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Deloitte's Panel of Partners - From left to right: Tham Lih Jiun, Government Grants & Incentives Leader; Thin Siew Chi, Business Tax Executive Director; Tan Hooi Beng, Deputy Tax Leader; Vrushang Sheth, Transfer Pricing Executive Director; Theresa Goh, Transfer Pricing Executive Director; Mohd Fariz Mohd Faruk, Business Tax Executive Director; Toh Hong Peir, Oil, Gas and Chemicals Sector Leader; Chee Ying Cheng, Global Employer Services Executive Director; and Chia Swee How, Real Estate Tax Leader.

Post-budget 2022 Q & A

1 What are your thoughts on the proposed *Cukai Makmur*?

While the intention is to tax companies that have done well despite the pandemic, it remains to be seen how much tax revenue can be generated from this proposal, considering more than 90% of business establishments in Malaysia are SMEs. As this proposal affects all companies, it appears that the oil palm plantation sector, that is already subject to the Windfall Profit Levy, will be caught too. Perhaps, the proposal to increase the threshold of crude palm oil (CPO) prices for imposition of this levy is intended to provide some relief to this sector. On the flip side, *Cukai Makmur* could incentivise large corporates to increase business spending and accelerate capital investment, in an effort to reduce taxable profits below the threshold. The proposed extension of various incentives such as the special reinvestment allowance would be a strong influence to encourage corporates to invest more.

2 What is the rationale behind imposing sales tax on low-value goods (LVG)?

Goods that are imported into Malaysia by air that is below RM500 in value are currently not subject to sales tax. Effectively, local consumers who buy goods online from international sellers are enjoying tax free purchases. This puts local sellers at a disadvantage. In line with moves seen regionally and globally, the Government is now seeking to collect tax on the import of such goods. This ensures that there is equal treatment for goods acquired from both local and foreign sellers.

One of the reasons why tax is not collected on LVG is because the cost of doing so at the port of import is difficult and does not commensurate with the tax that could be collected. It is possible that the Government would adopt alternative methods such as requiring foreign sellers or e-commerce platform operators to collect tax at the point of sale and remit this to Customs.

3 Are there any additional details on the Indirect Tax Special Voluntary Disclosure Program (SVDP)?

The SVDP will be introduced in phases, with a 100% penalty remission proposed for the first phase and a 50% penalty remission for the second phase. Tax remissions will also be considered for specific cases.

Although certain to cover Sales Tax and Service Tax, it is still unclear if it would also cover the legacy Goods and Services Tax, as well as customs and excise duties and other indirect taxes administered. We anticipate Customs will release more information on the procedures, timing, and other details soon.

4 It was announced delivery services would now be subject to 6% service tax. Does this apply to all types of delivery services?

Currently, express delivery services for documents and parcels not exceeding 30kg by a licensed service provider under the Postal Services Act 2012 are subject to service tax, while unlicensed service providers are not. The proposed change would apply service tax to all forms of express delivery services regardless of license. The only exceptions are food and beverage delivery services and logistics services. Consequently, the broad range of delivery services including those provided in relation to the purchase of goods through online websites and platforms would be within the scope of the tax.

5 Budget 2022 proposes some measures to allow businesses to amend their estimated income tax payable. Would this apply to all companies?

The proposal to allow all businesses to revise the estimated income tax payable in the 11th month before 31 October 2022 is a welcomed relief. It offers businesses some flexibility in managing their tax estimates and cash flow. However, the cut-off on 31 October 2022 would mean that companies closing their financial year on 31 December 2022 will not be able to benefit from this amendment as their 11th month of the basis period will fall after 31 October 2022. As many companies in Malaysia adopt a December financial year end, this proposal may not provide much relief.

6 I am a Malaysian citizen and I signed a Sales and Purchase Agreement (SPA) on 1 November 2021 to dispose a residential property that I have acquired 10 years ago. Would I be eligible for the Real Property Gains Tax (RPGT) exemption?

The proposed 0% RPGT rate for disposals in the 6th year after the date of acquisition will apply to disposals from 1 January 2022. As your SPA was signed on 1 November 2021, you are not eligible for the 0% RPGT rate. However, if your SPA is conditional upon obtaining approval from the Government or State Government, the date of disposal shall be the date when such condition is satisfied. Should the condition be satisfied after 1 January 2022, you should be eligible for 0% RPGT rate. Please also take note of the RPGT exemption on one private residence if you have not elected to do so for prior disposals (if any).

7 I am a Malaysian citizen and tax resident. I have been paying Singapore tax on rental income from a factory that I own. Will my rental income be subject to tax in Malaysia?

Effective 1 January 2022, foreign-sourced income remitted into Malaysia would be subject to Malaysian tax. Since you are a tax resident in Malaysia and there is an incidence of Singapore tax, the Malaysia-Singapore double tax agreement (DTA) will come into play. Malaysia, being the country of residence will have the right to tax but since the factory is located in Singapore, the DTA also allows Singapore to do so. Given the double taxation, Malaysia, being the country of residence would grant a foreign tax credit based on a prescribed formula that takes into account the taxes paid in Singapore, against the Malaysian tax payable. You will still need to pay the net tax to the Malaysian Government.

8 Is share trading subject to higher stamp duty moving forward?

The Government has abolished the RM200 stamp duty cap on contract notes for trading of listed shares / marketable securities, and increased the rate to 0.15% from 0.1%. This would increase cost of shares and securities trading especially for high volume transactions. A quick comparison between the new proposal and existing provisions indicates that trading of listed shares with transaction values above RM134,000 will incur higher costs from 1 January 2022.

9 I heard about tax relief for individuals on costs incurred for self-funded booster vaccination. Tell me more.

Based on the existing tax law, the tax relief for medical expenses includes RM1,000 for vaccinations such as the COVID-19 vaccination. Budget 2022 proposes individual tax relief on costs associated with self-funded booster vaccines. Pending further details from the Government, it is hoped that the self-funded booster vaccination is given an additional relief.

10 I intend to purchase a new laptop and a printer next year. Will I be able to claim a relief for this new purchase in my 2022 tax return?

Budget 2022 announced that the special individual income tax relief of up to RM2,500 in respect of the purchase of mobile phone, personal computer, and tablet will be extended for another year until 31 December 2022. However, as the printer is considered a computer peripheral and not a personal computer, the special tax relief will not apply. Likewise, this cost is not claimable under the lifestyle tax relief.

Deloitte was recognised as the Malaysia Tax Firm of the Year 2021 and Transfer Pricing Firm of the Year 2021 by the International Tax Review. Join us at the Deloitte TaxMax webinar on 23 - 24 November where we will unpack the 2022 National Budget and more. Visit www.deloitte.com/my/taxmax2021 to find out more.