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Pre-budget 2021 Q & A

Deloitte's Panel of Partners - From left to right (standing) - Chee Pei Pei, Private Wealth Services Leader; Thin Siew Chi, Government Grants & Incentives Executive Director; Ng Lan Kheng, Business Tax Executive Director; Toh Hong Peir, Oil & Gas Sector Leader; Subhabrata Dasgupta, Transfer Pricing Leader; (seated) Tan Eng Yew, Indirect Tax Leader; Tham Lih Jiun, Government Grants & Incentives Leader; Chee Ying Cheng, Global Employer Services Executive Director; Theresa Goh, Transfer Pricing Executive Director and Chow Kuo Seng, Business Tax Audit & Investigation Leader.

1. Will vacancy tax be introduced to address the issue of overhang properties?

Although vacancy tax may address this issue by controlling the supply of properties, this may not be the right time as property developers are also suffering from COVID-19. This may also be counter-productive as the property sector plays a significant role in providing employment and create spin offs in other economic activities. Instead of penalising developers, a more palatable approach is to review development approvals to ensure properties are developed based on proper study of the market demand and attracting more foreign investments into Malaysia so that existing properties can be taken up.

2. The tax authorities recently sent me a letter requiring me to furnish a net worth analysis. What is the purpose of such request?

A net worth analysis is a tool used by the Inland Revenue Board of Malaysia (IRB) to ascertain if an individual has under reported his/her income. As a general rule, income earned would either be spent or invested. If the amount spent or invested exceeds the income earned, it is prima facie an indication that there may be under-reported income.

The individual must then explain the reason for the shortfall. This shortfall could arise from dividends, capital gains, or foreign sourced income which is not visible to the IRB. Contentious points that may arise are whether the receipts are indeed capital gains or foreign sourced.

In preparing the net worth analysis, the individual should remember that the IRB may have access to certain data, (e.g. accounts that the individual have with financial institutions overseas, remittances made overseas or acquisitions of real estates and vehicles). These need to be taken into account and be supportable by documentation.

3. In this current economic climate, what can an ordinary rakyat look forward to in the 2021 budget to alleviate their financial burden?

Certain tax relief measures can be introduced to increase the disposable income of the rakyat. We propose the Government consider the following:

- Introducing a one-off special relief for taxpayers to partially defray any additional expenses incurred during this period (such as COVID-19 test, cost of acquiring face masks, hand sanitisers, etc) for self and family. A similar special relief of RM2,000 was announced for year of assessment (YA) YA2015 as part of the 2016 Budget recalibration.

- Tax relief for housing loan interest to encourage home ownership amongst Malaysians. A similar relief was provided in YA 2009 and, it would be timely for a refresh. It should be comparable with other countries in Asia (such as Hong Kong and Singapore) where similar tax reliefs and subsidies/grants are given to help their citizens to own homes.

4. With COVID-19, many employees are working from home. What are some measures the Government can implement to help employees who may have been financially impacted?

As work from home (WFH) becomes the new norm, many employees incur additional expenses without any reimbursement from employers while some may receive allowances or reimbursements from employers to facilitate this arrangement. Example of such expenses are electricity, internet charges, equipment, and furniture purchase.

Singapore and Australia have allowed additional WFH running expenses to be claimed as deduction, while New Zealand has allowed certain tax exemptions on COVID-19 related allowances or reimbursements.

We are hopeful that the Government would consider allowing employees to claim the expenses incurred for work purposes or to setup "home offices" as a deduction against their employment income for the year. Where COVID-19 related allowances or reimbursements are made by employers, tax exemptions could also be granted.

5. Would we expect more tax incentives to help SMEs and industries such as tourism and hospitality, impacted by the pandemic?

The measures announced under the PRIHATIN and PENJANA economic stimulus packages such as wage subsidy, rental deductions, and grants have been effective in helping businesses thrive in these challenging times. Although more cash subsidies would be welcome, we should also take into account the Government's ability to sustain them.

For tourism and hospitality industries, businesses may not pick up until the border is re-opened and they are expected to suffer losses for the next few years. International tourism will be the last sector to recover, with recovery possibly taking at least another 1-2 years. It will be helpful if the Government lifts the 7-year limit for these businesses to carry forward their losses to assist business recovery.

6. As a result of the loan moratorium, the timing of taxing interest income related to loans under the moratorium is deferred. My company is not a bank but we do provide loans to our related parties. Is my company eligible for the deferment of taxation on interest income?

The tax treatment for loans under moratorium is only applicable to banks. Other credit providers are not eligible. However, if your company is in the business of granting financing but not a bank from a licensing perspective, (e.g. car financing company, micro credit provider, etc) you may apply to the IRB for special consideration. For related party loans, you need to consider any transfer pricing implications. Intragroup financial assistance arrangement (e.g. treasury, loans, cash pools, and corporate guarantee) is an area of increasing scrutiny by IRB.

7. Many traditional businesses are transforming digitally and entering into the digital economy. Would we be expecting announcements to address tax issues arising from such changing landscape?

Various tax measures are being implemented in Malaysia because of the global Base Erosion Profit Shifting (BEPS) action plan initiatives spearheaded by the Organisation for Economic Co-operation and Development (OECD). Although Malaysia is not an OECD member, some key initiatives covered by the BEPS have been adopted, starting with the revisions to the Transfer Pricing Guidelines in July 2017. Some measures include the introduction of "digital service tax" on imported digital services as well as the widening of the definition of "royalty" payments which are subject to withholding tax, to include payments which are typical in the digital economy, and to align with technological advancements.

This is an opportune time for the Government to provide greater clarity in Budget 2021 with regard to the taxation of the digital economy in Malaysia, particularly in the areas surrounding withholding tax on royalty payments which have been the subject of much disputes, as well as profit attribution from a transfer pricing perspective. A review of the definition of royalty would be timely to ensure alignment with international practices.

8. Will Goods and Services Tax (GST) make a comeback?

In our view, the short answer should be Yes! - as a longer term tax policy solution, but at the right time and incorporating the learnings from the GST introduced previously.

The scope of Sales and Services Tax (SST) is narrow as only manufacturers, importers, and certain prescribed service providers are caught under the tax net. With the absence of a credit mechanism, the tax has a cascading effect and results in increased prices to end consumers. While the scope appears smaller, the types of services covered are consumed by businesses in general (e.g. professional, telecommunication, digital, and entertainment services). This increases the cost of doing businesses across a wide spectrum of industries and makes Malaysian exports uncompetitive.

On the other hand, GST is a more efficient tax regime. The key element is the input tax credit mechanism that removes to a large extent, the burden of tax to businesses. This promotes cost efficiencies to businesses, particularly exports. While GST is a broad based tax, basic necessities can be excluded from the tax net.

If GST were to make a comeback, some areas to improve would be to ensure prompt GST refunds and adopting a facilitative approach in interpreting and implementing the law to achieve policy objectives. Stringent enforcement of Anti-Profiteering is crucial to ensure the tax system is not abused for unreasonable gains.

Whilst GST is the way forward, we believe that the timing for reintroduction is equally important. The Government should make an announcement within a reasonable time before the reimplementation to ensure smooth transitioning for businesses.

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