



# **LAWS OF MALAYSIA**

**Act 785**

**FINANCE ACT 2017**

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# LAWS OF MALAYSIA

## Act 785

### FINANCE ACT 2017

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# LAWS OF MALAYSIA

## Act 785

### FINANCE ACT 2017

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Real Property Gains Tax Act 1976, the Labuan Business Activity Tax Act 1990 and the Goods and Services Tax Act 2014.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

#### CHAPTER I

#### PRELIMINARY

##### **Short title**

1. This Act may be cited as the Finance Act 2017.

##### **Amendment of Acts**

2. The Income Tax Act 1967 [*Act 53*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Real Property Gains Tax Act 1976 [*Act 169*], the Labuan Business Activity Tax Act 1990 [*Act 445*] and the Goods and Services Tax Act 2014 [*Act 762*] are amended in the manner specified in Chapters II, III, IV, V and VI respectively.

## CHAPTER II

## AMENDMENTS TO THE INCOME TAX ACT 1967

**Commencement of amendments to the Income Tax Act 1967**

3. (1) Sections 4, 6, 22, 23, 24 and 26, and paragraph 28(b) come into operation on the coming into operation of this Act.

(2) Section 5 and subparagraph 10(a)(i) are deemed to have effect from the year of assessment 2015.

(3) Sections 12, 13, 20 and 21, subparagraph 27(a)(iii), and paragraphs 27(b) and 29(e) are deemed to have come into operation on 30 June 2013.

(4) Paragraph 7(a) is deemed to have effect from 1 January 2010.

(5) Paragraph 7(b), sections 8 and 9, subparagraphs 10(a)(ii), (iii), (iv), (v), (vi), (vii) and (viii), paragraph 10(b), sections 11, 14, 15, 16 and 17, and subparagraphs 27(a)(i) and (ii), and paragraphs 29(a), (b), (c), (d), (f), (g) and (h) have effect for the year of assessment 2017 and subsequent years of assessment.

(6) Sections 18 and 25 come into operation on 1 January 2017.

(7) Section 19 has effect for the year of assessment 2019 and subsequent years of assessment.

(8) Paragraph 28(a) is deemed to have effect from the year of assessment 2016.

**Amendment of section 2**

4. Subsection 2(1) of the Income Tax Act 1967, which is referred to as the “principal Act” in this Chapter, is amended—

(a) in the definition of “Malaysia”—

(i) by inserting after the words “subsoil of the territorial waters,” the words “and the airspace above such areas,”; and

(ii) by inserting after the words “sovereign rights” the words “or jurisdiction”;

(b) by substituting for the definition of “public entertainer” the following definition:

‘ “public entertainer” includes—

(a) a compere, model, circus performer, lecturer, speaker, sportsperson, an artiste or individual exercising any profession, vocation or employment of a similar nature; or

(b) an individual who uses his intellectual, artistic, musical, personal or physical skill or character in,

carrying out any activity in connection with any purpose through live, print, electronic, satellite, cable, fibre optic or other medium, for film or tape, or for television or radio broadcast, as the case may be;’ and

(c) by substituting for the definition of “royalty” the following definition:

‘ “royalty” includes any sums paid as consideration for, or derived from—

(a) the use of, or the right to use in respect of, any copyrights, software, artistic or scientific works, patents, designs or models, plans, secret processes or formulae, trademarks or other like property or rights;

(b) the use of, or the right to use, tapes for radio or television broadcasting, motion picture films, films or video tapes or other means of reproduction where such films or tapes have been or are to be used or reproduced in Malaysia, or other like property or rights;

(c) the use of, or the right to use, know-how or information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

- (d) the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by—
  - (i) satellite; or
  - (ii) cable, fibre optic or similar technology;
- (e) the use of, or the right to use, visual images or sounds, or both, in connection with television broadcasting or radio broadcasting, transmitted by—
  - (i) satellite; or
  - (ii) cable, fibre optic or similar technology;
- (f) the use of, or the right to use, some or all of the part of the radiofrequency spectrum specified in a relevant licence;
- (g) a total or partial forbearance in respect of—
  - (i) the use of, or the granting of the right to use, any such property or right as is mentioned in paragraph (a) or (b) or any such knowledge, experience or skill as is mentioned in paragraph (c);
  - (ii) the reception of, or the granting of the right to receive, any such visual images or sounds as are mentioned in paragraph (d);
  - (iii) the use of, or the granting of the right to use, any such visual images or sounds as are mentioned in paragraph (e); or
  - (iv) the use of, or the granting of the right to use, some or all such part of the spectrum specified in a spectrum licence as is mentioned in paragraph (f); or
- (h) the alienation of any property, know-how or information mentioned in paragraph (a), (b) or (c) of this definition;’.

**Amendment of section 13**

5. Section 13 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The total amount of gross income referred to in subsection (1), where applicable, shall include any amount of output tax paid under the Goods and Services Tax Act 2014 in connection with the gross income which is borne by the employer.”.

**Amendment of section 15A**

6. Section 15A of the principal Act is amended—

(a) by substituting for the colon at the end of subparagraph 15A(iii) a full stop; and

(b) by deleting the proviso.

**Amendment of section 34**

7. Section 34 of the principal Act is amended—

(a) by deleting subsections (3A) and (3B); and

(b) in paragraph (6)(k)—

(i) by substituting for the words “Ministry of Information, Communication and Culture” the words “Minister charged with the responsibility for arts, culture or heritage”; and

(ii) in the proviso—

(A) by substituting for the word “five” the word “seven”; and

(B) by substituting for the word “two” the word “three”.

**Amendment of section 44****8.** Section 44 of the principal Act is amended—

(a) in subsection (6)—

(i) by inserting after the words “local authority or an institution or organization” the words “or a fund”; and

(ii) in the proviso, by substituting for the words “or organization” the words “, organization or fund”;

(b) in subsection (7), by inserting before the definition of “institution” the following definition:

‘ “fund” means a fund administered and augmented by an institution or organization in Malaysia for the sole purpose of carrying out the objectives for which the fund is established or held and that fund is not established or held primarily for profit;’;

(c) in paragraph (7A)(a)—

(i) by inserting after the word “funds” the words “or that of the fund approved under subsection (6)”;

and

(ii) in the proviso, by substituting for the words “or organization” the words “, organization or fund”;

(d) in paragraph (7B)(a), by substituting for the words “or organization” the words “, organization or fund”;

(e) in paragraph (7B)(b), by substituting for the words “or organization” the words “, organization or fund”; and

(f) in subsection (11B), by substituting for the words “or cost of contribution in kind made by the relevant person in the basis period for that year for any sports activity approved by the Minister or to any sports body approved by the Commissioner of Sports appointed under the Sports Development Act 1997 [Act 576]” the words “made by the relevant person in the basis period for that year for any sports activity approved by the Minister”.

**Amendment of section 45A**

9. Section 45A of the principal Act is amended—

(a) by renumbering the existing section 45A as subsection 45A(1);  
and

(b) by inserting after subsection (1) as renumbered the following subsection:

“(2) This section shall not apply where, in relation to paragraph (1)(b), the husband, other than a husband who is a disabled person, has an income which is derived from sources outside Malaysia and his gross income from those sources for a year of assessment is more than the amount of deduction allowed for a husband.”.

**Amendment of section 46**

10. Section 46 of the principal Act is amended—

(a) in subsection (1)—

- (i) in the proviso to paragraph (h), by substituting for the word “five” the word “six”;
- (ii) by deleting paragraph (i);
- (iii) by deleting paragraph (j);
- (iv) by deleting paragraph (l);
- (v) by deleting paragraph (m);
- (vi) in paragraph (n), by deleting the word “and” at the end of the paragraph;
- (vii) in paragraph (o), by substituting for the full stop at the end of the paragraph a semicolon; and

(viii) by inserting after paragraph (o) the following paragraphs:

“(p) an amount expended or deemed expended under subsection (3) in that basis year by that individual—

- (i) for the purchase of books, journals, magazines, printed newspapers and other similar publications for the purpose of enhancing knowledge for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child;
- (ii) for the purchase of a personal computer, smartphone or tablet (not being used for the purpose of his own business) for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child;
- (iii) for the purchase of sports equipment for any sports activity as defined under the Sports Development Act 1997 (excluding motorized two-wheel bicycles) and gym memberships for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child; and
- (iv) for the payment of monthly bill for internet subscription under that individual’s name for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child,

as evidenced by receipts issued in respect of the purchase or payment, as the case may be, and the total deduction under this paragraph is subject to a maximum amount of two thousand five hundred ringgit;

- (q) an amount limited to a maximum of one thousand ringgit expended in that basis year for that year of assessment by that individual for the purchase of breastfeeding equipment for that individual's own use for a child of that individual aged two years old and below, as evidenced by receipts issued in respect of the purchase:

Provided that—

- (a) for the purpose of this paragraph, breastfeeding equipment refers to a breast pump kit and an ice pack, a breast milk collection and storage equipment, and a cooler set or bag;
- (b) the deduction under this paragraph shall not be allowed for a year of assessment immediately following that year of assessment; and
- (c) the maximum amount of deduction under this paragraph shall apply notwithstanding that that individual may have more than one child; and
- (r) an amount limited to a maximum of one thousand ringgit expended or deemed expended under subsection (3) in respect of the payment of child care fees to a child care centre registered with the Director General of Social Welfare under the Child Care Centre Act 1984 [Act 308] or a kindergarten registered under the Education Act 1996 [Act 550]

in that basis year by that individual for a child of that individual aged six years and below as evidenced by receipts issued by such child care centre or kindergarten:

Provided that—

- (a) where a wife living together with her husband is assessed separately for that year, the deduction under this paragraph shall only be allowed either to the husband or to the wife; and
- (b) the maximum amount of deduction under this paragraph shall apply notwithstanding that that individual may have more than one child.”; and

(b) in subsection (3), by substituting for the words “(i), (j), (k), (l) and (m)” the words “(k), (p) and (r)”.

#### **Amendment of section 47**

**11.** Section 47 of the principal Act is amended by inserting after subsection (5) the following subsection:

“(6) Subsection (5) shall not apply if the wife, other than a wife who is a disabled person, has an income which is derived from sources outside Malaysia and her gross income from those sources for a year of assessment is more than the amount of deduction allowed for a wife.”.

#### **Amendment of section 60**

**12.** Subsection 60(11) of the principal Act is amended by deleting the definition of “revenue account”.

**Amendment of section 60AA****13.** Section 60AA of the principal Act is amended—

(a) by substituting, wherever appearing, except in subsection (23)—

- (i) for the words “family solidarity operator” the words “family takaful operator”;
- (ii) for the words “family solidarity re-takaful business” the words “family retakaful business”;
- (iii) for the words “family solidarity re-takaful certificate” the words “takaful certificate in relation to its family retakaful business”;
- (iv) for the words “general business” the words “general takaful business”;
- (v) for the words “general certificate” the words “general takaful certificate”;
- (vi) for the words “an operator” and “the operator” the words “a takaful operator” and “the takaful operator” respectively; and
- (vii) for the word “participant” the words “takaful participant”;

(b) in paragraph (2)(a), by substituting for the words “family solidarity business” the words “family takaful business”;

(c) in subsection (5)—

- (i) in subparagraph (a)(i), by substituting for the words “contributions” and “contribution” the words “takaful contributions” and “takaful contribution” respectively; and
- (ii) by substituting for subparagraph (b)(ii) the following subparagraph:
  - “(ii) takaful contributions payable by the takaful operator in that period under retakaful contracts in connection with that business;”;

- (d) in paragraph (6)(c), by substituting for the words ‘and “operator” shall’ the words ‘and “takaful operator” shall’;
- (e) in subsection (7)—
- (i) in subparagraph (a)(i), by substituting for the word “contribution” wherever appearing the words “takaful contribution”; and
  - (ii) by substituting for subparagraph (b)(ii) the following subparagraph:
    - “(ii) takaful contributions payable by the takaful operator in that period under retakaful contracts in connection with any such Malaysian general takaful certificate;”;
- (f) in paragraph (8)(c), by substituting for the words ‘and “operator” shall’ the words ‘and “takaful operator” shall’;
- (g) in subsection (13), by substituting for the word “contribution” the words “takaful contribution”;
- (h) in subsection (23)—
- (i) by deleting the definition of “contribution”;
  - (ii) by deleting the definition of “family solidarity”;
  - (iii) by deleting the definition of “general business”;
  - (iv) by deleting the definition of “general certificate”;
  - (v) by inserting before the definition of “investment” the following definitions:
    - ‘ “family takaful business” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;
    - “general takaful business” means all takaful business which is not family takaful business;
    - “general takaful certificate” means a certificate other than a family takaful certificate;’;

- (vi) in the definition of “inward re-takaful”—
  - (A) by substituting for the words “an operator” wherever appearing the words “a takaful operator”; and
  - (B) by substituting for the words “such operator” the words “such takaful operator”;
- (vii) in the definition of “inward re-takaful contract”, by substituting for the words “Malaysian certificate” the words “Malaysian takaful certificate”;
- (viii) by deleting the definition of “Malaysian certificate”;
- (ix) by deleting the definition of “Malaysian family solidarity fund”;
- (x) by inserting before the definition of “offshore takaful” the following definitions:
  - ‘ “Malaysian family takaful fund” means the takaful fund in respect of Malaysian family takaful certificate;
  - “Malaysian takaful certificate” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;’;
- (xi) by deleting the definition of “operator”;
- (xii) by deleting the definition of “participant”;
- (xiii) by substituting for the definition of “qard” the following definition:
  - ‘ “qard” means a benevolent loan or other forms of financial support to the takaful fund from the shareholders’ fund made pursuant to section 95 of the Islamic Financial Services Act 2013;’;

- (xiv) by deleting the definition of “re-takaful”;
- (xv) by inserting before the definition of “takaful” the following definition:

“retakaful” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;’;

- (xvi) by substituting for the definition of “takaful certificate” the following definition:

“takaful certificate” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;’; and

- (xvii) by inserting before the definition of “wakalah fee” the following definitions:

“takaful contribution” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

“takaful operator” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

“takaful participant” has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;’; and

- (i) in subsection (24), by substituting for the word “contributions” wherever appearing the words “takaful contributions”.

#### **Amendment of section 61A**

**14.** Subsection 61A(2) of the principal Act is amended by inserting after the words “Property Trust Fund” the words “, and listed on Bursa Malaysia”.

#### **Amendment of section 63A**

**15.** Subsection 63A(6) of the principal Act is amended by substituting for the words “61A(2)” the words “63C(5)”.

**Amendment of section 63B**

16. Subsection 63B(3) of the principal Act is amended by substituting for the words “61A(2)” the words “63C(5)”.

**Amendment of section 63C**

17. Subsection 63C(5) of the principal Act is amended by substituting for the words “has the same meaning assigned to it under subsection 61A(2)” the words “means a unit trust which is approved by the Securities Commission Malaysia as Real Estate Investment Trust or Property Trust Fund”.

**Amendment of section 97A**

18. Section 97A of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) Where a person has furnished to the Director General a return for a year of assessment in accordance with subsection 77(1) or 77A(1) and there is no chargeable income for that year of assessment, then if the person in respect of such return is aggrieved by the public ruling made under section 138A or any practice of the Director General generally prevailing at the time when the return is made—

(a) the return shall be deemed to be a notification made by the Director General under subsection (1) on the day the return is furnished; and

(b) the notification deemed to have been made under paragraph (a) shall be deemed to have been notified to the person on the day on which the Director General is deemed to have made the notification.”;

(b) in subsection (2), by inserting after the words “subsection (1)” the words “or the return which is deemed under subsection (1A) to be a notification made by the Director General”;

(c) in subsection (3), by inserting after the words “subsection (1)” the words “or the return which is deemed under subsection (1A) to be a notification made by the Director General”; and

(d) by inserting after subsection (4) the following subsections:

“(5) Where a person has furnished to the Director General a return for a year of assessment in accordance with subsection 77(1) or 77A(1) and there is no chargeable income for that year of assessment, then if the person in respect of such return alleges that—

(a) there is an error or a mistake made by the person in that return, the person may make an application in writing to the Director General for an amendment to be made in respect of such return; or

(b) the amount that has been computed in the return is inaccurate by reason of—

(i) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any other written law published in the *Gazette* after the year of assessment in which the return is furnished;

(ii) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished; or

(iii) a deduction not allowed in respect of payment not due to be paid under subsection 107A(2) or 109(2), section 109A, or subsection 109B(2) or 109F(2) on the day a return is furnished,

the person may make an application in writing to the Director General for relief.

(6) The application under subsection (5) shall be made—

- (a) in respect of paragraph (5)(a), within six months from the date the return is furnished;
- (b) in respect of subparagraphs (5)(b)(i) and (ii), within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later; or
- (c) in respect of subparagraph (5)(b)(iii), within one year after the end of the year the payment is made.

(7) On receiving an application under subsection (5), the Director General shall inquire into the matter and may make amendment in respect of the amount that has been computed as appears to the Director General to be just and reasonable.

(8) No amendment shall be allowed under subsection (7) in respect of an error or a mistake as to the basis on which the non-chargeability of the applicant ought to have been computed if the return or statement containing the error or mistake was in fact made on the basis of or in accordance with the public ruling made under section 138A or any practice of the Director General generally prevailing at the time when the return is made.

(9) An application under subsection (5) shall be as nearly as may be in the same form as a notice of appeal under section 99.

(10) Where the applicant is aggrieved by the Director General's decision on the application under subsection (5), the following provisions shall apply:

- (a) the applicant may within six month's after being informed of the decision request, in writing, the Director General to send the application forward to the Special Commissioners;

- (b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102; and
- (c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.”.

#### **Amendment of section 107c**

**19.** Subsection 107C(7A) of the principal Act is amended by inserting after the word “company” the words “, limited liability partnership, trust body or co-operative society”.

#### **Amendment of section 109c**

**20.** Subsection 109C(4) of the principal Act is amended by substituting for the words “finance company licensed under the Banking and Financial Institutions Act 1989 [*Act 372*] or the Islamic Banking Act 1983 [*Act 276*]” the words “Islamic bank licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013, as the case may be”.

#### **Amendment of section 110c**

**21.** Subsection 110C(1) of the principal Act is amended by substituting for the words “an operator” the words “a takaful operator”.

#### **New section 112A**

**22.** The principal Act is amended by inserting after section 112 the following section:

##### **“Failure to furnish country-by-country report**

**112A.** (1) Any person who makes default in furnishing a country-by-country report in accordance with the relevant rules made under paragraph 154(1)(c) to implement or facilitate

the operation of an arrangement having effect under section 132B shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) In any prosecution under subsection (1) the burden of proving that a country-by-country report has been furnished shall be upon the accused person.

(3) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of the rules under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.”.

### **New section 113A**

**23.** The principal Act is amended by inserting after section 113 the following section:

#### **“Incorrect returns, information returns or reports**

**113A.** (1) Any person who—

- (a) makes an incorrect return, information return or report by omitting the information required to be provided in accordance with any rules made under paragraph 154(1)(c) to implement or facilitate the operation of an arrangement having effect under section 132B, on behalf of himself or another person; or
- (b) gives any incorrect information in relation to any information required to be provided in accordance with any rules made under paragraph 154(1)(c) to implement or facilitate the operation of an arrangement having effect under section 132B, on behalf of himself or another person,

shall, unless he satisfies the court that the incorrect return, information return or report, or incorrect information was made or given in good faith, be guilty of an offence and shall, on conviction be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.”.

### **New section 119B**

**24.** The principal Act is amended by inserting after section 119A the following section:

**“Failure to comply with rules made under paragraph 154(1)(c) on mutual administrative assistance**

**119B.** (1) Except as provided in section 112A, any person who fails to comply with any rules made under paragraph 154(1)(c) to implement or facilitate the operation of an arrangement having effect under section 132B shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) In any prosecution under subsection (1), the burden of proving that any rules made under paragraph 154(1)(c) to implement or facilitate the operation of an arrangement having effect under section 132B has been complied with shall be upon the accused person.

(3) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of the rules under which the offence has been committed within thirty days or such other period as the court deems fit, from the date the order is made.”.

**New section 131A**

**25.** The principal Act is amended by inserting after section 131 the following section:

**“Relief other than in respect of error or mistake**

**131A.** (1) Where any person who has furnished to the Director General a return for a year of assessment in accordance with subsection 77(1) or 77A(1) and has paid tax for that year of assessment alleges that the assessment relating to that year of assessment is excessive by reason of—

- (a) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any other written law is published in the *Gazette* after the year of assessment in which the return is furnished;
- (b) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished; or
- (c) a deduction not allowed in respect of payment not due to be paid under subsection 107A(2) or 109(2), section 109A, or subsection 109B(2) or 109F(2) on the day the return is furnished,

the person may make an application in writing to the Director General for relief.

(2) The application under subsection (1) shall be made—

- (a) in respect of paragraphs (1)(a) and (b), within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later; or
- (b) in respect of paragraph (1)(c), within one year after the end of the year the payment is made.

(3) On receiving an application under subsection (1), the Director General shall inquire into the matter and may give by way of repayment of tax such relief as appears to the Director General to be just and reasonable.

(4) An application under subsection (1) shall be as nearly as may be in the same form as a notice of appeal under section 99.

(5) Where the applicant is aggrieved by the Director General's decision on the application under subsection (1), the following provisions shall apply:

- (a) the applicant may within six months after being informed of the decision request, in writing, the Director General to send the application forward to the Special Commissioners;
- (b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102; and
- (c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.”.

#### **Amendment of section 154**

26. Paragraph 154(1)(*ec*) of the principal Act is amended by inserting after the words “section 138B” the words “or to any arrangement made under section 138C”.

#### **Amendment of Schedule 1**

27. Schedule 1 to the principal Act is amended—

(a) in Part I—

- (i) in paragraph 2A, in column “Rate of income tax”, by substituting for the words “20 per cent for the year of assessment 2015 and 19 per cent for the subsequent years of assessment” the words “18 per cent”;

- (ii) in paragraph 2D, in column “Rate of income tax”, by substituting for the words “20 per cent for the year of assessment 2015 and 19 per cent for the subsequent years of assessment” the words “18 per cent”; and
  - (iii) in paragraph 4, by substituting for the words “an operator from inward re-takaful” the words “a takaful operator from inward retakaful”; and
- (b) in Part XII, by substituting for the words “family solidarity re-takaful business and inward family solidarity re-takaful business” the words “family retakaful business and inward family retakaful business”.

### **Amendment of Schedule 3**

**28.** Schedule 3 to the principal Act is amended—

(a) in paragraph 16B—

- (i) by renumbering the existing paragraph 16B as subparagraph 16B(1);
- (ii) in subparagraph 16B(1) as renumbered, by substituting for the words “42A and 42B” the words “42A, 42B and 42C”;
- (iii) by inserting after subparagraph 16B(1) the following subparagraphs:

“(2) Where part of the building used by that person referred to in paragraphs 37A, 37B, 37C, 37E, 37F, 37G, 37H, 42A, 42B and 42C for the purpose of letting of property is not more than one-tenth of the floor area of the whole building, the whole building qualifies as industrial building under those paragraphs.

(3) Where part of the building used by that person referred to in subparagraph (2) is more than one-tenth of the floor area of the whole building, such part of the building shall not be treated as industrial building

for the purpose of those paragraphs and any allowance to be made to that person under those paragraphs shall consist of so much of what would have been the amount of allowance claimed on the expenditure incurred on the floor area on the part of the building which is not used by that person for the purpose of letting of property.”; and

- (b) in subparagraph 37B(a), by substituting for the words “paragraph 34A(1)(a)” the words “subsection 34A(1)”.

### **Amendment of Schedule 6**

**29.** Schedule 6 to the principal Act is amended—

(a) in paragraph 12B—

- (i) by substituting for the words “expenses incurred” the word “deductions”; and
- (ii) by substituting for the words “adjusted income” the words “chargeable income”;

(b) in subparagraph 13(1)—

- (i) in subparagraph (a), by substituting for the words “or organization” the words “, organization or fund”; and
- (ii) by substituting for subparagraph (b) the following subparagraph:

“(b) a religious institution or organization in respect of any contribution received for charitable purposes in the basis year for a year of assessment provided such institution or organization is not operated or conducted primarily for profit and is established in Malaysia exclusively for the purpose of religious worship or the advancement of religion.”;

(c) by deleting paragraph 18;

(d) by deleting paragraph 27;

(e) in paragraph 33—

(i) by substituting for the words “the business of banking or finance in Malaysia and licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983” the words “banking business or Islamic banking business in Malaysia and licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013, as the case may be”; and

(ii) by substituting for the words “Central Bank of Malaysia pursuant to section 37 of the Banking and Financial Institutions Act 1989 and subsection 5(2) of the Islamic Banking Act 1983” the words “Minister pursuant to section 12 of the Financial Services Act 2013 and section 12 of the Islamic Financial Services Act 2013”;

(f) in paragraph 33A—

(i) by renumbering the existing paragraph 33A as subparagraph 33A(1); and

(ii) by inserting after subparagraph 33A(1) as renumbered the following subparagraph:

“(2) The exemption under subparagraph (1) shall not apply to interest paid or credited to a company in the same group.”;

(g) in paragraph 33B—

(i) by renumbering the existing paragraph 33B as subparagraph 33B(1); and

(ii) by inserting after subparagraph 33B(1) as renumbered the following subparagraph:

“(2) The exemption under subparagraph (1) shall not apply to—

- (a) interest paid or credited to a company in the same group;
- (b) interest paid or credited to—
  - (i) a bank licensed under the Financial Services Act 2013;
  - (ii) an Islamic bank licensed under the Islamic Financial Services Act 2013; or
  - (iii) a development financial institution prescribed under the Development Financial Institutions Act 2002.”; and

(h) by substituting for paragraph 35A the following paragraph:

“**35A.** Income of a unit trust in respect of interest derived from Malaysia and paid or credited by—

- (a) a bank licensed under the Financial Services Act 2013;
- (b) an Islamic bank licensed under the Islamic Financial Services Act 2013; or
- (c) a development financial institution prescribed under the Development Financial Institutions Act 2002:

Provided that in the case of a wholesale fund which is a money market fund, the exemption shall only apply to a wholesale fund which complies with the criteria as set out in the relevant guidelines of the Securities Commission Malaysia.”.

### CHAPTER III

#### AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

#### **Commencement of amendments to the Petroleum (Income Tax) Act 1967**

**30.** (1) Paragraph 31(a) comes into operation on the coming into operation of this Act.

(2) Paragraph 31(b) has effect for the year of assessment 2017 and subsequent years of assessment.

(3) Sections 32 and 33 come into operation on 1 January 2017.

### **Amendment of section 2**

**31.** Subsection 2(1) of the Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended—

(a) in the definition of “Malaysia”—

(i) by inserting after the words “subsoil of the territorial waters” the words “and the airspace above such areas”; and

(ii) by inserting after the words “sovereign rights” the words “or jurisdiction”; and

(b) in the definition of “secondary recovery”, by substituting for the words “and/or accelerated recovery of those hydrocarbons” the words “and accelerated recovery of those hydrocarbons which is carried out subsequent to the earlier recovery process”.

### **Amendment of section 41A**

**32.** Section 41A of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Where in ascertaining the chargeable income of a chargeable person, it appears to the Director General that—

(a) no assessment shall be made in respect of the chargeable person for any year of assessment by reason of—

(i) absence of adjusted income, statutory income, assessable income or chargeable income of a chargeable person from any of his sources of income; or

- (ii) exemption granted to that chargeable person under this Act,

the Director General may notify the chargeable person in writing that no assessment shall be made for that year of assessment and provide a computation with regard to it; or

- (b) assessment has been made in respect of the chargeable person, but the chargeable person has no statutory income from petroleum operations, the Director General may notify the chargeable person in writing of an adjustment, if any, made in respect of that petroleum operations and provide a computation with regard to it.”;

- (b) by inserting after subsection (1) the following subsection:

“(1A) Where a chargeable person has furnished to the Director General a return for a year of assessment in accordance with subsection 30(1) and there is no chargeable income for that year of assessment, then if the chargeable person in respect of such return is aggrieved by any practice of the Director General generally prevailing at the time when the return is made—

- (a) the return shall be deemed to be a notification made by the Director General under subsection (1) on the day the return is furnished; and
- (b) the notification deemed to have been made under paragraph (a) shall be deemed to have been notified to the chargeable person on the day on which the Director General is deemed to have made the notification.”;

- (c) in subsection (2), by inserting after the words “subsection (1)” the words “or the return which is deemed under paragraph (1A)(a) to be a notification made by the Director General”;

(d) in subsection (3), by inserting after the words “subsection (1)” the words “or the return which is deemed under paragraph (1A)(a) to be a notification made by the Director General”; and

(e) by inserting after subsection (4) the following subsections:

“(5) Where a chargeable person has furnished to the Director General a return for a year of assessment in accordance with subsection 30(1) and there is no chargeable income for that year of assessment, then if the chargeable person in respect of such return alleges that—

(a) there is an error or a mistake made by the chargeable person in that return, the chargeable person may make an application in writing to the Director General for an amendment to be made in respect of such return; or

(b) the amount that has been computed in the return is inaccurate by reason of—

(i) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any other written law published in the *Gazette* after the year of assessment in which the return is furnished;

(ii) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished; or

(iii) a deduction not allowed in respect of payment of interest, royalty, services, technical advice, assistance, rent or other payments made under any agreement or arrangement for the use of movable property derived

from Malaysia or contract payment to a non-resident contractor which is not due to be paid under the provisions of the law for the time being in force in Malaysia relating to income tax on the day the return is furnished,

the chargeable person may make an application in writing to the Director General for relief.

(6) The application under subsection (5) shall be made—

- (a) in respect of paragraph (5)(a), within six months from the date the return is furnished;
- (b) in respect of subparagraph (5)(b)(i) or (ii), within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later; or
- (c) in respect of subparagraph (5)(b)(iii), within one year after the end of the year the payment is made.

(7) On receiving an application under subsection (5), the Director General shall inquire into the matter and may make amendment in respect of the amount that has been computed in the return as appears to the Director General to be just and reasonable.

(8) No amendment shall be allowed under subsection (7) in respect of an error or a mistake as to the basis on which the non-chargeability of the applicant ought to have been computed if the return or statement containing the error or mistake was in fact made on the basis of or in accordance with any practice of the Director General generally prevailing at the time when the return was made.

(9) An application under subsection (5) shall be as nearly as may be in the same form as a notice of appeal under section 43.

(10) Where the applicant is aggrieved by the Director General's decision on the application under subsection (5), the following provisions shall apply:

- (a) the applicant may within six months after being informed of the decision request, in writing, the Director General to send the application forward to the Special Commissioners;
- (b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 46; and
- (c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.”.

#### **New section 66A**

**33.** The principal Act is amended by inserting after section 66 the following section:

#### **“Relief other than in respect of error or mistake**

**66A.** (1) Where any chargeable person has furnished to the Director General a return for a year of assessment in accordance with subsection 30(1) and has paid tax for that year of assessment alleges that the assessment relating to that year of assessment is excessive by reason of—

- (a) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any other written law is published in the *Gazette* after the year of assessment in which the return is furnished;
- (b) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished; or

- (c) a deduction not allowed in respect of payment of interest, royalty, services, technical advice, assistance, rent or other payments made under any agreement or arrangement for the use of movable property derived from Malaysia or contract payment to a non-resident contractor which is not due to be paid under the provisions of the law for the time being in force in Malaysia relating to income tax on the day the return is furnished,

the chargeable person may make an application in writing to the Director General for relief.

(2) The application under subsection (1) shall be made—

- (a) in respect of paragraph 1(a) or (b), within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later; or
- (b) in respect of paragraph (1)(c), within one year after the end of the year the payment is made.

(3) On receiving an application under subsection (1), the Director General shall inquire into the matter and may give by way of repayment of tax such relief as appears to the Director General to be just and reasonable.

(4) An application under subsection (1) shall be as nearly as may be in the same form as a notice of appeal under section 43.

(5) Where the applicant is aggrieved by the Director General's decision on the application under subsection (1), the following provisions shall apply:

- (a) the applicant may within six months after being informed of the decision request, in writing, the Director General to send the application forward to the Special Commissioners;

- (b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 46; and
- (c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.”.

## CHAPTER IV

### AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

#### **Commencement of amendments to the Real Property Gains Tax Act 1976**

**34.** (1) Section 35 comes into operation on the coming into operation of this Act.

(2) Paragraph 36(a) is deemed to have come into operation on 30 June 2013.

(3) Paragraphs 36(b) and (c) are deemed to have effect from the year of assessment 2015.

(4) Paragraph 36(d) comes into operation on 1 January 2017.

#### **Amendment of section 13**

**35.** The Real Property Gains Tax Act 1976, which is referred to as the “principal Act” in this Chapter, is amended in the proviso to subsection 13(4) by deleting the words “in Kuala Lumpur”.

#### **Amendment of Schedule 2**

**36.** Schedule 2 to the principal Act is amended—

- (a) in subparagraph 1(1), in the definition of “Islamic bank”, by substituting for the words “has the meaning assigned to it under the Islamic Banking Act 1983 [Act 276]” the words “means a licensed Islamic bank under the Islamic Financial Services Act 2013 [Act 759]”;

(b) in paragraph 6, by inserting after subparagraph (1) the following subparagraph:

“(1A) For the purposes of subparagraph (1)(e)—

- (a) if for a year of assessment a disposer has incurred expenditure for the purposes of the acquisition or the disposal of an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall include the amount of input tax as determined by the adjustment made in the year of assessment in which the disposal is made or the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends, whichever is the earlier; and
- (b) in the event that the adjustment of the amount of the input tax results in—
  - (i) an additional amount, such amount shall be deemed to be part of the amount of the expenditure incurred; or
  - (ii) a reduced amount, the expenditure incurred shall be reduced by such an amount.”;

(c) in paragraph 7—

- (i) by renumbering the existing paragraph 7 as subparagraph 7(1);
- (ii) by inserting after subparagraph 7(1) as renumbered the following subparagraph:

“(2) For the purposes of subparagraph (1)(d)—

- (a) if for a year of assessment a disposer has incurred expenditure for the purposes of the acquisition or the disposal of an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall include the amount of input tax as determined by the adjustment made in the year of assessment in which the disposal is made or the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends, whichever is the earlier; and

(b) in the event that the adjustment of the amount of the input tax results in—

- (i) an additional amount, such amount shall be deemed to be part of the amount of the expenditure incurred; or
- (ii) a reduced amount, the expenditure incurred shall be reduced by such an amount.”; and

(d) in subparagraph 12(2)—

- (i) in subparagraph (a), by substituting for the words “the disposal;” the words “the disposal if the donor is a citizen; and”;
- (ii) by deleting subparagraph (b); and
- (iii) in subparagraph (c), by substituting for the words “in the case of a donor who is a citizen or a permanent resident and” the word “where”.

## CHAPTER V

### AMENDMENTS TO THE LABUAN BUSINESS ACTIVITY TAX ACT 1990

#### **Commencement of amendments to the Labuan Business Activity Tax Act 1990**

**37.** (1) Section 38 comes into operation on the coming into operation of this Act.

(2) Section 39 comes into operation on 22 October 2016.

#### **Amendment of section 2**

**38.** Section 2 of the Labuan Business Activity Tax Act 1990, which is referred to as the “principal Act” in this Chapter, is amended—

- (a) in the definition of “Labuan non-trading activity”, by inserting after the words “any other properties” the words “situated in Labuan”; and

- (b) in the definition of “Labuan business activity”, in proviso (b), by substituting for the word “investments” the word “shares”.

### **Amendment of section 21**

**39.** The principal Act is amended by substituting for section 21 the following section:

#### **“Power of Minister to make regulations**

**21.** The Minister may make regulations—

- (a) generally for the purpose of carrying out, or giving effect to, the provisions of this Act;
- (b) for the purpose of implementing or facilitating the operation of an arrangement having effect under section 132B of the Income Tax Act 1967 and prescribing penalties for any contravention or failure to comply with any of the provisions of any regulations made under this paragraph.”.

## CHAPTER VI

### AMENDMENTS TO THE GOODS AND SERVICES TAX ACT 2014

#### **Commencement of amendments to the Goods and Services Tax Act 2014**

**40.** This Chapter comes into operation on 1 January 2017.

#### **Amendment of section 2**

**41.** The Goods and Services Tax Act 2014, which is referred to as the “principal Act” in this Chapter, is amended in section 2—

- (a) in the definition of “money”, by substituting for the full stop a semicolon; and

(b) by inserting after the definition of “money” the following definition:

‘ “free zone” has the meaning assigned to it in subsection 2(1) of the Free Zones Act 1990 [Act 438].’.

### **Amendment of section 13**

**42.** Paragraph 13(4)(b) of the principal Act is amended by substituting for the words “issued by” the words “received from”.

### **Amendment of section 20**

**43.** Subsection 20(6) of the principal Act is amended—

(a) in paragraph (a), by inserting after the words “to be supplied” the words “due to cessation of business”;

(b) in paragraph (d), by deleting the word “or” at the end of the paragraph;

(c) in paragraph (e), by substituting for the full stop at the end of the paragraph the words “; or”; and

(d) by inserting after paragraph (e) the following paragraph:

“(f) supply of goods made within or between the free zone under section 162 except where such supply is subject to an order under subsection 163(1).”.

### **Amendment of section 33**

**44.** Section 33 of the principal Act is amended—

(a) by substituting for subsection (10) the following subsection:

“(10) No invoice showing an amount which purports to be a tax shall be issued by any registered person—

(a) on any supply of goods or services which is not a taxable supply; or

(b) on any zero-rated supply.”;

(b) by inserting after subsection (10) the following subsection:

“(10A) Any person who is not a registered person, except the persons mentioned in subsections 65(4) and (5), shall not issue—

(a) an invoice showing an amount which purports to be a tax or an amount inclusive of tax; or

(b) an invoice which purports to be a tax invoice with or without tax.”; and

(c) in subsection (11), by inserting after the words “subsection (10)” the words “or (10A)”.

#### **New sections 34A and 34B**

**45.** The principal Act is amended by inserting after section 34 the following sections:

#### **“Prescribed registered person to provide information on supply made and payment received**

**34A.** (1) Any registered person as prescribed by the Minister shall provide information on all supply made and payment received by the registered person to the Director General using a device and in the manner as prescribed by the Minister.

(2) The Director General may for the purpose of this section approve any person—

(a) to install, configure and integrate the prescribed device;

(b) to provide the services for the support and maintenance of the prescribed device as scheduled or upon being notified of the failure of the prescribed device to function or operate in normal condition; or

(c) to carry out an inspection in the case of any sign of interference, destruction, damage, manipulation of data stored or obstruction of the lawful use of the prescribed device.

(3) The person approved under subsection (2) shall, when entering the premises of the registered person prescribed under subsection (1) to perform his duties under this section, produce, on demand by the registered person, proof of approval.

(4) The registered person prescribed under subsection (1) shall—

(a) at any time allow any officer of goods and services tax or any person approved by the Director General to install the device and to configure, integrate or inspect the device installed at the registered person's business premises;

(b) make all effort to ensure—

(i) that the device, after being supplied and installed, is not moved, manipulated, tampered or interfered with; and

(ii) that the use of the device is not obstructed by any person or any other device; and

(c) notify immediately the Director General of any failure of functionality and operation of the prescribed device in normal condition.

(5) Any person who fails to comply with, hinder or prevent the operation of this section in any respect commits an offence.

### **Duty not to give, publish or disclose information of the prescribed device**

**34B.** (1) Any person who, for any reason, has by any means access to any information on the device prescribed under subsection 34A(1) shall not give, publish or otherwise disclose to any other person such information unless the disclosure is required or authorized—

(a) under this Act;

(b) by any court; or

(c) for the performance of his duties or the exercise of his powers under this Act.

(2) Any person who contravenes subsection (1) commits an offence.”.

### **Amendment of section 41**

**46.** Subsection 41(8) of the principal Act is amended—

(a) by inserting after the words “not paid” the words “wholly or partly”;

(b) in paragraph (a)—

(i) by inserting after the words “not paid” the words “wholly or partly”;

(ii) by substituting for the word “five” the word “ten”;

(iii) in the national language text, by inserting after the words “amaun cukai” the word “itu”; and

(iv) by substituting for the words “due and payable” the words “remain unpaid”;

(c) in paragraph (b)—

(i) by inserting after the words “not paid” the words “wholly or partly”;

(ii) by substituting for the word “ten” the word “fifteen”;

(iii) in the national language text, by inserting after the words “amaun cukai” the word “itu”; and

(iv) by substituting for the words “due and payable” the words “remain unpaid”; and

(d) in paragraph (c)—

- (i) by inserting after the words “not paid” the words “wholly or partly”;
- (ii) by substituting for the word “ten” the word “fifteen”;
- (iii) in the national language text, by inserting after the words “amaun cukai” the word “itu”;
- (iv) by substituting for the words “due and payable” the words “remain unpaid”; and
- (v) by deleting the words “, subject to a maximum penalty of twenty-five per cent of the amount of tax due and payable”.

#### **Amendment of section 42**

**47.** Section 42 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “section 58” the words “subsection 56(5)”; and

(b) by inserting after subsection (3) the following subsections:

“(4) Where any tax due and payable is not paid wholly or partly by any person other than a taxable person after the last day on which it is due and payable under subsection (1) and no prosecution is instituted, the person shall pay—

(a) for the first thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified in subsection (1), a penalty of ten per cent of the amount of tax remain unpaid;

(b) for the second thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified in subsection (1), an additional penalty of fifteen per cent of the amount of tax remain unpaid; and

(c) for the third thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified in subsection (1), an additional penalty of fifteen per cent of the amount of tax remain unpaid.

(5) Subject to subsection (7), prosecution for the offence under subsection (3) may be instituted after the expiry of the period specified in paragraph (4)(c).

(6) The court may order that any person other than a taxable person who is convicted for the offence under subsection (3) shall pay the penalty as specified in subsection (4).

(7) No prosecution for the offence under subsection (3) shall be instituted against any person other than a taxable person who has paid the amount of tax due and payable and the penalty specified under subsection (4) within the period specified in subsection (4).”.

#### **Amendment of section 49**

**48.** Paragraph 49(1)(b) of the principal Act is amended by substituting for the words “section 21” the words “sections 21, 41 and 42”.

#### **Amendment of section 51**

**49.** Subsection 51(1A) of the principal Act is amended by inserting after the words “subsection 41(8)” the words “or 42(4)”.

#### **Amendment of section 56**

**50.** Section 56 of the principal Act is amended—

(a) in subsection (5), by inserting after the words “was granted” and “fulfilled” the words “, or where the relief granted is revoked”; and

(b) by inserting after subsection (6) the following subsection:

“(7) Where a person who has been granted relief under subsections (1) and (3) has paid any of the tax to which the relief relates and has been granted approval by the Minister to a refund of the amount of tax which has been paid, the person shall be entitled to such refund.”.

### **Amendment of section 57**

**51.** Section 57 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**overpaid or erroneously paid**” the words “**overpaid, erroneously paid, remitted or being the subject of relief**”;

(b) by substituting for subsection (1) the following subsection:

“(1) Any person who—

(a) has overpaid or erroneously paid any tax, surcharge, penalty, fee or other money; or

(b) is entitled to a refund of tax under subsection 56(7) or refund of tax, penalty or surcharge under subsection 62(3),

may make a claim thereof in the prescribed form.”; and

(c) by inserting after subsection (1) the following subsections:

“(1A) A claim under subsection (1) shall be made to the Director General within six years from the time—

(a) such overpayment or erroneous payment occurred; or

(b) such entitlement of the refund under subsection 56(7) or 62(3) occurred.

(1B) The Director General may make such refund of tax, surcharge, penalty, fee or any other money, as the case may be, after being satisfied that the person has properly established the claim.”.

**Amendment of section 70**

**52.** Section 70 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) In relation to goods that have been approved by the proper officer of customs to be deposited in a warehouse, there shall be a scheme to be known as the “Warehousing Scheme” which allows—

(a) tax due and payable on the goods that have been imported to be suspended when such goods are deposited in the warehouse; and

(b) tax chargeable on any supply of taxable goods made within or between the warehouse to be disregarded.”;

(b) by inserting after subsection (1) the following subsection:

“(1A) The Warehousing Scheme under subsection (1) shall not be applicable to goods as may be prescribed.”;

(c) by substituting for subsection (2) the following subsection:

“(2) Tax shall be due and payable upon all goods removed from a warehouse to all intents as if the removal were importation into Malaysia unless the goods are removed for export, for deposit to another warehouse, to a free zone or to a designated area with the approval of the proper officer of customs.”;

(d) by deleting subsection (3);

(e) in subsection (4)—

(i) by deleting the words “from a Warehousing Scheme”;

(ii) by substituting for the words “and duty” the words “from a warehouse”;

(iii) in paragraph (b)—

(A) by deleting the words “customs warehouse or licensed” wherever appearing; and

(B) in the national language text, by substituting for the word “disimpan” the word “dideposit”; and

(iv) in paragraph (c), by inserting after the word “Malaysia” the words “for removal to a designated area or to a free zone”;

(f) by deleting subsection (5); and

(g) in subsection (7), by deleting paragraph (d).

#### **Amendment of section 72**

**53.** Subsection 72(3) of the principal Act is amended by inserting after the words “taking place at” the words “whichever is”.

#### **Amendment of section 73**

**54.** Subsection 73(3) of the principal Act is amended by inserting after the words “taking place at” the words “whichever is”.

#### **Amendment of section 103**

**55.** Subsection 103(5) of the principal Act is amended by substituting for the words “For the purposes of section 83, where” the word “Where”.

#### **Amendment of section 156**

**56.** Section 156 of the principal Act is amended—

(a) in paragraph (a)—

(i) by substituting for the word “supplied” the word “removed”;

- (ii) by inserting after the words “designated area” the words “to another designated area through Malaysia or from a designated area”; and
  - (iii) by substituting for the word “supply” the word “removal”; and
- (b) by inserting after paragraph (a) the following paragraph:
- “(aa) the payment of tax under paragraph (a) shall be suspended on any goods removed from a designated area through Malaysia to another designated area, to a free zone or to a warehouse under section 70, unless the Minister otherwise directs in an order under section 160.”.

### **Amendment of section 160**

**57.** Section 160 of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) The Minister may, by order published in the *Gazette*, prescribe—

- (a) any supply of goods or services within or between the designated areas to be chargeable to tax;
- (b) any goods imported into a designated area, or removed from a designated area through Malaysia to another designated area, to a free zone or to a warehouse under section 70, to be chargeable to tax; or
- (c) any services imported into a designated area to be chargeable to tax.”.

### **Amendment of Part XV**

**58.** Part XV of the principal Act is amended in the title, by substituting for the words “FREE COMMERCIAL ZONE” the words “FREE ZONE”.

**Amendment of section 161**

**59.** Section 161 of the principal Act is amended—

(a) in the definition of “Malaysia”, by deleting the word “commercial”;

(b) by inserting after the definition of “Malaysia” the following definition:

‘ “manufacture” has the meaning assigned to it in section 2 of the Free Zones Act 1990.’; and

(c) by deleting the definition of “free commercial zone”.

**Amendment of section 162**

**60.** Section 162 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**from free commercial zone**” the words “**within or between free zone**”;

(b) by inserting after the words “this Act” the words “and unless the Minister otherwise directs in an order under section 163”;

(c) in paragraph (a)—

(i) by substituting for the words “free commercial zone” wherever appearing the words “free zone”;

(ii) by substituting for the words “except for goods used” the words “except for goods imported to be used or consumed”; and

(iii) by inserting after the words “purpose of commercial” the words “, manufacturing”; and

(iv) by inserting at the end of the paragraph the word “and”;

(d) by substituting for paragraph (b) the following paragraph:

“(b) no tax shall be charged on any supply of taxable goods made within or between a free zone.”;  
and

(e) by deleting paragraph (c).

### **New sections 162A and 162B**

**61.** The principal Act is amended by inserting after section 162 the following sections:

#### **“Goods removed from a free zone including goods under lease agreement**

**162A.** (1) Tax shall be due and payable upon all goods removed from a free zone to another free zone through Malaysia or from a free zone to Malaysia including any goods under lease agreement as if the removal were importation into Malaysia.

(2) Unless the Minister otherwise directs in an order under section 163, the payment of tax under subsection (1) shall be suspended on any goods removed from a free zone through Malaysia—

(a) to another free zone;

(b) to a designated area; or

(c) to a warehouse under section 70.

#### **Supply of goods or services by taxable person whose principal place of business located in a free zone**

**162B.** Tax shall be charged by a taxable person whose principal place of business is located in a free zone on any taxable supply of goods or services made within Malaysia.”.

### Amendment of section 163

62. Section 163 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

**“Power of Minister to impose tax”;** and

(b) by substituting for subsection (1) the following subsection:

“(1) The Minister may, by order published in the *Gazette*, prescribe—

(a) any goods imported into, supplied within or between free zone to be chargeable to tax; or

(b) any goods removed from a free zone through Malaysia to another free zone, to a designated area or to a warehouse under section 70 to be subject to payment of tax.”.

### Amendment of Second Schedule

63. The Second Schedule to the principal Act is amended by inserting after paragraph 7 the following paragraph:

**“Supply of land in compliance with requirement of written law, Government or local authority**

8. (1) Any supply of land by a developer or an owner of the land to the Federal Government, a State Government, a local authority or any other person in compliance with the requirement of any written law, the Federal Government, State Government or local authority for the purposes of providing public amenities and public utilities whether for no consideration or at nominal value shall be treated as neither a supply of goods nor supply of services.

(2) For the purposes of subparagraph (1), public amenities and public utilities means the amenities and utilities provided in the layout plan for a project which has been approved by the relevant local authority.”.

