



Crowe Chat Vol.8/2023 (Special Edition)

Malaysia Finance (No.2) Bill 2023

7 November 2023



This Crowe Chat Vol.8/2023 is prepared based on the Finance (No. 2) Bill 2023. The proposed changes herein were not covered in our previous [Budget Newsletter](#) which was based on the Budget Speech by the Finance Minister and not on the said Finance Bill.

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Key Highlights of the Finance (No.2) Bill 2023

Highlights of the Finance (No.2) Bill 2023

Businesses – Capital Gains Tax



Implementation of Capital Gains Tax (CGT)

CGT is introduced at the rate of 2% on gross disposal price or 10% on the gains from disposal of unlisted company shares and from shares in a foreign company which owns real property in Malaysia with defined value of more than 75% of the value of its total tangible assets. This will be effective from 1 January 2024.



Notification of Non-Chargeability

The DG is allowed to issue a notification of non-chargeability when a person has furnished a return for the disposal of capital asset in accordance with the new Section 77A(1B) of the MITA, and there is no chargeable income for that YA.

Appeal Against an Assessment

A person who has failed to furnish a return for the disposal of capital asset in accordance with the new Section 77A(1B) of the MITA may appeal against the provisional assessment raised by the DG under Section 90(3) of the MITA.



Application for Relief

The right to appeal for relief under Section 131A of the MITA is expanded to include assessments related to the disposal of capital asset in accordance with the new Section 77A(1B) of the MITA.



Highlights of the Finance (No.2) Bill 2023

Businesses



Implementation of Domestic Top-Up Tax (DTT) and Multinational Top-Up Tax (MTT)

The implementation of DTT and MTT on large Multinational Enterprise (MNE) Groups under the Global Anti-Base Erosion (GloBE) Rules, as recommended under Pillar 2 of the Base Erosion and Profit Shifting (BEPS) 2.0. will be effective from 1 January 2025.



Power of Director General (DG) to Issue Guidelines

A new Section 134A of the Malaysia Income Tax Act, 1967 (MITA) will be inserted to give the DG the power to issue, revoke, revise or amend any guidelines as the DG thinks expedient or necessary to clarify the provisions of the Act.

Introduction of Electronic Invoice

The definition of 'electronic invoice' and the relevant legislation will be introduced to facilitate the implementation of e-invoicing.



Condition for Tax Treatment on Micro, Small and Medium Sized Companies (MSME)

Additional criteria will be imposed for the eligibility of MSME to claim special allowance for small value assets without the maximum restriction of RM20,000 and exemption from filing of tax estimates for first two (2) Years of Assessment (YA) upon the commencement of business. This will be effective from YA 2024 to YA 2027.



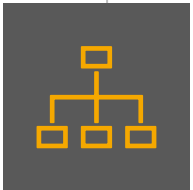
Highlights of the Finance (No.2) Bill 2023

Businesses



Power of Director General (DG) to Issue Guidelines

A new Section 134A of the Malaysia Income Tax Act, 1967 (MITA) will be inserted to give the DG the power to issue, revoke, revise or amend any guidelines as the DG thinks expedient or necessary to clarify the provisions of the Act.



Review of Conditions for Institutions / Organisations / Funds Approved Under Subsection 44(6) of MITA

The limit for accumulated funds utilisations will be increased from 25% to 35% effective from YA 2024.

Amending the Interpretation of Foreign Taxes and Foreign Income

The definition of foreign taxes will be amended to include foreign income originating from the same country, while foreign income for the purpose of unilateral credit will be amended to exclude income arising from Malaysia. This will be effective from YA 2024.



Authorising the Amendment of the Estimated Tax Payable

An amendment for the 11th month estimate tax payable will be introduced effective from YA 2024.



Appointment of Employees to Fill and Submit Forms

A person referred to under Section 75(1) of MITA may appoint an employee to furnish any form prescribed under the MITA on his behalf via electronic medium for companies or body of persons.



Highlights of the Finance (No.2) Bill 2023

Individuals



Expansion of Scope of Income Tax Relief for Medical Treatment Expenses for Self, Spouse and Child (*)

The scope of income tax relief for medical treatment will be expanded to include dental examination and treatment expenses from dental practitioners registered with the Malaysian Dental Council limited to RM1,000. This will be effective from YA 2024.



Expansion of Scope of Income Tax Relief for Medical Treatment, Special Needs and Carer Expenses for Parents (*)

The scope of income tax relief for medical expenses, special needs and parental care will be expanded to include full medical examination for parents limited to RM1,000. This will be effective from YA 2024.

Review of Lifestyle Income Tax Relief (*)

- The scope of lifestyle income tax relief will be expanded to include fees for self-improvement courses.
- However, expenditure on the purchase of sports equipment and gymnasium membership fees are removed from the scope of lifestyle income tax relief.
- Specific tax relief of RM1,000 will be introduced, i.e. “Sports Equipment and Activities”, which will include expenditure on sports equipment and fees for use of sports facilities, registration for sports tournaments and gym memberships.
 - These changes will be effective from YA 2024.



Extension of Individual Income Tax Relief for Up-Skilling and Self-Enhancement Courses Fee

The income tax relief of up to RM2,000 from the total education fees relief of RM7,000 for Up-Skilling and Self-Enhancement Courses Fee will be extended for a period of three (3) years effective from YA 2024 to YA 2026.



() This proposal was announced in the Budget 2024 speech and the amendment to the law is now being proposed in the Finance Bill (No. 2) 2023. For more information, please refer to our [Crowe Chat Vol.7/2023 \(Special Edition\)](#).*

Highlights of the Finance (No.2) Bill 2023

Individuals



Submission of Form E, CP21, CP22, CP22A and CP22B via Electronic Medium

- The submission of the Employer's Return (Form E) and the prescribed forms — specifically, the notification of a new employee (Form CP22), the notification of cessation/death (Form CP22A and CP22B), and the notification of an employee leaving Malaysia (Form CP 21) — must be submitted electronically to the IRBM by the employer.
- Form E: Effective from YA 2023 onwards.
- Prescribed forms: Effective from 1 January 2024 onwards.

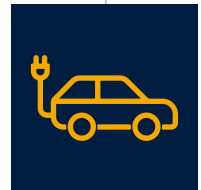
Amendment to the Conditions for Submission of Forms CP22A and CP22B

Employers are not required to submit Form CP22A or CP22B if the employee's income has already been subjected to Monthly Tax Deduction (MTD) or if the employee's monthly remuneration falls below the minimum income threshold that is subject to MTD. This will be effective from 1 January 2024 onwards.



Extension of Individual Income Tax Relief for Electric Vehicle Charging Facilities

The tax relief on expenses related to installation, rental, purchasing including hire-purchase equipment or subscription fees for electric vehicle charging facilities will be extended for a period of four (4) years from YA 2024 to YA 2027.



Highlights of the Finance (No.2) Bill 2023

Indirect Tax



Tourism Tax Public Ruling

The Director General of the Royal Malaysian Customs Department (RMCD) is empowered to make public rulings on the application of any provision of the Tourism Tax Act 2017 to any person or class of persons or to any type of business activities with effect from 1 January 2024.



Amendments to the Definition of Seller for Low Value Goods

The definition of a seller of low value goods will be amended to include a person selling low value goods on his own online platform. This amendment comes into effect upon the coming into operation of the Finance (No. 2) Bill 2023.

Sales Tax on Importation Is Not Applicable on Low Value Goods

No sales tax will be imposed on the importation of low value goods which have been proven to the proper officer of Sales Tax that Sales Tax has been charged by the registered seller and paid. This amendment comes into effect upon the coming into operation of the Finance (No. 2) Bill 2023.



Power of Director General of the RMCD to Determine Taxable Periods for Foreign Registered Persons

The Director General of the RMCD is empowered to re-determine the taxable periods of a foreign registered person other than the period that has been assigned and other matters related to the taxable period and accounting for Service Tax with effect from 1 January 2024.



Highlights of the Finance (No.2) Bill 2023

Stamp Duty



Stamp Duty for Conventional Loan Agreements and Shariah Compliant Financing in Foreign Currency

Loan and Shariah Compliance Financing Agreements in foreign currencies will be subject to ad valorem stamp duty at the rate of RM5 for every RM1,000 of the loan amount, with the maximum stamp duty limit of RM2,000 being abolished. This will be effective from 1 January 2024.



Termination of Use of Digital Franking Machine and Postal Franking Machine

The use of Digital Franking Machine and Postal Franking Machine as methods for stamping documents or agreements will be terminated. This will be effective from 1 January 2024.

Introduction of a new Definition of “writing” or “written”

Section 2 of the Stamp Act 1949 is amended to introduce the definitions of 'writing' or 'written' to specify that the definition includes electronic instruments. The amendment comes into operation on 1 January 2024.



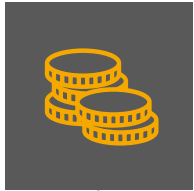
Abolition of the use of Adhesive Stamps

The use of adhesive stamps (revenue stamps) as a method of stamping documents or agreements will be abolished. This will be effective from 1 January 2024.



Highlights of the Finance (No.2) Bill 2023

Stamp Duty



Review of Stamp Duty for Property Ownership by Non-Resident

A flat stamp duty rate of 4% will be imposed on instruments of transfer executed by foreign-owned companies or non-citizen individuals (except Malaysian permanent residents) for instruments of property ownership transfer executed from 1 January 2024 onwards.



Stamp Duty for Transfer of Property Ownership by Renunciation of Rights

A fixed stamp duty of RM10 will be imposed on the transfer of property ownership in which an eligible beneficiary renounces his / her rights to another eligible beneficiary in accordance with a will / faraid or the Distribution Act 1958 for instruments of property ownership transfer executed from 1 January 2024.

Stamp Duty for Instruments Executed Outside Malaysia

Any instruments executed outside Malaysia relating to matters in Malaysia received via electronic transfer are subject to stamping within 30 days from the date of receipt (e.g. the date of receiving the email or via any electronic transmission) for instruments executed from 1 January 2024.



Hearing of Stamp Duty Appeals in Original Jurisdiction

The High Court exercises “original jurisdiction” when hearing the appeal of a stamp duty payer against an assessment by the Collector of Stamp Duty with effect from 1 January 2024.



Highlights of the Finance (No.2) Bill 2023

Real Property Gains Tax



Implementation of Self Assessment System for RPGT

The Self Assessment System is implemented for RPGT.



Payment of RPGT

RPGT payment shall be paid within sixty (60) days from the date of disposal of the chargeable asset or on the day the amended RPGT declaration form is submitted.

Highlights of the Finance (No.2) Bill 2023

Labuan Business Activity Tax Act



Electronic Records (including Print-Outs) shall be Admissible as Evidence in Court Proceedings

Electronic records (including print-outs) of documents stored, received, or transmitted to the Director General on an electronic medium are admissible as evidence in court proceedings, provided that they are certified by the Director General or authenticated according to the Evidence Act 1950 for the purposes of Labuan Business Activity Tax Act 1990. This will be effective from 1 January 2024.



Details of Proposed Measures, Effective Date and Commentary

Corporate Tax Proposals

01 Implementation of Domestic Top-Up Tax and Multinational Top-Up Tax

The Finance Bill introduced a new Part XI under the Malaysian Income Tax Act, 1967 (MITA) for the imposition of DTT and MTT and the implementation of the GloBE Rules under Pillar 2 of BEPS 2.0.

Who are impacted?

MNE Groups that have an annual consolidated revenue of EUR 750 million or more in at least two of the four immediately preceding fiscal years. The GloBe Rules will also apply to a Labuan entity and a Permanent Establishment (PE) which is a member of the MNE Group.

The following entities will be excluded from the GloBe Rules, known as an “Excluded Entity”:-

- a) A Governmental Entity;
- b) An International Organisation;
- c) A Non-profit Organisation;
- d) A Pension Fund;
- e) An Investment Fund that is an Ultimate Parent Entity;
- f) A Real Estate Investment Vehicle that is an Ultimate Parent Entity; or
- g) An entity where at least 95% of its value is owned directly or indirectly by the Excluded Entity and hold assets or invest fund in the Excluded Entity or carries out activities that are ancillary to those carried out by the Excluded Entity.

Proposed

01 Implementation of Domestic Top-Up Tax and Multinational Top-Up Tax

How will the GloBE Rules apply?

Top-up tax is a mechanism intended to ensure that MNEs pay a minimum Effective Tax Rate (ETR) of 15% in each jurisdiction in which the Group operates. Based on GloBE Rules, the ETR is the total covered taxes divided by the total profit in the jurisdiction. If the MNE's ETR goes below the minimum in a jurisdiction, a top-up tax amount will be imposed to bring it up to 15%. This top-up tax can be collected through two (2) mechanisms, namely DTT and MTT.

- DTT shall be charged on a Low-Taxed Constituent Entity located in Malaysia of a MNE Group.
- MTT shall be charged on a Constituent Entity that is the Ultimate Parent Entity located in Malaysia of a MNE Group.

Compliance requirements

Every Constituent Entity of a MNE Group shall submit to the IRBM an Information Return and a Top-up Tax Return for each financial year electronically not later than 15 months from the last day of the Reporting Financial Year, specifying the amount of tax payable, if any, for that year.

Proposed

01 Implementation of Domestic Top-Up Tax and Multinational Top-Up Tax

Penalties for non-compliance

Offence	Penalty
Failure to furnish Top-up Tax return	A penalty equal to treble the amount of that tax.
Incorrect Top-up Tax return / incorrect information	A penalty equal to the amount of tax which has been undercharged.
Failure to furnish information return / Top-up Tax return	On conviction, a fine between RM20,000 and RM100,000, or to imprisonment for a term not exceeding six (6) months or to both.
Incorrect Top-up Tax return	On conviction, a fine between RM20,000 and RM100,000 and a special penalty of double the amount of tax.

Proposed

Effective Date

From 1 January 2025.

01 Implementation of Domestic Top-Up Tax and Multinational Top-Up Tax

The implementation of the global minimum tax based on the GloBE Rules in Malaysia is aligned with international taxation standards, especially in curbing tax base erosion activities and profit shifting to countries with low tax rates.

The global minimum ETR of 15% will only apply to large MNE and Malaysian conglomerates with annual global revenues exceeding EUR 750 million in at least two of the four immediately preceding fiscal years. In this regard, MNE groups falling under the GloBE Rules should consider the following:

- Analyse the impact on the group and identify the potential risk areas.
- Identify the entities within the group that may trigger a top-up tax to effectively manage cashflows.
- Understand the mechanisms applied in each jurisdiction where the group operates.
- Ensure that their systems are prepared to handle the complex rules and calculations necessary to generate accurate information.
- Explore any potential tax structuring options to mitigate the overall impact. Any restructuring plans should also adhere to the arm's length principle from a transfer pricing perspective.
- Educate the management on the implications and the working team to manage the increased compliance obligations and associated costs of compliance.

Although the Malaysian government is committed to attracting and retaining Foreign Direct Investments, the government would need to review its existing tax incentive regimes as Malaysian companies that are currently enjoying tax incentives and have an ETR of below 15% may potentially lose their taxing rights over these companies to the home country of the MNE's holding company as the charging mechanism will enable the Malaysian government to have priority in imposing top-up taxes on these Malaysian companies in efforts to ensure a level playing field.

02

Introduction of Capital Gains Tax (CGT)

Present

Currently, gains on disposal of capital assets are not subject to tax, except for gains arising from the disposal of real property situated in Malaysia, which is subject to Real Property Gains Tax.

It is proposed that gains or profits from the disposal of capital assets be included as a class of income on which tax is chargeable under the new Section 4(aa) of the MITA. This capital gains tax will only be applicable to disposal of capital assets by a company, a limited liability partnership, a trust body or a cooperative society.

Anti-avoidance provision - Gains deemed to be derived from Malaysia

In accordance with the new Section 15C of the MITA, any gains or profits accruing to a person in a YA on the disposal of capital assets which is a share of a controlled company incorporated outside Malaysia (foreign company) shall be deemed to be derived from Malaysia if the foreign company owns either of the following:

- a) real property situated in Malaysia; or
- b) shares in another controlled company; or
- c) both (a) and (b).

This provision shall apply where the defined value of (a), (b) and (c) is more than 75% of the value of its total tangible assets of the foreign company.

Proposed

02

Introduction of Capital Gains Tax

How will the CGT apply?

A new Chapter 9 has been introduced in Part III of the ITA to spell out the following rules on gains from disposal of capital asset:

New legislations	Particulars
Section 65C	Definition of “consideration”, “disposal” and “shares”.
Section 65D	Effective date for the implementation of capital gains tax.
Section 65E	a) Determination of the adjust income (value of the consideration for disposal – value of the consideration for acquisition). b) Adjusted loss can be carried forward to utilise against subsequent disposal of capital assets for a period of ten (10) consecutive YAs. c) Circumstances when consideration for the acquisition or disposal of capital assets be deemed to be equal to the market value.
Section 65F	a) Date of disposal and acquisition <ul style="list-style-type: none">• If there is a written agreement - date of written agreement• If there is no written agreement - date of the completion of the disposal of the capital asset b) Capital assets which were taken into the trading stock will be deemed to be a disposal of the capital assets on the date it is taken into the trading stock.

Tax reporting and payment

Due date for filing – sixty (60) days from the date of disposal via e-filing;

Due date for payment – sixty (60) days from the date of disposal.

Proposed

02

Introduction of Capital Gains Tax

Effective Date

From 1 January 2024.

Commentary

This proposal was announced in the Budget 2024 speech. Now, the amendment to the law is being proposed in the Finance (No.2) Bill 2023.

The introduction of CGT will result in the exclusion of RPGT on Real Property Company shares for companies, limited liability partnerships, trust bodies or cooperative societies. While the introduction of CGT is a positive step towards broadening the tax base, it may have a negative impact on investment and economic growth. For example, CGT could make it more expensive for companies to restructure and discourage some companies from getting listed.

02

Introduction of Capital Gains Tax

Non-applicability of Section 107C of the MITA rules

The gains or profits from the disposal of capital asset will not be subject to the rule of estimate of tax payable.

Applicable tax rates

Period of disposal	Tax rates
Capital assets acquired prior to 1 January 2024	<ul style="list-style-type: none">• 10% on the chargeable income; or• 2% on the gross disposal price.
Capital assets acquired on or after 1 January 2024	10% on the chargeable income.
Other than the above	Normal tax rate of the respective taxable person as per Schedule 1, Part I or IV of the MITA

Tax exemption from CGT

Any gains or profits from the disposal of capital assets situated in Malaysia will be exempted from income tax. However, the exemption does not apply to the following:

- disposal of shares of a company incorporated in Malaysia not listed on the stock exchange; and
- disposal of shares on a foreign company that owns real property in Malaysia.

Proposed

03

Introduction of Electronic Invoice

Present

Presently, there is no legislation regarding electronic invoice in the MITA or the Labuan Business Activity Tax Act 1990 (LBATA).

To facilitate the implementation of e-invoicing, the following new legislations have been proposed:

1. The definition of “electronic invoice” is introduced in Section 2 of the MITA and Section 2 of the LBATA:

“electronic invoice” means an invoice or any document approved by the Director General, issued by a person in respect of goods sold or services performed as provided under section 82C.

2. New Section 82C of MITA and new Section 22DA of LBATA on the duty to issue an electronic invoice cover the following:
 - An electronic invoice must be issued for each transaction in respect of any goods sold or services performed, and it shall be transmitted electronically to and validated by the DG;
 - The Minister is empowered to prescribe the persons who shall issue the electronic invoice and the particulars to be included in the electronic invoice; and
 - The DG is empowered to determine the conditions and specifications under which an electronic invoice is to be issued under the guidelines issued.

Proposed

03

Introduction of Electronic Invoice (cont.)

3. Duty to keep records and give receipts under Section 82 of the MITA:

- Businesses which implement electronic invoices are not required to issue receipts to buyers; and
- Businesses which are required to submit a consolidated transaction invoice should issue printed receipts for the goods sold or services performed.

4. Offences relating to electronic invoices:

Offences	Penalty
Failure to issue electronic invoice, a self-billed invoice or a consolidated transaction invoice – Section 120(1)(a) of the MITA and Section 22EA of LBATA	<ul style="list-style-type: none">• Fine of RM200 – RM20,000; or• Imprisonment for a term not exceeding 6 months; or• Both of the above.

5. Disclosure of information

The DG of Customs and Excise (or the public officers under his direction and control) are given access to electronic invoice information in performing their functions.

Proposed

03

Introduction of Electronic Invoice (cont.)

Effective Date

From 1 January 2024.

Commentary

In line with the mandatory implementation of e-invoicing which is set to commence on 1 August 2024 (for taxpayers with an annual turnover or income in excess of RM100 million), a new Section 83C and a new Section 22DA have been introduced in the MITA and the LBATA respectively, on the duty to issue an electronic invoice for each transaction in respect of goods sold or services performed. A new definition of ‘electronic invoice’ has also been introduced to provide clarity.

04 Condition for Tax Treatment on Micro, Small and Medium Sized Companies

		Special allowance for small value assets, without the maximum restriction of RM20,000 [Paragraph 19A(4), Schedule 3 of the MITA]	Exemption from filing tax estimates for first 2 YAs upon commencing operations [Section 107C(4A) of the MITA]
Present	Resident and incorporated in Malaysia	√	√
	Paid-up ordinary share capital ≤ RM2.5 mil	√	√
	Gross income from business(es) ≤ RM50 mil	√	
	Not directly or indirectly related by > 50% in terms of paid-up ordinary share capital, to another company that has a paid-up ordinary share capital of > RM2.5 mil	√	√
Proposed		Special allowance for small value assets, without the maximum restriction of RM20,000 [Paragraph 19A(4), Schedule 3 of the MITA]	Exemption from filing tax estimates for first 2 YAs upon commencing operations [Section 107C(4A) of the MITA]
	Additional criteria imposed: NOT more than 20% of the ordinary paid-up share capital at the beginning of the basis period for a YA is directly or indirectly owned by companies incorporated outside Malaysia or individuals who are not Malaysian citizens	√	√

04

Condition for Tax Treatment on Micro, Small and Medium Sized Companies (Cont.)

Effective Date

From YA 2024 to YA 2027.

Commentary

This proposal aims to increase the competitiveness of locally owned micro, small and medium sized enterprises and promote economic growth.

05

Power of DG to Issue Guidelines

Present

Currently there is no power given under the law for the DG to issue guidelines.

Proposed

It is proposed to insert a **new Section 134A of the MITA** of which:

- 1) The DG may issue guidelines as the DG thinks expedient or necessary to clarify the provisions of this Act or to facilitate the compliance of the law or any other matter relating to this Act; and
- 2) The DG may revoke, revise or amend the whole or any part of any guidelines issued under this section.”.

Effective Date

Upon coming into operation of the Finance Act.

Commentary

This proposal may provide flexibility and efficiency in the tax administration by allowing a quicker and more responsive adjustments to changing economic and tax circumstances.

06

Review of Conditions for Institutions / Organisations / Funds Approved Under Subsection 44(6) of the MITA

Subsection 44(6) of the MITA provides income tax exemption as an incentive to institutions / organisations / funds that carry out charitable activities and operated not solely for profit. Institutions/organisations/funds must adhere to the approval conditions as stipulated in the legislation and regulations set by the Director General of Inland Revenue (DGIR) in the Guidelines for Approval Under Subsection 44(6) of the MITA.

Institutions / organisations / funds that have been granted approval will receive benefits, income tax exemption on all income received as provided for under Paragraph 13(1) Schedule 6 of the MITA, and donors are eligible for a tax deduction restricted to 10% of their aggregate income.

The conditions that must be complied by institutions / organisations / funds after obtaining approval under Subsection 44(6) of the MITA are as follows:

- i. At least 50% of the income earned in the previous year must be spent in the following year for activities to achieve the objectives of the institutions / organisations / funds; and
- ii. Institutions / organisations / funds are allowed to participate in business with the condition that they utilise not more than 25% of the accumulated funds on the first day of the YA and all income generated must be channelled back into the fund to be used to fulfill its charitable objectives.

In the event where the institutions / organisations / funds breach any of the approval conditions stated in the guidelines or the MITA, the DGIR may withdraw the approval under Subsection 44(6) of the MITA.

Present

06 | **Review of Conditions for Institutions / Organisations / Funds Approved Under Subsection 44(6) of the MITA (cont.)**

Proposed

It is proposed that the approval conditions be reviewed as follows:

- i. The accumulated funds utilisation limit of not more than 25% for participation in business activities be increased up to 35%; and
- ii. For any breach of conditions during the approval period, the institutions / organisations / funds will not be eligible for tax exemption in that basis period for that YA.

Effective Date

From YA 2024.

Commentary

This proposal was announced in the Budget 2024 speech. Now, the amendment to the law is being proposed in the Finance (No.2) Bill 2023.

However, as compared to the Budget 2024 speech, the following are not proposed in the Finance (No.2) Bill 2023:

- a) Options in utilisation of accumulated funds (i.e. up to 25% or over 25% and up to 35%) for institutions / organisations / funds to choose for the purpose of continuing to receive the Subsection 44(6) MITA incentives.
- b) In the event any of the conditions are breached, the DGIR will not withdraw the approval under Subsection 44(6) of the MITA for institutions / organisations / funds during the validity period. The approval status is upheld to ensure that donors remain eligible for tax deduction on contributions made to institutions / organisations / funds throughout the approval period.

As such, it is hoped that the above will be addressed in the amended guidelines in order to provide assurance and encouragement to the donor and the institutions / organisations / funds respectively in utilising the funds.

07

Amending the Interpretation of Foreign Taxes and Foreign Income

Present

	Definition
Foreign tax	Any tax on income (or any other tax of a substantially similar character) chargeable or imposed by or under the laws of a territory outside Malaysia and in relation to Paragraph 132(4)(d) of the MITA or Section 132A of the MITA includes other taxes of every kind imposed by or under the laws of that territory.
Foreign income	Income derived from outside Malaysia or in the case of bilateral credit, includes income derived from Malaysia charged to foreign tax.

Proposed

	Definition
Foreign tax	Foreign tax refers to foreign income originating from the same country.
Foreign income	Foreign income for the purpose of unilateral credit is income that is subject to foreign tax but does not include income arising from Malaysia.

Effective Date

From YA 2024.

Commentary

This proposal will provide a clearer and more specific definition of foreign tax and foreign income to reduce the need to account for various types of foreign taxes. Hence, taxpayers can more easily identify what constitutes foreign tax and foreign income.



Details of Proposed Measures, Effective Date and Commentary

Individual Tax Proposals

01 Submission of Forms E, CP21, CP22, CP22A and CP22B via Electronic Medium

Present

Currently, all categories of employers in Malaysia have the option to submit the Employer's Return (Form E) and prescribed forms, namely the Notification of a New Employee (Form CP22), the Notification of Cessation or Death (Forms CP22A and CP22B), and the Notification of an Employee Leaving Malaysia (Form CP21) using the following methods:

- a) online submission through the e-SPC application on MyTax Portal; or
- b) hardcopy submission at the IRBM's office, which handles the employer's or employee's tax file.

Proposed

It is proposed that all categories of employers are required to submit Forms E, CP22, CP22A, CP22B and CP21 via electronic medium.

Effective Date

- Form E: Effective from YA 2023 onwards.
- Prescribed forms (Forms CP22, CP22A, CP22B or CP21) : Effective from 1 January 2024 onwards.

Commentary

This proposal is in line with the government's policy to promote electronic usage and improving the tax submission process. Its primary objective is to minimise human error in the return forms and expedite the finalization of assessment through electronic submissions.

It offers employers a more efficient, faster, and accurate submission process while reducing the potential for errors and ensuring compliance. Additionally, it provides convenience for access to documents, cost savings, environmental benefits, and secure, prompt confirmations which ultimately benefits both employers and tax authorities.

02

Amendment to the Conditions for Submission of Forms CP22A and CP22B

Present

Where an employer is about to cease to employ an employee who is or is likely to be chargeable to tax in respect of income from the employment or an employee under his employment dies, the employer is required to furnish Form CP22A / CP22B not less than thirty (30) days before the cessation of employment or not more than thirty (30) days after being informed of the death of the employee.

However, an employer is not required to furnish the prescribed forms where the income of an employee has been subject to MTD or where the employee's monthly remuneration is below the minimum amount of income that is subject to MTD, provided that the employee will continue working or not retiring from any employment in Malaysia.

Proposed

The proposal suggests an exemption from submitting Forms CP22A/CP22B in instances where the employer is not obligated to ascertain the future employment status of the employee.

Effective Date

From 1 January 2024.

Commentary

This proposal will reduce the employer's burden when it comes to submitting Forms CP22A and CP22B. It eliminates the need for the employer to inquire about or identify employees who are leaving the company, or whether they intend to continue working elsewhere which some employees may be reluctant to disclose to the employer.



Details of Proposed Measures, Effective Date and Commentary

Stamp Duty Proposals

01

Review of Stamp Duty for Property Ownership by Non-Resident

Foreign-owned companies and non-citizen individuals are allowed to own properties in Malaysia, and are subject to the same ad valorem stamp duty rate on instruments of transfer as imposed on a Malaysian resident company or citizen as follows:

Sales Price/Market Value of Property (whichever is higher)	Stamp Duty Rate
First RM100,000	1%
RM100,001 to RM500,000	2%
RM500,001 to RM1,000,000	3%
RM1,000,001 and above	4%

Present

Proposed

A flat stamp duty rate of 4% will be imposed on the instrument of transfer executed by foreign-owned companies and non-citizen individuals (except Malaysian permanent residents).

Effective Date

For instruments of property ownership transfer executed from 1 January 2024 onwards.

Commentary

This proposal is introduced by the government as a measure to control the rising property prices.

Furthermore, this would be in line with individual income tax whereby the highest income tax rate is imposed on non-resident individuals.

02 Stamp Duty for Transfer of Property Ownership by Renunciation of Rights

Present

Currently, any transfer of property rights through voluntary renunciation of entitlement is subject to ad valorem stamp duty.

Proposed

A fixed stamp duty of RM10 will be imposed on the release or renunciation of property rights by a beneficiary of a deceased estate to another beneficiary entitled under the same estate.

Effective Date

From 1 January 2024.

Commentary

Such a proposal may simplify and predict costs for beneficiaries, reduce administrative burdens, and make it more affordable for individuals involved in such transactions.

03

Stamp Duty for Conventional Loan Agreements and Shariah Compliant Financing in Foreign Currency

Present

In accordance with Section 27(a)(ii) of the First Schedule of the Stamp Act, 1949 agreements in foreign currency are subject to ad valorem stamp duty at the rate of RM5 for every RM1,000 of the loan amount, **with a maximum stamp duty limit of RM2,000.**

Proposed

The agreements in foreign currency are subject to ad valorem stamp duty at a rate of RM5 for every RM1,000 of the loan amount, **with the maximum stamp duty limit of RM2,000 being abolished.**

Effective Date

From 1 January 2024.

Commentary

This amendment to abolish the maximum stamp duty limit of RM2,000 for agreements in foreign currency will result in an increase in the stamp duty payable for taxpayers, depending on the loan amount, which might exceed the initial limit of RM2,000.

04

Stamp Duty – Introduce a new definition of “writing” or “written”

Present

-

Proposed

Section 2 of the Stamp Act, 1949 introduces a new definition of 'writing' or 'written' to include electronic instruments.

Effective Date

From 1 January 2024.

Commentary

Malaysia is actively embracing digitalisation to enhance efficiency and promote sustainability. Recognising electronic instruments as legal documents is a part of this broader digital transformation, fostering innovation, economic growth, and international competitiveness.

The new definition aligns with the stamp duty regulation for electronically received international instruments, that require stamping within thirty (30) days of receipt.

05

Stamp Duty for Instruments Executed Outside Malaysia

Present

Currently, an instrument executed within Malaysia is required to be stamped within thirty (30) days of its execution. If the instrument is executed outside Malaysia, it must be stamped within thirty (30) days after it has been first received in Malaysia.

Proposed

Any instruments executed outside Malaysia relating to matters in Malaysia received via electronic transfer are subject to stamping within thirty (30) days from the date of receipt (e.g. the date of receiving the email or any electronic transmissions).

Acceptance may be verified via a copy or printout of the electronic transmission.

Effective Date

From 1 January 2024

Commentary

Malaysia is actively embracing digitalisation to enhance efficiency and promote sustainability. Recognising electronic instruments as legal documents is a part of this broader digital transformation, fostering innovation, economic growth, and international competitiveness.



Details of Proposed Measures, Effective Date and Commentary

**Real Property Gains Tax
Proposals**

Finance (No.2) Bill 2023: Real Property Gains Tax Proposals

01

Implementation of RPGT's Self Assessment System

Present

Presently, an official assessment system is in place, under which a notice of assessment or notice of non-chargeability will be issued to taxpayers after the MIRB has completed its assessment on the submitted RPGT forms and supporting documents.

Proposed

It is proposed that the Self Assessment System will be implemented for RPGT with the introduction of the following provisions:

- Taxpayers are required to specify the chargeable gain and the amount of RPGT payable (if any) in the RPGT declaration form.
- The initial RPGT return can be amended by submitting an amended RPGT declaration form within six (6) months after the initial RPGT return's due date.
- It is proposed that the submitted RPGT return is deemed to serve as a notice of assessment submitted to taxpayers by the MIRB on the date of RPGT return submission to the MIRB.
- It is proposed that taxpayers are required to retain sufficient documents for ascertaining the chargeable gain and RPGT payable for a period of seven (7) years from the end of the year in which the RPGT return is submitted.

Effective Date

From 1 January 2025.

Commentary

Implementing a self-assessment system for RPGT has several advantages and disadvantages. The advantages include increased efficiency in RPGT compliance by taxpayers, reduced administrative burden for MIRB and faster revenue collection. It empowers taxpayers to take control of their tax obligations and provides them with more clarity and control over their liabilities. However, there are disadvantages including potential for tax evasion and errors in self-assessment. Some taxpayers may under-report or evade taxes, resulting in revenue loss for the government. Striking the right balance between efficiency and effective revenue collection is crucial for the success of a self-assessment system for RPGT.

02

Payment of Real Property Gains Tax

Present

Presently, a chargeable person needs to submit a RPGT return to the MIRB within 60 days from the date of disposal of the chargeable asset. Subsequently, the chargeable person will receive a notice of assessment or notice of non-chargeability from the MIRB once their assessment is completed. The chargeable person is then obligated to make the RPGT payment within 30 days from the date of the notice of assessment from the MIRB.

Proposed

It is proposed that the RPGT payable should be made to the MIRB within 60 days from the date of disposal of the chargeable asset. As a result, taxpayers do not need to wait for an official notice of assessment from the MIRB for RPGT payment.

If the chargeable person submits an amended RPGT declaration form, the additional RPGT payable should be paid on the day the amended RPGT declaration form is submitted to the MIRB.

Effective Date

From 1 January 2025.

Commentary

This proposal aligns with the self-assessment system for RPGT. Taxpayers do not need to wait for an official notice of assessment from the MIRB, which may take up to a few months, to make their RPGT payment. In some cases, taxpayers may receive the notice of assessment later than the due date due to postage issues.

Start the conversation



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