



Crowe Chat Vol.2/2023 (Special Edition)

Malaysia Finance Bill 2023

14 March 2023



This Crowe Chat Vol.2/2023 is prepared based on the Finance Bill 2023. We will discuss the proposed changes mentioned in the Finance Bill 2023 which were not covered in our previous Budget Newsletter.

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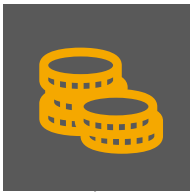
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Key Highlights of the Finance Bill 2023

Highlights of the Finance Bill 2023

Businesses



Review of Income Tax Treatment for MSMEs and MSME Exclusion Conditions

Corporate income tax rate for MSMEs will be reduced from 17% to 15% on the first chargeable income of RM150,000 while MSME now excludes companies or LLPs that have foreign shareholding exceeding 20%.



Electronic Submission of Amended Tax Returns

Companies, Limited Liability Partnerships, trust bodies and co-operative societies are required to submit their amended tax returns electronically effective YA 2024.

Amendments to the Definition of Plant for Capital Allowance Claims

The definition of plant will be expanded to include intangible assets such as software and also empower the Minister to prescribe any other assets as assets which are excluded from the definition of “plant”.



Expansion of Scope for Application of Relief Other Than Error or Mistake

The scope of relief under Section 97A of the MITA is expanded to include payments made to individual agents, dealers or distributors (ADD) which are subject to withholding tax under Section 107D of the MITA.



Highlights of the Finance Bill 2023

Businesses (cont.)



Electronic Submission of Income Tax Returns for Trust Bodies and Co-operative Societies

Trust bodies and co-operative societies are required to submit their tax returns electronically effective YA 2024.

Deduction of tax from payment made to agents, etc.
Starting from 1 January 2023, companies making payments to individual agents, dealers and distributors must remit withholding tax under Section 107D of the ITA to the MIRB not later than the end of the following calendar month.



Electronic Submission of Income Tax Returns for Partnerships

Partnerships are required to submit their tax returns electronically effective YA 2024.



Application for Instalment Payment Scheme for Balance of Tax Payable under a Deemed Assessment

The application of payment by instalments as allowed by the Director General is extended to include balance of tax payable under a deemed assessment and additional assessment.

Employer's returns (Form E) for LLPs, trust bodies and co-operative societies

An employer who is an LLP, a trust body or a co-operative society is required to submit his employer's returns electronically effective YA 2024.



Highlights of the Finance Bill 2023

Individuals



Review of Resident Individuals' Income Tax Rates

- The tax rate of resident individuals in each chargeable income band between RM35,001 to RM100,000 will be reduced by 2%; and
- The tax rate of resident individuals in the chargeable income band over RM100,000 to RM1,000,000 will be increased by between 0.5% to 2%.
- These changes will be effective from YA 2023 onwards.



Extension of Tax Relief for Childcare Centres and Kindergarten Fees

- Tax relief for childcare centres and kindergarten fees up to RM3,000, will be extended for another year until YA 2024.

Expansion of Tax Relief on Medical Treatment Expenses

- The tax relief for medical treatment expenses for self, spouse and child will be increased from RM8,000 to RM10,000.
- The scope of income tax relief for medical treatment will be expanded to include the intervention expenditure for Autism, Attention Deficit Hyperactivity Disorder (ADHD), Global Developmental Delay (GDD), Intellectual Disability, Down Syndrome and Specific Learning Disabilities limited to RM4,000 on his child age below 18 years old. These changes will be effective from YA 2023 onwards.



Highlights of the Finance Bill 2023

Individuals (cont.)



Deposits in Skim Simpanan Pendidikan Nasional (SSPN) account

- The amount deposited by an individual for his child into the Skim Simpanan Pendidikan Nasional shall no longer be allowed.
- Effective from YA 2023 onwards.



Second revision to estimate of tax payable in the Notice of Instalment Payments (Form CP500)

- A person other than a Company, an LLP, a trust body or a co-operative society will be allowed to revise his estimate of tax payable each year via Form CP500.
- The second revision can be made by 31 October of the YA.
- Effective from YA 2023 onwards.

Mandatory e-Filing for individuals

- A person other than a company, a limited liability partnership, a trust body or a co-operative society is required to furnish to the Director General a return of income in the prescribed form on an electronic medium or by way of electronic transmission.
- Effective from YA 2024 onwards.



Expansion of Tax Relief on Life Insurance or Takaful Contributions

- Mandatory contribution to approved schemes or voluntary contribution to EPF (not including private retirement scheme) or contribution under any written law up to RM4,000.
- Tax relief on Life Insurance or Takaful Contributions will be expanded to include voluntary contributions to EPF up to RM3,000.
- The new treatment is applicable to all contributors, including self-employed persons, employees and civil servants under the pension scheme from YA 2023 onwards.



Highlights of the Finance Bill 2023

Real Property Gains Tax



Transfer of Assets to Controlled Companies Incorporated Outside of Malaysia

The disposal price is no longer deemed equal to acquisition price for transfer of assets to controlled companies incorporated outside of Malaysia.



Transfer of Real Property to Former Spouse in Divorce Cases due to Court Orders

The disposal price is now deemed equal to acquisition price for transfer of real property between former spouses in divorce cases due to court orders.

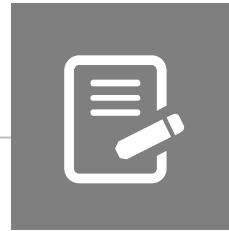
Highlights of the Finance Bill 2023

Stamp Duty



Stamp Duty Treatment for Education Loan and Scholarship Agreements

The fixed duty of RM10 on educational loan and scholarship agreements will be expanded to include education at all levels including certificate (education/skills/professional) in any educational and training institutions for agreements executed from 1 June 2023.



Stamp Duty Treatment for Factoring Agreements on the Absolute Bill of Sale of Account Receivables or Book Debts

The fixed duty of RM10 on the absolute bill of sale of any accounts receivables or book debts will be expanded to include any statutory body, agency of the Government or of the State Government, or any company in which the Government or the State Government has interest, which provides financing to a small and medium enterprise.



Stamp Duty Treatment for Agreements for Discounting Invoices or Hire Purchase Receivables

The fixed duty of RM10 on charge, mortgage, or assignment by way of security of accounts receivables will be expanded to include any statutory body, agency of the Government or of the State Government, or any company in which the Government or the State Government has interest, which provides financing to a small and medium enterprise.



Details of Proposed Measures, Effective Date and Commentary

Corporate Tax Proposals

01

Review of Income Tax Rate for MSMEs and MSME Exclusion Conditions

Presently, the income tax rates for MSMEs is provided for under Part I of Schedule 1 of the Malaysia's Income Tax Act 1967 (MITA) as follows:

Chargeable Income	Tax Rate
First RM600,000	17%
RM600,001 and above	24%

Present

The above income tax rate will only apply to a company or a limited Liability Partnership (LLP) that has a paid-up ordinary share capital or total contribution of capital of RM2.5 million and less with gross business income of not exceeding RM50 million per year.

However, the above MSME's income tax rate will **not apply** to the following companies and LLPs:

- a company with more than 50% of the paid-up ordinary share capital being owned directly or indirectly by a related company (a company with paid-up capital of more than RM2.5 million), or vice versa, or by another company; and
- an LLP with more than 50% of the capital contribution being owned directly or indirectly by a company, or vice versa, or by another company.

01 Review of Income Tax Rate for MSMEs and MSME Exclusion Conditions

Part I of Schedule 1 of the MITA will be amended to review the tax rate for MSMEs as follows:

Chargeable Income	Tax Rate
First RM150,000	15%
Next RM450,000	17%
RM600,001 and above	24%

In addition, the non-applicability of MSME's preferential income tax rate will be expanded to include the following companies and LLPs:

- a company with more than 20% of the paid-up ordinary share capital being owned directly or indirectly by any companies incorporated outside Malaysia or any person who is not a Malaysian citizen; and
- an LLP with more than 20% of the total capital contribution being contributed directly or indirectly by companies incorporated outside Malaysia or any person who is not a Malaysian citizen.

Proposed

Effective Date

From YA 2023, except for the expansion of non-applicability of MSME's preferential income tax rate for LLPs, which will take effect from YA 2024.

Commentary

This proposal was announced in the Revised Budget 2023 speech. Now, the amendment to the law is being proposed in the Finance Bill 2023.

This proposal aims to increase the competitiveness of locally owned MSMEs and promote economic growth. In addition, taxpayers may take advantage of the lower income tax bracket for MSMEs as compared to individuals by conducting their businesses using a company or an LLP instead of an unincorporated enterprise.

02

Amendments to the Definition of Plant for Capital Allowance Claims

Present

With effect from YA 2021, the definition of plant has been introduced under Paragraph 70A of Schedule 3 of the MITA as “an apparatus used by a person for carrying on his business, but does not include a building, an intangible asset, or any asset used and that functions as a place within which a business is carried on”.

Proposed

The definition of plant will be expanded to include intangible assets such as software and the Minister is now empowered to prescribe any other assets as assets which are excluded from the definition of “plant”.

Effective Date

From YA 2023.

Commentary

This proposal to remove the blanket exclusion on intangible assets as plant is in line with the Government’s objective of encouraging the adoption of digital technology in the country.

However, the amendment will empower the Minister to prescribe any other assets as assets which are excluded from the definition of plant. In order to avoid any adverse impact, it is hoped the Government will reach out to stakeholders before issuing any list of assets that will be excluded from the definition of plant for the purposes of capital allowance claims.

03

Electronic Submission of Amended Tax Returns

Present

Amended tax returns for companies can be submitted either electronically or manually whereas taxpayers who are not companies can only submit their amended tax returns manually.

Proposed

It is mandatory for companies, LLPs, trust bodies and co-operative societies to submit their tax returns electronically (i.e. e-filing).

Effective Date

From YA 2024.

Commentary

The proposal is in line with the government's policy to increase the usage of electronic medium and to improve the tax submission process. Submissions made electronically may reduce human errors in the return form and expedite the finalisation of assessments.

04

Expansion of Scope for Application of Relief Other Than Error or Mistake

Present

Section 97A of the MITA allows taxpayers who have no chargeable income for a YA to apply in writing to the Director General for an amendment or relief in relation to an inaccurate computation in their returns. This may be caused by a deduction which is not allowed for withholding tax on the following types of payments to non-residents that were not due to be paid on the day the returns were furnished:

1. Contract payments under Section 107A;
2. Interest and royalties under Section 109;
3. Public entertainers under Section 109A;
4. Special classes of income under Section 109B; and
5. Other income under Section 109F.

Proposed

The list of payment eligible for relief under Section 97A of the MITA is extended to include payments made to individual agents, dealers or distributors (ADD) which are subject to withholding tax under Section 107D of the MITA.

Effective Date

From 1 January 2023.

Commentary

This proposal will streamline the eligibility for companies seeking relief in relation to inaccurate computations in their tax returns due to non-claiming of tax deduction on payments made to ADD due to non-compliance with withholding tax requirements under Section 107D of the MITA at the time of filing their tax returns.

05

Application for Instalment Payment Scheme for Balance of Tax Payable under a Deemed Assessment

Present

Balance of tax payable under a deemed assessment or additional assessment shall be paid in full on the due date, regardless of whether the taxpayer has appealed against the assessment.

Proposed

Taxpayers are allowed to apply for an instalment payment scheme to discharge the balance of tax payable under a deemed assessment or additional assessment subject to the Director General of Inland Revenue Board's (DGIR) approval.

Effective Date

From YA 2023.

Commentary

This proposal would allow taxpayers an avenue to apply for an instalment scheme on their balance of tax payable under a deemed assessment or additional assessment which could help to ease taxpayers' cashflow if they are facing financial difficulties.

06

Section 107D of the ITA - Deduction of tax from payment made to agents, etc.

Present

Currently, a company is required to withhold 2% withholding tax on gross monetary payments made to an ADD who receives more than RM100,000 of commission in a preceding year and shall remit the amount of tax to the MIRB within 30 days of such payment.

Proposed

Companies will be allowed to accumulate payments made to ADDs on a monthly basis and to remit the withholding tax to the MIRB not later than the end of the following calendar month.

Effective Date

From 1 January 2023

Commentary

This proposal will align the law with the MIRB's current practice of allowing the payments to ADDs which are subject to withholding tax under Section 107D of the MITA to be accumulated monthly and for the withholding tax to be remitted on the last day of the following calendar month.

07

Income tax returns for trust bodies and co-operative societies

Present

Currently, trust bodies or co-operative societies are encouraged to use e-filing for the submission of their tax returns but are still allowed to file their tax returns manually by downloading the relevant form [i.e. Form TA (Trust bodies) or Form C1 (Co-operative societies)] from the MIRB's website. Trust bodies or co-operative societies are required to file their tax returns within seven (7) months from the end of their accounting period.

Proposed

It is mandatory for trust bodies or co-operative societies to submit their tax returns electronically (i.e. e-filing).

Effective Date

From YA 2024.

Commentary

The proposal is in line with the government's policy to increase the usage of electronic medium and improve the tax submission process. Submissions made electronically may reduce human errors in the return form and expedite the finalisation of assessments.

08

Income tax returns for partnership

Present

Currently, partnerships are encouraged to use e-filing for the submission of their tax returns but are still allowed to file their tax returns manually by downloading the relevant form (i.e. Form P) from the MIRB's website. Partnerships are required to file the tax returns by 30 June in the year following that YA.

Proposed

It is mandatory for partnerships to submit their tax returns electronically (i.e. e-filing).

Effective Date

From YA 2024.

Commentary

The proposal is in line with the government's policy to increase the usage of electronic medium and improve the tax submission process. Submissions made electronically may reduce human errors in the return form and expedite the finalisation of assessments.

09

Employer's returns (Form E) for LLPs, trust bodies and co-operative societies

Present

Currently, it is mandatory for a company to submit its Employer's returns (Form E) electronically (i.e. e-filing).

Proposed

It is mandatory for LLPs, trust bodies and co-operative societies to submit their Employers' returns (Form E) electronically (i.e. e-filing).

Effective Date

From YA 2024.

Commentary

The proposal is in line with the government's policy to increase the usage of electronic medium and improve the tax submission process. Submissions made electronically may reduce human errors in the return form.



Details of Proposed Measures, Effective Date and Commentary

Individual Tax Proposals

01

Review of Resident Individuals' Income Tax Rates

Effective from YA 2021, the income tax rate structure for resident taxpayers is based on the progressive rates ranging from 0% to 30% on chargeable income as tabulated below:-

Chargeable Income (RM)	Current Tax Rates (%)
0 - 5,000	0
5,001 - 20,000	1
20,001 - 35,000	3
35,001 - 50,000	8
50,001 - 70,000	13
70,001 - 100,000	21
100,001 - 250,000	24
250,001 - 400,000	24.5
400,001 - 600,000	25
600,001 - 1,000,000	26
1,000,001 - 2,000,000	28
2,000,001 and above	30

Present

01

Review of Resident Individuals' Income Tax Rates (cont.)

It is proposed that the resident individuals' income tax rate be reduced by 2 percentage points for each taxable income range between **RM35,001** to **RM100,000**.

To make the individual tax structure more progressive, it is proposed that the income tax rate for resident individuals in the taxable income range be revised as follows:

Chargeable income (RM)	Percentage points (%)	New tax rate (%)
100,001 to 250,000	Increased by 1	25
250,001 to 400,000	Increased by 0.5	
400,001 to 600,000	Increased by 1	26
600,001 to 1 Million	Increased by 2	28

Proposed

01

Review of Resident Individuals' Income Tax Rates (cont.)

The savings and increase in income tax for individuals resulting from the changes of tax rates are as follows:

Chargeable Income (RM)	Current		Proposed		(Tax Savings)/ Additional	
	Tax Rate (%)	Tax Payable (RM)	Tax Rate (%)	Tax Payable (RM)	(RM)	(%)
0 - 5,000	0	-	-	-	0	0
5,001 - 20,000	1	150	1	150	0	0
20,001 - 35,000	3	600	3	600	0	0
35,001 - 50,000	8	1,800	6	1,500	(300)	(16.7)
50,001 - 70,000	13	4,400	11	3,700	(700)	(15.9)
70,001 - 100,000	21	10,700	19	9,400	(1,300)	(12.1)
100,001 - 250,000	24	46,700	25	46,900	200	0.4
250,001 - 400,000	24.5	83,450	25	84,400	950	1.1
400,001 - 600,000	25	133,450	26	136,400	2,950	2.2
600,001 - 1,000,000	26	237,450	28	248,400	10,950	4.6
1,000,001 - 2,000,000	28	517,450	28	528,400	10,950	2.1
2,000,001 and above	30		30			

Proposed

01

Review of Resident Individuals' Income Tax Rates (cont.)

Effective Date

From YA 2023.

Commentary

This proposal was announced in the Revised Budget 2023 speech. Now, the amendment to the law is being proposed in the Finance Bill 2023.

The proposal suggests reducing individual income tax rates by 2% for individuals earning between RM35,001 to RM100,000, benefiting around 2.4 million low-to-middle income individuals. However, to maintain a progressive income tax structure, the government has proposed increasing tax rates for individuals earning between RM100,001 to RM400,000 by 0.5% to 2%. Individuals can reduce their chargeable income by maximising approved donations, tax reliefs, and rebates granted by the government. Tax planning is crucial, and individuals should seek advice from tax experts to identify tax-saving opportunities while complying with tax laws and regulations.



02

Review of Income Tax Relief for Medical Treatment Expenses

Present

Currently, income tax relief is given on medical treatment expenses of up to RM8,000 as follows:-

- i. Serious illness for taxpayer, spouse or child;
- ii. Fertility treatment for taxpayer or spouse;
- iii. Vaccination for taxpayer, spouse or child limited to RM1,000; and
- iv. Full medical checkup including mental health checkup or consultation, COVID-19 detection test inclusive of the purchase of self-test kit for taxpayer, spouse or child limited to RM1,000.

Proposed

It is proposed that the scope of income tax relief for medical treatment expenses be expanded to include the intervention expenditure for Autism, Attention Deficit Hyperactivity Disorder (ADHD), Global Developmental Delay (GDD), Intellectual Disability, Down Syndrome and Specific Learning Disabilities limited to RM4,000 for a child who is of the age of 18 years and below as follows:

- i. Diagnostic assessment certified by a medical practitioner registered with the Malaysian Medical Council (MMC);
- ii. Early intervention and rehabilitation programmes conducted by health profession practitioners registered under the Allied Health Profession Act 2016.

With the expansion of this scope, it is proposed that the amount of tax relief for medical treatment expenditure be increased from RM8,000 to RM10,000.

02

Review of Income Tax Relief for Medical Treatment Expenses (cont.)

Effective Date

From YA 2023.

Commentary

This proposal was announced in the Revised Budget 2023 speech. Now, the amendment to the law is being proposed in the Finance Bill 2023.

This proposal intends to incentivise and assist parents or guardians of children with disabilities to seek early intervention for their children, which can improve their overall development and well-being. The proposed tax relief would reduce the financial burden on parents and guardians, thereby making early intervention services more affordable and accessible.



03 Review of Income Tax Relief for EPF contributions and Life Insurance premiums/ Takaful Contributions

From the YA 2022, the scope of individual income tax relief for EPF contributors is expanded to include self-employed voluntary contributors including civil servants under the pension scheme:

Type of payment/ contribution	Amount per year
Contribution to approved schemes or voluntary contribution to EPF (not including PRS) or contribution under any written law	Limited to RM4,000
Life insurance premium or takaful contribution or voluntary contribution to EPF	Limited to RM3,000
Total	Limited to RM7,000

For **civil servants** under the pension scheme **not voluntarily** contributing to EPF, they are only entitled to claim as follows:

Type of payment/ contribution	Amount per year
Contribution to approved schemes or voluntary contribution to EPF (not including PRS) or contribution under any written law	Not applicable
Payment of life insurance premiums or takaful contributions	Limited to RM7,000

Present

03

Review of Income Tax Relief for EPF contributions and Life Insurance premiums/ Takaful Contributions (cont.)

The tax relief for life insurance premium or takaful contribution to be restructured as follows:

Type of payment/ contribution (Self-employed persons, Employees, and Pensioners)	Amount per year
Mandatory contribution to approved schemes or voluntary contribution to EPF (not including PRS) or contribution under any written law.	Limited to RM4,000 (same as before)
Life insurance premium or takaful contribution or additional voluntary contribution to EPF or both.	Limited to RM3,000
Total	Limited to RM7,000

The new treatment is applicable to all contributors, including self-employed persons, employees and civil servants under the pension scheme.

Proposed

03

Review of Income Tax Relief for EPF contributions and Life Insurance premiums/ Takaful Contributions (cont.)

Effective Date

From YA 2023.

Commentary

This proposal was announced in the Revised Budget 2023 speech. Now, the amendment to the law is being proposed in the Finance Bill 2023.

This proposal would clarify that the total amount of deduction for mandatory and voluntary contributions to the EPF for all categories of contributors such as employees, self-employed persons, or civil servants under the pension scheme is subject to a combined limit of RM7,000.

Voluntary contributions allow individuals to save additional money beyond the mandatory contributions made by their employer. This can help to increase the amount of savings they have in their EPF account, which can be important for meeting their retirement needs.

Overall, voluntary contributions to the EPF can be a valuable tool for individuals who wish to save for retirement and reduce their tax liabilities.

04 Review of Income Tax Relief for Childcare Centres and Kindergarten Fees

Present

Currently, a deduction is allowed for an amount limited to a maximum of RM3,000 expended or deemed expended for the payment of childcare fees to a childcare centre registered with the Director General of Social Welfare under the Child Care Centre Act, 1984 or a kindergarten registered under the Education Act, 1996 in that basis year by that individual for a child of that individual aged six (6) years and below as evidenced by receipts issued by such childcare centre or kindergarten.

Proposed

This proposal is extended for another year until YA 2024.

Effective Date

Up to YA 2024.

Commentary

This proposal was announced in the Revised Budget 2023 speech. Now, the amendment to the law is being proposed in the Finance Bill 2023.

This deduction is restricted to RM3,000 even though the number of children who fulfills the mentioned conditions exceeds one. If the amount paid is less than RM3,000, the amount of deduction allowed is limited to the amount paid only.

Where a husband and a wife are assessed separately, the tax deduction under this paragraph can only be claimed either by the husband OR the wife who incurs the expenses.

05

Mandatory e-Filing of tax returns

Present

Currently, a person other than a company, a limited liability partnership, a trust body or a co-operative society is encouraged to use e-filing for the submission of its tax returns but is still allowed to file its tax returns manually by downloading the relevant forms from the MIRB's website.

Proposed

It is mandatory for a person other than a company, a limited liability partnership, a trust body or a co-operative society to submit its tax returns electronically (i.e. e-filing).

Effective Date

From YA 2024.

Commentary

The proposal is in line with the government's policy to increase the usage of electronic medium and improve the tax submission process. Submissions made electronically may reduce human errors in the return form and expedite the finalisation of assessments.

06

Review of payments by instalments

Present

A person other than a Company, an LLP, a trust body or a co-operative society is allowed to revise his estimate of tax payable for a YA via Form CP500 only once per YA, i.e. by 30 June of that YA.

Proposed

A person other than a Company, an LLP, a trust body or a co-operative society is allowed to revise his estimate of tax payable for a YA via Form CP500 twice per YA with the second revision to be submitted by 31 October of that YA.

Effective Date

From YA 2024.

Commentary

The proposal would permit a second revision to be made by 31 October of the relevant YA.

The purpose of this proposal may be to provide greater flexibility for individuals in managing their tax liabilities, particularly if their income or other circumstances may change during the year. Allowing for revisions to the estimated tax payable can help ensure that individuals are not subject to unexpected tax payable or penalties at the end of the year.



Details of Proposed Measures, Effective Date and Commentary

Real Property Gains Tax
Proposals

01

Transfer of Assets to Controlled Companies Incorporated Outside of Malaysia

Present

Currently, a transfer of real property

- a) by an individual,
- b) by the wife of the individual,
- c) by the individual jointly with his wife or with a connected person, or
- d) by a nominee / trustee for the individual, the wife or both,

to a controlled company incorporated in Malaysia or outside Malaysia for a consideration consisting of shares in that controlled company will be deemed to be a “no gain, no loss” transaction for RPGT purposes.

“No gain, no loss” means the disposal price is deemed equal to the acquisition price.

It is proposed that the "no gain, no loss" treatment will only be applicable if the real property is transferred to a controlled company incorporated in Malaysia. If the controlled company is incorporated outside Malaysia, then the transfer of the real property will not be eligible for the "no gain, no loss" treatment and will be subject to RPGT at the prevailing rates set out in Part I, Schedule 5 of the RPGTA.

Proposed

Category of disposal	Rate of tax
Disposal within three years after the date of acquisition of the chargeable asset	30%
Disposal in the fourth year after the date of acquisition of the chargeable asset	20%
Disposal in the fifth year after the date of acquisition of the chargeable asset	15%
Disposal in the sixth year after the date of acquisition of the chargeable asset or thereafter	Nil

Finance Bill 2023: Real Property Gains Tax Proposals

01

Transfer of Asset to Controlled Companies Incorporated Outside of Malaysia (cont.)

Effective Date

Upon coming into operation of the Finance Act.

Commentary

This proposal will discourage the transfer of real properties by individuals to companies incorporated outside Malaysia as there would potentially be RPGT payable on such transactions.



02 Transfer of Real Property to Former Spouse in Divorce Cases due to Court Orders

The RPGT treatment of 'no gain, no loss' is applicable for a transfer of real property between spouses where the transferor is a Malaysian citizen. However, such RPGT treatment is not extended to transfers to a former spouse who will be subject to RPGT at the prevailing rates set out in Part I, Schedule 5 of the RPGTA as follows:

Category of disposal	Rate of tax
Disposal within three years after the date of acquisition of the chargeable asset	30%
Disposal in the fourth year after the date of acquisition of the chargeable asset	20%
Disposal in the fifth year after the date of acquisition of the chargeable asset	15%
Disposal in the sixth year after the date of acquisition of the chargeable asset or thereafter	Nil

Present

Proposed

It is proposed that the RPGT treatment of 'no gain, no loss' be extended to the transfer of real property between former spouses in divorce cases due to court orders.

Effective Date

Upon coming into operation of the Finance Act.

Commentary

This proposal may reduce the tax burden for individuals who are going through a divorce and are required to transfer real property as part of the settlement under a court order. Under the previous rules, transfers between former spouses could trigger RPGT, which could be a significant expense for the parties involved. Overall, this change is likely to be seen as a positive development for individuals going through a divorce in Malaysia, as it will reduce the tax burden associated with property transfers.



Details of Proposed Measures, Effective Date and Commentary

Stamp Duty Proposals

01 Stamp Duty Treatment for Education Loan and Scholarship Agreements

Present

Currently, a fixed duty of RM10 is imposed on educational loan and scholarship agreements relating to education at tertiary level (diploma and above) at higher learning institutions whilst for other levels, stamp duty is charged at ad valorem rate.

Proposed

The fixed duty of RM10 on educational loan and scholarship agreements will be expanded to include education at all levels including certificate (education/skills/professional) in any educational and training institutions.

Effective Date

For educational loan/scholarship agreements executed from 1 June 2023.

Commentary

This proposal was announced in the Revised Budget 2023 speech. Now, the amendment to the law is being proposed in the Finance Bill 2023

This proposal will streamline the stamp duty treatment on educational loan and scholarship agreements for all levels of education.

02

Stamp Duty Treatment for Agreements for Discounting Invoices or Hire Purchase Receivables

Present

Currently, a fixed duty of RM10 is imposed on charge, mortgage, or assignment by way of security of accounts receivables to a bank, merchant bank or finance company licensed under the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983 or a scheduled institution as defined under section 2 of the Banking and Financial Institutions Act 1989, pursuant to an agreement for discounting invoices or hire purchase receivables.

Proposed

The fixed duty of RM10 on charge, mortgage, or assignment by way of security of accounts receivables pursuant to an agreement for discounting invoices or hire purchase receivables will be expanded to include any statutory body, agency of the Government or of the State Government, or any company in which the Government or the State Government has interest, which provides financing to a small and medium enterprise.

Effective Date

For agreements for discounting invoices or hire purchase receivables executed upon coming into operation of the Finance Act.

Commentary

This proposal will streamline the stamp duty treatment on the agreements for discounting invoices or hire purchase receivables. In addition, it aims to increase the competitiveness of MSMEs by reducing the financing costs.

03 Stamp Duty Treatment for Factoring Agreements on the Absolute Bill of Sale of Account Receivables or Book Debts

Present

Currently, a fixed duty of RM10 is imposed on the absolute sale of any accounts receivables or book debts to a bank, merchant bank or finance company licensed under the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983 or a scheduled institution as defined under section 2 of the Banking and Financial Institutions Act 1989, pursuant to a factoring agreement.

Proposed

The fixed duty of RM10 on the absolute bill of sale of any accounts receivables or book debts pursuant to a factoring agreement will be expanded to include any statutory body, agency of the Government or of the State Government, or any company in which the Government or the State Government has interest, which provides financing to a small and medium enterprise.

Effective Date

For factoring agreements on the absolute sale of any accounts receivables or book debts executed upon coming into operation of the Finance Act.

Commentary

This proposal will streamline the stamp duty treatment on the factoring agreements on the absolute sale of any accounts receivables or book debts. In addition, it aims to increase the competitiveness of MSMEs by reducing their financing costs.



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