

Tax Flash



December 2009

Implementation of GST

After several years of deferment on the implementation of Goods and Services Tax ["GST"], the Government has tabled the GST Bill 2009 on 16th December 2009 for first reading in the Parliament. The GST is expected to be implemented around mid 2011 with a standard GST rate of 4% which will replace the existing sales tax and services tax regime.

RPGT Latest Development

Our honourable Prime Minister, Y.A.B. Dato' Sri Mohd Najib Tun Abdul Razak has announced on 23rd December 2009 that the reintroduction of real property gains tax ["RPGT"] during the 2010 Budget proposal will now only apply to real properties sold less than five years from its purchase. Chargeable gains from disposal of real properties which are held more than five years will be exempted from RPGT. Therefore, the 5% RPGT rate will only be applicable to disposal of real properties with holding period of less than five years. The move was made following the appeals from the Federation of Chinese Associations of Malaysia and the business sector.

The Ministry of Finance ["MoF"] has further clarified on 28th December 2009 that this exemption is applicable on gains from all types of real property including shares in real property companies disposed by all categories of property owners who are individuals (citizens, permanent residents, non-citizens and non-permanent residents of Malaysia), companies as well as other real property owners.

An Exemption Order under the RPGT Act 1976 will be gazetted to effect the above exemption.

Stamp Duty Remission on Islamic Financing Instruments

With effect from 1st January 2010 until 31st December 2015, there is remission of 20% of the stamp duty payable and chargeable on the principal or primary instrument of financing made in accordance with the Syariah principles and approved by the Syariah Advisory Council of Bank Negara Malaysia or the Securities Commission ["SC"].

This remission has now been gazetted under the Stamp Duty (Remission) (No. 2) Order 2009.

Hyperlinks

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References

Stamp Duty (Remission)
(No. 2) Order 2009

Stamp Duty Exemption for Buildings Awarded with GBI Certificate

Following the 2010 Budget announcement, the Stamp Duty (Exemption) Order 2009 has been gazetted to effect the stamp duty exemption on the instrument of transfer of property which has been issued a green building index ["GBI"] certificate by the Board of Architects Malaysia.

This exemption is only applicable to Sale and Purchase Agreement executed between a purchaser and a property developer.

This order takes effect from 24th October 2009 until 31st December 2014.

Tax Exemption for Insurance or Takaful Business

With effect from 24th October 2009, a Malaysian resident company which is an insurer licensed under the Insurance Act 1996 or a takaful operator registered under the Takaful Act 1984 is exempted from payment of income tax for five consecutive years of assessment in relation to sources of income derived from

- i. a branch; or
- ii. a company of which at least 20% of the issued share capital of the company is directly owned by the insurer or takaful operator

carrying on insurance or takaful business outside Malaysia.

This exemption has been gazetted under Income Tax (Exemption) (No. 5) Order 2009.

Tax Exemption for Healthcare Service Providers

With effect from year of assessment ["YA"] 2010 until YA 2014, the tax exemption on income derived from provision of healthcare services to foreign clients to be increased from 50% to 100% of the increase in value of healthcare services provided in the current year as compared with the preceding year and to be set off against 70% of the statutory income.

This exemption has been gazetted under Income Tax (Exemption) (No. 6) Order 2009.

Stamp Duty (Exemption)
Order 2009

Income Tax (Exemption)
(No. 5) Order 2009

Income Tax (Exemption)
(No. 6) Order 2009



Tax Exemption for Banking or Islamic Banking Business

With effect from 24th October 2009, a Malaysian resident company which is a bank licensed under the Banking and Financial Institutions Act 1989 or under Islamic Banking Act 1983 is exempted from payment of income tax for five consecutive years of assessment in relation to sources of income derived from

- i. a branch; or
- ii. a company of which at least 20% of the issued share capital of the company is directly owned by the bank

carrying on a banking or Islamic banking business outside Malaysia.

This exemption has been gazetted under Income Tax (Exemption) (No. 7) Order 2009.

Tax Exemption for Expenditure Incurred in Obtaining GBI Certificate

Tax exemption is given on statutory income from a person's business equivalent to the amount of qualifying expenditure incurred by him for the purpose of obtaining a GBI certificate issued by the Board of Architects Malaysia from 24th October 2009 until 31st December 2014.

The qualifying expenditure incurred prior to the issuance of a GBI certificate will be deemed to have been incurred on the day when the certificate is issued and in the YA when the person commences its business at the building which is issued that certificate.

This exemption has been gazetted under Income Tax (Exemption) (No. 8) Order 2009.

Tax Exemption for Approved Consolidation of Management of Smallholding and Idle Land

With effect from YA 2003, an individual, partnership, co-operative society and company

- i. who are resident in Malaysia; and
- ii. have business sources in Malaysia

are exempted from payment of income tax for five consecutive years of assessment in relation to statutory income derived from consolidation of management of smallholding and idle land.

This exemption has been gazetted under Income Tax (Exemption) (No. 9) Order 2009 and takes effect from 21st September 2002 until 31st December 2011.

Income Tax (Exemption)
(No. 7) Order 2009

Income Tax (Exemption)
(No. 8) Order 2009

Income Tax (Exemption)
(No. 9) Order 2009

Double Deduction for Promoting Malaysia as an International Islamic Financial Centre

Following the 2010 Budget announcement, the Income Tax (Deduction for Promotion of Malaysia International Islamic Financial Centre) Rules 2009 has been gazetted to provide double deduction to persons incurring qualifying expenditure for promoting Malaysia as an international Islamic financial centre.

This order takes effect from YA 2011 until YA 2015.

Deduction for Expenditure on Registration of Patents and Trademarks

Following the 2010 Budget announcement, the Income Tax (Deduction for Expenditure on Registration of Patent and Trademark) Rules 2009 has been gazetted to allow deduction of expenses incurred on the registration of patents and trademarks in Malaysia by small medium enterprises ["SME"].

For the purpose of this deduction, SME include:

- i. SME as defined under the Income Tax Act 1967;
- ii. enterprises in the manufacturing industries, manufacturing related services industries and agro-based industries with full-time employees not exceeding 150 persons, or with annual sales turnover not exceeding RM25 million;
- iii. enterprises in the services industries, primary agriculture industries and information and communication technology industries with full time employees not exceeding 50 persons, or with annual sales turnover not exceeding RM5 million

This order takes effect from YA 2010 until YA 2014.

Deduction for Expenditure on Preparation of Corporate Knowledge-Based Master Plan

With effect from YA 2003, expenditure incurred in preparing a corporate knowledge-based master plan by a resident company which is approved by the MoF to participate in a strategic knowledge-intensive activity will be an allowable expense in arriving at adjusted income.

This incentive has been gazetted under Income Tax (Deduction for Cost of Preparation of Corporate Knowledge-Based Master Plan) Rules 2009 and takes effect from 21st September 2002 until 31st December 2011.

Income Tax (Deduction for Promotion of Malaysia International Islamic Financial Centre) Rules 2009

Income Tax (Deduction for Expenditure on Registration of Patent and Trademark) Rules 2009

Income Tax (Deduction for Cost of Preparation of Corporate Knowledge-Based Master Plan) Rules 2009

Deduction for Cost of Issuance of Islamic Securities

Following the 2010 Budget announcement, the Income Tax (Deduction for Expenditure on Issuance of Islamic Securities) Rules 2009 has been gazetted to allow deduction for expenditure incurred on the issuance of Islamic securities that are pursuant to the principle of mudharabah, musyarakah, ijarah or istisna or any other Syariah principle approved by the MoF.

This order takes effect from YA 2011 until YA 2015 for issuance of Islamic securities approved by the SC and from YA 2010 until YA 2015 for issuance of Islamic securities approved by the Labuan Offshore Financial Services Authority.

Income Tax (Deduction for Expenditure on Issuance of Islamic Securities) Rules 2009

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