

## 德勤马来西亚中国服务部刊物

### 印花税减免

#### 简介

马来西亚内陆税收局（“IRB”）于 2019 年 2 月 26 日发布了两份技术指南，对在《1949 年印花税法令》（“法令”）第 15 与 15A 条款下的印花税减免申请提供指导。

#### **15A 条款下的减免指导**

根据此法令第 15A 条款规定，关联公司之间转让财产可免除印花税。在 2019 年马来西亚财政预算案中，政府提议对免税资格的获取增加附属条件。这些提议已经正式立法并于 2018 年 12 月 28 日起开始生效，列明如下：

- a) 财产转让是为了达到更高的经营效率；
- b) 财产受让方公司必须在马来西亚注册成立；
- c) 转让方公司与受让方公司不得在转让之日起三年内终止其关联关系；
- d) 受让方公司自财产转让之日起三年内不得处置/售卖该财产。

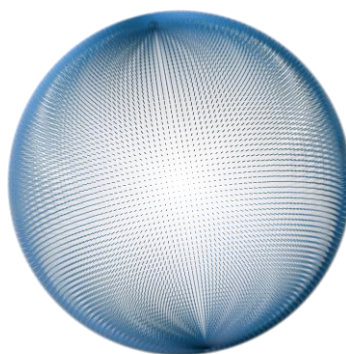
此指南尤其对上述的附加条件 (a) 作出澄清。转让方公司和受让方公司需要提供其业务经营计划，以证实经营效率的提高。这些计划应包括公司在投入、产出或盈利能力上的叙述说明、图形、图表、表格等。经营计划还应明确说明公司在三年内对于经营效率提高的目标与规划。

如果无法达到更高的经营效率，双方公司必须将未达成目标的合理原因提交至 IRB 审议。IRB 对是否撤销税务减免有最终决定权。如减免资格被撤销，所欠税款须将连同百分之六的年利率一并征收。

## 接下来

附加条件的收紧限制了公司在收购车辆的选择，同时由于对经营计划的要求，给转让方公司和受让方公司都增加了额外的税负。此外，需注意的是此法令也存在其它方面的修订，这些修订包括更高的从价税率(最高 4%)和对欠税额征收利息的权力。针对这些税务风险的存在，我们建议纳税人在面对相关问题时寻求专业建议。

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## Deloitte Malaysia Chinese Services Group Publication

### **Stamp duty relief**

#### **Introduction**

The Inland Revenue Board (“IRB”) issued two technical guidelines on 26 February 2019 to provide guidance in the application of stamp duty relief under Section 15 and Section 15A of the Stamp Act 1949 (“the Act”). These guidelines are available in Malay language only and our present publication focuses on relief under Section 15A of the Act.

#### **Guideline on Section 15A relief**

Section 15A of the Act provides relief from stamp duty in cases of transfer of property between associated companies. During Budget 2019, the government proposed to impose additional conditions in order to qualify for the relief, as listed below. These proposals were legislated and came into effect from 28 December 2018.

- a) The transfer of the property is to achieve greater efficiency in operation;

- b) The transferee company must be incorporated in Malaysia;
- c) The transferor and transferee shall not cease to be associated within the period of three years from the date of the conveyance or transfer; and
- d) The transferee shall not dispose the property within three years from the date of the conveyance or transfer of the property.

The guideline provides clarification on the condition (a) above, among others. The transferor and transferee need to provide their operational plans to substantiate the increase in operational efficiency. These plans shall include narratives, graphs, charts, tables etc. For example, increase in input, output or profitability of the company. The operational plans should also clearly state the objectives and plans to achieve the greater operational efficiency in three years.

If greater efficiency could not be achieved, the company must provide reasonable causes of the failure for the IRB's deliberation. The IRB's decision is final and it is empowered to revoke the relief. The duty owed shall then be chargeable together with interest at the rate of six percent per annum.

## Moving forward

The tightened conditions limit the choice of acquisition vehicles while creating extra duties for both the transferor and transferee due to the requisite operational plans. In addition, it must be noted that other amendments were made to the Act. These include higher ad valorem rate (4% maximum) and authority to impose interest on back duties owed. Taxpayers are advised to seek professional advice due to these exposures.

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