# Malaysia Budget 2023 Snapshot

## Developing Malaysia MADANI

**25 February 2023**

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"The MADANI Budget truly lives up to its name, with an astounding RM386.1 billion allocation, of which RM289.1 billion was allocated for operating expenses and RM97 billion for development spending. Sustainability, Compassion, Respect, Innovation, Prosperity and Trust – these are the core values which have been profound undercurrents in the numerous initiatives proposed in Budget 2023. It is heartening to see a strong focus on rebuilding the people's finances and emphasis on rural development, as well as strengthening the MSME growth. As the nation and its people step forth into the post-pandemic era, I am positive the economy will emerge rejuvenated with the aid of the Budget 2023 despite the modest projection for a GDP growth of 4.5%."

**Yee Wing Peng**
Chief Executive Officer

# Foreword

**Sim Kwang Gek**
Country Tax Leader

Themed "Developing Malaysia MADANI", Budget 2023 is the maiden budget under the new unity government and emphasis is placed on measures to drive economic recovery, increase tax revenue, instill strong governance as well as care for the rakyat.

With a budget allocation of RM386.1 billion, revenue is expected to be slightly lower at RM291.5 billion in 2023 while the fiscal deficit is projected to narrow to 5% of GDP compared to 5.6% in the year 2022 on the back of lower operating expenditure, reduced leakages in subsidies and plan for a targeted subsidy approach. Meanwhile, development expenditure gets a larger allocation of RM97 billion compared to RM71.6 billion last year and these are earmarked for projects that generate maximum benefits for the rakyat as stressed by the Prime Minister in his speech.

From a tax perspective, Budget 2023 aims to focus on measures that generate tax revenue from higher income groups as well as businesses that were non-compliant in their tax affairs or have been delinquent in paying taxes. Measures such as taxing the T20 group, luxury goods tax and voluntary disclosure programs should boost tax collection as can be seen from the projected increase in tax collection of 4% over total revenue in 2023 as compared to year 2022. Tax collection remains the largest contributor to the government's revenue representing 74.9% of total revenue or 15.4% of GDP.

The 2% reduction in the personal income tax rates for individuals earning annual chargeable income between RM35,001 to RM100,000 would bring cheer to the M40 group as it provides higher disposable income for this group. Although the 2% cut results in lower tax collection, the impact should be minimal since the money saved would be contributed back to the economy in the form of higher consumption. This proposal is expected to benefit 2.4 million taxpayers.

The proposal to introduce Capital Gains Tax on the disposal of unlisted shares from year 2024 should be carefully studied before implementation. Considerations such as impact on mergers and acquisitions (M&A) activities in Malaysia, Malaysia's attractiveness for in-bound M&A, costs of doing business, tax treatment on losses arising from disposal of shares and possible exemptions for internal group restructuring exercises must be given weight. It is encouraging to note that the government will be in consultation with relevant parties to study this proposal in greater detail. An assessment of the additional tax revenue that will be generated from the imposition of Capital Gains Tax vis-à-vis the downside effects on businesses must be carried out. Currently, Singapore does not impose any capital gains tax.

Preserving our mother earth is equally important. In demonstrating the Government's effort to achieve net zero by 2050, Budget 2023 proposes new tax incentives to encourage green investments for companies undertaking carbon capture and storage activities and manufacturing of electric vehicle charging equipment.

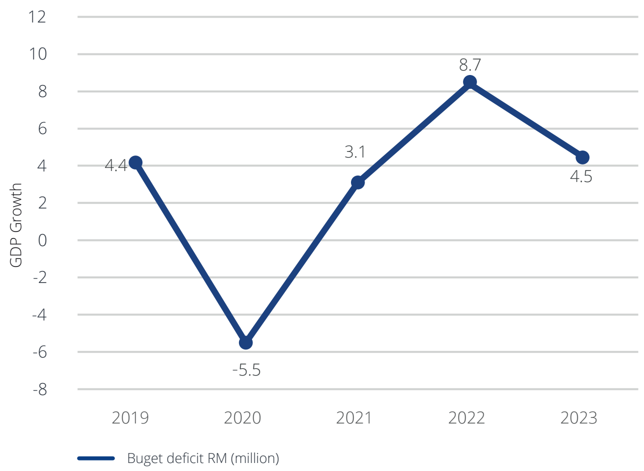
Overall, Budget 2023 attempts to strike a balance between fiscal consolidation and strengthening economic recovery while safeguarding the wellbeing of the rakyat. The Government is also committed to strengthening public trust and upholding integrity in public administration. Despite global headwinds, Malaysia is projecting a 4.5% growth as we transition into the endemic phase with stronger domestic demand and effective government administration. Let's embrace the Malaysia MADANI spirit and look forward to a stronger and brighter year ahead.

Happy reading!

# Budget 2023
# Key financials at a glance

## GDP growth

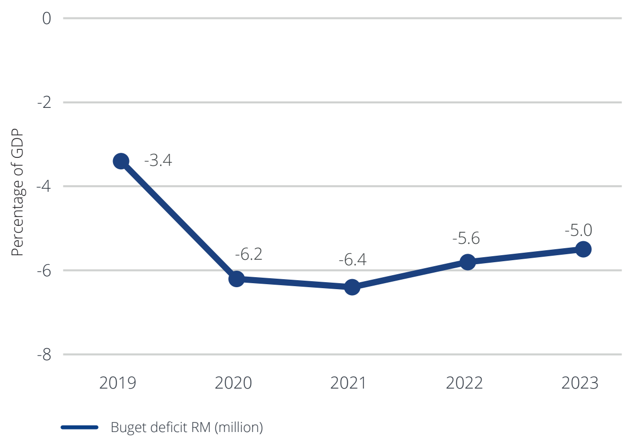
As a result of the COVID-19 pandemic, the Malaysian economy contracted by 5.5% in 2020. At the end of 2020 there were signs of economic recovery with the year 2021 registering a growth of 3.1%. This momentum is expected to continue with a GDP growth of 8.7% in 2022 and projected GDP growth of 4.5% in 2023.




| Year | GDP (constant 2015 prices) RM (million) | % Change |
|---|---|---|
| 2019 | 1,423,952 | 4.4 |
| 2020 | 1,345,144 | -5.5 |
| 2021 | 1,386,738 | 3.1 |
| 2022 | 1,507,306 | 8.7 |
| 2023 | 1,574,632 | 4.5 |

## Budget deficit

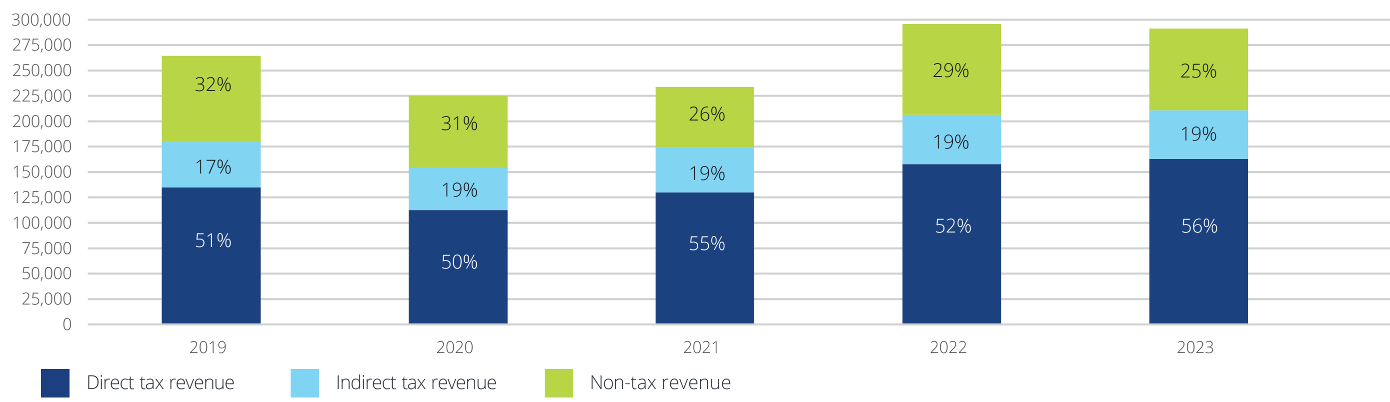
The fiscal deficit as a percentage of GDP increased from 3.4% in 2019 to 6.2% in 2020, and 6.4% in 2021 as the Government incurred expenditure in various people assistance packages and economic stimulus packages for businesses. In 2022, the fiscal deficit is narrowed to 5.6% with slight improvement to 5.0% in 2023.




| Year | Budget deficit RM (million) | % GDP |
|---|---|---|
| 2019 | -51,498 | -3.4 |
| 2020 | -87,645 | -6.2 |
| 2021 | -98,740 | -6.4 |
| 2022 | -99,482 | -5.6 |
| 2023 | -93,940 | -5.0 |

## Tax revenue over total revenue – breakdown by direct and indirect taxes

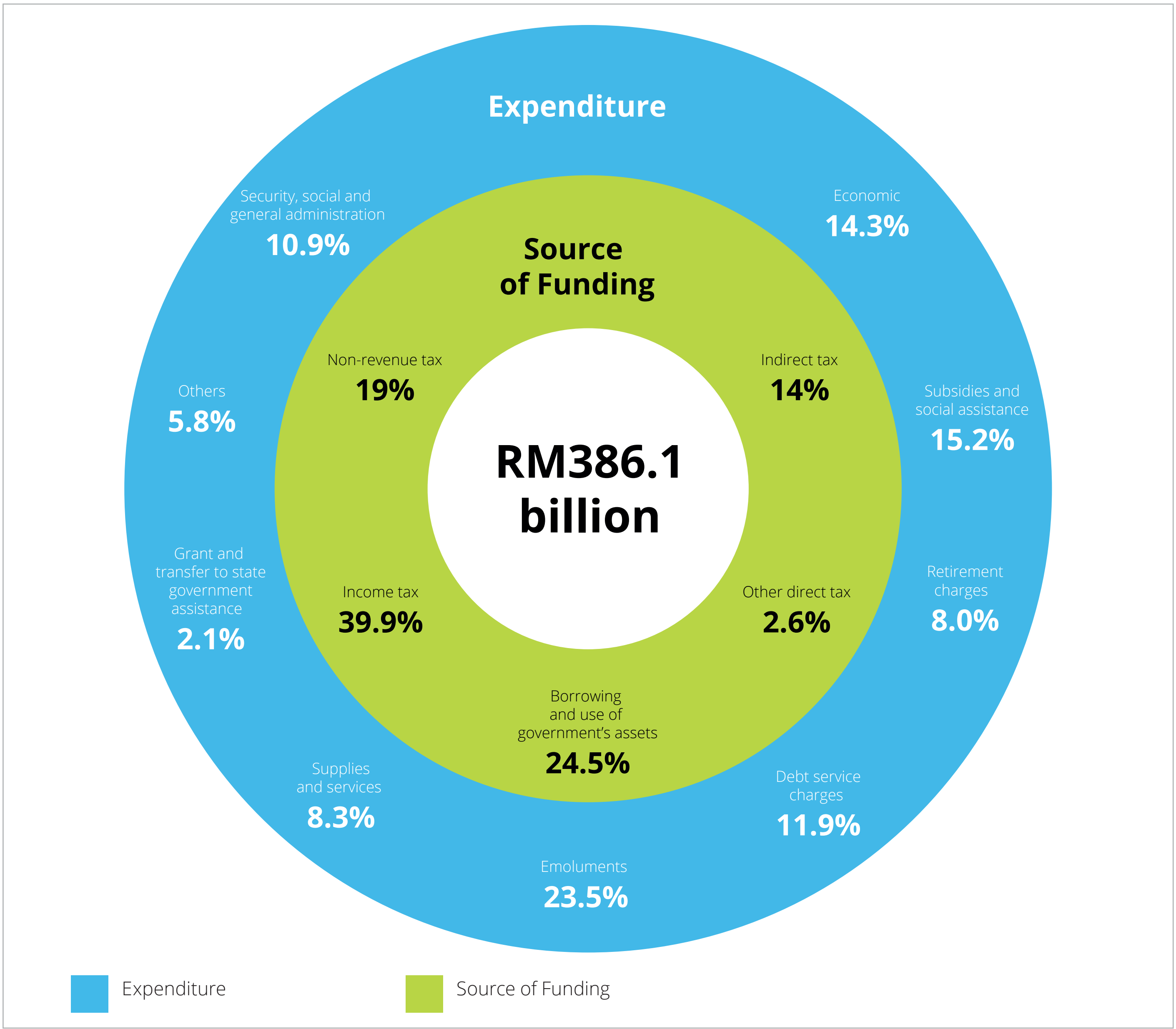
Tax collection represents a major contributor to the overall federal government revenue. Direct tax contributes a larger share of total revenue in comparison to indirect taxes representing more than 50% of total revenue from 2019 to 2023.




| Year | Direct tax revenue | | Indirect tax revenue | | Non-tax revenue | | Total revenue | |
|---|---|---|---|---|---|---|---|---|
| | RM (million) | % Change | RM (million) | % Change | RM (million) | % Change | RM (million) | % Change |
| 2019 | 134,723 | 3.6 | 45,843 | 4.1 | 83,849 | 42.5 | **264,415** | **13.5** |
| 2020 | 112,511 | -16.5 | 41,887 | -8.6 | 70,677 | -15.7 | **225,075** | **-14.9** |
| 2021 | 130,116 | 15.6 | 43,588 | 4.1 | 60,048 | -15 | **233,752** | **3.9** |
| 2022 | 153,476 | 18.0 | 55,289 | 26.8 | 85,592 | 42.5 | **294,357** | **25.9** |
| 2023 | 164,140 | 6.9 | 54,130 | -2.1 | 73,230 | -14.4 | **291,500** | **-1.0** |

Sources: Ministry of Finance -Economic Reports

# Budget 2023
# Source of funding and expenditure




| | 2022 | 2023 |
|---|---|---|
| Fiscal deficit (% of GDP) | -5.6% | -5.0% |
| Federal government revenue | RM294.4 billion | RM291.5 billion |
| Operating expenditure | RM292.7 billion | RM289.1 billion |
| Development expenditure | RM70.2 billion | RM96.3 billion |
| Allocation for COVID-19 fund | RM31 billion | - |

Sources: Ministry of Finance -Economic Reports

# Corporate Tax

## Capital Gains Tax

Possible introduction of capital gains tax on disposal of unlisted shares by companies with effect from year 2024.

**Commentary:**

The proposed capital gains tax by the Government has garnered attention as a strategic measure to boost the country's tax revenue. Whilst the mechanism is still in the work, the treatment of capital gains for regional peers is as stated below:

| Jurisdictions | Treatment of capital gains tax |
|---|---|
| Hong Kong | Hong Kong has regarded offshore gains from equity interest disposal as part of its taxable passive income while launching a consultation on enhancing the tax certainty around onshore gains on disposals of equity interests in mid-March 2023 |
| Indonesia | The capital gains derived by an Indonesian resident company are taxed at the standard corporate income tax rate |
| Thailand | Capital gains are subject to normal income tax, with no restrictions on the use of capital losses to offset net taxable profits |
| Philippines | Capital gains are generally taxed as income and subject to the regular corporate income tax |
| Laos | Capital gains are generally taxed as income and subject to the regular corporate income tax |
| Cambodia | Gains from the sale of assets / shares are subject to tax at a prescribed rate |

The divergent approaches to capital gains taxation highlight the need for careful consideration and assessment of the potential impact of such measures on various sectors and stakeholders.

## Tax rate for MSME

The tax rate for MSME on the first RM150,000 chargeable income to be reduced from 17% to 15% effective from YA 2023.

## Rental deduction for non-commercial EV

The maximum tax-deductible rental expense for non-commercial EV is increased to RM300,000 from YA 2023 to YA 2025.

## Extension of existing tax incentive for childcare

To encourage employers to support the establishment of childcare facilities at work, the Government is considering extending related existing tax incentives for childcare.

## Issuance cost of Sustainable and Responsible Investment Linked Sukuk

Tax deduction on the cost of issuing Sustainable and Responsible Investment Linked Sukuk that is approved or permitted or deposited with the Securities Commission Malaysia be given for 5 years, from YA 2023 until YA 2027. A list of eligible expenditure may be stipulated later when the law is gazetted.

## Cost of listing on Bursa Malaysia

Existing tax deduction (up to RM1.5 million) on the cost of listing on the ACE and LEAP Markets for technology-based companies and MSME respectively, is extended for 3 years from YA 2023 to YA 2025. It also applies to the cost of listing of technology-based companies on BURSA Main Market.

"Whilst GMT and QDMTT are not specifically mentioned in the Budget Speech and its appendices, Malaysia's direction on this significant global tax reform is stated in the Budget Touchpoints. However, there remains a lingering question on the timing, that is: 2024 or 2025? Whilst 2024 is stated in the Budget Touchpoints, one wonders whether Malaysia will emulate Hong Kong and Singapore in choosing 2025 as a starting year. Herein lies the balancing act in managing the cost of ceding taxing rights to early adopters and providing more time to taxpayers to navigate through this complex tax regime. In any case, GMT is inexorable, and the affected taxpayers must act now to assess the GMT's implication on them."

**Tan Hooi Beng**
International Tax Leader

# Tax Incentives

### New Industrial Master Plan 2030

- Investment incentives will be restructured towards tiered tax rates based on outcomes, in line with the New Industrial Master Plan 2030 (to be announced in third quarter of 2023) that would place emphasis on high quality activities and recruitment of local talent.
- Monitoring of investments that receive incentives will also be strengthened.

### ACA for automation equipment in manufacturing, services and agriculture sector

- Scope of tax incentive expanded to include agriculture sector
- Scope of automation to include adaptation of Industry 4.0 elements
- The claim of capital expenditure threshold to be aligned and increased to RM10 million
- Applicable for applications received by MIDA and MAFS from 1 January 2023 until 31 December 2027

### Special tax deduction for expenditure on Malaysian-made handicraft

Special tax deduction up to RM150,000 for qualified Malaysian-made handicraft incurred from 1 January 2023 to 31 December 2025.

### Expansion of scope of tax deduction for the employment of inmate and ex-inmate

Expansion of scope of further tax deduction given to companies that employ senior citizens and ex-convict to include remuneration paid to inmate and ex-inmate of:

- Henry Gurney School under the Malaysian Prison Department; and
- protection and rehabilitation institution and non-government care centres registered under the Social Welfare Department

from YA 2023 to YA 2025

### Tax deduction for sponsorship of Smart Artificial Intelligence Driven Reverse Vending Machine

- Tax deduction be given on donations or sponsorships of Smart Artificial Intelligence Driven Reverse Vending Machine
- For contributions/sponsorship and applications received by MOF from 1 April 2023 until 31 December 2024

### Manufacturer of EV charging equipment

- Income tax exemption of 100% on statutory income up to YA 2032; or
- ITA of 100% for 5 years and can be set-off against up to 100% of the statutory income for each YA
- Applicable for applications received by MIDA from 25 February 2023 until 31 December 2025

### Carbon Capture and Storage

- Companies undertaking CCS in-house activity be given:
  - ITA of 100% of qualifying capital expenditure for 10 years and can be set-off against up to 100% of statutory business income;
  - Full import duty and sales tax exemption on equipment used for CCS technology from 1 January 2023 until 31 December 2027; and
  - Tax deduction for allowable pre-commencement expenses within 5 years from the date of commencement of operation
- Companies undertaking CCS services be given:
  - ITA of 100% of qualifying capital expenditure for 10 years and can be set off against up to 100% of statutory business income; or
  - Income tax exemption of 70% on statutory income for 10 years; and
  - Full import duty and sales tax exemption on equipment for CCS technology from 1 January 2023 until 31 December 2027
- Tax deduction on fees incurred for use of CCS services
- Applicable for application received by MOF from 25 February 2023 until 31 December 2027
- Tax deduction can be claimed through the ITRF from YA 2023 until YA 2027

# Tax Incentives

### Tax incentives for chicken rearing in closed house system

100% ACA and 100% income tax exemption equivalent to the qualifying capital expenditure incurred from YA 2023 until YA 2025

### Extension of tax incentives

| Activities | Number of years extended | |
|---|---|---|
| Ship building and ship repairing industry | 5 years | Applications received by MIDA from 1 January 2023 to 31 December 2027 |
| Food production project | 3 years | Applications received by Ministry of Agriculture and Food Security (MAFS) from 1 January 2023 until 31 December 2025. Expansion of incentive to include agricultural projects based on Controlled Environment Agriculture |
| New and existing aerospace companies in Malaysia undertaking high-value activities | 3 years | Applications received by MIDA from 1 January 2023 to 31 December 2025. |
| Relocation tax incentive and 15% flat tax rate for C-suite individuals for electrical and electronics industry | 2 years | Up to year 2024 |
| Company with BioNexus status | 2 years | Applications received by the Malaysian Bioeconomy Development Corporation from 1 January 2023 until 31 December 2024. Additionally, the income tax exemption on statutory income be increased from 70% to 100% |

"We welcome the Government's efforts to accelerate the approval of high potential investment projects and streamline the various investment promotion agencies (IPA). The initiative to reduce bureaucracy for incentive application and processing is a positive development that can help promote transparency, efficiency, and economic growth, in line with promoting FDI for the country."

**Tham Lih Jiun**
Global Investment and Innovation Incentives (Gi$^3$) Leader

# Indirect Tax

## GST

At present, the Government is not planning to implement GST in view of the current backdrop of low wages, rising cost of living and inflationary pressures. It will be reviewed at a more appropriate time.

## Introduction of luxury goods tax

The Government proposed to introduce luxury goods tax with a minimum value depending on the type of luxury goods (e.g. luxury branded watches and branded fashion goods). It is proposed to commence in 2023, although no specific implementation date was mentioned.

## Imposition of excise duty on products containing nicotine

Excise duty will be imposed on liquid or gel products containing nicotine that are used in electronic cigarettes or vape. The effective date was not mentioned.

## Exemption for nicotine replacement therapy products

Import duty and sales tax exemption on nicotine replacement therapy products for 3 years for application received from 1 April 2023 to 31 March 2026.

## Import duty and sales tax exemption on studio and filming production equipment

Import duty and sales tax exemption on studio and filming production equipment, for providers of studio equipment, production and post-production services. It is effective for applications received by the MOF from 1 April 2023 until 31 March 2026.

## Extension of import duty, excise duty and sales tax exemption in relation to EV

- 100% import duty exemption on components for locally assembled EV to be extended until 31 December 2027.
- 100% excise duty and sales tax exemption on locally assembled Completely Knocked-Down EV to be extended until 31 December 2027.
- 100% import duty and excise duty exemption on imported Completely Built-Up EV to be extended until 31 December 2025.

## Excise duty and sales tax exemption for disposal of individually owned taxis and hired cars

Extension of excise duty and sales tax exemption on the sales/transfer/private use/disposal of taxis owned by individuals, effective for applications received from 1 March 2023. These include budget taxis, executive taxis, TEKS1M, airport taxis (budget and family) and hired cars.

"The Budget is in line with the Government's aim of reducing the cost of living for average Malaysians, as evidenced by the decision to not implement GST and instead focus on targeted tax regimes such as the tax on luxury goods. Businesses will welcome the extended voluntary disclosure program for indirect taxes which should also help the RMCD on their revenue collection."

**Tan Eng Yew**
Indirect Tax Leader

# Individual Tax

### Change in income tax rates for resident individuals

Resident individual income tax rate will be changed as follows effective YA2023:

<table>
<tr><th>Chargeable income (RM)</th><th>Current tax rate (%)</th><th>Proposed tax rate (%)</th></tr>
<tr><td>35,001 – 50,000</td><td>8</td><td>6</td></tr>
<tr><td>50,001 – 70,000</td><td>13</td><td>11</td></tr>
<tr><td>70,001 – 100,000</td><td>21</td><td>19</td></tr>
<tr><td>100,001 – 250,000</td><td>24</td><td rowspan="2">25</td></tr>
<tr><td>250,001 – 400,000</td><td>24.5</td></tr>
<tr><td>400,001 – 600,000</td><td>25</td><td>26</td></tr>
<tr><td>600,001 – 1,000,000</td><td>26</td><td>28</td></tr>
</table>

### Medical treatment expenses relief

- Effective YA2023, the existing relief of RM8,000 for medical treatment expenses will be increased to RM10,000.
- The scope of relief is expanded to include intervention expenditure for Autism, Attention Deficit Hyperactivity Disorder, Global Developmental Delay, Intellectual Disability, Down Syndrome and Specific Learning Disabilities, limited to RM4,000 as below:-
  - Diagnostic assessment certified by a medical practitioner registered with the Malaysian Medical Council;
  - Early intervention and rehabilitation programmes conducted by health profession practitioners registered under the Allied Health Profession Act 2016.

### Life insurance premium relief

Effective YA2023, the existing relief of RM3,000 on life insurance premium is expanded to cover voluntary EPF contributions.

### Fees paid to child-care centre relief

Existing relief of RM3,000 for fees paid to a registered child-care centre and kindergarten is extended up to YA 2024.

"We are seeing global trends of wealth taxes on the rich and it is not surprising that we saw proposals of such in this revised Budget 2023.

The proposal to increase 0.5% -2% tax rates and the possible introduction of luxury tax will impact to an extent on the T20 but perhaps of a lesser impact, in comparison to the burden of the general taxpayers at large, which the revised Budget 2023 has introduced extensive measures to focus on the rakyat's wellbeing."

**Ang Weina**
Global Employer Services Leader

# Stamp Duty

### Transfer of property by way of love and affection

The stamp duty for instrument executed for transfer of property by way of love and affection between parents and children, grandparents and grandchildren from 1 April 2023 will be as follows –

- First RM1million of the property's value – 100% exemption
- Any amount in excess of RM1million – 50% of the stamp duty is remitted

The above stamp duty treatment only applies to acquirers who are Malaysian citizens.

### Extended period of stamp duty exemption for loan/ financing agreement

Extension of full stamp duty exemption on agreement for restructuring or rescheduling of loan/financing facilities executed from 1 January 2023 to 31 December 2024.

### Nominal stamp duty for educational loan/scholarship agreement

Imposition of fixed duty of RM10 on educational loan / scholarship agreement to pursue education at all levels including certificate (education/skills/professionals) in any educational and training institutions. Effective for educational loan / scholarship agreements executed from 1 June 2023.

### Stamp duty exemption for first-time home buyers

75% stamp duty exemption on instrument of transfer of property and loan agreement for the purchase of first home valued between RM500,001 – RM1million.

# Others

### Special Voluntary Disclosure Program

Penalties will be waived for voluntary disclosure from 1 June 2023 to 31 May 2024 by IRB and RMCD.

### Tax Deduction relating to Sports Development

Tax deduction of up to 10% of aggregate income be given to individual or corporation on contributions made to non-profit organisations which undertake sports development at the foundation level.

It is also proposed that employers who hire former national athletes be given a tax deduction.

### Tax Exemption for Charitable Hospital and Tax Deduction for Donors

Charitable hospitals that are registered as Companies Limited by Guarantee be given an income tax exemption equivalent to the expenses incurred for charity purposes.

Donors who donate to the charitable hospitals would be given a tax deduction up to 10% of aggregate income.

### Contribution to the film industry

Tax deduction on contributions made to *Tabung Komuniti FIlem* and *Pembangunan Filem Kenegaraan* under National Film Development Corporation Malaysia ("FINAS").

# Global Minimum Tax (GMT)
# A Seismic Shift in the World of Tax

**Contents**

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- Recent Developments
- GMT Implementation Around the World
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- GMT Filing is Only the Tip of the Iceberg
- Myths, Misconceptions, and the Realities of Global Tax Reform

# GMT

## What is GMT?

- The GMT regime ensures that large MNCs with consolidated group revenue of at least €750 million would be subject to tax at 15% in the jurisdictions in which they operate.
- The ETR is a unique one that is calculated on a jurisdictional basis and involves extensive adjustments.
- If the MNC Group's ETR in a jurisdiction is below 15%, top-up taxes may be imposed by foreign jurisdictions via the IIR and the UTPR. The IIR and UTPR are also known as the GloBE Rules.
- Instead of ceding the taxing right to other countries, a jurisdiction may implement a QDMTT regime, which grants itself the right to collect top-up taxes in respect of entities located in its jurisdiction.

## Recent Developments

- Despite the OECD's original intention to implement GMT in 2023, it is currently slated to be implemented from 2024 by most countries, including Malaysia.
- Korea has recently enacted the local legislation to implement the GloBE Rules (both IIR and UTPR) in 2024. This is in contrast to the OECD's intention to implement the UTPR a year after the IIR which will have significant implications on the allocation of top-up taxes between countries.
- The United Kingdom and European Union, amongst others, have prepared draft legislation for implementation in 2024. Other countries are likely to follow suit.
- Notable exceptions to the 2024 implementation timeline are Singapore and Hong Kong, both of which recently announced a delay in implementation to 2025 in their National Budget.
- The OECD shared that GMT will increase global tax revenue by an estimated $220 million annually, which is a significant increase from its previous estimate of $150 million.

# GMT Implementation Around the World

**Canada**
- Launched public consultation for GMT implementation

**United States**
- During the United Nations General Assembly in September 2022, President Joe Biden stated that the US champions GMT and will work to see it implemented
- The Agreed Administrative Guidance provided some clarity on the treatment of GILTI taxes for fiscal years on or before 31 December 2025

**Bermuda**
- Announced that it is examining GMT implementation during its 2023 Budget

Announced GMT implementation/ GMT public consultation launched

# GMT Implementation Around the World

**European Union (EU)**
- The 27 EU member states reached agreement to implement GMT
- Effective: 31 December 2023

**United Kingdom**
- Draft legislation for IIR
- Announced implementation for QDMTT
- Effective: 31 December 2023, UTPR 1 year later

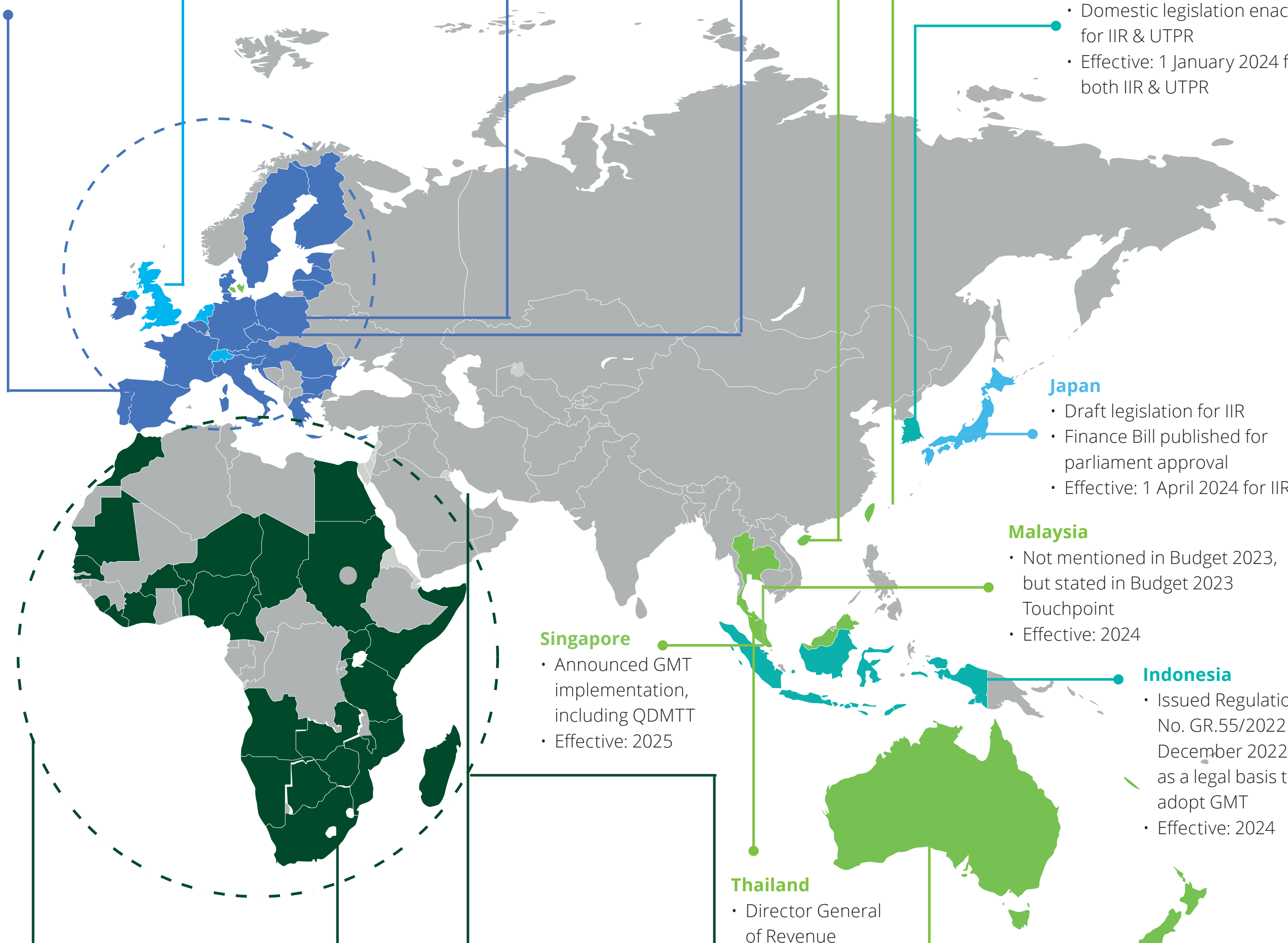
**Switzerland**
- Parliament approved the constitutional amendment to implement GMT
- Effective: 1 January 2024

**Liechtenstein**
- Announced GMT implementation
- Effective: 1 January 2024

**Hong Kong**
- Announced implementation of IIR, UTPR and considering QDMTT
- Effective: 2025

**Taiwan**
- Announced GMT implementation
- Effective: 1 January 2024 the earliest

**Republic of Korea**
- Domestic legislation enacted for IIR & UTPR
- Effective: 1 January 2024 for both IIR & UTPR



**Japan**
- Draft legislation for IIR
- Finance Bill published for parliament approval
- Effective: 1 April 2024 for IIR

**Malaysia**
- Not mentioned in Budget 2023, but stated in Budget 2023 Touchpoint
- Effective: 2024

**Singapore**
- Announced GMT implementation, including QDMTT
- Effective: 2025

**Indonesia**
- Issued Regulation No. GR.55/2022 in December 2022 as a legal basis to adopt GMT
- Effective: 2024

**Thailand**
- Director General of Revenue Department of Thailand indicated that Thailand is expected to implement GMT in 2024

**African Tax Administration Forum (ATAF) Members**
- Discussing draft legislation for QDMTT

**South Africa**
- Position paper to be released in 2023, legislation to be enacted in 2024

**Qatar**
- Introduced provisions for GMT in its corporate tax law; details to be issued in the Executive Regulations

**Mauritius**
- Draft legislation for QDMTT

**Australia**
- Launched public consultation for GMT implementation

**New Zealand**
- Launched consultation for GMT implementation

Enacted GMT legislation

Draft GMT legislation

EU Directive

African Tax Administration Forum (draft QDMTT legislation for discussion)

Announced GMT implementation/ GMT public consultation launched

# Malaysia in Action: A Journey Towards Implementation of GMT

## Significant Milestones by OECD

**February 2023**
OECD published the Agreed Administrative Guidance which provides further clarification and simplification on the application of the GloBE rules

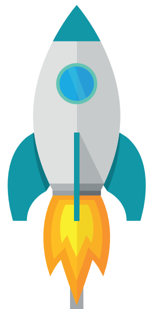
**December 2022**
OECD published the implementation package relating to the GloBE rules that consists of Guidance on Safe Harbours and Penalty Relief, public consultation documents on the GloBE Information Return and Tax Certainty for the GloBE Rules

**March 2022**
OECD released the Commentary and the illustrative examples to the GloBE Model Rules which explains its application

**December 2021**
OECD released the Pillar Two GloBE Model Rules

**October 2021**
136 members of the Inclusive Framework joined the Statement on the Two-Pillar Solution (138 members of the IF have agreed to it as of 16 December 2022)

## Significant Milestones by Malaysia



**February 2023**
Not specifically mentioned in the 2023 Budget Speech but mentioned in the 2023 Budget Touchpoints

**October 2022**
The government announced that Malaysia will introduce GMT and plans to implement QDMTT in 2024

**August 2022**
MoF launched Public Consultation on the implementation of the GloBE Rules

**June 2022**
MoF issued a pre-budget statement which shared that Malaysia is currently reviewing the technical details of GMT

"The only way to make sense out of GMT is to plunge into it, move with it, and join the dance"

### GMT Impact on Businesses in Malaysia

Some of the key ripple effects of GMT's impact on Malaysian operations could be encapsulated as follows:

**Impact on Cash Flows**
Top-up Taxes, particularly if significant, could affect cash repatriation strategies

Application of the rules (i.e. QDMTT, IIR and UTPR), jurisdictions' GMT implementation timeline etc. must be considered in determining collecting jurisdiction

**Impact on Reporting Requirements**
In order to meet the GMT compliance obligations, businesses need to appraise:
- Data readiness (processes and system)
- Availability of resources (personnel and expertise)
- Spillover effects on accounting and financial reporting

**Impact on Bottom Line**
Additional costs to fulfil reporting requirements and Top-up Taxes may impact the bottom line. Businesses should consider:
- Impact on dividend payout strategy
- Impact on pricing strategies
- Disclosures to stakeholders/ potential investors

**Impact on Tax Incentives**
A pertinent question often arises in GMT discussions: are tax incentives still relevant? This depends on:
- The intricacies of GMT calculations through an impact assessment exercise, such as jurisdictional blending and substance-based carve-outs
- The types of tax incentives considered

# GMT Filing is Only the Tip of the Iceberg

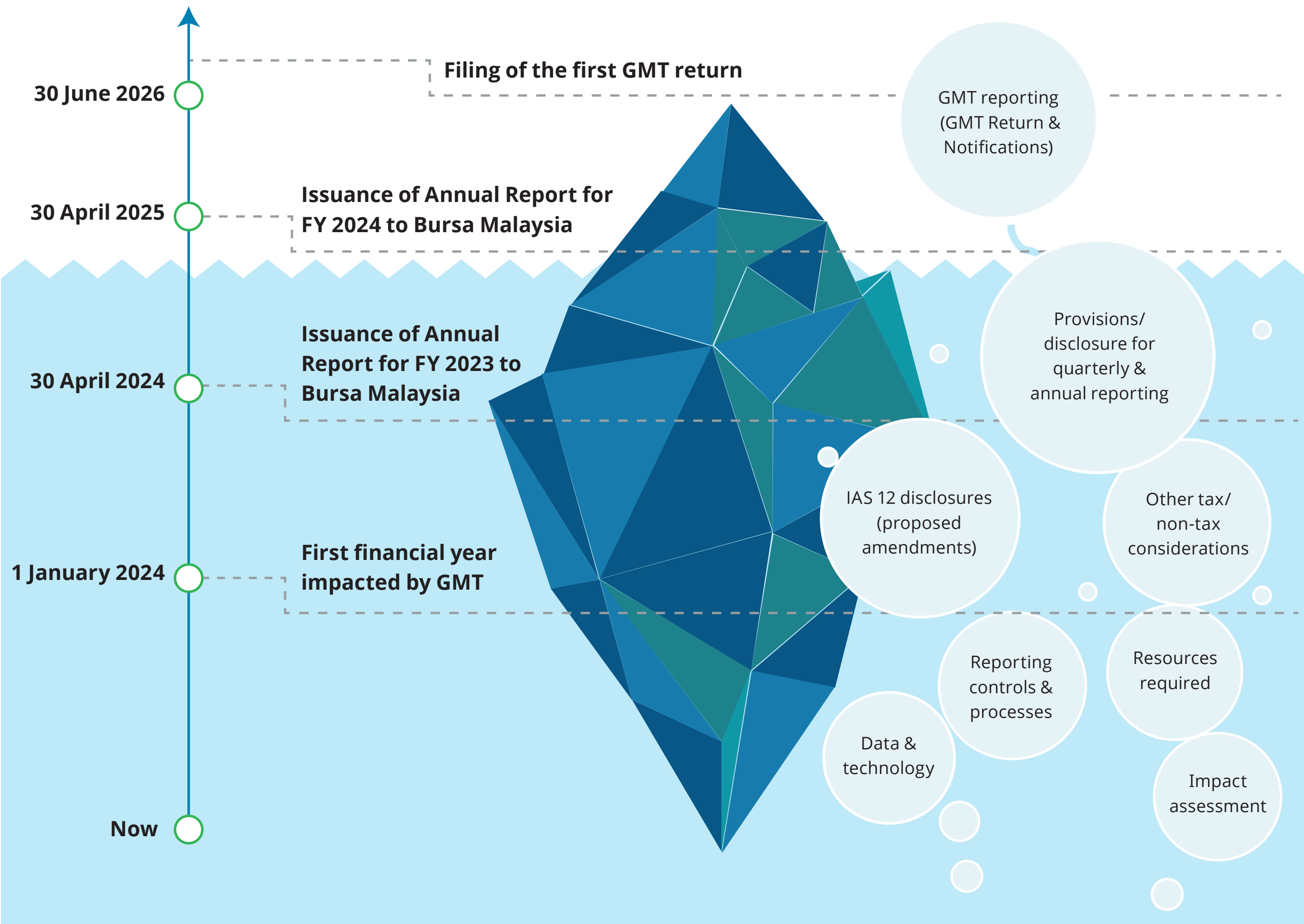
Assuming GMT takes effect from financial years beginning on or after 1 January 2024, the first affected financial period would be 1 January 2024 to 31 December 2024. The filing of the GMT return (i.e., the GloBE Information Return) is to be done within 18 months after the financial year end – seemingly ample time for preparation. However, considering the impact of GMT on the bottom line, cash flows, reporting requirements and tax incentives, it is clear that GMT filing is only the tip of the iceberg.

For example, listed MNCs would be familiar with the requirement for quarterly and annual reporting, for which a GMT provision and/or disclosures would be necessary once GMT is in effect. In fact, the International Accounting Standards Board (IASB) acknowledged the need for GMT disclosures for financial reporting purposes and had proposed amendments to IAS 12 in response. In the Exposure Draft published in January 2023, the IASB proposed a separate disclosure for current tax expense and a temporary exception for deferred tax accounting in relation to GMT.

The IASB further proposed disclosures even in financial periods before GMT is in effect, including whether assessments made by the entity indicate that jurisdictions are exposed to paying GMT. This applies to financial periods beginning on or after 1 January 2023, creating yet another (earlier) reporting requirement for businesses to meet. This inevitably reduces the time available for preparation, especially for December year-ended MNCs. A comprehensive GMT impact assessment is crucial for the following reasons:

- To ensure the business is equipped with capable personnel and GMT expertise
- To determine the quantum of GMT payable, the affected entities and consequent tax/non-tax considerations (as discussed above)
- To assess data readiness and consider the need for technology solutions
- To ensure accounting, financial reporting and GMT reporting controls as well as processes are in place

In essence: affected MNCs should begin preparations now to ensure a smooth and steady transition into the GMT regime.




Note: This illustrates the timeline for the financial year beginning on 1 January 2024 (i.e. the first financial period affected by GMT). The timeline should be adjusted accordingly for businesses with financial years beginning after 1 January 2024.

# Myths, Misconceptions, and the Realities of Global Tax Reform

**"With the introduction of the TSH, GMT is no longer an immediate concern"**

The TSH apply on a jurisdictional basis instead of group-wide basis, which necessitates the full calculations for certain jurisdictions. Further, the qualifying jurisdiction would not be exempted from group-wide compliance obligations.

In a way, more analysis would need to be done. Firstly, a taxpayer needs to assess if the TSH apply. If the TSH cannot apply, the taxpayer would then need to apply the normal rules.

**"The listed holding company is the ultimate parent entity"**

In many instances, majority of the shares in a listed company are owned by the founder via an offshore company.

In such cases, the analysis may provide an incorrect result if the analysis stops at the listed company's level.

**"The first filing for GMT purposes is in 2026 at the earliest, there is still plenty of time to prepare"**

Indeed, the first filing of GMT return would only be due on 30 June 2026 (for December year-end MNCs).

However, there are transitional rules which would apply to the transactions take place between 30 November 2021 and the effective date of the GMT rules. Therefore, it is important to prepare early and assess what is the implication.

**"If each of the entities in the Group holds less than 10% ownership interest in the investee, the dividends received may not qualify as excluded dividends"**

Dividends derived from short-term portfolio shareholding would not qualify as excluded dividends.

In examining whether the investment is a portfolio shareholding, the ownership interest held by all entities in the Group should be aggregated to determine whether it is less than 10%.

**"Only entities in which the group holds more than 50% ownership interest would be in-scope"**

The ownership interest % is not the decisive factor in assessing whether an entity is in-scope. In this regard, the rules generally adopt a consolidation test based on accounting concept. However, there are also special rules that bring non-consolidated entities such as joint ventures within scope.

**"Given that the jurisdictions in which the Group operates have corporate tax rates above 15%, it is likely that the ETR in every jurisdiction will be high and top-up taxes would unlikely arise"**

Apart from the ETR being derived from a different set of computations, there are other factors that may have a drastic impact, e.g., income tax exemption, super deductions etc.

**"If the companies in foreign jurisdictions are all loss-making entities, does this mean that we do not have to account for top-up tax?"**

This may not necessarily be the case. There is a special rule whereby a top-up tax may still be required even though the company is loss-making.

# Abbreviations and Acronyms

| | |
|---|---|
| Accelerated Capital Allowance | ACA |
| Carbon Capture and Storage | CCS |
| Corporate Income Tax | CIT |
| Effective Tax Rate | ETR |
| Electric Vehicle | EV |
| Global Minimum Tax | GMT |
| Goods and Services Tax | GST |
| Gross Domestic Product | GDP |
| Inland Revenue Board | IRB |
| Income Inclusion Rule | IIR |
| Income Tax Return Form | ITRF |
| Investment Tax Allowance | ITA |
| Malaysian Investment Development Authority | MIDA |
| Micro, Small and Medium Enterprises | MSME |
| Ministry of Agriculture and Food Security | MAFS |
| Ministry of Finance | MOF |
| Multinational Company | MNC |
| Organisation for Economic Co-operation and Development | OECD |
| Qualified Domestic Minimum Top-up Tax | QDMTT |
| Ringgit Malaysia | RM |
| Royal Malaysian Customs Department | RMCD |
| Transitional Safe Harbours | TSH |
| Undertaxed Profits Rule | UTPR |
| Year of Assessment | YA |

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