



马来西亚 2020 年财政预算案概述 - 第二部分
税务特刊

2019 年 10 月 18 日

“2020 年财政预算案 - 第二部分”涵盖了在 2019 年财政法案中已提出而未在本次预算案讲演中宣布的修改，也是在我们的“财政预算要点 - 第一部分”中尚未涵盖的。

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所得税

调整到期未缴付税款的应付税额

目前，如果未能在规定的时间内缴纳已到期的应付税款，将被处以相当于应付税款数额 10% 的罚款。此外，如果已到期的应付税款在 60 天后仍未缴纳，将额外征收 5% 的罚款。

现提议，任何到期应付的税款在到期日前未缴付，该税款的应付数额将增加 10%，不额外征收 5% 的罚款。

生效期：2020 年 1 月 1 日

呈交经修订的纳税申报表后所征收的税款增幅

目前，在法定纳税申报截止日期之后的 6 个月内向内陆税收局申报的修订纳税申报表的税款或增加的应付税款，将被征收以下比率的罚款。

提交修订纳税申报表的日期	罚款率
在法定纳税申报截止日期之后的 60 天内	10%
在法定纳税申报截止日期之后，超过 60 天，但不迟于 6 个月	10% + 额外 5%

现提议，超过 60 天期限呈交修订纳税申报表，罚款额度为 10%。不额外征收 5% 的罚款。

生效期：2020 年 1 月 1 日

援引相互协商程序 (MAP) 的案件的时效限制

现行的非转让定价案件和转让定价案件的时效限制分别为 5 年和 7 年。然而，这种限制不适用于涉及欺诈、故意违约或疏忽的案件。

现提议，在援引 MAP 的情况下，将没有时效限制。

生效期：《2019 年财政法案》生效后

申请延展就纳税评估提出上诉的期限 - 7 年

个人如对自己的纳税评估结果有异议，可在订明的期限内通过表格 Q 向内陆税收局发出书面上诉通知，就该项纳税评估向所得税特别委员 (Special Commissioners) 提出上诉。

通过表格 Q 提出上诉的截止日期	
根据第 90 条/第 91 条/第 91A 条进行的评估	在评估通知送达后 30 天内
根据第 92 条进行的预先评估	在进行了预先评估之后，下一个课税年的前 3 个月内

目前，如果个人错过了通过表格 Q 向所得税特别委员就纳税评估结果提出上诉的截止日期，此人可以随时通过表格 N 向内陆税收局申请延长提交表格 Q 的期限。

现提议，通过表格 N 申请延长表格 Q 的提交期限，须在已订明的表格 Q 提交截止日期之后的 7 年内向内陆税收局提出。

生效期：2020 课税年

公司董事可能会因未付清预估应缴税款 (estimate of tax payable) 的罚款而被阻止离开马来西亚

目前，对于应缴税款或预估的应缴税款，如果个人有未付清或因迟缴或未缴而产生的罚款，此人可能会被阻止离开马来西亚。而对于公司，对应缴税款以及任何被增加的罚款的支付责任将由公司董事承担。

现提议，如果公司尚有因未提交预估应缴税款申报而被增加的罚款未付清，内陆税收局可以阻止公司董事离开马来西亚。

[注：公司董事是指直接或间接持有最少 20% 普通股股本涉及公司业务管理的董事或个人]

生效期：《2019 年财政法案》生效后

延长对核准团体根据所得税法令第 44 条给予税务扣除的期限，以及对适当宗教当局、团体或公立大学的捐赠和收入的税务豁免期限

根据《1967 年所得税法》第 44 条，目前允许向经批准的机构、组织、基金、体育活动和国家利益项目捐赠或礼物给予的税务扣除将扩大到包括向公立大学的现金捐赠，以及向任何适当的宗教当局或由宗教当局设立的团体或该宗教当局允许接受回教捐赠 (wakaf) 的公立大学所捐赠的现金回教捐赠。

对经内陆税收局批准的适当宗教机构、团体或公立大学收到的任何回教捐赠或现金捐赠 (包括从中获得的任何收入) 免征所得税。

如适当的宗教当局、团体或公立大学对内陆税收局关于免税申请的决定有异议，可以在收到该决定的通知后 30 天内向财政部长提出上诉。

生效期：2020 课税年



不动产利得税

调整非在马来西亚注册成立的公司处置应课税资产的不动产利得税税率和保留额要求。

现提议，根据《1976年不动产利得税法》附表 5 第 II 部所订的不动产利得税 (RPGT) 税率，只适用于在马来西亚注册成立的公司或信托受托人。未在马来西亚注册成立的公司现在将受到《1976年不动产利得税法》附表 5 第 III 部分的 RPGT 税率的约束，该税率目前适用于非公民且非永久居民 (PR) 的个人，或非公民和非 PR 的死者遗产的遗嘱执行人。RPGT 对不同类别的不动产处置者的税率应用可概括如下：

处置	RPGT 税率 (附表 5)		
	第 I 部分	第 II 部分	第 III 部分
	个人 - 公民、永久居民和其他	在马来西亚成立的公司或信托受托人	个人 - 非公民及非永久居民或死者遗产的遗嘱执行人，或非在马来西亚注册成立的公司
3 年内	30%	30%	30%
第 4 年	20%	20%	30%
第 5 年	15%	15%	30%
第 6 年及随后	5%	10%	10%

现提议，扩大第 21B (1A) 条中处置应课税资产相应的 7% 保留款项所适用的处置者范围，将未在马来西亚注册成立的公司包括在内。

生效期：《2019 年财政法案》生效后



纳闽商业活动税

通过《2018 年财政法案》澄清《1990 年纳闽商业活动税法》(LBATA) 修正案的生效日期

以下是《2018 年财政法案》(从 2019 年 1 月 1 日起生效)对 LBATA 的一些修订：

- 取消纳闽公司按 20,000 令吉固定税额征税的规定；以及
- 在进行纳闽贸易活动的纳闽公司没有课税年度的评税基期的情况下，内陆税收局有权指定该课税年度和随后课税年度的评税基期。

现提议，上述 LBATA 修正案的生效日期自 2020 课税年起生效，而非从 2019 年 1 月 1 日起生效。

生效期：2019 年 1 月 1 日

我们的评论：

经上述澄清后，现在清楚的是，取消按 20,000 令吉固定税额征税，不会影响需在 2019 年 3 月 31 日或之前提交纳闽 2019 课税年纳税申报(即：就 2018 年 12 月 31 日或之前结束的评税基期)的纳闽公司。



石油所得税

国际义务

提议加入新的第 65A(1A)分项条款，以利于多边公约的批准，并执行防止税基侵蚀和利润转移 (MLI) 对马来西亚目前已签署的双重征税协定产生影响的相关税收协定措施。

另一个新加入条款第 65AA 条，是为了履行马来西亚根据《1967 年石油所得税法》或任何其他成文法在税收方面的国际义务而达成的任何双边或多边安排。

此外，提议授权财政部长制定规则和条例，以利于上述安排的执行和运作。

生效期：已于 2018 年 12 月 28 日开始实施

相应修订：

1. 第 39 条 - 某些情况下的评估和额外评估 (相互协议程序)，类似于《1967 年所得税法》拟议的新第 91(7)分项条款。
 2. 第 44 条 - 延长对评估提出上诉的期限，这类似于对《1967 年所得税法》第 100(1)分项条款的拟议修改。
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Income Tax

Review of increase of unpaid tax and balance of unpaid tax

Currently, failure to remit the tax due and payable within the stipulated time will result in a penalty equivalent to 10% of the tax due and payable. Additionally, if the tax due and payable is still not paid after 60 days, a further 5% penalty will be imposed.

It is proposed that where any tax due and payable has not been paid by its due date, the unpaid amount will be increased by a single rate of 10%. The further 5% penalty will not be imposed.

Effective: 1 January 2020

Review on the increase in tax charged upon submission of amended tax return

Currently, the following penalty rate will be imposed on the tax or additional tax payable pursuant to an amended return submitted to the Inland Revenue Board within 6 months after the statutory filing deadline.

Date of submission of the amended tax return	Penalty rate
Within 60 days after the statutory filing deadline	10%
After the 60 days period but not later than 6 months from the statutory filing deadline	10% + further 5%

It is proposed that the penalty rate for an amended return submitted after the 60 days period, be at 10%. The further 5% penalty will not be imposed.

Effective: 1 January 2020

Statute of limitation for cases where mutual agreement procedure (MAP) is invoked

The existing statute of limitation for non-transfer pricing cases and transfer pricing cases is 5 years and 7 years respectively. However, such limitation does not apply to cases that involve fraud, wilful default or negligence.

It is proposed that there will be no statute of limitation for cases where MAP is invoked.

Effective: Upon coming into operation of the Finance Act 2019

7 years for application of extension of time to appeal against an assessment

A person who is aggrieved by an assessment made in respect of him, may appeal to the Special Commissioners against the assessment by giving to the Director General of Inland Revenue (DGIR) a written notice of appeal via Form Q within a prescribed period.

Deadline to appeal via Form Q

Assessment under Section 90 / Section 91 / Section 91A	Within thirty days after the service of the notice of assessment
Advance assessment under Section 92	Within the first three months of the year of assessment following the year of assessment for which the advance assessment was made

Currently, if the person missed the deadline in appealing against an assessment to the Special Commissioners via Form Q, he may at any time make an application to the DGIR via Form N for an extension of the period to submit Form Q.

It is proposed that the application for extension of time via Form N must be made to the DGIR within 7 years after the expiration of the stipulated period to file Form Q.

Effective: Year of assessment 2020

A director may be prevented from leaving Malaysia for unpaid increase in tax for the company's failure to submit an estimate of tax payable

Currently, a person may be prevented from leaving Malaysia if there is outstanding tax payable or outstanding increase for late payment or non-payment of tax payable, or estimate of tax payable. In the case of a company, the responsibility for payment of taxes and any increase will lie on the directors.

It is proposed that the DGIR may also prevent the director from leaving the country if there is a non-payment of increase in tax arising from the failure to file an estimate of tax payable by a company.

[Note: A director of a company refers to a director/person who is concerned in the management of the company's business, who holds directly/indirectly a minimum of 20% of ordinary share capital].

Effective: Upon coming into operation of the Finance Act 2019

Extension of approved bodies for the purpose of deduction under Section 44 and exemption of donation and income of appropriate religious authority, body or public university

The tax deduction currently allowed for donation/gift to an approved institution, organisation, fund, sports activity and project of national interest under Section 44 of the Income Tax Act 1967 (ITA), will be expanded to include cash endowment to a public university and cash wakaf to any appropriate religious authority or body established by the religious authority or a public university allowed by that religious authority to receive wakaf.

The appropriate religious authority, body or public university which is approved by the DGIR will be exempted from income tax in respect of any wakaf or endowment received including any income derived therefrom.

If the appropriate religious authority, body or public university is aggrieved by the DGIR's decision on its application for approval, it may appeal to the Minister of Finance within 30 days after being informed of that decision.

Effective: Year of assessment 2020



Real Property Gains Tax

Review of RPGT rates and retention sum requirement for disposal of chargeable assets by company not incorporated in Malaysia

It is proposed that the RPGT rates under Part II of Schedule 5 to the Real Property Gains Tax Act 1976 (RPGTA) be applied to only a company incorporated in Malaysia or a trustee of a trust. A company not incorporated in Malaysia will now be subject to the RPGT rates under Part III of Schedule 5 of the RPGTA, which currently apply to an individual who is not a citizen and not a permanent resident (PR) or an executor of the estate of a deceased person who is a non-citizen and non-PR. The application of RPGT rates to the different categories of disposers can be summarised as follows:

Disposal	RPGT rates (Schedule 5)		
	Part I	Part II	Part III
	Individual – citizen, PR and others	Company incorporated in Malaysia or trustee of a trust	Individual - non-citizen and non-PR or an executor of the estate of such deceased person, or company not incorporated in Malaysia
Within 3 years	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th and subsequent years	5%	10%	10%

The 7% retention sum relating to the disposal of a chargeable asset under Section 21B(1A) is proposed to be extended to cases where the disposer is a company not incorporated in Malaysia.

Effective: Upon coming into operation of the Finance Act 2019



Labuan Business Activity Tax

Clarification of effective date for amendments to the Labuan Business Activity Tax Act 1990 (LBATA) via Finance Act 2018

Below are some of the amendments to the LBATA introduced by the Finance Act 2018 with effect from 1 January 2019:

- Abolishment of the election by Labuan entities to be taxed at RM20,000; and
- In cases where a Labuan entity carrying on a Labuan trading activity does not have a basis period for a year of assessment, the DGIR is empowered to direct the basis period for that year of assessment and subsequent years of assessment.

It is proposed that the effective date of the above amendments to LBATA be effective from the year of assessment 2020 instead of 1 January 2019.

Effective: 1 January 2019

Our Commentary:

Following the above clarification, it is clear now that the abolishment of the election to be taxed at RM20,000, will not affect Labuan filing for year of assessment 2019 (i.e. in respect of basis period ended on or before 31 December 2018) that was due on or before 31 March 2019.



Petroleum Income Tax

International obligations

A new Subsection 65A(1A) is proposed to be inserted to enable the ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) to have an effect on existing double tax agreements that Malaysia has signed.

Another new Section 65AA to be inserted is to give effect to any bilateral or multilateral arrangement into which Malaysia has entered to fulfill Malaysia's international obligations in relation to taxation under the Petroleum (Income Tax) Act 1967 or any other written law.

In addition, it is proposed that the Minister of Finance be empowered to make rules and regulations for the purpose of facilitating or implementing the operation of the arrangement mentioned above.

Effective: Deemed to have come into operation on 28 December 2018

Consequential amendments:

1. *Section 39 – Assessment and additional assessment in certain cases (Mutual Agreement Procedures), which is similar to the proposed new Subsection 91(7) of the Income Tax Act, 1967.*
 2. *Section 44 – Extension of time for appeal against an assessment, which is similar to the proposed changes to Subsection 100(1) of the Income Tax Act, 1967.*
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