

REVIEW OF COMPANY INCOME TAX RATE

Present Position

Currently, company income tax rate is 28%. This rate also applies to the following entities:

- i. a trust body;
- ii. an executor of an estate of an individual who was domiciled outside Malaysia at the time of his death; and
- iii. a receiver appointed by the court.

Small and medium scale companies (SMEs) with paid up capital not exceeding RM2.5 million are taxed at 20% on chargeable income up to RM500,000 and the remaining amount at 28%.

Proposal

As a measure to enhance the nation's competitiveness, it is proposed that the company income tax rate be reduced in stages by 2 percentage points. For the year of assessment 2007, the rate will be 27% including for SMEs. This new rate also applies to the following entities:

- i. a trust body;
- ii. an executor of an estate of an individual who was domiciled outside Malaysia at the time of his death; and
- iii. a receiver appointed by the court.

The proposal is effective from year of assessment 2007.

**ENHANCING INCENTIVE FOR
VENTURE CAPITAL INDUSTRY**

Present Position

Currently, venture capital companies (VCCs) have the option to choose between the following incentives:

- i. income tax exemption for 10 years for investing at least 70% of its investment funds in venture companies (VCs) in the form of seed capital, start-up or early stage financing; or
- ii. deduction for income tax purposes equivalent to the value of investment made in VCs.

Proposal

To increase funding in seed capital, it is proposed that VCCs investing at least 50% of its investment funds in VCs in the form of seed capital be given income tax exemption for 10 years.

The proposal is effective from year of assessment 2007.

REVIEW OF PENALTY ON WITHHOLDING TAX

Present Position

Currently, payment made to a non-resident such as interest, royalty, rental and technical fees is subject to withholding tax. In respect of withholding tax not paid, a penalty of 10% is imposed on the total payment made to a non-resident.

Proposal

To reduce the cost of doing business, it is proposed that the 10% penalty on withholding tax be imposed on the amount of unpaid tax and not on the total payment made to a non-resident.

The proposal is effective from 2 September 2006.

**TAX TREATMENT ON ZAKAT PAID
BY COOPERATIVES AND TRUST BODIES**

Present Position

Currently, *zakat* paid by companies to Islamic religious authorities is allowed as a deduction under the Income Tax Act 1967 subject to a maximum of 2.5% of the aggregate income. This deduction was effective from year of assessment 2005.

However, *zakat* paid on business income by cooperatives and trust bodies are not allowed as a deduction for income tax purposes.

Proposal

In order to accord equal tax treatment between companies, cooperatives and trust bodies, it is proposed that *zakat* on business income paid by cooperatives and trust bodies to Islamic religious authorities be allowed as a deduction under the Income Tax Act 1967 subject to a maximum of 2.5% of their aggregate income.

The proposal is effective from year of assessment 2007.

ESTABLISHMENT OF CUSTOMS APPEAL TRIBUNAL

Present Position

Currently, disputes pertaining to technical and administrative decisions by the Royal Malaysian Customs may be appealed to the Minister of Finance. These disputes are mostly related to classification and valuation of goods and taxable services.

Proposal

To further enhance transparency in tax administration, it is proposed that an independent body known as the Customs Appeal Tribunal (CAT) be established to decide on appeals against the decisions of the Director General of Customs pertaining to matters under the Customs Act 1967, Sales Tax Act 1972,

Service Tax Act 1975 and Excise Act 1976. The main features of CAT are as follows:

- i. the Tribunal shall consist of not less than three (3) members of which the Chairman shall be from the judicial and legal service and other members with experience in taxation or custom matters;
- ii. appeal against the decision of the Director General of Customs shall be made within 30 days from the date of notification of that decision; and
- iii. the decision of the Tribunal shall be final except on such cases where there shall be further right of appeal to the High Court or Federal Court.

The proposal is effective from 1 March 2007.

APPENDIX 6

INTRODUCTION OF CUSTOMS RULING

Present Position

Currently, any person can apply to the Royal Malaysian Customs (KDRM) in respect of the classification or valuation of goods or services in order to determine the class and duty of such goods or the tax treatment of such services. These rulings are issued on an ad hoc basis and their applications are not comprehensive which have caused inconsistencies in their implementation.

Proposal

In order to provide the business sector with the elements of certainty and predictability in planning their business activities, it is proposed that Customs Ruling be introduced under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975 and Excise Act 1976. The Ruling issued by the KDRM and agreed by the applicant shall be legally binding between both parties for a specific period of time.

The main features of Customs Ruling to be introduced are as follows:

- i. application for Customs Ruling can be made with respect to classification of goods, determination of taxable services and the principles of determination of value of goods and services;
- ii. application to be made in writing together with sufficient facts and a prescribed fee;

- iii. application may be made before the goods are imported or the services are provided upon which KDRM will issue an advance ruling;
- iv. the Customs Ruling is only applicable to the applicant; and
- v. the Director General of Customs may amend, modify or revoke a Ruling if there is any error in the Ruling due to typing or the wrong reference or if the Ruling is based on an error of fact as in the case of the use of incomplete analysis done on a product or if there is a change in law which can result in a new tariff structure.

The proposal is effective from 1 January 2007.

APPENDIX 7

INTRODUCTION OF ADVANCE RULINGS IN INCOME TAX ADMINISTRATION

Present Position

Currently, there is no specific provision for the issuance of advance ruling in the Income Tax Act 1967. The Inland Revenue Board (IRB) issues Public Rulings to make known the Director General's interpretation of provisions of the Act that have general applications. If a taxpayer does not agree with the interpretation, he may request for a private ruling.

Since Malaysia is on a full self assessment system, it is only appropriate that IRB extends its services to the issuance of advance ruling.

Proposal

In order to promote clarity and certainty in the interpretation and application of the tax law, it is proposed that a specific provision be introduced under the Income Tax Act 1967, to allow a taxpayer to request for an advance ruling. An advance ruling is a written statement given by the Director General on the tax treatment of an arrangement to be undertaken by the taxpayer. The salient features of the advance ruling system to be introduced are as follows:

- i. application to be made in a prescribed form;
- ii. fees to be charged on the application for advance ruling;

- iii. the ruling is only applicable to the applicant;
- iv. the ruling can only be issued based on actual facts and not based on assumptions; and
- v. the advance ruling issued by IRB is not applicable if the facts used in making the advance ruling are incorrect or different.

The proposal is effective from 1 January 2007.

APPENDIX 8

FRAMEWORK FOR TAX AUDIT AND INVESTIGATION BY INLAND REVENUE BOARD

Present Position

Under the self assessment system, tax audit is the primary activity of the Inland Revenue Board (IRB) to enhance voluntary compliance. Currently, information on tax audit can be obtained from the "IRB Guide on Tax Audit".

Tax investigation is an enforcement activity carried out by the investigation centres of IRB to curb tax evasion. No guideline on investigation has so far been issued by IRB.

Proposal

To maintain and enhance public confidence in the tax administration, it is proposed that the existing Guide on tax audit be updated and the framework for tax investigation be issued by the IRB. The main areas to be covered in the guideline/framework are as follows:

- i. criteria for audit and investigation selection;
- ii. tax audit and investigation methodology;
- iii. rights and responsibilities of taxpayers and tax agents, audit and investigation officers;
- iv. settlement upon completion of an audit or investigation; and
- v. offences and penalties.

The proposal is effective from 1 January 2007.

**REVIEW OF ELIGIBILITY PERIOD TO CLAIM
REFUND OF SALES TAX AND SERVICE TAX
RELATED TO BAD DEBTS**

Present Position

Currently, sales tax and service tax paid by the licensee but payments for goods sold have not been received from the client may be refunded provided that such payments are deemed as bad debts if complied with the following criteria:

- i. the licensee is unable to collect the debt from the client after the expiry of 12 months from the date of payment of the tax; or
- ii. the debtor had been adjudged a bankrupt under the Bankruptcy Act 1967; or
- iii. the debtor had been placed under receivership or official assignee; or
- iv. the debtor had been ordered by the court to wind up; or
- v. the licensee had filed a claim in court to recover the tax or the licensee had initiated action for the client to be adjudged a bankrupt;

AND

- vi. payments for goods sold have been written off as bad debts in the account of the licensee.

Proposal

To improve companies' cash flow position and reduce cost of doing business, it is proposed that the eligibility period to claim refund of sales tax and service tax related to bad debts be shortened from 12 months to 6 months from the date the tax is paid. This proposal involves amendments to the above criteria as follows:

- a. criterion (i) - the period to be shortened from 12 months to 6 months; and

- b. criterion (vi) - introduce a new condition where doubtful debts have been provided in the accounts of the licensee as an alternative to the existing condition of writing off the bad debts.

The proposal is effective from 1 January 2007.

APPENDIX 10

REVIEW OF COMPOUND OR FINE FOR UNDER DECLARATION AND SMUGGLING OF HIGH DUTY GOODS

Present Position

Under the current provisions, the offences of under declaration of the value of goods and smuggling are punishable as follows:

- I. compound of not more than 10 times of the duty or value of the goods; or
- II. a fine if charged in court and convicted, other than imprisonment sentence, can be imposed as follows:
 - a. in the case of dutiable goods:
 - i. for the first offence, a fine of not less than 10 times the amount of duty or RM50,000, whichever is the lesser amount and not more than 20 times the amount of the duty or RM100,000, whichever is the greater amount; and
 - ii. for the second or any subsequent offence, a fine of not less than 10 times the amount of duty or RM100,000, whichever is the lesser amount and not more than 40 times the amount of the duty or RM500,000, whichever is the greater amount.
 - b. in the case of prohibited goods:
 - i. for the first offence, a fine of not less than 10 times the value of the goods or RM50,000, whichever is the lesser amount, and of not more than 20 times the value of the goods or RM100,000, whichever is the greater amount; and

- ii. for a second or any subsequent offence, a fine of not less than 10 times of the value of the goods or RM100,000, whichever is the lesser amount and of not more than 40 times the value of the goods or RM500,000, whichever is the greater amount.

Proposal

To overcome the problem of under declaration of the value of goods and smuggling of high duty goods particularly cars, cigarettes and liquor, it is proposed that:

- I. the minimum compound imposed be 5 times of the total duty; and
- II. the fine imposed be in line with the maximum compound and updated as follows:
 - a. in the case of dutiable goods:
 - i. for the first offence, a fine of not less than 10 times the amount of duty and not more than 20 times the amount of duty; and
 - ii. for a second or any subsequent offence, a fine of not less than 20 times the amount of duty and not more than 40 times the amount of duty.
 - b. in the case of prohibited goods:
 - i. for the first offence, a fine of not less than 10 times the value of the goods and not more than 20 times the value of the goods; and
 - ii. for a second or any subsequent offence, a fine of not less than 20 times the value of the goods and not more than 40 times the value of the goods.

The proposal is effective from 1 January 2007.

REVIEW OF INCENTIVES FOR BIOTECHNOLOGY INDUSTRY

Present Position

Currently, companies involved in the biotechnology industry are eligible for the following tax incentives:

- I. a company undertaking biotechnology activity and has been approved with bionexus status by the Malaysian Biotechnology Corporation Sdn. Bhd. is eligible for the following incentives:
 - i. 100% income tax exemption for 10 years commencing from the date of commencement of commercial production OR Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years;
 - ii. tax exemption on dividends distributed by a bionexus company;
 - iii. exemption of import duty and sales tax on raw materials/components and machinery/equipment;
 - iv. double deduction on expenditure incurred for R&D; and
 - v. double deduction on expenditure incurred for the promotion of exports;

AND

- II. a company that invests in its subsidiary, which is a bionexus status company, is granted tax deduction equivalent to the amount of investment made in that subsidiary provided that the investing company owns at least 70% of that subsidiary.

Proposal

To further enhance the biotechnology industry, it is proposed that:

- I. the existing incentive in para I(i) be enhanced by amending the commencement date of the exemption period from the date of commercial production to the first year the company derives profit;

- II. new incentives be introduced as follows:
- i. a bionexus company be given a concessionary tax rate of 20% on income from qualifying activities for 10 years upon the expiry of the tax exemption period;
 - ii. a company or an individual investing in a bionexus company be given a tax deduction equivalent to total investment made in seed capital and early stage financing;
 - iii. a bionexus company undertaking merger and acquisition with a biotechnology company be given exemption of stamp duty and real property gains tax within a period of 5 years until 31 December 2011; and
 - iv. buildings used solely for the purpose of biotechnology research activities be given Industrial Building Allowance over a period of 10 years.

Applications for these incentives will be evaluated by a Committee under the Malaysian Biotechnology Corporation Sdn. Bhd. and recommended for approval by the Minister of Finance.

The proposal is effective from 2 September 2006.

APPENDIX 12

REVIEW OF TAX INCENTIVE FOR THE PURCHASE OF COMPUTER

Present Position

Currently, individual taxpayers are eligible for a tax rebate of RM500 for the purchase of a computer. The rebate is given once in 5 years per household.

Proposal

To encourage individual ownership of computers, it is proposed that:

- i. the rebate of RM500 be amended to a tax relief of up to RM3,000;
- ii. the relief be given once in 3 years (instead of once in 5 years);
- iii. in the case of separate assessment, each taxpayer is eligible to claim the relief (instead of on a per household basis); and

- iv. in the case of combined assessment, such expense is deemed incurred by the spouse who pays income tax.

The proposal is effective from year of assessment 2007.

APPENDIX 13

ENHANCING THE INCENTIVE FOR PROMOTION OF MALAYSIAN BRAND NAME

Present Position

Currently, a company that incurs advertising expenditure in the promotion of Malaysian brand name locally is eligible to claim double deduction. This incentive is given to a company that fulfills the following criteria:

- i. the company is incorporated in Malaysia and at least 70% of its equity is owned by Malaysian;
- ii. the company is the registered proprietor of the Malaysian brand name used in the advertisement; and
- iii. the Malaysian brand name goods are of export quality.

As such, a company in the same group that is not the owner of the brand name but has incurred advertising expenditure is not eligible for the deduction.

Proposal

As a continuous effort to promote Malaysian brand names, it is proposed that double deduction on expenses incurred on advertising Malaysian brand names be extended to a company within the same group that has incurred the advertising expenditure, subject to the following conditions:

- i. the company must be owned more than 50% by the registered proprietor of the Malaysian brand name; and
- ii. the deduction can only be claimed by one company in a year of assessment.

The proposal is effective from year of assessment 2007.

**INCOME TAX EXEMPTION FOR ISLAMIC
BANKING AND TAKAFUL BUSINESS**

Present Position

In line with the effort to develop Malaysia as the International Islamic Financial Centre (MIFC), the Government allows Islamic banking and takaful business transacted in international currencies to be conducted anywhere in Malaysia. However, such activities are currently not given any tax incentives.

Proposal

To widen inter-linkages in the global Islamic financial markets through the enhancement of Islamic banking and takaful business, it is proposed that full tax exemption for 10 years under the Income Tax Act 1967 be given to:

- i. Islamic banks and Islamic banking units licensed under the Islamic Banking Act 1983 on income derived from Islamic banking business conducted in international currencies including transactions with Malaysian residents; and
- ii. takaful companies and takaful units licensed under the Takaful Act 1984 on income derived from takaful business conducted in international currencies including transactions with Malaysian residents.

The proposal is effective from year of assessment 2007 until year of assessment 2016.

**STAMP DUTY EXEMPTION ON
ISLAMIC FINANCIAL INSTRUMENTS**

Present Position

Currently, in line with the Government policy to ensure tax neutrality between Islamic and conventional financing products, the additional instruments that are required to be executed in accordance with Islamic principles have been given stamp duty exemption.

Proposal

To further encourage the development of Islamic financial sector, it is proposed that 20% stamp duty exemption be given on instruments used in Islamic financing for a period of 3 years. This exemption be given after the stamp duty is exempted for purpose of tax neutrality.

This incentive is subject to the condition that the Islamic financial products are approved by the Bank Negara Malaysia Shariah Advisory Council or Securities Commission Shariah Advisory Council.

The proposal is effective from 2 September 2006 until 31 December 2009.

APPENDIX 16

TAX EXEMPTION FOR COMPANIES MANAGING FOREIGN ISLAMIC FUNDS

Present Position

Currently, local and foreign companies licensed by the Securities Commission under the Approved Foreign Fund Management Status to manage foreign investors' fund are subject to income tax at a concessionary rate of 10% on the management fees received from foreign investors.

Proposal

To further promote foreign Islamic fund management activities, it is proposed that local and foreign companies managing funds of foreign investors established under the Shariah principles be given full income tax exemption on the management fees for 10 years. The Securities Commission must approve such funds.

The proposal is effective from year of assessment 2007 until year of assessment 2016.

**EXTENDING THE SCOPE OF INDIVIDUAL TAX
INCENTIVE FOR FURTHER EDUCATION**

Present Position

Currently, an individual tax payer pursuing courses at local institutions of higher education in the fields of science, technical, vocational, industrial skills development, information and communication technology, accountancy and law is eligible for relief not exceeding RM5,000 per annum on the fees for such courses.

Proposal

To increase the number of experts in the field of Islamic finance, it is proposed that the relief for individuals on study fees be extended to courses in Islamic finance approved by Bank Negara Malaysia or Securities Commission at local institutions of higher education including at the International Centre for Education in Islamic Finance (INCEIF).

The proposal is effective from year of assessment 2007.

**DEDUCTION ON EXPENSES TO ESTABLISH
ISLAMIC STOCK BROKING COMPANY**

Present Position

Currently, expenses incurred prior to the commencement of a business including a stock broking company are not allowed as a deduction, whereas capital expenditure incurred for the purchase of assets to be used in the business is deemed incurred upon the commencement of the business and allowed as capital allowance.

Proposal

To support the National Agenda to make Malaysia an Islamic financial hub, it is proposed that expenses incurred prior to the commencement of an Islamic stock broking business be allowed as a deduction. This incentive is

subject to the condition that the company must commence its business within a period of 2 years from the date of approval by the Securities Commission.

The proposal is effective for applications received by the Securities Commission from 2 September 2006 until 31 December 2009.

APPENDIX 19

EXTENSION OF TAX INCENTIVE FOR ISSUANCE OF ISLAMIC SECURITIES

Present Position

Currently, expenses incurred on the issuance of Islamic securities based on leasing (Ijarah), progressive sales (Istisna'), profit sharing (Mudharabah) and profit and loss sharing (Musyarakah) are allowed as deduction. This incentive will expire in the year of assessment 2007.

Proposal

To ensure Islamic securities are more competitive, it is proposed that deduction on the expenses incurred on the issuance of Islamic securities based on Ijarah, Istisna', Mudharabah and Musyarakah be extended another 3 years. This incentive be also given to all Islamic securities products approved by the Securities Commission.

The proposal is effective from year of assessment 2008 until year of assessment 2010.

APPENDIX 20

REVIEW OF TAX TREATMENT ON SPECIAL PURPOSE VEHICLE FOR ISLAMIC FINANCING

Present Position

Currently, to obtain financing through the Islamic capital market, a company is required to establish a Special Purpose Vehicle (SPV) solely as a vehicle to channel funds. As a company, the SPV is subject to income tax and is required to comply with all the administrative requirements under the Income Tax Act 1967.

Proposal

To promote Malaysia as a hub for Islamic capital market and in view that the SPV is established solely to channel funds, it is proposed that:

- i. the SPV be not subject to income tax and as such is not required to adhere to administrative procedures under the Income Tax Act 1967; and
- ii. the company that establishes the SPV be given a deduction on the cost of issuance of the Islamic bonds incurred by the SPV. Income received by the SPV be deemed as income received by the company that establishes the SPV and be subject to tax.

These incentives be given on condition that the SPV is established solely for the purpose of Islamic financing approved by the Securities Commission.

The proposal is effective from year of assessment 2007.

APPENDIX 21

EXTENDING THE SCOPE OF TAX INCENTIVE FOR FINANCIAL INSTITUTIONS

Present Position

Currently, interest income received by non-residents from banking and financial institutions established under the Banking and Financial Institutions Act 1989 is exempted from tax. However, profits or interest income received by non-residents from banking and financial institutions established under the Islamic Banking Act 1983 or other financial institutions are subject to tax.

Proposal

To attract more foreign funds and streamline tax treatment on profits or interest income received from all financial institutions, it is proposed that profits or interest income received by non-residents from financial institutions established under the Islamic Banking Act 1983, and other financial institutions approved by the Minister of Finance be exempt from tax.

The proposal is effective from 2 September 2006.

**REVIEW OF INCENTIVES FOR
REAL ESTATE INVESTMENT TRUSTS**

Present Position

Currently, tax incentives related to Real Estate Investment Trusts (REITs) are as follows:

- i. exemption of real property gains tax on gains from disposal of real properties by individuals or companies to REITs;
- ii. exemption of stamp duty on instruments of transfer of real property from individuals or companies to REITs;
- iii. income tax exemption on total income of REITs distributed to unit holders;
- iv. imposition of tax on unit holders at their respective tax rates on income distributed by REITs. For non-resident unit holders, the tax rate imposed is at 28% and such tax is paid by REITs through the withholding tax mechanism;
- v. tax credit is given to unit holders on the accumulated income of REITs which was subjected to tax and subsequently distributed to unit holders; and
- vi. deduction on expenditure incurred on fees for consultancy, legal and valuation services incurred in the establishment of REITs.

Proposal

To further enhance the development of REITs in Malaysia and attract investments especially funds from West Asia, it is proposed that:

- i. non-corporate investors especially resident and non-resident individuals and other local entities that receive dividends from REITs listed on the Bursa Malaysia be subject to a final withholding tax of 15% for 5 years;
- ii. foreign institutional investors especially pension funds and collective investment funds that receive dividends from REITs listed on the Bursa Malaysia be subject to a final withholding tax of 20% for 5 years;

- iii. local and foreign corporate investors be subject to existing tax treatment and tax rates;
- iv. REITs be exempted from tax on all income provided that at least 90% of their total income is distributed to the investors; and
- v. if the 90% distribution condition is not complied with, REITs will then be subject to income tax, while all their investors are eligible to claim tax credit.

Proposals (i) and (ii) are effective from 1 January 2007 and proposal (iv) and (v) are effective from year of assessment 2007.

APPENDIX 23

INCENTIVE FOR BANK TO SET UP OPERATIONS OVERSEAS

Present Position

Currently, a bank is taxed on world income scope. As such, income derived from its overseas branch or remittance from its subsidiary abroad is subject to income tax in Malaysia. However, such tax borne by that branch or subsidiary is eligible for double taxation relief.

Proposal

To encourage Malaysian owned banks to expand their operations abroad, it is proposed that the profits of newly established branches overseas or remittances of new overseas subsidiaries be given income tax exemption for 5 years. This incentive is subject to the condition that such branch or subsidiary must commence operations within a period of 2 years from the date of approval by Bank Negara Malaysia.

The proposal is effective from 2 September 2006 until 31 December 2009.

**EXTENSION OF INCENTIVE PERIOD
FOR TOUR OPERATORS**

Current Position

Currently, tour operators are given the following incentives:

- i. tax exemption on income derived from the business of operating domestic tour packages participated by at least 500 inbound tourists per year; and/or
- ii. tax exemption on income derived from the business of operating domestic tour packages participated by at least 1,200 local tourists per year.

These incentives are effective until year of assessment 2006.

Proposal

To further encourage the tourism industry, it is proposed that income tax exemption for tour operators on income derived from the business of operating domestic tour packages participated by at least 500 inbound tourists per year or 1,200 local tourists per year be extended for another 5 years until year of assessment 2011.

ADDITIONAL INCENTIVE FOR TOUR OPERATORS

Present Position

Currently, tour operators are given full excise duty exemption on national cars used as hire and drive cars.

Proposal

To enable tourists to explore challenging destinations, it is proposed that tour operators be given 50% excise duty exemption on locally assembled 4WD vehicles.

The proposal is effective for applications received by the Ministry of Finance from 2 September 2006.

**ENHANCING TAX TREATMENT
ON LOCAL LEAVE PASSAGE**

Present Position

Currently, benefits in kind received by an employee are treated as income and subject to tax. Such benefits include expenses on leave passage for the employee and his immediate family members. Expenses on fares for vacations up to 3 times per year within the country and once per year overseas are given income tax exemption. However, expenses on meals and accommodation are not exempted.

Proposal

To further encourage domestic tourism, it is proposed that tax exemption on local leave passage currently given only on expenses for fares be extended to expenses on meals and accommodation.

The proposal is effective from year of assessment 2007.

**SPECIAL TAX TREATMENT FOR THE PROPERTY DEVELOPMENT
AND CONSTRUCTION CONTRACT BUSINESS**

Present Position

Currently, the gross income and adjusted income from property development and construction contract business are ascertained on the percentage of completion method based on the directions given by the Director General in accordance with the general provisions of the Income Tax Act 1967. Such directions are provided in Public Ruling No. 3/2006.

Proposal

To provide certainty in the tax treatment with respect to the computation of the gross income and adjusted income from the property development and construction contract business, it is proposed that special regulations be formulated and published in the *Gazette* with the purpose of bringing the property development and construction contract business within the ambit of

paragraph 36(a)(iv) of the Income Tax Act 1967. The salient features of the regulations are as follows:

i. Recognition of income

The gross income from a property development or construction contract business for a basis period for a year of assessment shall be determined using the percentage of completion method;

ii. Date of commencement of business

The specific date determined to be the date of commencement of a property development or construction contract business including a date based on such specific circumstances and facts acceptable to the Director General;

iii. Date of completion of a project or contract

A property development project is deemed completed upon the date on which the Temporary Certificate of Fitness for Occupation is issued or the date on which the Certificate of Fitness for Occupation is issued, whichever is applicable. In the case of construction contract, a contract is deemed completed upon the date on which the Certificate of Practical Completion is issued or where no such Certificate is issued, the date upon which the contract work is substantially completed, whichever is the earlier;

iv. Revision of estimates

Revision of estimates of gross profit from a property development project or construction contract can be allowed where there is an increase in development or construction costs due to escalating cost of materials, a reduction in selling price or contract sum or other commercial reasons acceptable to the Director General;

v. Deductibility of expenses incurred during the defect liability or warranty period

Expenses incurred during the defect liability or warranty period shall be allowed against the income of the year of assessment in which the expenses are incurred or shall be carried forward to the following years of assessment. However, the property developer or construction contractor may elect to carry back the expenses to the basis period for the year of assessment in which the project or contract is completed. Where the income in the year of completion of the project or contract is insufficient to set off the expenses incurred, the excess of the expenses is allowed to be carried back further to be deducted from the income for the immediately preceding years of assessment for the duration of the project or contract. The option to elect is available to the property developer or construction contractor for each year of assessment for the duration of the defect liability or warranty period; and

vi. Final accounts

On submission of the final accounts upon the completion of the project or contract:

- a. any income from the project or contract not previously included in the gross income shall be included in the gross income for the basis period for the year of assessment in which the project or contract is completed;
- b. any losses ascertained may be apportioned to each year of assessment for the duration of the project or contract using the percentage of completion method; and
- c. where the actual gross profit is less than the total estimated gross profit, the property developer or construction contractor may review the assessment for the immediate preceding year of assessment prior to the year of completion of the project or contract. However, the property developer or construction contractor may elect to review all relevant assessments by apportioning the actual gross profit to each year of assessment for the duration of the project or contract using the percentage of completion method.

The proposal is effective from year of assessment 2006.

APPENDIX 28

REVIEW OF TAX RELIEF FOR THE PURCHASE OF BOOKS

Present Position

Currently, an individual taxpayer is eligible for a tax relief on the purchase of books of up to RM700 per year.

Proposal

To further inculcate a reading culture and promote lifelong learning, it is proposed that the tax relief on the purchase of books be increased from RM700 to RM1,000 per year.

The proposal is effective from year of assessment 2007.

**EXTENDING THE SCOPE OF INCENTIVE FOR THE
CAPITAL MARKET GRADUATE TRAINING SCHEME**

Present Position

Currently, companies listed on the Bursa Malaysia are eligible for double deduction on allowances paid to participants in the Securities Commission (SC) Capital Market Graduate Training Scheme, commencing from 1 October 2005 until 31 December 2008. The deduction is given for a period of 3 years from the date the scheme commences.

Proposal

To further encourage the private sector to assist in enhancing the employability of unemployed graduates, it is proposed that the double deduction given on allowances paid to participants of the SC Capital Market Graduate Training Scheme be extended to unlisted companies under the supervision of the SC. Companies, both listed and unlisted, under the supervision of SC, will also be eligible for the double deduction incentive for their own in-house training schemes for graduates, which have been certified by the SC. These incentives commence from 2 September 2006 until 31 December 2008 and the deduction be given for a period of 3 years from the date the scheme commences.

The proposal is effective from 2 September 2006.

EXTENDING THE PROMOTED AREAS

Present Position

Currently, promoted areas are the Eastern Corridor of Peninsular Malaysia, which includes Kelantan, Terengganu, Pahang and district of Mersing in Johor as well as Sabah and Sarawak.

Companies located in promoted areas are eligible for the following:

- i. Pioneer Status with tax exemption of 100% of statutory income for a period of 5 years; or

- ii. Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 5 years. The allowance can be set-off against 100% of statutory income for each year of assessment:

provided the companies carry on promoted activities or promoted products;
- iii. Infrastructure Allowance of 100% of qualifying capital expenditure for companies incurring expenditure on infrastructure such as bridges, roads and ports. The allowance can be set-off against 100% of statutory income for each year of assessment; and
- iv. Reinvestment Allowance of 60% of qualifying capital expenditure given to manufacturing and selected agriculture projects. The allowance can be set-off against 100% of statutory income for each year of assessment.

Proposal

As a measure to improve the investment climate in the state of Perlis, it is proposed that Perlis be declared as a promoted area. Companies located in that state and undertaking promoted activities or producing promoted products be eligible for enhanced incentives presently given to the promoted areas.

The proposal is effective for applications received by the Malaysian Industrial Development Authority (MIDA) from 2 September 2006.

APPENDIX 31

INCREASING THE LIMIT AND WIDENING THE SCOPE OF DEDUCTION ON DONATION FOR CHARITABLE ACTIVITIES

Present Position

Currently, companies which contribute cash donations to an approved institution, organization or fund for charitable purposes are eligible for a deduction of up to 5% of their aggregate income under Section 44(6), Income Tax Act 1967.

However, similar contributions made by companies towards sports activities are not given a deduction.

Proposal

To further encourage companies to be involved in corporate social responsibility programmes, it is proposed that the current limit on deduction given to companies on contributions for charitable activities be increased from 5% to 7% of the aggregate income.

In addition, to support the Government's efforts to enhance attainment in sports, it is proposed that such deduction be extended to contributions made by companies towards sports activities approved by the Minister of Finance and sports bodies approved by the Commissioner of Sports.

The deduction be subject to the condition that the sum of the 2 types of contributions does not exceed 7% of the companies' aggregate income.

The proposal is effective from year of assessment 2007.

APPENDIX 32

TAX TREATMENT ON PERQUISITE

Present Position

Currently, perquisite or benefits in cash or in kind such as long service award and excellent service award received by an employee from an employer are considered as income and subject to tax.

Proposal

In recognition of services and contributions of employees, it is proposed that tax exemption on service awards received by employees be given on contribution in cash or in kind not exceeding RM1,000 a year. Examples of such awards are long service award, safety award and excellent service award. For awards exceeding RM1,000, only the balance will be subject to tax.

For the purpose of this exemption, service award:

- i. cannot be a disguised wage;
- ii. must be awarded as part of a meaningful contribution to the organisation; and
- iii. is not provided frequently to the same employee.

For long service award, it is given to employees who have served at least 10 years with the same employer.

The proposal is effective from year of assessment 2007.

REVIEW OF EXCISE DUTY ON CIGARETTES, TOBACCO PRODUCTS AND ALCOHOLIC BEVERAGES

Present Position

Currently, the excise duty for cigarettes, tobacco products and alcoholic beverages with alcohol content of more than 40% is as follows:

Products	Excise Duty
Cigarettes, cheroots, cigars and cigarillos containing tobacco or tobacco substitutes	RM 110/kg + 20% or 11 cent/stick + 20%
Tobacco products	RM14.00/kg - RM 25.00/kg + 5%
Beedies	RM 7.00/kg + 5%

Products	Excise Duty
Brandy, whisky, gin, vodka and rum	RM 25.00/litre + 15%

Proposal

To promote a healthy lifestyle, it is proposed that the specific excise duty on cigarettes, tobacco products and alcoholic beverages with alcohol content of more than 40% be increased. Details of the proposal are as follows:

Cigarettes and Tobacco Products

TARIFF CODE		DESCRIPTION	EXCISE DUTY	
			Current Rate (RM)	Proposed Rate (RM)
24.02		Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.		
2402.10	000	- Cigars, cheroots and cigarillos, containing tobacco	110.00/kg + 20%	120.00/kg + 20%
2402.20		- Cigarettes containing tobacco:		
	100	Beedies	7.00/kg + 5%	7.50/kg + 5%
	900	Other	0.11/stick + 20%	0.12 /stick + 20%
2402.90		- Other:		
	100	Cigars, cheroots and cigarillos, containing tobacco substitutes	110.00/kg + 20%	120.00/kg + 20%
	200	Cigarettes containing tobacco substitutes	0.11/stick + 20%	0.12 /stick + 20%
24.03		Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences.		
2403.10		- Smoking tobacco, whether or not containing tobacco substitutes in any proportion:		
		Packed for retail sale:		
	110	In airtight containers	25.00/kg + 5%	27.00/kg + 5%
	190	Other	25.00/kg + 5%	27.00/kg + 5%
	900	Other	14.00/kg + 5%	15.00/kg + 5%
		- Other:		
2403.91		- - "Homogenised" or "reconstituted" tobacco:		
	100	For retail sale	25.00/kg + 5%	27.00/kg + 5%
2403.99		- - Other		
	200	Snuff	25.00/kg + 5%	27.00/kg + 5%

Alcoholic Beverages With Alcohol Content Of More Than 40%

TARIFF CODE	DESCRIPTION	EXCISE DUTY	
		Current Rate (RM)	Proposed Rate (RM)
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirit, liqueurs and other spirituous beverages.		
2208.20	- Spirits obtained by distilling grape wine or grape marc:		
	100 Brandy	25.00/litre + 15%	30.00/litre + 15%
	900 Other	25.00/litre + 15%	30.00/litre + 15%
2208.30	000 - Whiskies	25.00/litre + 15%	30.00/litre + 15%
2208.40	000 - Rum and tafia	25.00/litre +15%	30.00/litre + 15%
2208.50	000 - Gin and Geneva	25.00/litre + 15%	30.00/litre + 15%
2208.60	000 - Vodka	25.00/litre + 15%	30.00/litre + 15%

The proposal is effective from 4.00 pm, 1 September 2006.

APPENDIX 34

ENHANCING INCENTIVE FOR SPONSORING ARTS AND CULTURAL PERFORMANCES

Present Position

Currently, a company that sponsors local and foreign arts and cultural performances approved by the Ministry of Culture, Arts and Heritage is allowed a deduction up to RM300,000 per year. However, the deduction allowed for foreign performances should not exceed RM200,000 of the total annual deduction allowed.

Proposal

To further encourage the private sector to sponsor local arts, cultural and heritage performances and shows, it is proposed that the deduction on expenditure incurred in sponsoring such performances and shows be increased to RM500,000 per year. However, the ceiling for deductions allowed on foreign performances and shows remains at RM200,000 per year.

The proposal is effective from year of assessment 2007.

APPENDIX 35

TAX TREATMENT ON PAYMENT FOR RENTAL OF SHIP

Present Position

Currently, rental payment made to a non-resident under an agreement for participation in a pool, by a resident shipping company in Malaysia engaged in the business of transporting passenger or cargo is exempted from income tax.

Proposal

To further enhance the growth of the national shipping industry, it is proposed that rental payment of ships under voyage charter, time charter or bare boat charter to a non-resident by a resident company in Malaysia be exempted from income tax.

The proposal is effective from 2 September 2006.

APPENDIX 36

INCOME TAX EXEMPTION FOR SEAFARERS WORKING ON BOARD A FOREIGN SHIP

Present Position

Currently, the income of a seafarer who works on board a Malaysian ship is exempted from tax. In this context, a "Malaysian ship" means a seagoing ship registered under the Merchant Shipping Ordinance 1952, other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.

However, the income of a seafarer employed by a Malaysian shipping company on board a foreign ship is not given tax exemption.

Proposal

To streamline the tax treatment, it is proposed that the income of a seafarer who is employed by a Malaysian shipping company on board a foreign ship chartered by the employer be given tax exemption.

The proposal is effective from year of assessment 2007.