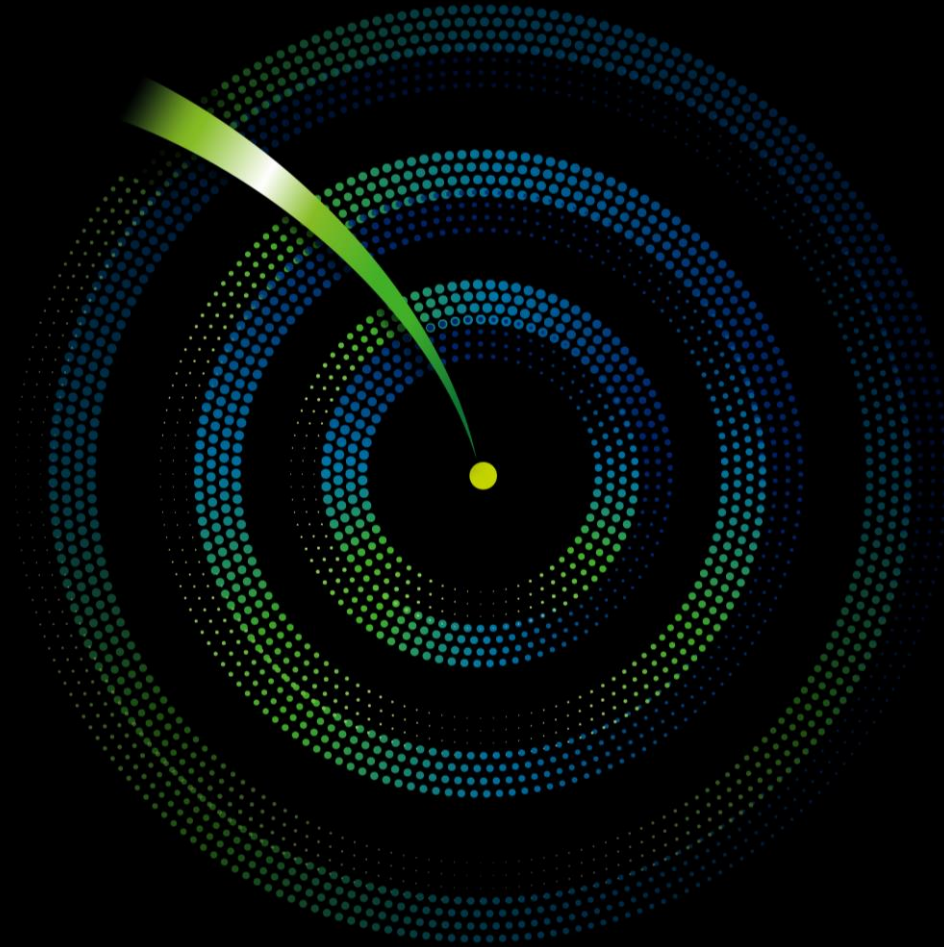


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Deloitte TaxMax
Building a sustainable and resilient future

Toh Hong Peir and Chee Pei Pei | 16 March 2023



Speakers



Toh Hong Peir
Oil, Gas and Chemicals Sector
Leader,
Deloitte Malaysia



Chee Pei Pei
Deloitte Private Leader,
Deloitte Malaysia

Corporate tax proposals

Corporate Tax

Capital Gains Tax (CGT)

Current

- No CGT is imposed on disposal of capital items except for Real Property Gains Tax (RPGT) on gains arising from disposal of real properties or shares in real property companies (RPC).
- Gains arising from revenue transactions are subject to tax under Income Tax Act, 1967 (ITA).

Proposed

- Possible introduction of CGT on disposal of **unlisted shares** by **companies** at a **lower tax rate** beginning 2024.
- Consultation sessions with relevant parties to examine the details.
- Treatment of capital gains for regional peers:

Jurisdictions	Treatment of capital gains tax
Indonesia	The capital gains derived by an Indonesian resident company are taxed at the standard corporate income tax rate
Vietnam	Capital gains are taxed at standard corporate 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

Corporate Tax

Capital Gains Tax (CGT)

Proposed

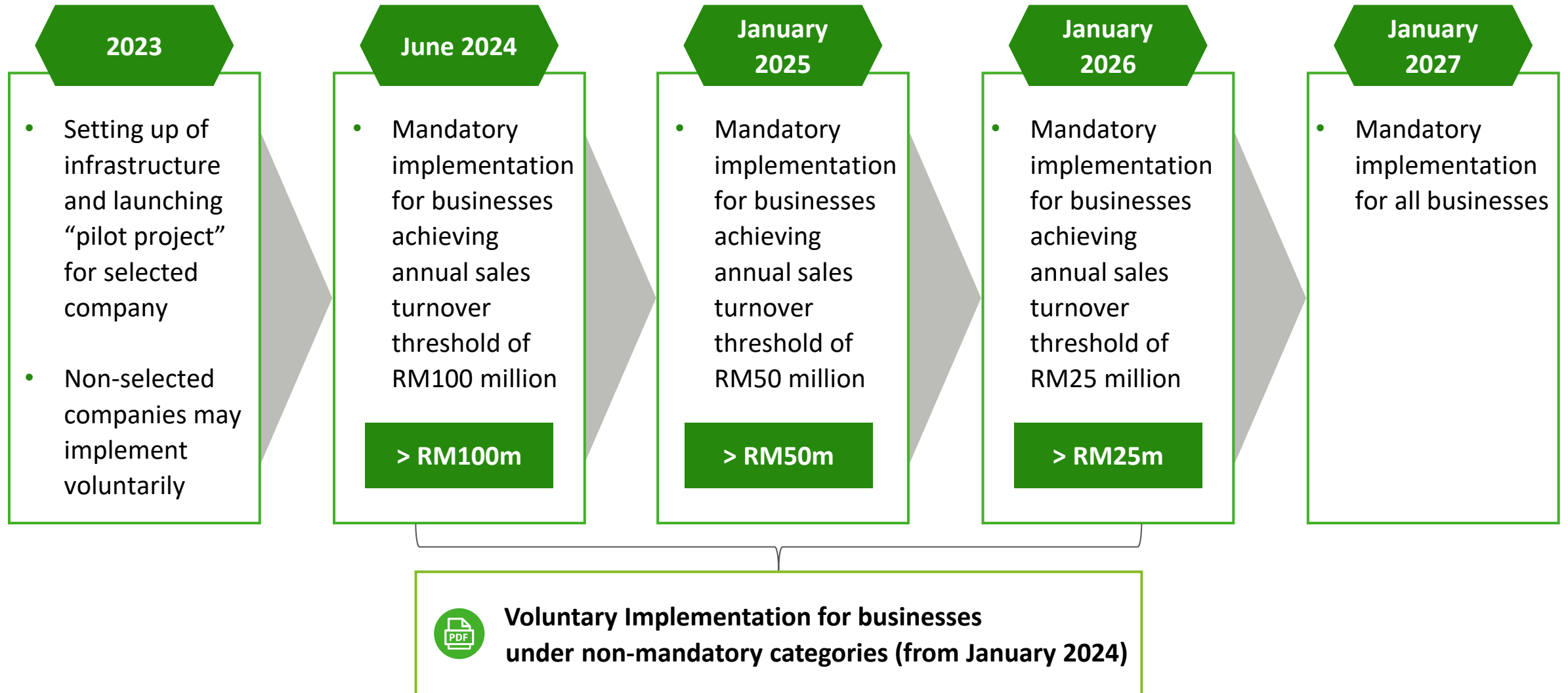
- Possible introduction of CGT on disposal of **unlisted shares** by **companies** at a **lower tax rate** beginning 2024.

Potential Implications

- RPC under Real Property Gains Tax Act 1976?
- Dispute between Inland Revenue Board (IRB) and taxpayer on capital gains vs. revenue income?
- No disruption to capital market?
- Increase in complications to Malaysian tax system?
- Double Tax Agreement (DTA)?
- Significant increase in tax revenue?

Tax Administration- Empowering Tax administration Initiatives

E- invoicing Implementation in Stages



Tax Administration

Tax Identification Number

Year 2023

Automatic assignment of Tax Identification Number (“TIN”) to citizen or permanent resident attaining the age of 18 years old with effect from year 2023.

Phase 2

TIN is mandatory to be used for stamping of the following documents and instruments:

- Transfer of property
- Transfer of shares
- Transfer of business

Others

TIN will be used in the following:

- Financial transactions and banking institutions
- Business invoices

Voluntary Disclosure Program (IRB)

Special Voluntary Disclosure Program (SVDP) Introduced Previously

SVDP was introduced in Budget 2019 offering the following reduced penalty rates:

Disclosure and Settlement Period	Penalty Rate
3 November 2018 to 31 March 2019 (extended to 30 June 2019)	10%
1 April 2019 to 30 June 2019 (extended to 30 September 2019)	15%

Participation	286,482
Collection	RM7.88 billion



The IRB will reintroduce a voluntary disclosure program. **100% penalty waiver** will be granted for voluntary disclosures from **1 June 2023 to 31 May 2024** (excludes those currently under audit or investigation).

Examples of errors for disclosure:

- Income (e.g. taxability, classification, timing)
- Expense (e.g. deductibility, classification, timing)
- Tax incentives (e.g. conditions, computation method)
- Withholding taxes

Corporate Tax

Review of Income Tax Treatment for Micro, Small and Medium Enterprises

Chargeable Income	Current Tax Rate	Proposed Tax Rate
First RM150,000	17%	15%
RM150,001 to RM600,000	17%	17%
RM600,001 and above	24%	24%

Savings up to RM3,000

Effective
YA 2023

Proposed additional conditions for reduced tax rates

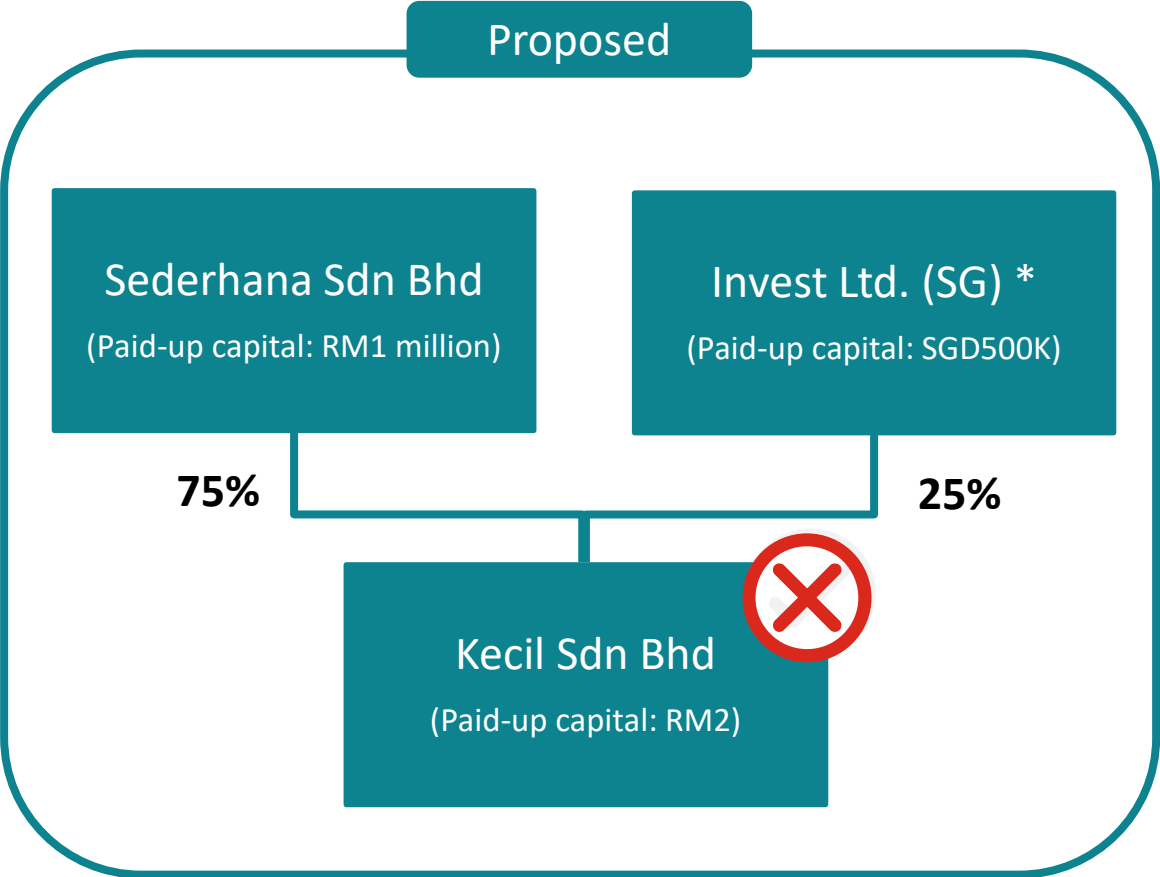
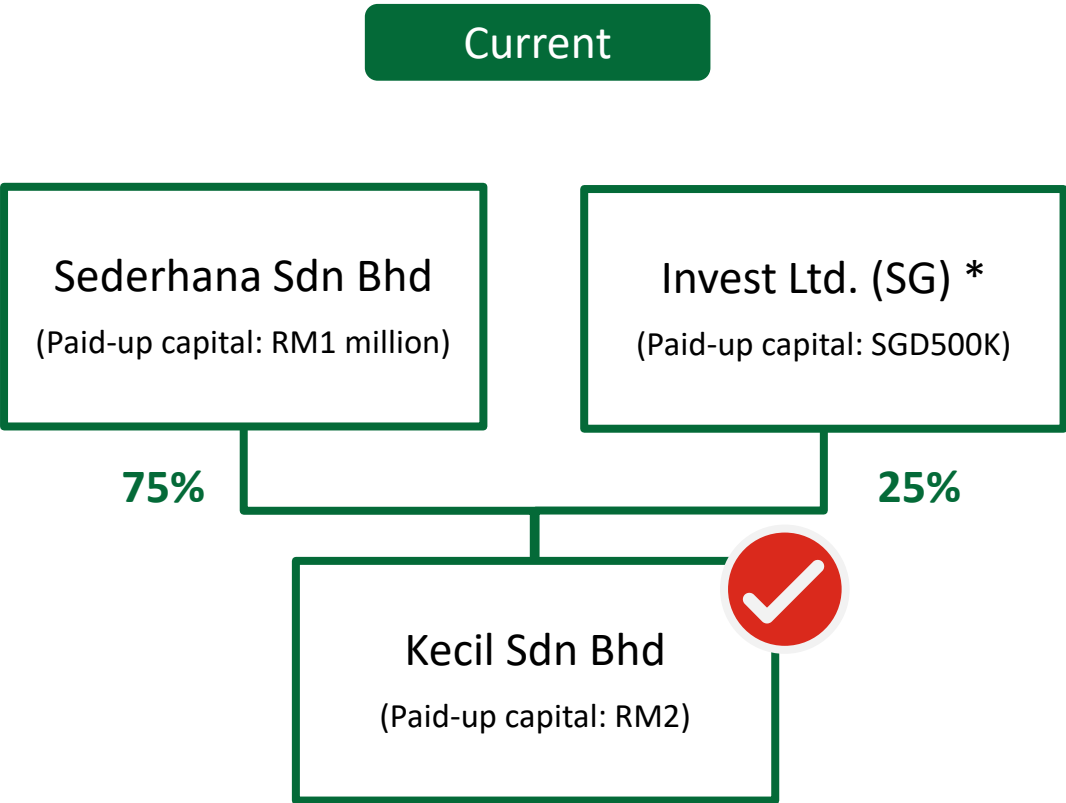
The following taxpayers are not eligible for the reduced tax rates:

- Company with more than 20% of its paid-up capital **owned directly or indirectly by a company incorporated outside Malaysia or non-Malaysian citizens.**
- Limited liability partnership with more than 20% of its capital contribution is contributed directly or indirectly by company incorporated outside Malaysia or non-Malaysian citizens.

Corporate Tax

Review of Income Tax Treatment for Micro, Small and Medium Enterprises

Illustration



Note (*): The company is incorporated in Singapore

Corporate Tax

Definition of “Plant”

Current

Paragraph 70A, Schedule 3:

In this Schedule, “plant” means an apparatus used by a person for carrying on his business but does not include:

- a building;
- **an intangible asset;** or
- any asset used and that functions as a place within which a business is carried on.

Proposed

“Plant” means an apparatus used by a person for carrying on his business but does not include:

- a building;
- any asset used and that functions as a place within which a business is carried on; or
- **any asset prescribed by the Minister.**

Effective

YA 2023

Corporate Tax

Withholding Tax for Agent, Dealer or Distributor (“ADD”)

Current

Tax deduction on payments made to ADD must be remitted to the Director General of Inland Revenue Board (“DGIR”) within 30 days after the payment is made.

Proposed

Tax deduction on payments made to ADD in a calendar month , shall be remitted to the DGIR not later than the last day of the following month.

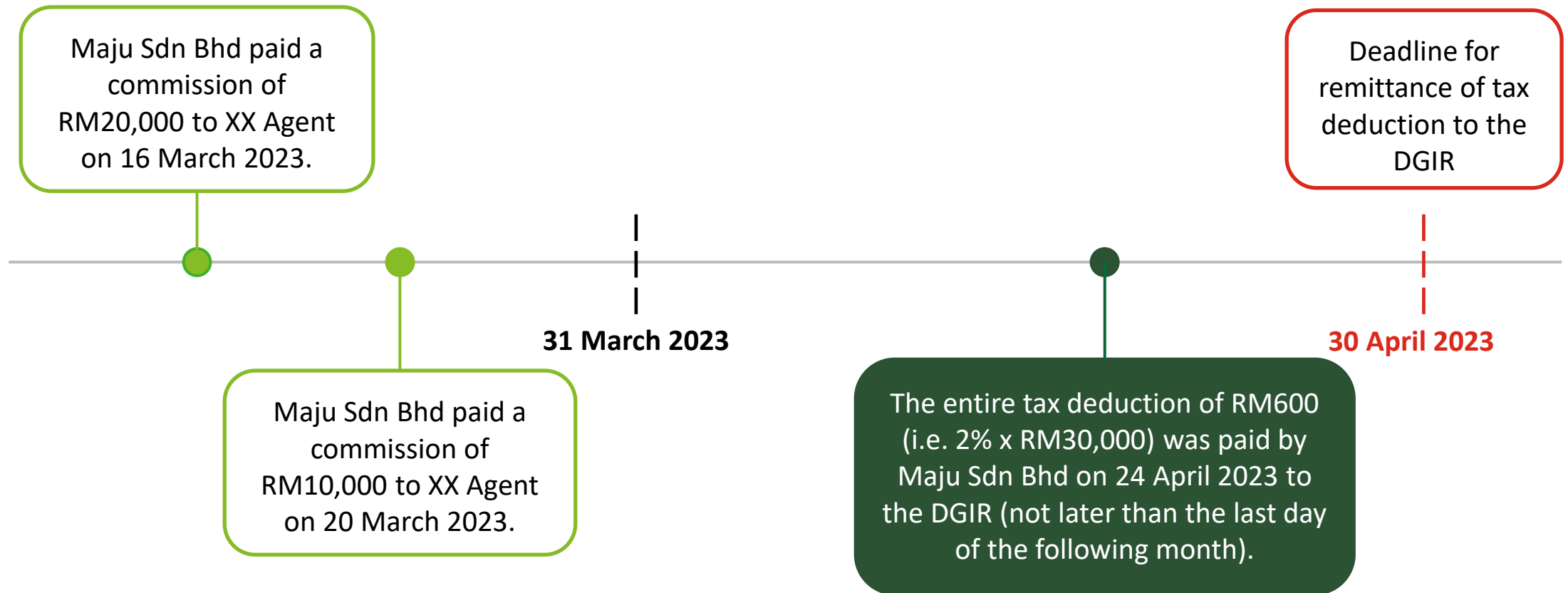
Effective

1 January 2023

Corporate Tax

Withholding Tax for Agent, Dealer or Distributor (“ADD”) (cont’d)

Illustration



Corporate Tax

Relief Other Than in Respect of Error or Mistake under Section 107D

Current

Application for relief (other than error or mistake) is only allowed for withholding tax made for non-resident that is not due to be paid as follows:

- Contract payment
- Interest and royalty
- Public entertainer
- Special classes of income
- Other income

Proposed

The expansion on the scope of relief under Section 97A and 131A includes timely payments made by the paying company to agent, dealer or distributor (“ADD”)



Effective

1 January 2023

Corporate Tax

Relief Other Than in Respect of Error or Mistake under Section 107D (cont'd)

Example:

Details of commission paid by Maju Berhad (MB) to its Agent based on the sales report received on 30 September 2023:

Date of commission paid to the Agent	30 Jun 2024
Total commission	RM600,000
Tax deduction amount under Section 107D (2% x RM600,000)	RM12,000
Date of withholding tax remitted to DGIR	31 July 2024
Account closing date of MB	31 October 2023
Deadline to submit the Income Tax Return Form ("ITRF")	31 May 2024

Corporate Tax

Relief Other Than in Respect of Error or Mistake under Section 107D (cont'd)

Example (cont'd):

ITRF for YA 2023
submitted on
31 May 2024

Commission paid to
Agent on
30 June 2024

Tax deducted under
Section 107D and paid
to DGIR on
31 July 2024



Maju Berhad is eligible to apply for relief under Section 97A / Section 131A in respect of tax deduction made under Section 107D for the commission paid of RM600,000.

Tax incentives

Tax Incentives

Tax Deduction for Sponsorship of Smart Artificial Intelligence (AI)-Driven Reverse Vending Machine

Current

Tax deductions under Section 34(6)(h) of the ITA can be given to any relevant person on provision of services, public amenities and contributions to a charity or community project as follows:

- Education;
- Health;
- Housing;
- Conservation or preservation of environment;
- Enhancement of the income of the poor;
- Infrastructure;
- Information and communication technology; or
- Maintenance of a building designated as a heritage site.

Proposed

Tax deduction under Section 34(6)(h) of the ITA extended to cover donations or sponsorships of Smart Artificial Intelligence (AI)-Driven Reverse Vending Machine.

Eligible taxpayers:

- Companies; and
- Other than companies (individuals, partnerships, trusts, and cooperatives that have business income)



Effective

For contributions/sponsorship and applications received by MOF from 1 April 2023 until 31 December 2024

Tax Incentives

Tax Incentive for Company Renting Non-Commercial Electric Vehicle

Current

Companies renting non-commercial motor vehicles, including electric vehicle (EV) are given tax deduction under Section 39(1)(k), Income Tax Act 1967 as follows:

- i. Cost of new vehicle not exceeding RM150,000, the maximum rental amount allowed for tax deduction is limited up to RM100,000; and
- ii. Cost of new vehicle exceeding RM150,000 or used vehicle, the maximum rental amount allowed for tax deduction is limited to RM50,000.

Proposed

Maximum tax-deductible rental expense for non-commercial EV is increased to RM300,000



Effective

YA 2023 to YA 2025

Tax Incentives

Tax Incentives for Manufacturer of Electric Vehicle Charging Equipment

Proposed

Income tax exemption of 100% on statutory income from the year of assessment 2023 to the year of assessment **2032**.

Note: Companies that make investments after the year of assessment 2023 are eligible to enjoy the remaining exemption period only.

or

Investment Tax Allowance of 100% for a period of 5 years and can be set-off against up to 100% of the statutory income for each year of assessment.



Effective

For applications received by the Malaysian Investment Development Authority (MIDA) from 25 February 2023 until 31 December 2025.

Tax Incentives

Tax Incentives for Carbon Capture and Storage

Proposed

CCS comprises of 3 activities as follows:

- carbon capture;
- transportation of captured CO₂; and
- underground or sea bed carbon storage.

CCS Activities	Income Tax Exemption ¹		Investment Tax Allowance ¹			Tax Deduction ²
	Statutory Income	Incentive Period	Qualifying capital expenditure	Set off against Statutory Income	Incentive Period	
In-house	N/A	N/A	100%	100%	10 years	Allowable pre-commencement expenses within 5 years from date of commencement of operation
Service provider ³	70%	10 years	100%	100%	10 years	N/A
Service recipient	N/A	N/A	N/A	N/A	N/A	Fees incurred for use of services

1. For applications received by Ministry of Finance from 25 February 2023 until 31 December 2027.
2. Tax deduction can be claimed through the Income Tax Return Form from the year of assessment 2023 until the year of assessment 2027.
3. The service provider can only apply either investment tax allowance or income tax exemption.

Tax Incentives

Review of Tax Incentives for BioNexus Status Company

	Income Tax Exemption			
	Current		Proposed	
	% of Statutory Income	Incentive Period	% of Statutory Income	Incentive Period
New business	70%	10 years	100%	10 years
Existing business (expansion project)	70%	5 years	100%	5 years



Effective

Extended for another 2 years for applications received by Malaysian Bioeconomy Development Corporation from 1 January 2023 until 31 December 2024.

Tax Incentives

Tax Deduction on Cost of Listing in Bursa Malaysia

Current

- ✓ Tax deduction on cost of listing for:
 - Technology-based companies listed on Access, Certainty, Efficiency (“ACE”) Market
 - MSMEs listed on Leading Entrepreneur Accelerator Platform (“LEAP”) Market
- ✓ Tax deduction up to RM1.5 million from YA 2020 to 2022 on the following expenses:
 - Fees to authorities;
 - Professional fees; and
 - Underwriting, placement and brokerage fees

Proposed

Extended for a period of **3 years**

Scope of tax deduction be **expanded** to include technology-based companies listed on **Bursa Main Market**



Effective
YA 2023 to YA 2025



Tax Incentives

Tax Deduction on Issuance Cost of Sustainable and Responsible Investment (“SRI”) Linked Sukuk

Current

Tax deduction is allowed on the cost of issuance or offering of a SRI Sukuk **approved** or **authorized by**, or **lodged with** the Securities Commission Malaysia (“SC”) from YA 2016 to YA 2023

Proposed

Tax deduction for expenditure incurred on the issuance of SRI-linked Sukuk that is approved or permitted or deposited with the SC for a period of **5 years**.



Effective

YA 2023 to YA 2027



Extension of Tax Incentives

Aerospace Industry



Companies in Malaysia undertaking high-value activities as follows:

- Manufacturing or assembly of systems, devices, parts or components
- Maintenance, repair and overhaul for aircraft systems, devices, parts or components
- Engineering and design / services

New company

- Income tax exemption of 70% - 100% for a period between 5 to 10 years
- Investment Tax Allowance of 60% - 100% for a period of 5 years
 - ✓ set-off against 70% - 100% of statutory income for each YA

Existing company

- Investment Tax Allowance of 60% for a period of 5 years
 - ✓ set-off against 70% - 100% of statutory income for each YA

Proposed

Extended for a period of **3 years**



Effective

For applications received by MIDA from 1 January 2023 until 31 December 2025

Tax Incentives

Extension of Tax Incentives for Manufacturing Sector that Relocates its Operation to Malaysia

Current

New company – 0% Tax Rate

- Capital investment between RM300 million to RM500 million for a period of 10 years; or
- Capital investment > RM500 million for a period of 15 years

Existing company

- 100% Investment Tax Allowance on QCE incurred within 5 years and
 - ✓ set-off against 100% of the statutory income

Non-citizen individual holding key position (C-Suite)

- Tax rate of 15% for a period of 5 years

Proposed

- Extend the tax incentive given to manufacturing companies that relocate to Malaysia
- Encourage creation of high value jobs in Malaysia



Effective

For applications received by MIDA from 1 January 2023 until 31 December 2024

Tax Incentives

Enhancement of Accelerated Capital Allowance (“ACA”) in Manufacturing, Services and Agriculture Sector

Current

Qualifying capital expenditure (“QCE”) incurred by manufacturing and services companies are given the following tax incentives:

- **Category 1:** Labour-intensive industry (rubber, plastic, wood, and textile products)
 - ✓ 100% ACA for automation equipment on the 1st RM4 million for QCE incurred and can be fully utilised within 1 year
- **Category 2:** Industries other than Category 1 (including services sector)
 - ✓ 100% ACA for automation equipment on the 1st RM2 million for QCE incurred and can be fully utilised within 1 year
- For applications received by Malaysian Investment Development Authority (“MIDA”) until 31 December 2023



Proposed

- Scope of automation to include the adaptation of Industry 4.0 elements;
- Scope of tax incentive is expanded to include agriculture sector; and
- Capital expenditure threshold for categories 1, 2 and agriculture be aligned and increased up to RM10 million.



Effective

For applications received by MIDA and Ministry of Agriculture and Food Security (“MAFS”) from 1 January 2023 until 31 December 2027

Corporate Tax

Special Tax Deduction for Expenditure on Malaysian-Made Handicraft

Current

- ✓ Capital allowances given to first purchase of qualifying asset (Schedule 3 of the ITA).
- ✓ Tax deduction given to subsequent purchase for replacement of the asset valued < RM2,000 (Section 33 of the ITA).



Proposed

- ✓ Special tax deduction up to RM150,000 for expenditure incurred by hoteliers on qualified Malaysian-made handicraft purchased from local handicraft entrepreneur registered with the Malaysian Handicraft Development Corporation.
- ✗ Tax deduction does not apply to expenditure that has been claimed under Section 33 or Schedule 3 of the ITA.






Effective

For qualifying handicraft products expenditure incurred from 1 January 2023 until 31 December 2025




Extension of Tax Incentives

Food Production Project

Current

-  A company **investing** in a subsidiary company engaging in new food production project:
 - ✓ Tax deduction equivalent to the amount of investment made
-  A company **engaging** in food production project:
 - ✓ New project – 100% income tax exemption on statutory income for 10 YAs
 - ✓ Expansion project for existing company – 100% income tax exemption on statutory income for 5 YAs
-  For applications received by the Ministry of Agriculture and Food Security (“MAFS”) from 1 January 2021 until 31 December 2022

Proposed

-  Scope of tax incentive is expanded to include agricultural projects based on Controlled Environment Agriculture; and
-  Application period for tax incentives will be **extended for 3 years.**
-  **Effective**
For applications received by MAFS from 1 January 2023 until 31 December 2025

Tax Incentives

Chicken Rearing in Closed House System

Current

Reinvestment allowance (“RA”) for a period of 15 consecutive years until YA 2010 was given to chicken and duck rearers who shifted from opened house system to closed house system.

Proposed

Qualifying capital expenditure incurred from YA 2023 until YA 2025 is given the following tax incentives:

- Accelerated Capital Allowance (“ACA”) 100%; and
- Income tax exemption of 100%.



Effective

YA 2023 to YA 2025



Tax Incentives

Income Tax Incentive for Charitable Hospitals



Private hospital **OR** medical center carrying on charitable activities are eligible to claim **either one** of the following tax incentives:

A

Existing treatment under Charitable Hospital - Subsection 44(6) of the Act

- Income tax exemption limited to amount of donation received
- Tax deduction up to 10% of aggregate income is given to cash donation made by donor to *tabung kebajikan hospital*

B

Tax Incentive as a project of national interest under Subsection 127(3A) of the Act

- Charitable hospital (registered as company limited by guarantee) is given an income tax exemption equivalent to the amount of expenditure incurred for charity purposes for a period of 5 YAs
- Establishment of a committee to consider the application relating to the above tax incentive



Effective


Not stated


Extension of Tax Incentives


Child Care Allowance and Cost of Establishing Child Care Centres Within Offices


Current


Proposed

-  Provision and maintenance of child care centre
 - Tax deduction on expenses incurred by the employer for the provision and maintenance of a child care centre provided for the benefit of the employees

-  Child care allowances
 - Tax deduction on child care allowances paid by the employer to his employees who have children

-  Further tax deduction
 - Further tax deduction on expenses incurred by employer in respect of the provision and maintenance of child care centres + child care allowances paid to employees (i.e. in addition to any deduction mentioned above)

-  To support working mothers, the Government shall examine the need of enforcing mandatory establishment of such child care facilities if response from the employers are lacking.

-  **Effective**
Not stated

Tax Incentives

Expansion of Scope of Tax Deduction for the Employment of Inmate and Ex-Inmate of Henry Gurney School and Institutions under Social Welfare Department



Employer

Current

- Further tax deduction are given to employers on the employment of senior citizens, ex-drug dependants, convicts categorised as parolees and supervised persons from YA 2019 to YA 2025.
- Conditions:
 - employment is on a full-time basis;
 - monthly remuneration ≤ RM4,000;
 - employer and employee are not the same person; and
 - employer is not a relative of the employee

Proposed

- Expansion of scope of further tax deduction given to employers that employ senior citizens and ex-convict to include remuneration paid to **inmate** and **ex-inmate of**:
 - Henry Gurney School under Malaysian Prison Department; and
 - Protection and rehabilitation institution and non-government care centres registered under the Social Welfare Department.



Effective

YA 2023 to YA 2025

Tax Incentives

Project with Nasional Interest Approved by the Minister

- Contributions to Tabung Komuniti Filem and National Film Development under FINAS will be given tax deduction up to 10% of aggregate income.
- Total contribution allowed is restricted to RM10 million.



Effective

1 January 2023

Tax Incentives

Sports Development

Tax deduction of up to 10% of aggregate income be given to individuals or companies that contribute to non-profit organisations that implement sports development program at the grassroots level.



Tax deduction for employers who hire former national athletes.

Stamp Duty

Stamp Duty

Extended period of Stamp Duty Exemption on Restructuring or Rescheduling of Loan / Financing Agreement

Full stamp duty exemption on:

Restructuring or rescheduling of a loan / financing agreement between a borrower or customer and a financial institution executed from 1 January 2022 until 31 December 2022 is **subject to the following conditions:**

- ✓ The existing instrument of loan / financing agreement has been duly stamped under item 22 or 27 of the First Schedule to the Stamp Act 1949; and
- ✓ The restructuring or rescheduling of loan / financing agreement does not contain the element of additional value to the original amount of loan or financing under the existing instrument of loan / financing agreement.

Extended for 2 years



Effective

For restructuring or rescheduling of loan / financing agreement executed from 1 January 2023 until 31 December 2024.

Stamp Duty

Instrument under items 27(d) & 32(c) of First Schedule to the Stamp Act 1949

Current

- Security instrument
 - Mortgage obtained from financial institutions licensed under the Financial Services Act 2013 and Islamic Financial Services Act 2013

Duty: RM10

Proposed

- The scope is expanded to security instrument obtained from other government bodies / agencies that provide financing to Micro, Small and Medium Enterprises (“MSME”)

Duty: RM10



Effective

Upon coming into operation of the Finance Act

Stamp Duty

Initiatives for First Time Home Buyers



To encourage home ownership, it is proposed that stamp duty exemption be given for first time home buyers on transfer documents and loan agreements.

Value of 1st residential home: Stamp duty exemption

RM500,000 and below	100%
Over RM500,000 to RM1 million	75%



Effective

Not stated

Stamp Duty

Stamp Duty Treatment for Transfer of Property by Way of Love and Affection

Instrument of Transfer of Property Executed between	Stamp Duty Rate	
	Current	Proposed
Husband and wife	100% exemption	100% exemption
Parents and children	50% remission	<ul style="list-style-type: none">• First RM1million of the property value – 100% exemption• Any amount in excess of RM1million – 50% remission <i>Condition: Recipients must be Malaysian citizens</i>
Grandparents and grandchildren	Ad valorem	



Effective

For instrument of transfer of property executed from 1 April 2023

Stamp Duty

Stamp Duty for Educational Loan / Scholarship Agreement

Educational Loan / Scholarship Agreement	Current	Proposed
Tertiary education level (diploma and above) at higher learning institutions	RM 10	RM 10
Other levels, including certificate (education/skills/professionals) in any educational and training institutions	Ad valorem	



Effective

For educational loan / scholarship agreement executed from 1 June 2023.



Stamp Duty

Online Stamping System

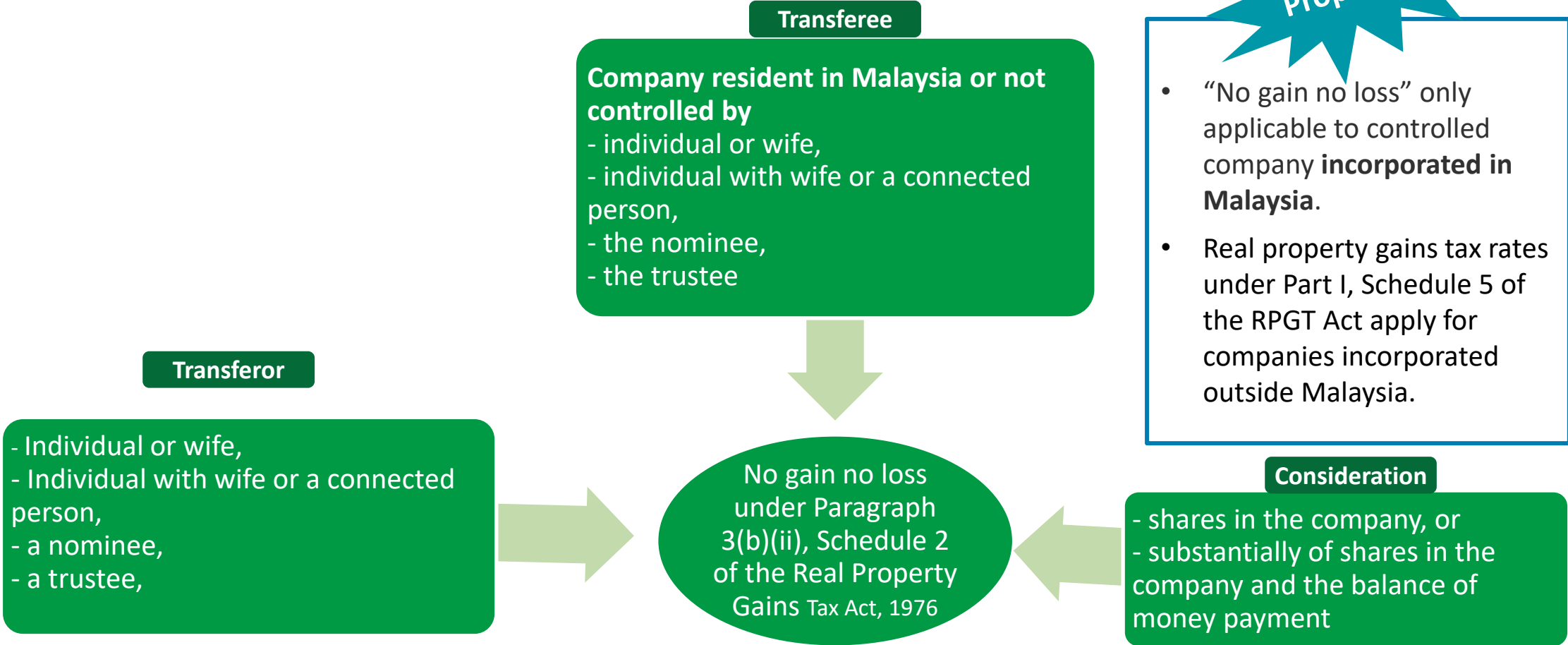
By 2024, all adjudications of instrument and stamp duty payments to be done fully online through the Stamp Assessment and Payment System (STAMPS).

The use of Revenue Stamps (Setem Hasil) and cheque for stamp duty payment will be abolished from 1 January 2024.

Real Property Gains Tax

Real Property Gains Tax

Transfer of Assets to A Controlled Company



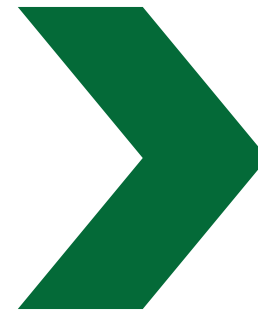
Effective

Upon coming into operation of the Finance Act

Real Property Gains Tax

Transfer of Real Property in Divorce Cases Due to Court Order


Current	
Transfer of real property between former spouses due to divorcement or dissolution of marriage by decree or court order is subject to the following tax rates under Part 1 of Schedule 5:	
Category of Disposal	Tax Rate
Within 3 years after date of acquisition	30%
In 4 th year after date of acquisition	20%
In 5 th year after date of acquisition	15%
In 6 th year after date of acquisition	NIL



Proposed

Disposal price = Acquisition price
("No gain, no loss")

Per Subsection 3(1)(b)(i) of Schedule 2

 **Effective**
Upon coming into operation of the Finance Act

Petroleum Income Tax

Petroleum Income Tax

Filing of Income Tax Return Form and Amended Return Form



Filing of Form CPP, Form CPE and Amended Return Form CPP via e-filing is mandatory.



- New provision to be introduced to allow revision of:
 - i. the amount of exploration expenditure incurred during the exploration period; or
 - ii. any particulars required by the Director General.
- The Amended Return Form CPE must be submitted to the Inland Revenue Board within six months from the due date for submission of Form CPE.



Effective
YA 2023

Tax Administration

Tax Administration

Mandatory e-Filing of Income Tax Return Form and Amended Return Form

Compulsory submission of return form via electronic transmission:

Form	Category
Income Tax Return Form	All
Amended Return Form	Company, PLT, Trust Body and Co-operative
Return Form of Employer (Form E)	PLT, Trust Body and Co-operative



Effective
YA 2024

Tax Administration

Tax Instalment Payment (For Deemed Assessment) under Subsection 103(3) and 103(7) of the ITA

Current

The DGIR is empowered to allow payment of tax by way of instalments for formal assessment raised under Subsections 90(3), 91, 92, 96A or review under Subsection 101(2).



Proposed

Allow balance of tax on deemed assessment to be paid in instalments.



 **Effective**
YA 2023

Tax Administration

Amendment to Instalment Payments (CP500)

Current

Any person other than a company, trust body, co-operative society or limited liability partnership is allowed to apply to the Inland Revenue Board to amend the instalment payments (CP500) not later than 30 June of the relevant year of assessment.

Proposed

Allow application to amend the instalment payments not later than 30 June and / or 31 October of the relevant year of assessment.



Effective
YA 2023



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