



Tax Espresso (Special Edition) – Finance (No. 2) Bill 2017

A snappy delight

Greetings from Deloitte Malaysia Tax Services

The Prime Minister and Minister of Finance, Y.A.B. Dato' Seri Mohd. Najib Tun Razak, unveiled the Budget 2018 on 27 October 2017. You may refer to our [Tax Espresso October 2017 \(Special Edition\) - Budget 2018](#).

As a follow-up to the Budget 2018 Speech, the Finance (No. 2) Bill 2017 is released on 31 October 2017.

We highlight the proposed amendments in the Finance (No. 2) Bill 2017 as follows:

Quick links:

[Deloitte Malaysia](#)

[Inland Revenue Board](#)

Takeaways:

Highlights in Budget 2018

Upcoming events

[Deloitte TaxMax – The 43rd series](#)



Proposals	Description
Review of tax treatment of takaful business	<p>The law currently requires the shareholders fund of the resident takaful operator to subject the wakalah fee and any other fee receivable from general fund, inward retakaful fund, offshore or family retakaful fund to tax as gross income. However, the law only allows the deduction for management expenses incurred in relation to wakalah fee from the general business. The similar situation applies to shareholders fund of the non-resident takaful operator.</p> <p>It is proposed to extend the scope of deduction for management expenses incurred in connection with :-</p> <ul style="list-style-type: none">(A) <i>Wakalah fee</i> receivable in relation to the general fund, inward retakaful fund, offshore or family retakaful fund;(B) Any other fee receivable in relation to the general fund, inward retakaful fund, offshore fund or family retakaful fund; or(C) Any other fee receivable in relation to an investment fund from the family fund. <p>A new formula has been introduced for the computation of the deduction under items (B) and (C).</p> <p>Effective: Year of assessment 2018</p>
Deletion of provision relating to interest on excessive financial assistance	<p>Thin Capitalisation Rules (TCR) was introduced in the Budget 2009. This was followed by the insertion of Section 140A of the Income Tax Act. The Ministry of Finance (MOF), however, deferred the implementation of TCR to 1 January 2018.</p> <p>The OECD has introduced the Earning Stripping Rules (ESR) in order to address tax leakages due to excessive interest claims on loans made between related companies.</p> <p>It is proposed that the ESR replaces TCR, whereby interest deduction on loans between related companies within the same group will be limited to a ratio to be determined.</p>

The provision relating to thin capitalisation for financial assistance between associated persons will be deleted in line with the replacement of TCR by the ESR.

Effective:

1 January 2018 (abolishment of thin capitalisation)

1 January 2019 (introduction of ESR)



Individual Tax

Proposals	Description												
<p>Reduction of income tax rates for resident individuals</p>	<p>It is proposed that the tax rates for resident individuals be revised as follows:-</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Chargeable income (RM)</th> <th>Current tax rate (%)</th> <th>Proposed tax rate (%)</th> </tr> </thead> <tbody> <tr> <td>20,001 - 35,000</td> <td>5</td> <td>3</td> </tr> <tr> <td>35,001 - 50,000</td> <td>10</td> <td>8</td> </tr> <tr> <td>50,001 - 70,000</td> <td>16</td> <td>14</td> </tr> </tbody> </table> <p>Tax rates for the other bands remain unchanged.</p> <p>Effective: Year of assessment 2018</p>	Chargeable income (RM)	Current tax rate (%)	Proposed tax rate (%)	20,001 - 35,000	5	3	35,001 - 50,000	10	8	50,001 - 70,000	16	14
Chargeable income (RM)	Current tax rate (%)	Proposed tax rate (%)											
20,001 - 35,000	5	3											
35,001 - 50,000	10	8											
50,001 - 70,000	16	14											
<p>Extension of income tax relief on net savings in SSPN</p>	<p>Currently, tax relief up to RM6,000 for net savings in the National Education Savings Scheme (SSPN) is eligible to be claimed annually by resident individuals from year of assessment 2012 until year of assessment 2017.</p> <p>It is proposed that the said income tax relief of up to RM6,000 for net savings in the SSPN be extended for another 3 years.</p> <p>Effective: Years of assessment 2018 to 2020</p>												
<p>Exemption of income of an employee exercising employment as a public entertainer</p>	<p>Amendment to delete the provision relating to the description of a public entertainer consequential to the new definition of "public entertainer" under Section 2 introduced via Finance Act 2017.</p> <p>Effective: Upon coming into operation of the Finance (No. 2) Act 2017</p>												



Proposals	Description				
<p>Due Date for Notification of Change in Accounting Period</p>	<p>A company, limited liability partnership, trust body or co-operative society shall notify the Director General (DG) of any change in its accounting period before a specified due date:</p> <table border="1" data-bbox="598 398 1220 728"> <tr> <td data-bbox="598 398 970 560">a) Where the new accounts are made up ending before the original year-end</td> <td data-bbox="970 398 1220 560">30 days before the end of the new accounts</td> </tr> <tr> <td data-bbox="598 560 970 728">b) Where the new accounts are made up ending after the original year-end</td> <td data-bbox="970 560 1220 728">30 days before the end of the original year-end</td> </tr> </table> <p>Notification is to be provided by way of the Form CP204B.</p> <p>Failure to notify the DG within the above stipulated timeline is an offence and on conviction, may render the taxpayer liable to a fine of RM200 to RM20,000, or imprisonment for a term not exceeding six months or both under Section 120. [Effective: Upon coming into operation of the Finance (No. 2) Act 2017]</p> <p>Further, any increase in tax or penalties imposed in relation to tax estimate and filing of returns will continue to be recoverable by the DG. [Effective: Year of assessment 2019]</p> <p><i>Our commentary:</i></p> <p><i>The requirement to notify the Director General was already stated in the Public Ruling No.7/2011 "Notification of Change in Accounting Period of a Company / Trust Body / Co-operative Society".</i></p>	a) Where the new accounts are made up ending before the original year-end	30 days before the end of the new accounts	b) Where the new accounts are made up ending after the original year-end	30 days before the end of the original year-end
a) Where the new accounts are made up ending before the original year-end	30 days before the end of the new accounts				
b) Where the new accounts are made up ending after the original year-end	30 days before the end of the original year-end				
<p>References to basis period for computation of total income</p>	<p>It is proposed that for the purpose of claiming a deduction for approved donations, gift of artefact, etc., references to basis year in relation to a limited liability partnership shall be construed as references to the basis period for the year of assessment of the limited liability partnership.</p> <p>Effective: Upon coming into operation of the Finance (No. 2) Act 2017</p>				
<p>Eligibility for recovery of withholding tax</p>	<p>Currently, REIT distributions that have suffered withholding tax under Section 109D would be excluded from the taxpayer's tax returns. The withholding tax deducted is a final tax.</p>				

<p>on REIT distributions</p>	<p>With the amendment, REIT distributions subject to tax under Section 109D would be eligible for repayment of tax if the tax withheld under Section 109D is in excess of the taxpayer's final tax liability in a relevant year of assessment where the taxpayer is exempted from tax.</p> <p>Effective: Upon coming into operation of the Finance (No. 2) Act 2017</p>
<p>Computation of residual expenditure of an asset in the year of assessment after it has been classified as held for sale</p>	<p>Currently, the residual expenditure of such asset in the year of assessment after it has been classified as held for sale, as provided for under Schedule 3 Subparagraph 61A(5) is determined as follows:</p> <p><i>Total qualifying expenditure less annual allowance which would have been made to him for that following basis period as if the asset had been in use in that following basis period for the purpose of a business of his.</i></p> <p>Under the proposed amendment, the residual expenditure is determined as follows:</p> <p><i>Total qualifying expenditure less:</i></p> <ul style="list-style-type: none"> <i>(a) any initial allowance made to that person in relation to that asset for any year of assessment;</i> <i>(b) any annual allowance made to that person in relation to that asset for any year of assessment; and</i> <i>(c) any amount of annual allowance which would have been made to that person for the basis period in which the asset was classified as held for sale as if the asset had been in use in that basis period for the purpose of a business of his.</i> <p>Effective: Upon coming into operation of the Finance (No. 2) Act 2017</p>



Goods and Services Tax

Proposals	Description
<p>Review of GST treatment for local authorities (proposed amendment to section 64 of the GST Act 2014)</p>	<p>Currently, only regulatory and enforcement functions of local authorities are out of scope (not subject to GST). It is proposed that all supplies by local authorities (not only regulatory and enforcement functions) are to be treated as "out of scope supply" and therefore not subject to GST.</p>

	<p>In line with the above, local authorities are proposed to be given GST relief on acquisitions of all goods excluding petroleum, commercial buildings or land and imported motor cars.</p> <p>Effective: 1 April 2018 or 1 October 2018 as opted by the local authorities [according to the Finance (No. 2) Bill 2017, the effective date is to be appointed by the Minister of Finance by notification in the Gazette]</p>
<p>Assessment of GST and penalty on non-taxable person - Proposed amendments to Section 43 of the GST Act 2014</p>	<p>The proposed amendments to Section 43 allow the Director General to assess GST or penalties on any non-taxable person, where the non-taxable person has failed to make the required GST declaration or furnished a complete/incorrect GST declaration, under Section 42 of the GST Act 2014. The time bar for this assessment is generally 6 years from when GST was due and payable, except in cases of fraud or willful default, where there is no time bar.</p> <p>Effective: On a date to be appointed by the Minister of Finance by notification in the Gazette.</p>
<p>Inclusion of levy payable under Pembangunan Sumber Manusia Berhad Act 2001 as neither a supply of goods or services - Proposed amendment to Paragraph 2 of Schedule 2 to the GST Act 2014</p>	<p>The proposed amendment seeks to include the payment of human resources development levy (under the Pembangunan Sumber Manusia Berhad Act 2001) by an employer as being neither a supply of goods nor a supply of services.</p> <p>Effective: On a date to be appointed by the Minister of Finance by notification in the Gazette</p>



Proposals	Description
<p>Applicable RPGT rate on executor of the estate of a deceased person who is not a citizen and not a permanent resident</p>	<p>At present, Part III of Schedule 5 provides the rate of tax in the case of an individual who is not a citizen and not a permanent resident as follows:</p> <p>(a) 30% for disposal of chargeable assets within 5 years</p> <p>(b) 5% for disposal of chargeable assets in the 6th year onwards.</p>

	<p>It is proposed that the above rate of tax be applicable to an executor of the estate of a deceased person who is not a citizen and not a permanent resident.</p> <p>Effective: 1 January 2018</p>
<p>Conditional contracts</p>	<p>Currently, where a disposal/acquisition of real property requires governmental approval (i.e. approval by the Government or a State Government or an authority or committee appointed by the Government or a State Government), the date of disposal/acquisition shall be the date of such approval.</p> <p>It is proposed that the scope of the above governmental approval be limited to approval by the Government or a State Government only.</p> <p>Effective: 1 January 2018</p>
<p>Disposal of real property by non-citizen and non-permanent resident</p>	<p>Currently, where the sales consideration is wholly or partly in monetary form, the acquirer is required to retain the whole sum or 3% of the total value of the sales consideration, whichever is lesser, and remit to the Inland Revenue Board within 60 days from the date of disposal.</p> <p>It is proposed that the retention sum by the acquirer be increased from 3% to 7% of the total value of the consideration in the case where the disposer is not a citizen and not a permanent resident.</p> <p>Effective: 1 January 2018</p>
<p>Transactions in which disposal price is deemed equal to acquisition price (“no gain no loss transactions”)</p>	<p>Currently, the following transactions would be regarded as a “no gain no loss” transaction (i.e. no chargeable gain):-</p> <ul style="list-style-type: none"> a) Transfer of assets between spouses; and b) Transfer of assets owned by an individual, or his wife or jointly or with a connected person to a company controlled by the said persons for a consideration consisting of shares in the company, or for a consideration consisting substantially of shares in the company and the balance is in monetary form. <p>It is proposed that the above could only be regarded as a “no gain no loss” transaction for an asset owned by a citizen or jointly owned by citizens.</p> <p>Effective: 1 January 2018</p>

We invite you to explore other tax related information at:
<http://www2.deloitte.com/my/en/services/tax.html>

Contact us

Service lines / Names	Designation	Email	Telephone
Business Tax Compliance & Advisory			
Yee Wing Peng	Managing Director	wpjee@deloitte.com	+603 7610 8800
Julie Tan	Executive Director	jultan@deloitte.com	+603 7610 8847
Thin Siew Chi	Executive Director	sthin@deloitte.com	+603 7610 8878
Choy Mei Won	Director	mwchoy@deloitte.com	+603 7610 8842
Business Process Solutions			
Julie Tan	Executive Director	jultan@deloitte.com	+603 7610 8847
Gabriel Kua	Director	gkua@deloitte.com	+606 281 1077
Global Employer Services			
Ang Weina	Executive Director	angweina@deloitte.com	+603 7610 8841
Chee Ying Cheng	Director	yichee@deloitte.com	+603 7610 8827
Michelle Lai	Director	michlai@deloitte.com	+603 7610 8846
Indirect Tax			
Tan Eng Yew	Executive Director	etan@deloitte.com	+603 7610 8870
Senthuran Elalingam	Executive Director	selalingam@deloitte.com	+603 7610 8879
Chandran TS Ramasamy	Director	ctsramasamy@deloitte.com	+603 7610 8873
Koh Siok Kiat	Director	sikoh@deloitte.com	+603 7610 8886
Wong Poh Geng	Director	powong@deloitte.com	+603 7610 8834
International Tax & Business Model Optimisation			
Tan Hooi Beng	Executive Director	hooitan@deloitte.com	+603 7610 8843
Mergers & Acquisitions			
Sim Kwang Gek	Executive Director	kgsim@deloitte.com	+603 7610 8849

R&D & Government Incentives

Sim Kwang Gek	Executive Director	kgsim@deloitte.com	+603 7610 8849
Tan Eng Huat	Director	entan@deloitte.com	+603 7610 8860

Tax Audit & Investigation

Chow Kuo Seng	Executive Director	kuchow@deloitte.com	+603 7610 8836
Stefanie Low	Executive Director	gelow@deloitte.com	+603 7610 8891

Transfer Pricing

Theresa Goh	Executive Director	tgoh@deloitte.com	+603 7610 8837
Subhabrata Dasgupta	Executive Director	sudasgupta@deloitte.com	+603 7610 8376
Justine Fan	Director	jufan@deloitte.com	+603 7610 8182
Gagan Deep Nagpal	Director	gnagpal@deloitte.com	+603 7610 8876
Vrushang Sheth	Director	vsheth@deloitte.com	+603 7610 8534
Yvonne Sing	Director	ysing@deloitte.com	+603 7610 8079

Sectors / Names	Designation	Email	Telephone
-----------------	-------------	-------	-----------

Automotive

Stefanie Low	Executive Director	gelow@deloitte.com	+603 7610 8891
--------------	--------------------	--	----------------

Financial Services

Chee Pei Pei	Executive Director	pechee@deloitte.com	+603 7610 8862
Mark Chan	Director	marchan@deloitte.com	+603 7610 8966
Mohd Fariz Mohd Faruk	Director	mmohdfaruk@deloitte.com	+603 7610 8153

Oil & Gas

Toh Hong Peir	Executive Director	htoh@deloitte.com	+603 7610 8808
Kelvin Kok	Director	kekok@deloitte.com	+603 7610 8157

Real Estate

Tham Lih Jiun	Executive Director	ljtham@deloitte.com	+603 7610 8875
---------------	--------------------	--	----------------

**Telecom-
munications**

Thin Siew Chi Executive Director sthin@deloitte.com +603 7610 8878

Branches / Names	Designation	Email	Telephone
---------------------	-------------	-------	-----------

Penang

Ng Lan Kheng Executive Director lnkg@deloitte.com +604 218 9268
Everlyn Lee Director evelee@deloitte.com +604 218 9913
Monica Liew Director monicaliew@deloitte.com +604 218 9888
Au Yeong Pui
Nee Director pnauyeong@deloitte.com +604 218 9888
Tan Wei Chuan Director wctan@deloitte.com +604 218 9888

Ipoh

Ng Lan Kheng Executive Director lnkg@deloitte.com +604 218 9268
Lam Weng Keat Director welam@deloitte.com +605 253 4828

Melaka

Julie Tan Executive Director jultan@deloitte.com +603 7610 8847
Gabriel Kua Director gkua@deloitte.com +606 281 1077

Johor Bahru

Chee Pei Pei Executive Director pechee@deloitte.com +603 7610 8862
Thean Szu Ping Director spthean@deloitte.com +607 222 5988

Kuching

Tham Lih Jiun Executive Director ljtham@deloitte.com +603 7610 8875
Chai Suk Phin Associate Director spchai@deloitte.com +608 246 3311

Kota Kinabalu

Tham Lih Jiun Executive Director ljtham@deloitte.com +603 7610 8875
Cheong Yit Hui Manager yicheong@deloitte.com +608 823 9601

**Yee Wing Peng****Julie Tan****Thin Siew Chi****Ang Weina**



Tan Eng Yew



**Senthuran
Elalingam**



Tan Hooi Beng



Sim Kwang Gek



Chow Kuo Seng



Stefanie Low



Theresa Goh



**Subhabrata
Dasgupta**



Chee Pei Pei



Toh Hong Peir



Tham Lih Jiun



Ng Lan Kheng



Choy Mei Won



Gabriel Kua



**Chee Ying
Cheng**



Michelle Lai



**Chandran TS
Ramasamy**



Koh Siok Kiat



Wong Poh Geng



Tan Eng Huat



Justine Fan



**Gagan Deep
Nagpal**



Vrushang Sheth



Yvonne Sing



Mark Chan



**Mohd Fariz
Mohd Faruk**



Kelvin Kok



Everlyn Lee



Monica Liew



**Au Yeong
Pui Nee**



Tan Wei Chuan



Lam Weng Keat



Thean Szu Ping



Chai Suk Phin



Cheong Yit Hui



Deloitte Tax Services Sdn Bhd
Level 16, Menara LGB
1, Jalan Wan Kadir
Taman Tun Dr Ismail
60000 Kuala Lumpur
Malaysia

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/my/about to learn more about our global network of member firms.

Deloitte provides audit & assurance, consulting, financial advisory, risk advisory, tax & legal and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 264,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

About Deloitte in Malaysia

In Malaysia, services are provided by Deloitte Tax Services Sdn Bhd and its affiliates.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017 Deloitte Tax Services Sdn Bhd

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.