



LAWS OF MALAYSIA

Act 773

FINANCE ACT 2015

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LAWS OF MALAYSIA

Act 773

FINANCE ACT 2015

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LAWS OF MALAYSIA

Act 773

FINANCE ACT 2015

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Real Property Gains Tax Act 1976, the Labuan Business Activity Tax Act 1990, the Goods and Services Tax Act 2014 and the Promotion of Investments Act 1986.

[]

ENACTED by the Parliament of Malaysia as follows:

CHAPTER I PRELIMINARY

Short title

1. This Act may be cited as the Finance Act 2015.

Amendment of Acts

2. The Income Tax Act 1967 [*Act 53*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Real Property Gains Tax Act 1976 [*Act 169*], the Labuan Business Activity Tax Act 1990 [*Act 445*], the Goods and Services Tax Act 2014 [*Act 762*] and the Promotion of Investments Act 1986 [*Act 327*] are amended in the manner specified in Chapters II, III, IV, V, VI and VII respectively.

CHAPTER II

PART I

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Subparagraphs 4(a)(i) and (ii), paragraphs 10(a), (b) and (c) in respect of paragraphs 39(1)(o) and (p) of the Income Tax Act 1967, section 17, paragraphs 25(a) and (e), paragraph 28(a) and section 29 have effect for the year of assessment 2015 and subsequent years of assessment.

(2) Sections 5, 6, 7, 8, 9 and 11, paragraphs 12(a), (b), (c) and (d) in respect of paragraph 46(1)(n) of the Income Tax Act 1967, sections 13, 14, 22 and 24, paragraphs 25(b), (c) and (d), paragraph 26(a), section 27 and paragraph 28(c) have effect for the year of assessment 2016 and subsequent years of assessment.

(3) Subparagraph 4(a)(iii), paragraph 4(b), sections 15, 19, 20, 21 and 23, and paragraphs 26(b), (c) and (d), and Part II come into operation on the coming into operation of this Act.

(4) Paragraph 28(b) has effect for the year of assessment 2016, 2017 and 2018.

(5) Paragraph 10(c) in respect of paragraph 39(1)(q) of the Income Tax Act 1967, comes into operation on 1 January 2016.

(6) Paragraph 12(d) in respect of paragraph 46(1)(o) of the Income Tax Act 1967, has effect for the year of assessment 2016 until the year of assessment 2020.

(7) Section 16 has effect for the year ending 31 December 2016 and subsequent years.

(8) Section 18 has effect for the year of assessment 2018 and subsequent years of assessment.

Amendment of section 2

4. Section 2 of the Income Tax Act 1967, which is referred to as the “principal Act” in this Chapter, is amended—

(a) in subsection (1)—

(i) by inserting after the definition of “Inland Revenue Board of Malaysia” the following definition:

‘ “input tax” has the same meaning assigned to it in the Goods and Services Tax Act 2014 [Act 762];’;

(ii) by inserting after the definition of “Minister” the following definition:

‘ “output tax” has the same meaning assigned to it in the Goods and Services Tax Act 2014;’;
and

(iii) by inserting after the definition of “stock in trade” the following definition:

‘ “sukuk” has the same meaning assigned to it in the Capital Markets and Services Act 2007;’; and

(b) in subsection (8)—

(i) by deleting the words “the Securities Commission;”;
and

(ii) by inserting after the words “Malaysia Co-operative Societies Commission” the words “, or approved or authorized by, or lodged with, the Securities Commission”.

Amendment of section 6

5. Paragraph 6(1)(i) of the principal Act is amended by substituting for the words “five years from the year of assessment 2012 and in respect of subparagraph (b) of that Part for a period of five years commencing from the year of assessment 2007” the words “four years from the year of assessment 2016 and in respect of subparagraph (b) of that Part for the year of assessment 2016 and subsequent years of assessment”.

Amendment of section 24**6.** Section 24 of the principal Act is amended—

(a) in paragraph (1)—

(i) in paragraph (b), by inserting after the word “rendered” the words “or to be rendered”; and

(ii) in paragraph (c), by inserting after the word “dealt” the words “or to be dealt”; and

(b) by inserting after subsection (1) the following subsection:

“(1A) Except where subsection (1) applies, where in the relevant period, any sum is received by a relevant person in the course of carrying on a business in respect of any services to be rendered or the use or enjoyment of any property to be dealt with in the relevant period or in any following basis period, the sum shall be treated as the gross income of the relevant person from the business for the relevant period the sum is received notwithstanding that no debt is owing to the relevant person in respect of such services or such use or enjoyment.”.

Amendment of section 25**7.** Section 25 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Subject to this section, where gross income from an employment is receivable in respect of any particular period, it shall, when received in the relevant period, be treated as the gross income of the relevant person for the relevant period.”;

(b) by deleting subsections (2), (2A), (3), (4) and (5); and

(c) in subsection (6), by substituting for the words “for the basis period for the year of assessment following the relevant year shall be treated as receivable” the words “for the basis period for the relevant year or for the basis period for the year of assessment following the relevant year, shall be treated as deemed to have been received”.

Amendment of section 33

8. Section 33 of the principal Act is amended by inserting after subsection (4) the following subsection:

“(5) For the purpose of subsection (4), where any sum payable for a basis period for a year of assessment is due to be paid in any following year of assessment—

- (a) a person shall notify the Director General in writing of the deduction in respect of the sum not later than twelve months from the end of the basis period for the year of assessment when the sum is due to be paid; and
- (b) upon receipt of the notice, the Director General may reduce the assessment that has been made in respect of such sum.”.

Amendment of section 34

9. Section 34 of the principal Act is amended by inserting after subsection (7) the following subsection:

“(7A) Where in the basis period for a year of assessment an amount in respect of any sum received by the relevant person which is treated as part of the gross income of the relevant person in accordance with subsection 24(1A) is refunded, such amount shall be deducted from the relevant gross income of the relevant person for the basis period for that year of assessment.”.

Amendment of section 39

10. Subsection 39(1) of the principal Act is amended—

- (a) by deleting the word “or” at the end of paragraph (m);
- (b) by substituting for the full stop at the end of paragraph (n) a semicolon; and

(c) by inserting after paragraph (n) the following paragraphs:

- “(o) any amount paid or to be paid in respect of goods and services tax as input tax by the person if he is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax;
- (p) any amount of output tax paid or to be paid under the Goods and Services Tax Act 2014 which is borne by the person if he is registered or liable to be registered under that Act; or
- (q) any remuneration or other income in respect of services performed or rendered in Malaysia by a public entertainer from which tax is deductible under section 109A, if tax has not been deducted therefrom and paid to the Director General in accordance with that section:

Provided that—

- (i) this paragraph shall not apply if the payer has paid the amount of tax and the increased sum due from him to the Government in accordance with subsection 109(2); and
- (ii) where such amount of tax and the increased sum are paid after the due date for the furnishing of a return for a year of assessment that relates to such tax and the increased sum, the amount of tax and the increased sum so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer.”.

Amendment of section 45A

11. Section 45A of the principal Act is amended by substituting for the words “three thousand ringgit” the words “four thousand ringgit”.

Amendment of section 46

12. Subsection 46(1) of the principal Act is amended—

- (a) in paragraph (f), by substituting for the word “five” the word “seven”;
- (b) by deleting the word “and” at the end of paragraph (l);
- (c) by substituting for the full stop at the end of paragraph (m) a semicolon; and
- (d) by inserting after paragraph (m) the following paragraphs:

“(n) an amount limited to a maximum of two hundred and fifty ringgit in respect of a contribution made or suffered in that basis year by that individual to the Social Security Organization pursuant to the Employees’ Social Security Act 1969; and

(o) an amount of one thousand five hundred ringgit for each of the parent of that individual—

(i) who is a resident and, at any time in that basis year, aged sixty years and above; and

(ii) whose annual income does not exceed twenty-four thousand ringgit for that year of assessment:

Provided that—

- (a) the deduction under this paragraph shall be allowed for a maximum of two parents;

- (b) the deduction under this paragraph shall not be allowed for an individual who has made a claim under paragraph 46(1)(c) for the same basis year; and
- (c) where two or more individuals are each entitled to claim a deduction for a year of assessment under this paragraph in respect of the same parent, there shall be allowed to each of those individuals, in place of the whole deduction which would otherwise be allowed under this paragraph, an amount of the whole deduction equally apportioned according to the number of the individuals making the claim.”.

Amendment of section 47

13. Section 47 of the principal Act is amended—

- (a) in subparagraph 1(a), by substituting for the word “three” the word “four”; and
- (b) in subsection (3), by substituting for the word “three” the word “four”.

Amendment of section 48

14. Section 48 of the principal Act is amended—

- (a) in paragraph (2)(a), by substituting for the word “one” the word “two”;
- (b) in subparagraph (3)(a)(i), by substituting for the word “six” the word “four”; and
- (c) in subparagraph (3)(a)(ii), by substituting for the word “six” the word “eight”.

Amendment of section 60i

15. Section 60i of the principal Act is amended—

(a) in subsection (1), by substituting for the words “Islamic securities” wherever appearing the word “sukuk”; and

(b) in subsection (4)—

(i) by deleting the definition of “Islamic securities”; and

(ii) in the definition of “special purpose vehicle”—

(A) by substituting for the words “Islamic securities” the word “sukuk”; and

(B) by substituting for the words “approved by the Securities Commission or Labuan Financial Services Authority” the words “lodged with the Securities Commission or approved by the Labuan Financial Services Authority.”.

Amendment of section 83

16. Section 83 of the principal Act is amended by inserting after subsection (1A) the following subsection:

“(1B) Where the employer is a company, the return referred to in subsection (1) shall be furnished on an electronic medium or by way of electronic transmission in accordance with section 152A.”.

Amendment of section 91

17. Section 91 of the principal Act is amended by inserting after subsection (5) the following subsection:

“(6) Notwithstanding the provisions of this Act, where in a basis period for a year of assessment, an adjustment is made in respect of the input tax paid or to be paid under the Goods and

Services Tax Act 2014, the Director General may at any time, as may be necessary to give effect to such adjustment, make an assessment or a reduced assessment for the year of assessment to which the adjustment relates, or if the year of assessment to which the adjustment relates cannot be ascertained, for the year of assessment in which the Director General discovers the adjustment.”.

Amendment of section 107C

18. Section 107C of the principal Act is amended by inserting after subsection (7) the following subsection:

“(7A) For the purposes of subsections (1) and (7), a company shall furnish the estimate or revised estimate of its tax payable on an electronic medium or by way of electronic transmission in accordance with section 152A.”.

Amendment of section 112

19. Section 112 of the principal Act is amended—

(a) in subsection (1), by inserting after the words “77A(1)” the words “in respect of any one year of assessment”;

(b) by inserting after subsection (1) the following subsection:

“(1A) Any person who makes default in furnishing a return in accordance with subsection 77(1) or 77A(1) in respect of any year of assessment for two years or more shall, if he does so without reasonable excuse, be guilty of an offence and shall, on conviction, be liable to—

(a) a fine of not less than one thousand ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both; and

- (b) a special penalty equal to treble the amount which the Director General may, according to the best of his judgment, determine as the tax charged on the chargeable income of that person for those years of assessment.”;
- (c) in subsection (2), by substituting for the words “subsection (1)” the words “subsections (1) and (1A)”; and
- (d) in subsection (3), by inserting after the words “subsection (1)” the words “or (1A)”.

Amendment of section 120

20. Subsection 120(1) of the principal Act is amended—

- (a) by deleting the word “or” at the end of paragraph (e);
- (b) by substituting for the comma at the end of paragraph (f) the word “; or”; and
- (c) by inserting after paragraph (g) the following paragraph:
 - “(h) fails to furnish the correct particulars as required by the Director General under paragraph 77(4)(b) or 77A(3)(b),”.

Amendment of section 125

21. Subsection 125(1) of the principal Act is amended by inserting after the word “subsection” the words “112(1A),”.

Amendment of section 152A

22. Section 152A of the principal Act is amended by substituting for subsection (1) the following subsection:

- “(1) Any person or class of persons—
 - (a) shall, if so required under this Act; or
 - (b) may, if so allowed by the Director General,

furnish any form prescribed under this Act on an electronic medium or by way of an electronic transmission.”.

Amendment of section 154

23. Paragraph 154(1)(c) of the principal Act is amended by substituting for the words “or 132A” the words “, 132A or 132B”.

Amendment of Schedule 1

24. Schedule 1 to the principal Act is amended—

(a) in Part 1—

(i) by substituting for paragraph 1 the following paragraph:

“**1.** Except where paragraphs 1A, 2, 2A, 2D, 3 and 4 provide otherwise, income tax shall be charged for a year of assessment upon the chargeable income of every person at the following rates:

<i>Chargeable income</i>	<i>RM</i>	<i>Rate of Income Tax</i>
For every ringgit of the first	5,000	0 per cent
For every ringgit of the next	15,000	1 per cent
For every ringgit of the next	15,000	5 per cent
For every ringgit of the next	15,000	10 per cent
For every ringgit of the next	20,000	16 per cent
For every ringgit of the next	30,000	21 per cent
For every ringgit of the next	150,000	24 per cent
For every ringgit of the next	150,000	24.5 per cent

<i>Chargeable income</i>	<i>RM</i>	<i>Rate of Income Tax</i>
For every ringgit of the next	200,000	25 per cent
For every ringgit of the next	400,000	26 per cent
For every ringgit exceeding	1,000,000	28 per cent"; and

(ii) in paragraph 1A, by substituting for the words "25 per cent" the words "28 per cent"; and

(b) in Part X in subparagraph 1(b), by substituting for the words "26% of gross for the year of assessment 2008 and 25% of gross for the subsequent years of assessment" the words "24% of gross for the year of assessment 2016 and subsequent years of assessment".

Amendment of Schedule 3

25. Schedule 3 to the principal Act is amended—

(a) by inserting after paragraph 2D the following paragraph:

"2E. For the purpose of paragraph 1, the qualifying expenditure incurred by a person shall not include any amount paid or to be paid in respect of goods and services tax as input tax by the person if he is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax.";

(b) by inserting after paragraph 16A the following paragraph:

"16B. Notwithstanding any other provisions of this Schedule, no allowance shall be made to a person under paragraphs 12 and 16 for a year of assessment in respect of any expenditure incurred in relation to paragraphs 37A, 37B, 37C, 37E, 37F, 37G, 37H, 42A and 42B of this Schedule relating to industrial building where the building or part thereof is used by that person for the purpose of letting of property including the business of letting of such property.";

(c) in subparagraph 19A(3), by inserting after the word “resident” the words “and incorporated”;

(d) by inserting after paragraph 61A the following paragraph:

“**61B.** (1) Notwithstanding any other provisions of this Schedule, where any part of an asset of a person from a business ceases to be used for purposes of a business of his in a basis period for a year of assessment due to replacement with a new part and that new part is depreciated separately in accordance with the generally accepted accounting principles, that part of an asset is deemed to have been disposed of in that basis period for that year of assessment.

(2) The qualifying expenditure of the part of the asset disposed shall be taken to be the amount as determined in accordance with the generally accepted accounting principles.

(3) The residual expenditure under paragraph 68 in respect of the part of the asset disposed shall be the qualifying expenditure of the part of an asset disposed reduced by the amount of allowance that have been made or would have been made under this Schedule to that person prior to the disposal of that part of the asset.

(4) The provisions of this Schedule shall apply to the new part of an asset referred to in subparagraphs (1) and (2).”;

(e) by inserting after paragraph 67C the following paragraph:

“**67D.** (1) Where in the basis period for a year of assessment a person has incurred qualifying plant expenditure, qualifying building expenditure, qualifying agriculture expenditure or qualifying forest expenditure, in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such qualifying expenditure in relation to that asset shall be adjusted in the basis period for a year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(2) In the event the adjustment of the amount of the qualifying expenditure made under subparagraph (1) results in—

(a) an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred, and the residual expenditure under paragraph 68 in relation to the asset shall include that additional amount; or

(b) a reduced amount, the qualifying expenditure incurred and the residual expenditure under paragraph 68 shall be reduced by such amount, and if the amount of the allowance made or ought to have been made under this Schedule exceeds the residual expenditure, the excess shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made.

(3) The excess amount referred to in subsubparagraph (2)(b) shall not exceed the total amount of allowances given under this Schedule.

(4) Notwithstanding subparagraph (1), where a person has incurred the qualifying plant expenditure, qualifying building expenditure, qualifying agriculture expenditure or qualifying forest expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(5) Paragraphs 39 and 40 shall apply for the purpose of the adjustment referred to in subparagraph (4).”.

Amendment of Schedule 6

26. Schedule 6 to the principal Act is amended—

(a) by inserting after paragraph 25c the following paragraph:

“**25d.** Sums received by way of gratuity on retirement from an employment under any written law or termination of a contract of employment other than when paragraph 25, 25A, 25B or 30A applies:

Provided that the sums shall not exceed an amount ascertained by multiplying the sum of one thousand ringgit by the number of completed year of service of that individual.”;

(b) in subparagraph 33A(b)—

(i) by substituting for the words “Islamic securities” the word “sukuk”; and

(ii) by substituting for the words “approved by the Securities Commission” the words “approved or authorized by, or lodged with, the Securities Commission”;

(c) in paragraph 33B—

- (i) by substituting for the words “Islamic securities” the word “sukuk”; and
- (ii) by substituting for subparagraph (b) the following subparagraph:

“(b) approved or authorized by, or lodged with, the Securities Commission, or approved by the Labuan Financial Services Authority.”; and

(d) in subparagraph 35(b)—

- (i) by substituting for the words “Islamic securities” the word “sukuk”; and
- (ii) by substituting for the words “approved by the Securities Commission” the words “approved or authorized by, or lodged with, the Securities Commission”.

Amendment of Schedule 7

27. Schedule 7 to the principal Act is amended—

- (a) in paragraph 3, by substituting for the words “subsection 25(4)” the words “paragraph 3A”; and
- (b) by inserting after paragraph 3 the following paragraph:

“**3A.** (1) For the purposes of paragraph 3, where a foreign income is receivable in respect of a period which overlaps the basis period (which is referred to in this paragraph as the overlapping period), that foreign income when received shall be apportioned between the part of the overlapping period which overlaps the basis period and the remaining part of the overlapping period.

(2) The apportionment under subparagraph (1) shall be made in the proportion that the number of days of the overlapping period that fall into the basis period bears to the total number of days of the overlapping period, unless the Director General, having regard to the facts of any particular case, otherwise directs.

(3) So much of that foreign income as is apportioned to the overlapping part of the overlapping period shall be treated as foreign income of the person for the basis period.”.

Amendment of Schedule 7A**28.** Schedule 7A to the principal Act is amended—

(a) by inserting after paragraph 1C the following paragraph:

“1D. (1) For the purposes of paragraphs 1 and 1A, the capital expenditure incurred by a company shall not include any amount paid or to be paid in respect of goods and services tax as input tax by a company if the company is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the company is entitled under that Act to credit that amount as input tax.

(2) Where in the basis period for a year of assessment a company has incurred capital expenditure under this Schedule in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for a year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(3) In the event the adjustment of the amount of the capital expenditure made under subparagraph (2) results in—

(a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred, and subject to paragraphs 1 and 1A, there shall be given to the company for a year of assessment an allowance in respect of such additional amount; or

(b) a reduced amount, any amount of allowance that ought not to have been given under this Schedule in consequence of such reduction shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made.

(4) Notwithstanding subparagraph (2), where a person has incurred the capital expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(5) Paragraph 1B shall apply for the purpose of the adjustment referred to in subparagraph (4).”;

(b) by inserting after paragraph 2A the following paragraph:

“**2B.** Subject to this Schedule and notwithstanding paragraph 2, where a company has first made a claim for an allowance under this Schedule in the return of its income and the period for fifteen consecutive years of assessment referred to in paragraph 2—

- (a) ended in the year of assessment 2015 or in any other preceding year of assessment, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the years of assessment 2016, 2017 and 2018;
- (b) ends in the year of assessment 2016, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the years of assessment 2017 and 2018; or
- (c) ends in the year of assessment 2017, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the year of assessment 2018.”; and

(c) in paragraph 9—

(i) by inserting before the definition of “capital expenditure” the following definition:

“ “automating” refers to a process whereby manual operations are substituted by mechanical operations with minimal or reduced human intervention;”;

(ii) by inserting after the definition of “capital expenditure” the following definition:

“ “ceased to be used” in relation to an asset includes an asset classified as held for sale under paragraph 61A of Schedule 3;”;

(iii) in the definition of “disposed of”, by inserting after the words “assigned,” the words “ceased to be used”;

- (iv) by inserting after the definition of “disposed of” the following definitions:

‘ “diversifying” means to enlarge or vary the range of product of a company related to the same industry;

“expanding” refers to an increase of a product capacity or expansion of factory area;’;

- (v) in the definition of “manufacturing”, by deleting the words “size, shape,”;

- (vi) by inserting after the definition of “manufacturing” the following definitions:

‘ “machinery” means a device or apparatus consisting of fixed and moving parts that work together to perform function in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory;

“modernizing” means an upgrading of manufacturing equipment and process;’;

- (vii) by inserting after the definition of “operation” the following definition:

‘ “plant” means an apparatus used in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory;’; and

- (viii) by substituting for the definition of “simple” the following definition:

‘ “simple” generally describes an activity which does not need special skills, special machines, special apparatus or special equipments especially produced or installed for carrying out that activity.’.

Amendment of Schedule 7B

29. Schedule 7B to the principal Act is amended by inserting after paragraph 1 the following paragraph:

“**1A.** (1) For the purposes of paragraph 1, the capital expenditure incurred by a company shall not include any amount paid or to be paid in respect of goods and services tax as input tax by a company if the company is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the company is entitled under that Act to credit that amount as input tax.

(2) Where in the basis period for a year of assessment a company has incurred capital expenditure under this Schedule in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(3) In the event the adjustment of the amount of the capital expenditure made under subparagraph (2) results in—

- (a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred, and subject to paragraph 1, there shall be given to the company for a year of assessment an allowance in respect of such additional amount; or
- (b) a reduced amount, any amount of allowance that ought not to have been given under this Schedule in consequence of such reduction shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made.

(4) Notwithstanding subparagraph (2), where a person has incurred capital expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for a year of assessment in which the disposal is made.”.

PART II

SAVING AND TRANSITIONAL PROVISIONS

Application of this Part

30. (1) The principal Act shall apply for the purposes of this Part unless otherwise provided.

(2) For the purposes of this Part, the 108 balance refers to—

- (a) the amount of the balance for the credit of a company at the end of the basis period for the year of assessment 2007 ascertained under subsection 108(8) of the principal Act prior to the coming into operation of the Finance Act 2007 [*Act 683*];
- (b) the amount of the balance for the credit of that company ascertained under section 23 of the Income Tax (Amendment) Act 2000 [*Act A1093*] as at 31 December 2007; and

- (c) where the basis period of the company for the year of assessment 2007 ends—
- (i) on a day other than 31 December 2007, any tax paid during the period from the first day of the basis period of that company for the year of assessment 2008 to 31 December 2007; or
 - (ii) on 31 December 2007, the final instalment paid under section 107c of the principal Act in respect of that basis period.

(3) Where there is any inconsistency between any provision of this Part and any provision of the principal Act, that provision of the principal Act shall be void to the extent of the inconsistency.

108 balance

31. Where in the basis period for the year of assessment 2016 or any subsequent basis period—

- (a) the tax charged on the chargeable income of a company for the year of assessment 2000 on a current year basis and prior year of assessment is discharged or remitted; or
- (b) any amount of tax paid by that company which has been taken into account for the purpose of computing the 108 balance is refunded,

the 108 balance of the company, shall on the day the tax is discharged, remitted or refunded, be reduced by such amount of tax discharged, remitted or refunded.

Amount in excess of 108 balance

32. (1) Where the amount of the tax discharged, remitted or refunded under section 31 exceeds the 108 balance, or revised 108 balance as at 31 December 2013, the Director General shall serve on the company a written requisition in the prescribed form

calling upon the company to pay an amount equal to that excess and that amount shall be a debt due from the company to the Government and that debt shall be payable immediately to the Director General upon the service of the requisition.

(2) Where any excess due and payable by a company has not been paid within thirty days after the service of the requisition referred to under subsection (1), so much of the amount of excess as is unpaid shall without any further notice being served be increased by an amount equal to ten per cent of the excess so unpaid, and the amount unpaid and the increase on the amount unpaid shall be a debt due to the Government and that debt shall be payable immediately to the Director General.

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Commencement of amendments to the Petroleum (Income Tax) Act 1967

33. (1) Section 34, paragraph 35(a), sections 36 and 37, and paragraphs 38(a) and (c) have effect for the year of assessment 2015 and subsequent years of assessment.

(2) Paragraphs 35(b) and 38(b) have effect for the year of assessment 2016 and subsequent years of assessment.

Amendment of section 2

34. Subsection 2(1) of the Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended—

(a) by inserting after the definition of “Inland Revenue Board of Malaysia” the following definition:

‘ “input tax” has the meaning assigned to it in the Goods and Services Tax Act 2014 [Act 762];’; and

(b) by inserting after the definition of “natural gas” the following definition:

‘ “output tax” has the meaning assigned to it in the Goods and Services Tax Act 2014;’.

Amendment of section 18

35. Section 18 of the principal Act is amended—

(a) in subsection (1)—

- (i) in the proviso to paragraph (n), by deleting the word “or”;
- (ii) by substituting for the full stop at the end of paragraph (o) a semicolon; and
- (iii) by inserting after paragraph (o) the following paragraphs:

“(p) any amount paid or to be paid in respect of goods and services as input tax by the chargeable person if he is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax; or

(q) any amount of output tax paid or to be paid under the Goods and Services Tax Act 2014 which is borne by the chargeable person if he is registered or liable to be registered under that Act.”; and

(b) by inserting after subsection (1) the following subsection:

“(1A) Notwithstanding any other provisions of this Act, where a person is required under section 34 to furnish to the Director General any information within the time specified in a notice or such other time as may be allowed by the Director General, and that information concerns wholly or in part a deduction claimed by that person in arriving at the adjusted income of that person from any source for the basis period for a year of assessment, no deduction from the gross income from that source for that period shall be allowed in respect of such claim if the person fails to provide such information within the time specified in that notice or such extended time as may be allowed by the Director General.”.

Amendment of section 39

36. Section 39 of the principal Act is amended by inserting after subsection (5) the following subsection:

“(6) Notwithstanding any other provisions of this Act, where in a basis period for a year of assessment, an adjustment is made in respect of the input tax paid or to be paid under the Goods and Services Tax Act 2014, the Director General may at any time, as may be necessary to give effect to such adjustment, make an assessment or a reduced assessment for the year of assessment to which the adjustment relates, or if the year of assessment to which the adjustment relates cannot be ascertained, for the year of assessment in which the Director General discovers the adjustment.”.

Amendment of First Schedule

37. The First Schedule to the principal Act is amended—

(a) by inserting after paragraph 1 the following paragraph:

“**1A.** For the purposes of paragraph 1, the qualifying exploration expenditure incurred by a chargeable person shall not include any amount paid or to be paid in respect of goods and services tax as input tax by the chargeable person if he is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax.”; and

(b) by inserting after paragraph 13 the following paragraph:

“**13A.** (1) Where in the basis period for a year of assessment a chargeable person has incurred qualifying exploration expenditure in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(2) In the event the adjustment of the amount of the qualifying exploration expenditure made under subparagraph (1) results in—

(a) an additional amount, such amount shall be deemed to be part of the qualifying exploration expenditure incurred, and the residual expenditure under paragraph 46 of the Second Schedule in relation to the asset shall include that additional amount; or

(b) a reduced amount, the qualifying exploration expenditure incurred and the residual expenditure under paragraph 46 of the Second Schedule shall be reduced by such amount, and if the amount of the allowance made or ought to have been made under this Schedule exceeds the residual expenditure, the excess shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made.

(3) The excess amount referred to in subsubparagraph (2)(b) shall not exceed the total amount of allowances given under this Schedule.

(4) Notwithstanding subparagraph (1), where a chargeable person has incurred the qualifying exploration expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(5) Paragraph 13 shall apply for the purpose of the adjustment referred to in subparagraph (4).”.

Amendment of Second Schedule

38. The Second Schedule to the principal Act is amended—

(a) by inserting after paragraph 2A the following paragraph:

“**2B.** For the purposes of paragraph 1, the qualifying expenditure incurred by a chargeable person shall not include any amount paid or to be paid in respect of goods and services tax as input tax by a chargeable person if the chargeable person is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the chargeable person is entitled under that Act to credit that amount as input tax.”;

(b) by inserting after paragraph 40 the following paragraph:

“**40A.** (1) Notwithstanding any other provisions of this Schedule, where any part of an asset of a chargeable person from a business ceases to be used for purposes of a business of his in a basis period for a year of assessment due to replacement with a new part and that new part is depreciated separately in accordance with the generally accepted accounting principles, that part of an asset is deemed to have been disposed of in that basis period for that year of assessment.

(2) The qualifying expenditure of the part of the asset disposed shall be taken to be the amount determined for the new part being depreciated separately in accordance with the generally accepted accounting principles.

(3) The residual expenditure under paragraph 46 in respect of the part of the asset disposed shall be the qualifying expenditure of the part of an asset disposed reduced by the amount of allowance that have been made or would have been made under this Schedule to that chargeable person prior to the disposal of that part of the asset.

(4) The provisions of this Schedule shall apply to the new part of an asset referred to under subparagraphs (1) and (2).”;
and

(c) by inserting after paragraph 45 the following paragraph:

“**45A.** (1) Where in the basis period for a year of assessment a chargeable person has incurred qualifying expenditure in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(2) In the event the adjustment of the amount of the qualifying expenditure made under subparagraph (1) results in—

- (a) an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred, and the residual expenditure under paragraph 46 in relation to the asset shall include that additional amount; or
- (b) a reduced amount, the qualifying expenditure incurred and the residual expenditure under paragraph 46 shall be reduced by such amount, and if the amount of the allowance made or ought to have been made under this Schedule exceeds the residual expenditure, the excess shall be part of the statutory income of that chargeable person from a source consisting of a business in the basis period the adjustment is made.

(3) The excess amount referred to in subsubparagraph 2(b) shall not exceed the total amount of allowances given under this Schedule.

(4) Notwithstanding subparagraph (2), where a chargeable person has incurred the qualifying expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(5) Paragraphs 22 and 23 shall apply for the purpose of the adjustment referred to in subparagraph (4).”.

CHAPTER IV

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

39. (1) Sections 40 and 42 have effect for the year of assessment 2015 and subsequent years of assessment.

(2) Sections 41 and 43 come into operation on the coming into operation of this Act.

Amendment of section 2

40. Subsection 2(1) of the Real Property Gains Tax Act 1976, which is referred to as the “principal Act” in this Chapter, is amended—

(a) by inserting after the definition of “Inland Revenue Board of Malaysia” the following definition:

‘ “input tax” has the meaning assigned to it in the Goods and Services Tax Act 2014 [Act 762];’; and

(b) by inserting after the definition of “option” the following definition:

‘ “output tax” has the meaning assigned to it in the Goods and Services Tax Act 2014;’.

Amendment of section 29

41. Section 29 of the principal Act is amended by inserting after subsection (4) the following subsection:

“(5) The Director General may require any person to pay an additional amount of penalty in accordance with subsection (3) in respect of any additional tax which is payable by that person for a year of assessment.”.

Amendment of Schedule 2

42. Schedule 2 to the principal Act is amended—

(a) in subparagraph 6(1)—

- (i) by deleting the word “and” at the end of subparagraph (c);
- (ii) by substituting for the full stop at the end of subparagraph (d) the words “; and”; and
- (iii) by inserting after subparagraph (d) the following subparagraph:

“(e) any amount paid or to be paid in respect of goods and services tax by the disposer if he is not liable to be registered under the Goods and Services Tax Act 2014 or if he is a registered person and is not entitled under that Act to credit that amount as input tax.”; and

(b) in paragraph 7—

- (i) by deleting the word “and” at the end of subparagraph (b);
- (ii) by substituting for the full stop at the end of subparagraph (c) a semicolon; and

(iii) by inserting after subparagraph (c) the following subparagraphs:

“(d) any amount paid or to be paid in respect of goods and services tax as input tax by the disposer if he is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax; and

(e) any amount of output tax paid or to be paid under the Goods and Services Tax Act 2014 which is borne by the disposer if he is registered or liable to be registered under that Act.”.

Amendment of Schedule 4

43. Schedule 4 to the principal Act is amended in paragraph 2 by substituting for the formula the following formula:

$$\frac{A \times C}{B}$$

where A is part of the area of the chargeable asset disposed;

B is the total area of the chargeable asset;

C is ten thousand;

or ten per cent of the chargeable gain, whichever is greater”.

CHAPTER V

AMENDMENTS TO THE LABUAN BUSINESS ACTIVITY TAX ACT 1990

Commencement of amendments to the Labuan Business Activity Tax Act 1990

44. This Chapter comes into operation on the coming into operation of this Act.

Amendment of section 22

45. The Labuan Business Activity Tax Act 1990, which is referred to as the “principal Act” in this Chapter, is amended in subsection 22(1)—

- (a) by substituting for the word “or” appearing after the words “double taxation arrangements” a comma; and
- (b) by inserting after the words “tax information exchange arrangements” the words “or mutual administrative assistance arrangement”.

Amendment of section 22A

46. Section 22A of the principal Act is amended—

- (a) in paragraph (1)(a)—
 - (i) by substituting for the word “or” appearing after the words “double taxation arrangements” a comma; and
 - (ii) by inserting after the words “tax information exchange arrangements” the words “or mutual administrative assistance arrangement”; and
- (b) in subsection (2), by inserting after the definition of “double taxation arrangement” the following definition:

‘ “mutual administrative assistance arrangement” means an arrangement between the Government of Malaysia with the Government of any territory outside Malaysia with a view to the mutual administrative assistance in tax matters which includes simultaneous tax examinations, automatic exchange of information or tax administrations abroad under section 132B of the Income Tax Act 1967;’.

CHAPTER VI

AMENDMENTS TO THE GOODS AND SERVICES TAX ACT 2014

Commencement of amendments to the Goods and Services Tax Act 2014

47. This Chapter comes into operation on 1 January 2016.

Amendment of section 13

48. The Goods and Services Tax Act 2014, which is referred to as the “principal Act” in this Chapter, is amended in section 13 by substituting for subsection (4) the following subsection:

“(4) Notwithstanding section 11 and for the purposes of subsection (1), the time of supply of imported services shall be treated to have been made at the following dates whichever is the earlier:

- (a) the date when any payment is made by the recipient; or
- (b) the date when any invoice is issued by the supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia.”.

Amendment of section 41

49. Section 41 of the principal Act is amended by inserting after subsection (7) the following subsections:

“(8) Where any tax due and payable is not paid by any taxable person after the last day on which it is due and payable under subsection (4) and no prosecution is instituted, the taxable person shall pay—

- (a) for the first thirty-day period that the tax is not paid after the expiry of the period specified under subsection (4), a penalty of five per cent of the amount of tax due and payable;

(b) for the second thirty-day period that the tax is not paid after the expiry of the period specified under subsection (4), an additional penalty of ten per cent of the amount of tax due and payable; and

(c) for the third thirty-day period that the tax is not paid after the expiry of the period specified under subsection (4), an additional penalty of ten per cent of the amount of tax due and payable, subject to a maximum penalty of twenty-five per cent of the amount of tax due and payable.

(9) Subject to subsection (11), prosecution for the offence under subsection (7) may be instituted after the expiry of the period specified in paragraph (8)(c).

(10) The court may order that any taxable person who is convicted for the offence under subsection (7) shall pay the penalty as specified in subsection (8).

(11) No prosecution for the offence under subsection (7) shall be instituted against the taxable person who has paid the amount of tax due and payable and the penalty specified under subsection (8) within the period specified in subsection (8).”.

Amendment of section 43

50. Section 43 of the principal Act is amended—

(a) in subsection (1), by inserting after the words “the amount of tax” the words “and the penalty under subsection 41(8), if any,”; and

(b) in subsection (8), by inserting after the words “the amount of tax” the words “and penalty, if any,”.

Amendment of section 51

51. Section 51 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Where the tax is allowed to be paid by instalments, the penalty under subsection 41(8) shall be ceased to be calculated from the date the Director General allows the payment by instalments.”.

Amendment of section 69

52. Subparagraph 69(5)(c)(ii) of the principal Act is amended, in the English language text, by substituting for the word “venturer” the words “venture operator”.

Amendment of section 70

53. Section 70 of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) In relation to goods that have been imported and deposited in the warehouse and for which tax would be chargeable on the imported goods, there shall be a scheme to be known as the “Warehousing Scheme” which allows—

- (a) tax chargeable on the imported goods to be suspended when the imported goods are deposited in the warehouse;
- (b) supplies of goods made between the warehouses to be disregarded; and
- (c) supplies of goods made within the warehouses to be disregarded except for the last of such supplies of goods which are removed before the duty point.”.

Amendment of section 86

54. Subsection 86(2) of the principal Act is amended by substituting for the words “112(1)” the words “105(2)”.

Amendment of section 94

55. Paragraph 94(b) of the principal Act is amended by inserting after the words “to collect any tax” the words “or penalty”.

Amendment of section 122

56. Subsection 122(1) of the principal Act is amended—

- (a) by inserting after the words “amount of tax” the words “or any penalty”; and
- (b) by inserting after the words “and the tax” the words “or penalty”.

CHAPTER VII

AMENDMENTS TO THE PROMOTION OF INVESTMENTS ACT 1986

Commencement of amendments to the Promotion of Investments Act 1986

57. This Chapter has effect for the year of assessment 2015 and subsequent years of assessment.

Amendment of section 2

58. Section 2 of the Promotion of Investments Act 1986, which is referred to as the “principal Act” in this Chapter, is amended—

- (a) by inserting after the definition of “industrial linkage programme” the following definition:

‘ “input tax” has the meaning assigned to it in the Goods and Services Tax Act 2014 [Act 762];’; and

- (b) by inserting after the definition of “Minister” the following definition:

‘ “output tax” has the meaning assigned to it in the Goods and Services Tax Act 2014;’.

New sections 29Q and 29R

59. The principal Act is amended by inserting after section 29P the following sections:

“Determination of capital expenditure in respect of promoted activity or promoted product subject to goods and services tax for investment tax allowance

29Q. Where a company which has been granted approval under section 27, 27A, 27C, 27D, 27E, 27F, 27G, 27I, 27J, 27K, 27M or 27N has incurred in the basis period for a year of assessment capital expenditure in respect of promoted activity or promoted product for the period specified under paragraph 29(2)(b), (c) or (d), paragraph 29A(3)(b), (c) or (d), paragraph 29AA(3)(b), 29B(2)(b), 29D(2)(b), 29E(2)(b), 29F(2)(b), 29G(2)(b), 29H(2)(b), 29J(2)(b), 29K(2)(b), subparagraph 29L(2)(a)(ii), 29L(3)(a)(ii), 29L(4)(a)(ii), 29L(5)(a)(ii), 29L(6)(a)(ii), paragraph 29N(3)(b) or 29O(3)(b), the capital expenditure incurred by the company shall not include any amount paid or to be paid in respect of goods and services tax by that company if the company is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the company is entitled to credit that amount as input tax under that Act.

Adjustment of capital expenditure incurred which is subject to goods and services tax

29R. (1) Where in the basis period for a year of assessment a company has incurred capital expenditure under this Act and such capital expenditure is subject to any adjustment made in respect of input tax for a period specified under the Goods and Services Tax Act 2014, the amount of such expenditure for that asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(2) In the event the adjustment of the amount of the capital expenditure made under subsection (1) results in—

- (a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred for the purpose of this Act, and subject to sections 29, 29A, 29B, 29D,

29E, 29F, 29G, 29H, 29J, 29K, 29L and 29O, there shall be given to the company for a year of assessment an allowance in respect of such additional amount; or

- (b) a reduced amount, any amount of allowance that ought not to have been given under this Act in consequence of such reduction shall be part of the statutory income of that company from a source consisting of a business in the basis period the adjustment is made.

(3) Notwithstanding subsection (1), where a company has incurred capital expenditure in relation to an asset, and the asset is disposed of at any time in the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(4) Where an adjustment is made in respect of the input tax under the Goods and Services Tax Act 2014, the Director General may make a computation or recomputation of any allowance made under this Act or the amount of statutory income of a company for a year of assessment in the similar manner as provided under this section, in the basis period for the year of assessment the adjustment is made or at any time as may be necessary to give effect to such adjustment.”.