Sales Tax Return Service Tax Return	JKED No. 3 (Internal Tax Returns)
K13 K14 K21 CJ2 CJ7 CP2 E1 E2 Schedule 1	Warehouse License Manufacturing Warehouse License Duty Free Shop License Manufacturing License (Sales Tax Act) Certificate of exemption from sales tax licensing Service Tax License Manufacturing License (Excise Act) Warehouse License (Excise Act) Bottling and Movement of Intoxicating Liquors (Excise Regulations)	JKED No. 4 (License / Certificate)

K4 K5 K6	Inward Manifest Outward Manifest Transshipment Manifest	JKED No. 5 (Manifest)
K19 K20	Permit to Go Alongside A Legal Landing Place or Alongside An Ocean-Going Vessel Within the Ports Limits Permit to Carry Dutiable or Prohibited Goods By Local Craft	JKED No. 6 (Permit For Landing/ Permit to Carry Goods)

- Effective from 1st January 2008

F. Others

1. Labuan Offshore Companies

- Labuan offshore companies will now be provided with an irrevocable election for their income from offshore business activities to be taxed under the Income Tax Act 1967, which will ensure that the Labuan offshore companies are recognised for tax treaty purposes
- Effective from YA 2008 under the Income Tax Act 1967 and YA 2009 under the Labuan Offshore Business Activity Act 1990

2. Foreign Equity on Fund Management Companies and REIT

- Foreign ownership on fund management companies and REIT management companies is increased to 70%, with the Bumiputera ownership requirement remains at 30%

3. EPF Withdrawals for Financing of House

- EPF contributors will be allowed to make monthly withdrawals from the balance in Account 2 for the financing of 1 house
- Effective from 1st January 2008