



马来西亚中国服务组税务刊物

马来西亚2017年财政预算案聚焦 - 第二部分

马来西亚首相兼财务部长拿督斯里纳吉于2016年10月21日提呈了2017年财政预算案。作为2017年财政预算案演讲的后续，2016年财政法案也随后在2016年10月26日发布。

今年的财政预算案中最大的变化之一是修正对境外服务征收预扣税的机制。此举增加了一些在针对技术费用没有特定条款的双边税收协定中的不确定性。此外，非纳税居民可能无法在国内得到已缴纳预扣税抵免。

在今年预算案所提呈的其他内容中，版税的范围扩大至包括软件的使用及使用权的相关支出将进一步增加了对非纳税居民征收版权预扣税的含糊性。

财政预算案中所提及的条例更改可能和各先进国家所采用的国际税务立场以及双边税收协定的立场不一致。令人出乎意料的是马来政府将讲师纳入公众人物的范围内。讲师所提供的服务在1967年所得税法令第4A条文中应该被视为技术服务，因而来征收10%而不是15%的预扣税。值得注意的是，一旦法案刊报，国别报告法规也将会成为税收立法的一部分。

我们汇集了2016年财政法案中一些关键的修订/议题，做出以下附录：

	建议	描述
个人所得税		
1	配偶税务减免 (丈夫/妻子)	<p>如果配偶（残疾配偶除外）在马来西亚境外所获取的收入超过所允许的税务减免额，纳税人将不能享有马币 4,000 的配偶减免资格。</p> <p>目前，源自马来西亚境外的个人收入（海外收入）是免征税的。</p> <p>生效日期：2017 课税年</p>
2	雇主支付的销项税	<p>雇佣收入将包括雇主所承担的相关销项税。</p> <p>举例：雇主替雇员支付水电费中所包含的销项税应构成雇佣收入，并且对其雇员征税。</p> <p>生效日期：2015 课税年</p>
企业所得税		
3	特殊种类收入的预扣税范围	<p>目前，1967 年所得税法令第 109B 条文仅向非公民在马来西亚境内提供的下列服务征收预扣税：</p> <p>(a) 个人所提供的服务，或由其员工 - 在使用属于个人的财产或权利、或使用购自个人的任何厂房、机械或其他设备的装备或操作方面 - 所提供的服务</p> <p>(b) 就有关技术性管理，或在管理任何科学、工业或商业企业、事业、方案或计划方面所提供的技术性咨询、协助或服务；</p> <p>现在政府提议针对在马来西亚境外提供的上述服务也征收预扣税。</p> <p>生效日期：依据 2016 年财政法案的生效日期</p>
4	版税范围的扩大	<p>非纳税居民从马来西亚境内获取的版税需要缴纳 10% 的预扣税（或依据马来西亚与其原国籍国家签订的双边税收协定来征税）。</p> <p>政府提出将“版税”的定义延伸至来自以下的收入：</p> <p>(a) 软件的使用或使用权；</p> <p>(b) 通过以下方式传播给公众的图像或音频的接收或接收权：</p> <p>(i) 卫星；或</p> <p>(ii) 电缆，光纤或相似技术；</p> <p>(c) 通过以下方式传播与电视或无线电广播相关的图像或音频的使用或使用权：</p> <p>(i) 卫星；或</p> <p>(ii) 电缆，光纤或相似技术；</p>

		<p>(d) 有指定相关许可证的射频频谱的部分或全部使用或使用权；</p> <p>(e) 对于财产/权力/图像/音频或其他在“版税”定义下的项目的使用或授予的使用权，以及接收和授予的接收权的全部或部分限制权。</p> <p>生效日期：依据 2016 财政法案的生效日期。</p>						
5	重新定义公众人物	<p>政府建议将“公众人物”重新定义为：</p> <p>“公众人物”包括-</p> <p>(a) 主持人，模特儿，马戏团表演者，讲师，演说家，运动员，艺人或职业性质相似的人；或</p> <p>(b) 利用个人才能，艺术，音乐，个人或身体技能的人。</p> <p>通过直播，印刷，电子，卫星，电缆，光纤或其他媒介，为电影或录像带，或电视或无线电广播（视情况而定）进行的任何相关活动。</p> <p>上述的新定义已将 15%的预扣税范围扩大至非居民公众人物在马来西亚境内提供/执行服务所获取的收入。</p> <p>生效日期：依据财政法案的生效日期</p>						
6	捐款扣税	<p>在 1967 年所得税法令第 44 条文下的“捐款”将会有以下修改：-</p> <table border="1" data-bbox="635 1218 1209 2132"> <thead> <tr> <th>现有</th> <th>建议</th> </tr> </thead> <tbody> <tr> <td> <p>给下列受赠人的现金捐款可以从捐赠者的总收入中享有扣税：</p> <ul style="list-style-type: none"> • 政府； • 州政府； • 当地政府； 或 • 任何获内陆税收局局长批准的机构或组织 </td> <td> <p>给经马来西亚内陆税收局局长批准的机构或组织持有的“基金”的现金捐款也可以享有扣税。</p> </td> </tr> <tr> <td> <p>捐赠者以现金或实物捐款给以下机构可以享有扣税： -</p> <ul style="list-style-type: none"> • 财政部长批准的体育活动 • 在 1997 年体育发展法令 (Sports Development Act 1997) 下委任的体育专员所批准的体育机构。 </td> <td> <p>仅限于给经财政部长批准的体育活动的现金捐款可享有扣税。实物捐款和给在 1997 年体育发展法令下委任的体育专员所批准的体育机构的捐款将不再符合扣税标准。</p> </td> </tr> </tbody> </table> <p>生效日期：2017 课税年</p>	现有	建议	<p>给下列受赠人的现金捐款可以从捐赠者的总收入中享有扣税：</p> <ul style="list-style-type: none"> • 政府； • 州政府； • 当地政府； 或 • 任何获内陆税收局局长批准的机构或组织 	<p>给经马来西亚内陆税收局局长批准的机构或组织持有的“基金”的现金捐款也可以享有扣税。</p>	<p>捐赠者以现金或实物捐款给以下机构可以享有扣税： -</p> <ul style="list-style-type: none"> • 财政部长批准的体育活动 • 在 1997 年体育发展法令 (Sports Development Act 1997) 下委任的体育专员所批准的体育机构。 	<p>仅限于给经财政部长批准的体育活动的现金捐款可享有扣税。实物捐款和给在 1997 年体育发展法令下委任的体育专员所批准的体育机构的捐款将不再符合扣税标准。</p>
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7	<p>新增订的第119B条文 - 未能遵守“相互行政援助”政策的影响</p>	<p>任何未能遵守执行或利便“相互行政支援”政策的违反者，一经定罪，将被处以：</p> <ul style="list-style-type: none"> • 不少于马币 20,000，但不超过马币 100,000 的罚款；或 • 监禁不超过 6 个月； • 或两者兼施。 <p>在任何起诉中，被告必须负有举证责任，并且证明已遵守相互行政支援政策。</p> <p><i>**马来西亚可以与其他国家通过“相互行政支援政策”交换两国所需的资料情报。</i></p> <p>生效日期：依据财政法案生效日期</p>						
8	<p>针对除了误差或错误以外的优惠</p>	<p>新增订的第131A条文将被引入，来允许依法提交了纳税申报并支付该课税年相应税款的纳税人，若其在该课税年的评估是因以下原因造成多缴税款，可在规定的时间内向内陆税收局局长以书面申请调解：</p> <table border="1" data-bbox="635 891 1257 1547"> <thead> <tr> <th data-bbox="635 891 951 981">原因</th> <th data-bbox="951 891 1257 981">向内陆税收局局长提交申请的规定时间</th> </tr> </thead> <tbody> <tr> <td data-bbox="635 981 951 1301">(i) 在该课税年内依据法令，或任何在提交纳税申报的课税年后刊报的成文法，所获得或批准的任何豁免、减免、扣减或抵扣</td> <td data-bbox="951 981 1257 1301">在其豁免、减免、扣减或抵扣刊报或获得批准的年份结束后五年内，以较迟者为准。</td> </tr> <tr> <td data-bbox="635 1301 951 1547">(ii) 根据法令，未能在提交纳税申报的规定时间内缴付预扣税，相关的款项将不具抵扣资格</td> <td data-bbox="951 1301 1257 1547">在付款年份结束后一年内</td> </tr> </tbody> </table> <p>生效日期：2017 年 1 月 1 日</p>	原因	向内陆税收局局长提交申请的规定时间	(i) 在该课税年内依据法令，或任何在提交纳税申报的课税年后刊报的成文法，所获得或批准的任何豁免、减免、扣减或抵扣	在其豁免、减免、扣减或抵扣刊报或获得批准的年份结束后五年内，以较迟者为准。	(ii) 根据法令，未能在提交纳税申报的规定时间内缴付预扣税，相关的款项将不具抵扣资格	在付款年份结束后一年内
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9	<p>1967 年所得税法令附表 3 第 16B 段的扩展</p>	<p>目前，根据 1967 年所得税法令附表 3 第 16B 段，拥有并完全用于出租以下工业建筑的纳税人不得享有工业建筑物的税务折旧（“IBA”）：</p> <ul style="list-style-type: none"> (a) 持牌私人医院，留产院和疗养院； (b) 用于研究的建筑； (c) 仓库； (d) 用于已认可服务项目的建筑； (e) 酒店； (f) 机场； (g) 赛车场； 						

		<p>(h) 用于从事制造业，酒店或旅游项目，已认可服务项目员工的宿舍大楼；员工托儿设施； 或</p> <p>(i) 学校/教育机构。</p> <p>政府建议将用于有关当局认可的工业，技术或专业培训的建筑物列入此附表里。</p> <p>生效日期：2016课税年</p>						
10	就出租用途的建筑物可享有的税务折旧作出澄清	<p>新引入的税法条文加以说明了上述附表3第16B段所描述的工业建筑物的税务折旧：</p> <table border="1"> <thead> <tr> <th>作为出租用途的建筑物楼面面积</th> <th>符合工业建筑物税务折旧资格的开支</th> </tr> </thead> <tbody> <tr> <td>少于整栋建筑物楼面面积的 1/10</td> <td>整栋建筑物的开支</td> </tr> <tr> <td>超过整栋建筑物楼面面积的 1/10</td> <td>整栋建筑物的开支，但不包括用于出租的楼面面积</td> </tr> </tbody> </table> <p>生效日期：2016 课税年</p>	作为出租用途的建筑物楼面面积	符合工业建筑物税务折旧资格的开支	少于整栋建筑物楼面面积的 1/10	整栋建筑物的开支	超过整栋建筑物楼面面积的 1/10	整栋建筑物的开支，但不包括用于出租的楼面面积
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11	免税股息收入的抵扣	<p>目前，在计算调整所得时，单层股息相关的费用是不能用以抵扣应纳税收入的。</p> <p>(即：调整后所得水平的豁免)</p> <p>此次提议除了单层股息相关的费用，连同单层股息所引发的税务折旧，符合捐款等费用也不能用以抵扣应纳税收入</p> <p>(即：应纳税收入水平的豁免)。</p> <p>内陆税收局可能会按单层股息收入和应纳税收入的比例方式去分摊费用，税务折旧，符合捐款等。其后，归纳在免税股息的部分将不得从应纳税收入中抵扣。</p> <p>生效日期：2017课税年</p>						
12	1967 年所得税法令附表 6 下特定利息收入豁免的修正	<p>政府建议将下列非纳税居民可享有的利息收入税务豁免撤回：-</p> <ol style="list-style-type: none"> a) 来自马来西亚获批贷款利息的豁免； b) 在同一集团公司内所获得有关于证券委员会认可的马来西亚马币伊斯兰债券（除了可转换贷债券）利息的豁免 c) 豁免于： <ol style="list-style-type: none"> a. 在同一集团内所支付的利息； b. 支付至以下机构的利息： <ol style="list-style-type: none"> (i) 金融服务法令（FSA）下的持牌银行； 						

		<p>(ii) 伊斯兰金融服务法令 (IFSA) 下的持牌伊斯兰银行； 或</p> <p>(iii) 2002 年发展金融机构法令 (DFIA) 下规定的发展金融机构归属于经纳闽金融服务管理局批准，委托证券委员会或证券委员会认可或授权源自于马来西亚所非马币伊斯兰债券（除了可转换贷债券）。</p> <p>生效日期：2017 年课税年</p>						
不动产利得税								
13	1976 年不动产利得税 (RPGT) 法令的修正	<p>因购置或出售应税资产时所产生的进项税，如根据2014年消费税法令需进行任何调整，可在不动产出售时的课税年或消费税法令准许的调整截止日期前，以较早的日期为准进行调整。</p> <p>生效日期： 2015 课税年</p> <p>适用于以赠与方式出售于夫妻，父母及子女或祖父母和孙子女之间的无所损益 (NGNL) 条款，现只限于公民捐赠者。如果捐赠者是在购置日期后的五年内出售，受赠者将被视为已用等同捐赠者购置价格以及其许可费用购置，因此，将被视为无所损益的状态。</p> <p>生效日期： 2017 年 1 月 1 日</p>						
消费税								
14	进口服务：根据供应商发票修正供应时间	政府建议将逆向收费的供应时间的记账和汇报方式，从目前的发票开出日期修改至实际收到发票的日期。						
15	供应价值的计算方式，以判断注册的职责	<p>政府建议在计算 50 万令吉的消费税注册职时：</p> <ul style="list-style-type: none"> • 资本资产的供应需包括在内，除非是在结业的情况下。 • 在自由区域内或之间的供应不可计算在内，除非是财政部长根据第 163 (1) 条文要求视为应税供应。 <p>生效日期： 2017 年 1 月 1 号</p>						
16	逾期缴纳的罚款	<p>所建议的逾期付款将增加至：</p> <table border="1" data-bbox="635 1890 1165 2074"> <tr> <td>前 30 天内</td> <td>10%</td> </tr> <tr> <td>31-60 天内</td> <td>额外 15%</td> </tr> <tr> <td>61-90 天内</td> <td>额外 15%</td> </tr> </table> <p>所建议的最高罚款为 40%</p>	前 30 天内	10%	31-60 天内	额外 15%	61-90 天内	额外 15%
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		<p>罚款将针对未缴税款征收。</p> <p>生效日期：2017年1月1号</p>								
17	<p>遵从成文法律，中央政府或地方政府的规定供应土地（强制收购）</p>	<p>政府建议，如土地是被中央政府，州政府，地方政府或其他相关机构强制收购，并且用于提供公共设施，此供应将被视为“消费税范围以外”，即无需缴付消费税。</p>								
其他										
18	<p>在不征税的情况下简化上诉程序</p>	<p>目前，如果一个没有应纳税收入的纳税人想要申请税务的修正或减免，在提交上诉前，他需要先向内陆税收局局长申请一个“不征税通知”（“NONC”）</p> <p>政府现在提议纳税申报即被视作“不征税通知”。</p> <p>新推出的条文允许没有应纳税收入的纳税人由于以下几个原因就已提交的纳税申报来申请修正或豁免：</p> <p>a) 纳税人的纳税申报有误差或错误；或</p> <p>b) 由于以下原因，纳税申报中计算出的数额不准确：</p> <p style="padding-left: 40px;">i) 所得税法令或任何宪报命令（Gazette Order）书面法律的任何豁免、减免、缓缴、津贴或扣除，在提交此课税年纳税申报后，才获得批准或授予；或</p> <p style="padding-left: 40px;">ii) 在提交纳税申报时，相关付款的预扣税还未到期，相关费用的扣除不被允许。</p> <p>修改或豁免可在特定时间内作书面申请：</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">原因</th> <th style="width: 50%;">提交申请给内陆税收局局长的时间表：</th> </tr> </thead> <tbody> <tr> <td>a) 纳税申报中有误差或错误</td> <td>提交纳税申报起的6个月内</td> </tr> <tr> <td>b) (i) 提交纳税申报后，在法令或宪报命令的其他书面法律上发布修正，或延迟批准而导致纳税申报不准确</td> <td>宪报命令发布豁免、减免、缓缴、津贴或扣除，或授予批准那一年的年终起，五年内提交申请，以较晚者为准</td> </tr> <tr> <td>b) (ii) 在提交纳税申报时，相关付款的预扣税还未到期</td> <td>完成付款那一年年终起的一年内</td> </tr> </tbody> </table> <p>生效日期：2017年1月1日</p>	原因	提交申请给内陆税收局局长的时间表：	a) 纳税申报中有误差或错误	提交纳税申报起的6个月内	b) (i) 提交纳税申报后，在法令或宪报命令的其他书面法律上发布修正，或延迟批准而导致纳税申报不准确	宪报命令发布豁免、减免、缓缴、津贴或扣除，或授予批准那一年的年终起，五年内提交申请，以较晚者为准	b) (ii) 在提交纳税申报时，相关付款的预扣税还未到期	完成付款那一年年终起的一年内
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19	不符合分国别报告（CbCR）要求的处罚	<p>为了符合经济合作与发展组织（OECD）为跨国企业所需准备的转让定价报告上所给的建议，马来西亚将 为了符合经济合作与发展组织（OECD）为跨国企业所需准备的转让定价报告上所给的建议，马来西亚将针对于2017年1月1日或之后的财政年（2018年12月31日为报告截止日期），推出分国别报告的编制与提交条例/指南。</p> <p>若未能遵守以下条件，一经定罪，将面临不少于马币 2 万并不超过马币 10 万的罚款，或 6 个月以下的监禁：</p> <ul style="list-style-type: none">• 未能提供国别资料• 提交内容不属实的纳税申报、信息申报或报告 <p>生效日期：依据 2016 财政法案生效日期</p>
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Deloitte Malaysia Chinese Services Group Publication

Highlights of Budget 2017 – Part 2

The Prime Minister and Minister of Finance, Y.A.B. Dato' Seri Mohd. Najib Tun Razak, unveiled the Budget 2017 on 21 October 2016. As a follow-up to the Budget 2017 Speech, the Finance Bill 2016 was released on 26 October 2016.

One of the most significant changes is the re-imposition of withholding tax on offshore services which may give rise to uncertainty in the case of double tax agreement that does not have an article on technical fee. The non-resident may face challenge in obtaining foreign tax credit. The widening of the scope of royalty, amongst others, to include the payment for the use of or the right to use software, may alleviate the uncertainties as to whether such payment to the non-resident is subject to withholding tax. Nevertheless, the proposed change may not necessarily be in line with the international tax position adopted by various advanced countries and technical position in the double tax agreements. The inclusion of lecturer in the definition of public entertainer is unexpected. At most, the services rendered by the lecturer should be regarded as technical services under Section 4A of the Income Tax Act 1967 which attracts withholding tax at 10% as opposed to 15%. It is also noteworthy that the Country-by-Country Reporting requirement would also form part of the tax legislation once the Bill is gazetted.

We highlight some of the key amendments / issues in the Finance Bill 2016 and the Budget 2017 Appendices as shown below:

	Proposal	Description
Personal income tax		
1.	Review of spouse (husband / wife) tax relief	<p>An individual taxpayer is not entitled for spouse relief of RM4,000 if the spouse (other than a disabled spouse) has any income derived from sources outside Malaysia which is more than the relief to be claimed.</p> <p>Currently, an individual's income derived from sources outside of Malaysia (foreign source income) is tax exempted.</p> <p>Effective : Year of assessment 2017</p>
2	GST output tax paid by employer	<p>Gross income arising from employment will include the amount of output tax (under the GST Act) borne by the employer in connection with such gross income.</p> <p>For example, where the employer pays the utilities bill on behalf of the employee, the GST output tax included therein shall constitute gross income from employment and shall be taxable on the employee.</p> <p>Effective : Year of assessment 2015</p>
Corporate income tax		
3	Review of scope of withholding tax on special classes of income	<p>Currently, withholding tax for services under Section 109B is applicable only on the following services rendered in Malaysia by a non-resident:-</p> <p>(a) services rendered by the person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;</p> <p>(b) technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;</p> <p>It is now proposed the above services rendered outside Malaysia will also be subject to the withholding tax.</p> <p>Effective : Upon the coming into operation of the Finance Act 2016</p>
4	Expansion of the scope of "royalty"	<p>Royalty derived from Malaysia by a non-resident (NR) is subject to withholding tax of 10% (or any other rate as prescribed under the Double Taxation Agreement between Malaysia and the country where the NR is tax resident).</p>

		<p>It is proposed that the definition of “royalty” be amended to include sum paid as consideration for, or derived from—</p> <ul style="list-style-type: none"> (a) the use of, or the right to use software; (b) the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by— <ul style="list-style-type: none"> (i) satellite; or (ii) cable, fibre optic or similar technology; (c) the use of, or the right to use, visual images or sounds, or both, in connection with television broadcasting or radio broadcasting, transmitted by— <ul style="list-style-type: none"> (i) satellite; or (ii) cable, fibre optic or similar technology (d) the use of, or the right to use, some or all of the part of the radiofrequency spectrum specified in a relevant licence; (e) a total or partial forbearance in respect of the use of, or the granting of the right to use, the reception of, or the granting of the right to receive any such properties/rights/visual images/sounds or such items include in the definition of “royalty”. <p>Effective : Upon coming into operation of the Finance Act</p>
5	Redefinition of public entertainer	<p>It is proposed that “public entertainer” be redefined as:</p> <p>“public entertainer” includes –</p> <ul style="list-style-type: none"> (a) a compere, model, circus performer, lecturer, speaker, sportsperson, an artiste or individual exercising any profession, vocation or employment of a similar nature; or (b) an individual who uses his intellectual, artistic, musical, personal or physical skill or character in, <p>carrying out any activity in connection with any purpose through live, print, electronic, satellite, cable, fibre optic or other medium, for film or tape, or for television or radio broadcast, as the case may be”.</p> <p>The above redefinition has widen the scope of the 15% withholding tax on income in respect of services rendered / performed in Malaysia by a non-resident public entertainer.</p> <p>Effective: Upon coming into operation of the Finance Act 2016</p>

6	Deductibility of donation	<p>The following changes on "donations" under Section 44 of the Income Tax Act, 1967 are made:-</p> <table border="1" data-bbox="635 421 1257 1720"> <thead> <tr> <th data-bbox="635 421 922 454">Current</th> <th data-bbox="922 421 1257 454">Proposed</th> </tr> </thead> <tbody> <tr> <td data-bbox="635 454 922 1070"> Cash contributions to the following donation recipients are allowed as deductions against the donors' aggregate income:- <ul style="list-style-type: none"> • Government; • State Government; • Local authority; or • any institution or organization approved by the Director General. </td> <td data-bbox="922 454 1257 1070"> Cash contributions to "fund" held by an institution or organization in Malaysia approved by the Director General of Inland Revenue will also be allowed as deduction. </td> </tr> <tr> <td data-bbox="635 1070 922 1720"> A donor is allowed a deduction for contribution in cash or in kind to:- <ul style="list-style-type: none"> • sport activities approved by the Minister of Finance • sport bodies approved by the Commissioner of Sports appointed under the Sports Development Act 1997. </td> <td data-bbox="922 1070 1257 1720"> Deduction will be restricted to only contribution in cash and only to sport activities approved by the Minister of Finance. Contribution in kind and contribution to sport bodies approved by the Commissioner of Sports appointed under the Sports Development Act 1997 will no longer qualify for deduction. </td> </tr> </tbody> </table> <p>Effective: Year of assessment 2017</p>	Current	Proposed	Cash contributions to the following donation recipients are allowed as deductions against the donors' aggregate income:- <ul style="list-style-type: none"> • Government; • State Government; • Local authority; or • any institution or organization approved by the Director General. 	Cash contributions to "fund" held by an institution or organization in Malaysia approved by the Director General of Inland Revenue will also be allowed as deduction.	A donor is allowed a deduction for contribution in cash or in kind to:- <ul style="list-style-type: none"> • sport activities approved by the Minister of Finance • sport bodies approved by the Commissioner of Sports appointed under the Sports Development Act 1997. 	Deduction will be restricted to only contribution in cash and only to sport activities approved by the Minister of Finance . Contribution in kind and contribution to sport bodies approved by the Commissioner of Sports appointed under the Sports Development Act 1997 will no longer qualify for deduction.
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7	New Section 119B to address on the implication of failure to comply with rules on mutual administrative assistance	<p>Any person who fails to comply with any rules made to implement or facilitate the operation of a tax administrative assistance arrangement shall be, on conviction, liable to:-</p> <ul style="list-style-type: none"> • a fine of not less than RM20,000 and not more than RM100,000; or • imprisonment for a term not exceeding 6 months; • or both. 						

		<p>In any prosecution, the burden of proving that any rules made to implement or facilitate the operation of a tax administrative assistance arrangement has been complied with shall be upon the accused person.</p> <p>Effective : Upon coming into operation of the Finance Act</p>						
8	Relief other than in respect of error or mistake	<p>A new Section 131A shall be introduced to allow a taxpayer who has furnished a tax return according to the Act and paid tax for that year of assessment to make an application in writing within the prescribed timeline to the Director General for relief, if the assessment for that year of assessment is excessive as follows:</p> <table border="1"> <thead> <tr> <th>Reasons</th> <th>Timeline for submitting application to the Director General</th> </tr> </thead> <tbody> <tr> <td>(i) any exemption, relief, remission, allowance or deduction is approved or granted for that year of assessment under the Act or any other written law published in the Gazette after the year of assessment in which the return is furnished</td> <td>Within 5 years after the end of the year the exemption, relief, remission, allowance or deduction is published in the Gazette or approval is granted, whichever is the later</td> </tr> <tr> <td>(ii) deduction not allowed in respect of payments subject to withholding tax (WT) which is not due to be paid under the Act on the day the return is furnished</td> <td>Within 1 year after the end of the year the payment is made</td> </tr> </tbody> </table> <p>Effective: 1 January 2017</p>	Reasons	Timeline for submitting application to the Director General	(i) any exemption, relief, remission, allowance or deduction is approved or granted for that year of assessment under the Act or any other written law published in the Gazette after the year of assessment in which the return is furnished	Within 5 years after the end of the year the exemption, relief, remission, allowance or deduction is published in the Gazette or approval is granted, whichever is the later	(ii) deduction not allowed in respect of payments subject to withholding tax (WT) which is not due to be paid under the Act on the day the return is furnished	Within 1 year after the end of the year the payment is made
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9	Extension of the application of Paragraph 16B of Schedule 3 of the Income Tax Act 1967	<p>Currently, pursuant to Paragraph 16B of Schedule 3 of the Income Tax Act 1967, a person who owns and wholly uses the following industrial buildings for the purpose of letting of property would not be entitled to industrial building allowance ("IBA"):</p> <ul style="list-style-type: none"> (a) Licensed private hospital, maternity home and nursing home; (b) Building used for research; (c) Warehouse; (d) Building used for approved service project; 						

		<p>(e) Hotel; (f) Airport; (g) Motor racing circuit; (h) Building for the provision of living accommodation for employees employed in the business of manufacturing, hotel or tourism project, approved service project; child care facilities for employee; or (i) School / educational institution.</p> <p>It is proposed that building used for industrial, technical or vocational training approved by the Minister be included.</p> <p>Effective: Year of assessment 2016</p>						
10	Clarification for the claim of industrial building allowance for buildings used for purpose of letting of property	<p>New Subparagraphs have also been introduced to clarify the claim of IBA for buildings mentioned in Paragraph 16B of Schedule 3 above:</p> <table border="1"> <thead> <tr> <th>Floor area of the building used for the purpose of letting</th> <th>Expenditure that qualifies for IBA</th> </tr> </thead> <tbody> <tr> <td>Less than 1/10 of the floor area of the whole building</td> <td>Expenditure incurred for the whole building.</td> </tr> <tr> <td>More than 1/10 of the floor area of the whole building</td> <td>Expenditure incurred on the floor area which is not used for the purpose of letting.</td> </tr> </tbody> </table> <p>Effective: Year of assessment 2016</p>	Floor area of the building used for the purpose of letting	Expenditure that qualifies for IBA	Less than 1/10 of the floor area of the whole building	Expenditure incurred for the whole building.	More than 1/10 of the floor area of the whole building	Expenditure incurred on the floor area which is not used for the purpose of letting.
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More than 1/10 of the floor area of the whole building	Expenditure incurred on the floor area which is not used for the purpose of letting.							
11	Deductions in relation to exempt dividend income	<p>Currently, expenses attributable to single-tier dividend are disregarded in computing the adjusted income of a person (i.e. exemption at adjusted income level).</p> <p>It is now proposed that claims for capital allowances, approved donation, etc that are attributable to single tier dividend will also be disregarded (i.e. exemption at chargeable income level).</p> <p>The Inland Revenue Board may expect the apportionment of the above deductions to be based on gross income of each source. Thereafter, the portion of deductions attributable to the exempt dividend shall not be deducted in arriving at the chargeable income.</p> <p>Effective: Year of assessment 2017</p>						
12	Amendments to the exemption of certain interest income under Schedule 6.	<p>It is proposed that tax exemption on the following interest income derived by non-resident be withdrawn:-</p> <p>a) exemption on interest derived from Malaysia from an approved loan;</p>						

		<p>b) exemption on interest paid or credited to a company in the same group in respect of sukuk or debenture issued in Ringgit Malaysia (other than convertible loan stock), approved or authorized by, or lodged with, the SC;</p> <p>c) exemption on:</p> <p>b) interest paid or credited to a company in the same group;</p> <p>c) interest paid or credited to:</p> <p>(ii) a bank licensed under the FSA</p> <p>(iii) an Islamic bank licensed under the IFSA; or</p> <p>(iv) a development financial institution prescribed under the Development Financial Institutions Act 2002 ("DFIA")</p> <p>in respect of sukuk originating from Malaysia (other than convertible loan stock) issued in any currency other than Ringgit; and approved or authorized by, or lodged with, the SC, or approved by the Labuan Financial Services Authority.</p> <p>Effective: Year of assessment 2017 onwards.</p>
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Real Property Gains Tax (RPGT)

13	Amendment to Real Property Gains Tax (RPGT) Act 1976	<p>a) Where the input tax claimable for the acquisition or disposal of a chargeable asset is subject to any adjustment made under the Goods and Services Tax Act 2014 (GST Act), the adjustment shall also be made for RPGT purposes in the year of assessment (YA) the disposal is made or at the end of the adjustment period as allowed under the GST Act, whichever is the earlier.</p> <p>Effective: Year of Assessment 2015</p> <p>b) The no gain no loss (NGNL) provisions applicable to disposal by way of gift between husband and wife, parent and child or grandparent and grandchild is now restricted to a donor who is a citizen. For disposal made within five years after the date of acquisition by the donor, the recipient shall be deemed to have acquired the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor and hence, deemed to have received no gain and no loss on the disposal.</p> <p>Effective: 1 January 2017</p>
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Goods and Services Tax ("GST")								
14	Imported services: amendment of time of supply in relation to supplier invoice	It is proposed that the time of supply for accounting and reporting of reverse charge on imported services is at the earlier of payment made or invoice "received from" the supplier (not invoice "issued by" the supplier, as per the current provision) Effective: 1 January 2017						
15	Calculation of value of supply to determine liability to be registered	It Is proposed that in computing the GST registration threshold of RM500,000:- <ul style="list-style-type: none"> • Supplies of capital assets are to be included except if the supplies are due to cessation of business. • Supplies made within or between free zones be excluded, except for supplies prescribed by the Minister of Finance by order made under section 163 (1) as taxable supplies. Effective: 1 January 2017						
16	Late payment penalty	The late payment penalty is proposed to be increased, as follows: <table border="1" data-bbox="635 1061 1228 1164"> <tr> <td>First 30 days</td> <td>10%</td> </tr> <tr> <td>31- 60 days</td> <td>additional 15%</td> </tr> <tr> <td>61- 90 days</td> <td>additional 15%</td> </tr> </table> <p>The maximum penalty proposed is 40%. The penalty is proposed to be imposed on tax remaining unpaid.</p> Effective: 1 January 2017	First 30 days	10%	31- 60 days	additional 15%	61- 90 days	additional 15%
First 30 days	10%							
31- 60 days	additional 15%							
61- 90 days	additional 15%							
17	Supply of land in compliance with requirement of written law, Government or local authority (compulsory acquisition)	It is proposed that if the land is compulsory acquired by the Federal Government, State Government, Local Authority or other authority for the purpose of providing public amenities & utilities, the supply will be considered as "out of scope", i.e. no GST. Effective: 1 January 2017						
Others								
18	Streamline appeal procedure in the case of non-chargeability to tax	Currently, a taxpayer without chargeable income who wishes to apply for an amendment or relief is required to apply for a notification of non-chargeability ("NONC") from the Director General before an appeal can be submitted.						

It is now proposed that the tax return that has been furnished will be deemed as the NONC.

New Subsections are also introduced to allow the taxpayer who has no chargeable income to apply for an amendment /relief in respect of the return submitted under the following reasons:

- a) There is an error or a mistake made by him in that return; or
- b) The amount that has been computed in the return is inaccurate due to:
 - i) any exemption, relief, remission, allowance or deduction is approved or granted for that year of assessment under the Act or any other written law published in the Gazette after the year of assessment in which the return is furnished; or
 - ii) a deduction not allowed in respect of withholding tax (WT) on payment not due to be paid on the day a return is furnished.

The application for amendment or relief may be made in writing within a specified timeline :

Reasons:	Timeline for submitting application to the Director General:
a) Error or mistake in the return	Within 6 months from the date the return is submitted
b) (i) Inaccurate return due to the late approval or, the amended Act or other written law is published in the Gazette after the return is submitted	Within 5 years after the end of the year the exemption, relief, remission, allowance or deduction is published in the Gazette or approval is granted, whichever is the later
b) (ii) WT on payment not due to be paid on the day return is furnished	Within 1 year after the end of the year the payment is made

Effective: 1 January 2017

19 Penalties for non-compliance with CbCR requirements

In line with the OECD recommendation on transfer pricing documentation to be prepared by multinational enterprises (MNEs), Malaysia is set to introduce Rules/Guidelines on preparation and submission of Country-by-Country Report (CbCR) for financial years

		commencing on or after 1 January 2017, with due date for first submission being 31 December 2018.
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		<p>A fine of not less than RM20,000 and not more than RM100,000, or imprisonment for a term not exceeding six months may apply on the following non-compliance upon conviction:-</p> <ul style="list-style-type: none">• Failure to furnish CbCR• Furnishing an incorrect return, information return or report <p>Effective: Upon coming into operation of the Finance Act 2016</p>
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