Subject: e-Announcement | Amendments to the Finance Bill 2018

Important Links

- Finance Bill 2018 (Amendment)
- Finance Bill 2018
- Income Tax (Amendment) Bill 2018
- Labuan Business Activity Tax (Amendment) Bill 2018

14 December 2018

Dear Valued Client / Business Associate,

The Finance Bill 2018 has been passed by Dewan Rakyat on 10 December 2018 with several amendments.

Amongst others, the significant amendments are as follows:-

1. 7-Year Time Limit to Carry Forward Tax Attributes for Future Utilisation

Finance Bill 2018	Amended Finance Bill 2018
(i) Unabsorbed business losses and unutilised capital allowances from a Year of Assessment ("YA") can only be carried forward up to 7 consecutive YAs. (ii) Unabsorbed pioneer losses and unutilised reinvestment allowances, investment allowances for the	The proposed 7-year time limit **shall not apply to unutilised capital allowances and investment tax allowances.** Unutilised capital allowances and investment tax allowances can be carried forward without any time limit.

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service sector and investment tax allowances, can only be carried forward up to 7 consecutive YAs after the expiry / end of the qualifying period.	

The above proposal is effective from YA 2019.

2. Amendment to Special Classes of Income

Finance Bill 2018	Amended Finance Bill 2018
The words **"technical"** and **"technical management or administration of"** contained in the definition of the special classes of income under Section 4A(ii) of the Income Tax Act, 1967 ("ITA") were proposed to be removed.	The words **"the management or administration of"** are now restored. Consequential amendments have also been made to Malaysian deemed derived income and withholding tax provisions pertinent to Section 4A(ii) income. With the removal of the word "technical", the new scope of Section 4A(ii) income covers the following: "amounts paid in consideration of any advice given, or assistance or services rendered in connection with the management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme"

The above proposals are effective on the coming into operation of the Finance Act.

3. Cessation of Tax Exemption on Interest Income Paid or Credited to a Unit Trust that is a Wholesale Money Market Fund

Finance Bill 2018	Amended Finance Bill 2018
It was proposed that **a company** is no longer entitled for a tax exemption	The current tax exemption on interest income derived from Malaysia and paid or

for any interest income derived from Malaysia and paid or credited by a licensed bank or financial institution through a wholesale money market fund which complies with the criteria set out in the relevant guidelines of the Securities Commission Malaysia.	credited by a licensed bank or financial institution to a wholesale money market fund is now entirely withdrawn.

The above proposal is effective from 1 January 2019.

4. Labuan International Business Financial Centre

(a) New Requirements for Labuan Entities

Finance Bill 2018	Amended Finance Bill 2018
Labuan entities subject to the Labuan tax regime shall have: (i) an adequate number of full time employees **in Malaysia**; and (ii) an adequate amount of annual operating expenditure **in Malaysia**, as prescribed by the Minister of Finance by regulations made under the Labuan Business Activity Tax Act 1990.	The 'location' under the new requirements is amended to be 'in Labuan' and not 'in Malaysia.

The above proposal is effective from 1 January 2019.

(b) Limitation of Tax Deduction for Transactions with a Labuan Entity

Finance Bill 2018	Amended Finance Bill 2018
A limited tax deduction of up to 3% of allowable expenditure incurred in respect of any payment made by a resident person to any Labuan entity will be given a tax deduction.	The limitation of tax deduction of up to 3% for transactions with a Labuan entity is now removed. The limitation shall now be subject to any rules as may be prescribed by the Minister of Finance.

The above proposal is effective from 1 January 2019.

5. Real Property Gains Tax ("RPGT")

(a) Chargeable Assets Acquired Prior to 1 January 2000

Finance Bill 2018	Amended Finance Bill 2018
It was proposed that the RPGT rates for disposals of real property or shares in a real property company in the 6th and subsequent years be revised as follows: (i) Company, non-citizen and non-permanent resident individual - Increased from 5% to 10% (ii) Other than company, non-citizen and non-permanent resident individual (excluding disposal of residential homes at the price of RM200,000 and below by Malaysian citizens #) - Increased from 0% to 5% Note #: Based on a proposal made in 2019 Budget and not in Finance Bill 2018.	An additional provision is proposed that the acquisition price of a chargeable asset acquired prior to 1 January 2000 shall be the market value of the chargeable asset as at 1 January 2000 for disposals made by a disposer who is a citizen or permanent resident of Malaysia.

The above proposal is effective from 1 January 2019.

(b) Transfer of Real Property by Way of Gift

Finance Bill 2018	Amended Finance Bill 2018
No related proposal was inserted. Under current provision, in the case of transfer of real property by way of gift (where the donor and recipient are husband and wife, parent and child or grandparent and grandchild), the donor is deemed to have received no gain and suffered no loss on the disposal if the donor is a Malaysian citizen. Where the gift is made	It is proposed that the recipient shall be deemed to acquire the real property at the price paid by the donor plus permitted expenses paid by the donor whether or not the gift is made within 5 years after the date of acquisition by the donor.

within 5 years after the date of acquisition by the donor, the recipient shall be deemed to acquire the property at the price paid by the donor plus permitted expenses incurred by the donor.	

The above proposal is effective from 1 January 2019.

The Income Tax (Amendment) Bill 2018 and Labuan Business Activity Tax (Amendment) Bill 2018 have been passed by Dewan Rakyat on 10 December 2018 without any amendment.

The relevant Bills can be accessed via the above links.

Should you have any questions or require further clarification, please do not hesitate to contact any of our Executive Directors, Directors, Associate Directors or Managers whom you are accustomed to dealing with or who are responsible for the tax affairs of your organisation at the following telephone numbers for respective offices:

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Regards,

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