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Guidelines for Tax Treatment on Lease Expenses for Special Assets Under the PITA 1967

The Inland Revenue Board ["IRB"] has issued the *Guidelines for Tax Treatment on Lease Expenses for Special Assets Under the Petroleum (Income Tax) Act 1967* ["PITA 1967"] dated 20th June 2023 to provide clarification on the tax treatment of lease expenses under Section 15(1) of the PITA 1967 for special assets such as Floating Production System, Floating Production Storage & Offloading and Floating Storage & Offloading which are widely used in the oil and gas production.

The guidelines provide further details on the general terms used in the lease agreements and example of the application of tax treatment as reference.

PN No. 1/2023 – Explanation Relating to Tax Treatment on Foreign Exchange Gains and Losses for Chargeable Person Under the PITA 1967

The IRB has issued the *Practice Note ["PN"] No. 1/2023 – Explanation Relating to Tax Treatment on Foreign Exchange ["FOREX"] Gains and Losses for Chargeable Person Under the PITA 1967* dated 15th June 2023. The tax treatments for FOREX gains and losses applicable to a chargeable person under the PITA 1967 are in line with the tax treatments as provided in the following Guidelines / Public Ruling ["PR"]:-

- Guidelines of Tax Treatment Related to the Implementation of Malaysian Financial Reporting Standards 121 (or other Similar Standards) (Revised) dated 16th May 2019; and
- PR No. 12/2019 – Tax Treatment of FOREX Gains and Losses dated 13th December 2019 (based on the provisions under the Income Tax Act 1967 ["ITA 1967"]).

PN No. 2/2023 – Explanation Relating to Tax Treatment of Political Parties and Politicians

The IRB has issued the *PN No. 2/2023 – Explanation Relating to Tax Treatment of Political Parties and Politicians* dated 27th June 2023 (in *Bahasa Malaysia*) to provide explanation on the tax treatments for "political party" and "politician".

For the purpose of this PN, the definitions of "political party" and "politician" are as follows:-

- **"Political Party"** (as defined under the Societies Act 1966) means:-
 - any society which by any of its objects or rules, regardless whether such object or rule is its principal object or rule, or constitutes merely an object or rule which is ancillary to its principal object or objects or to its principal rule or rules, makes provision for the society to participate, through its candidates, in elections to the *Dewan Rakyat*, or to a *Dewan Undangan Negeri*, or to a local authority, or makes provision for it to seek the appointment or election of a person proposed or supported by it to the *Dewan Negara*; or
 - any society which, notwithstanding anything contained in its objects or rules, carries on any activity or pursues any objective which involves its participation, through its candidates, in elections to the *Dewan Rakyat*, or to a *Dewan Undangan Negeri*, or to a local authority, or which involves it seeking the appointment or election of a person proposed or supported by it to the *Dewan Negara*.
- **"Politician"** means an individual, whether male or female, who contests in an election or holds power through the involvement in political party or activities such as member of congress, chancellor, governor, mayor, member of parliament / people's representative, minister, president, prime minister or senator under the local, state or federal government. The definition is also extended to officers who want to maintain their positions through electoral campaigns.

The tax treatments for political parties and politician are as summarised below:-

| No. | Tax Issues | Tax Treatment |
|-----|---|---|
| 1. | Tax treatment on a political party | <ul style="list-style-type: none"> • A political association is exempted from the payment of income tax in respect of all income under the Income Tax (Exemption) (No.22) Order 2002 ["P.U.(A) 208/2002"] with effect from the year of assessment ["YA"] 2001. • However, the political association must comply with the requirements to submit any statement or accounting statements or provide any information under the provisions of the ITA 1967. |
| 2. | Tax treatment on funds/donations received by a political party | Funds/donations received from within Malaysia or outside Malaysia are exempted from income tax under Paragraph 2(1) of P.U.(A) 208/2002. |
| 3. | Tax treatment on funds/donations received by a politician | Politician are taxed similarly as an individual i.e. all taxable income are subject to tax based on the prevailing tax laws. |
| 4. | Tax treatment on funds/donations received from within Malaysia by a politician | The tax exemption under Paragraph 2(1) of P.U.(A) 208/2002 is only granted to a political party. Funds/donations received by a politician is not included in the above exemption and therefore subject to tax under Section 4(f) of the ITA 1967. |
| 5. | Tax treatment on funds/donations received from outside Malaysia by a politician | Generally, tax is charged on income accruing in or derived from Malaysia or received in Malaysia from outside Malaysia. Therefore, such funds/donations received by a politician fall within the scope of taxable income and subject to tax under Section 4(f) of the ITA 1967. |
| 6. | Tax treatment on rewards received by a politician | Rewards received by a politician from an employment paid by the Malaysian Government is exempted from income tax if the position held is listed under Paragraph 30A, Schedule 6 of the ITA 1967. |
| 7. | Tax treatment on pension received by a politician | <p>Pension derived from Malaysia and received by a politician from an employment paid by the Government is exempted from income tax if the position held is listed under Paragraph 30A, Schedule 6 of the ITA 1967 provided that the following conditions are fulfilled:-</p> <ul style="list-style-type: none"> (i) Has attained the age of 55 or due to ill-health; and (ii) For politicians who are elected as member of parliament or <i>Ahli Dewan Undangan Negeri</i>, exemption shall only be given to the pension which is the highest. |

Double Deduction for Expenditure Incurred for the Provision of an Approved Internship Programme

The Income Tax (Deduction for Expenditure Incurred for the Provision of an Approved Internship Programme) Rules 2019 provides a double deduction for expenditure incurred by a person who is resident in Malaysia and approved by the Talent Corporation Malaysia Bhd to conduct approved internship programme for qualified students for the YA 2017 to YA 2021.

Following the Budget 2022 announcement, the *Income Tax (Deduction for Expenditure Incurred for Provision of Approved Internship Programme) (Amendment) Rules 2023* has been gazetted to extend the double deduction for the expenditure incurred in relation to the approved internship programmes for students up to YA 2025 with enhancement and expansion of the scope of deduction for this incentive.

The salient amendments include:-

- The definition of “qualified course” is amended to a technical and vocational education and training programme (minimum Malaysian Skills Certificate Level 1) or its equivalent which is offered in or outside Malaysia and is recognised by the Malaysian Qualifications Agency or the Department of Skills Development.
- The definition of “student” in relation to a higher educational institution is expanded to an individual who—
 - is pursuing a diploma, Bachelors degree or Masters degree or its equivalent, or a professional certificate; and
 - completes the approved internship programme before completion of the final semester of his diploma, Bachelors degree or Masters degree or its equivalent, or a professional certificate.
- The allowable expenses in relation to the approved internship programme is amended as below:-
 - a) payment of internship monthly allowance to a student of Malaysian Skills Certificate Level 1 until 4 or diploma level or its equivalent, of not less than RM500; or
 - b) a student of Malaysian Skills Certificate Level 5 or Bachelors degree or Masters degree or its equivalent, or professional certificate level, of not less than RM600;
 - c) expenditure incurred for the provision of training for the students;
 - d) expenditure incurred on meal, travelling and accommodation for the students during the internship programme; and
 - e) expenditure incurred for digital and communication costs.

The total amount of expenses under (a) to (e) above allowable for each student shall not exceed RM5,000 each year.

The above Rules shall have effect from YA 2022.

Note: For further information on the previous Income Tax (Deduction for Expenditure Incurred for Provision of Approved Internship Programme) Rules 2019, kindly refer to our *Tax Flash – February 2020* issue.

Stamp Duty Exemption/Remission for First-Time Purchase of Residential Property

Following the Budget 2023 (retabled) announcement, the following subsidiary legislations have been gazetted to provide exemption/remission of stamp duty for first-time purchase of residential property through the Malaysian Home Ownership Initiative (i-Miliki) under the Home Ownership Programme 2022/2023:-

- *Stamp Duty (Exemption) Order 2023*;
- *Stamp Duty (Exemption) (No. 2) Order 2023*;
- *Stamp Duty (Remission) Order 2023*; and
- *Stamp Duty (Remission) (No. 2) Order 2023*.

Salient points of the abovementioned Orders are as follows:-

i. Instrument Exempted from Stamp Duty, Rate of Exemption/Remission and Value of Property

| Gazetted Order | Stamp Duty (Exemption) Order 2023 | Stamp Duty (Exemption) (No. 2) Order 2023 | Stamp Duty (Remission) Order 2023 | Stamp Duty (Remission) (No. 2) Order 2023 |
|--|--|--|--|--|
| Instrument exempted from stamp duty | Any loan agreement executed between an individual and a licensed financial institution, licensed co-operative society or employer providing housing loan schemes | Any instrument of transfer executed by an individual | Any loan agreement executed between an individual and a licensed financial institution, licensed co-operative society or employer providing housing loan schemes | Any instrument of transfer executed by an individual |
| Rate of exemption /remission | Full exemption | | Remission of 75% | |
| Value of property | Not more than RM500,000 | | More than RM500,000 but not more than RM1,000,000 | |

ii. Date of Purchase

- The sale and purchase agreement for the purchase of the residential property between an individual and a property developer must be executed from 1st June 2022 to 31st December 2023 and duly stamped by 31st January 2024.

iii. Discount Requirement

- The purchase price in the sale and purchase agreement is a price after a discount of at least 10% from the original price offered by the property developer as approved in the Advertising and Sales Permit under the Housing Development (Control and Licensing) Act 1966, Housing Development (Control and Licensing) Enactment 1978 [Sabah No. 24 of 1978] or Housing Development (Control and Licensing) Ordinance 2013 Sarawak [Cap. 69] except for a residential property which is subject to controlled pricing.

iv. Statutory Declaration Requirement

- The application for exemption/remission of stamp duty shall be accompanied by a statutory declaration under the Statutory Declarations Act 1960 that:-
 - the property developer confirming the grant of a discount of at least 10% from the original price offered by the property developer; and
 - the individual confirming that he/she has never owned any residential property including a residential property which is obtained by way of inheritance or gift, which is held either individually or jointly.

For the purpose of the above Orders:-

“Residential property” means a house, a condominium unit, an apartment or a flat, purchased or obtained solely to be used as a dwelling house, and includes a service apartment and small office home office [“SOHO”] for which the property developer has obtained an approval for Housing Developers’ Licence and Advertising and Sales Permit under the Housing Development (Control and Licensing) Act 1966, Housing Development (Control and Licensing) Enactment 1978 [Sabah No. 24 of 1978] or Housing Development (Control and Licensing) Ordinance 2013 Sarawak [Cap. 69].

“Individual” means a purchaser of a residential property who is a Malaysian citizen or co-purchasers of a residential property who are Malaysian citizens.

The Orders are deemed to have effect from 1st June 2022.

Note: For further information on the previous Orders, kindly refer to our [Tax Flash – March 2021](#) issue.

Review of Stamp Duty Exemption on Instrument of Transfer of Immoveable Property

Following the 2023 Budget (retabled) announcement, the following subsidiary legislations have been gazetted to provide exemption of stamp duty on all instruments of transfer of any immoveable property operating as a voluntary disposition *inter vivos* from the donor to the recipient:-

- [Stamp Duty \(Exemption\) \(No. 3\) Order 2023](#) [“new Order”]; and
- [Stamp Duty \(Remission\) \(Revocation\) Order 2023](#) [“revocation Order”] to revoke the Stamp Duty (Remission) (No. 2) Order 2019 [“revoked Order”].

Salient points of the abovementioned new and revocation Orders are as follows:-

- i. Based on the revoked Order, 50% remission of stamp duty chargeable is given on instrument of transfer of any immoveable property between parents and children. With the gazettelement of the new Order, grandparents and grandchildren are included as a donor and/or recipient as follows:-

| Donor | Recipient |
|---|---|
| (a) Mother or father; or (b) Mother and father | Child |
| Child | (a) Mother or father; or (b) Mother and father |
| (a) Grandfather or grandmother; or (b) Grandfather and grandmother | Grandchild |
| Grandchild | (a) Grandfather or grandmother; or (b) Grandfather and grandmother |

- ii. The amount of stamp duty exempted under the new Order is as follows:-
 - full exemption: stamp duty on the first RM1,000,000 or less of the market value of the immoveable property; and
 - 50% exemption: stamp duty on the portion of market value of the immoveable property in excess of RM1,000,000.

- iii. To be eligible for the exemption under the new Order, the following conditions must be fulfilled:-
- the instrument of transfer of the immovable property is executed on or after 1st April 2023; and
 - the recipient is a Malaysian citizen.
- iv. An instrument of transfer of immovable property executed before 1st April 2023 but has not been presented for stamping shall be entitled to the remission under the revoked Order.

For the purpose of the above Orders, “**child**” means a legitimate child, a step child or child adopted in accordance with any law.

Both new and revocation Orders are deemed to have effect from 1st April 2023.

Service Tax Guides

Royal Malaysian Customs Department has published the following guides:-

- *Guide on Food and Beverages* dated 26th June 2023; and
- *Guide on Accommodation* dated 27th June 2023.

For other issues of our Tax Flash, please go to:
www.moore.com.my/publications



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