



LAWS OF MALAYSIA

Act 833

FINANCE ACT 2021

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LAWS OF MALAYSIA

Act 833

FINANCE ACT 2021

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FINANCE ACT 2021

An Act to amend the Income Tax Act 1967, the Real Property Gains Tax Act 1976, the Stamp Act 1949, the Petroleum (Income Tax) Act 1967, the Labuan Business Activity Tax Act 1990, the Promotion of Investments Act 1986, the Finance Act 2012 and the Finance Act 2018.

[]

ENACTED by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance Act 2021.

Amendment of Acts

2. The Income Tax Act 1967 [*Act 53*], the Real Property Gains Tax Act 1976 [*Act 169*], the Stamp Act 1949 [*Act 378*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Labuan Business Activity Tax Act 1990 [*Act 445*], the Promotion of Investments Act 1986 [*Act 327*], the Finance Act 2012 [*Act 742*] and the Finance Act 2018 [*Act 812*] are amended in the manner specified in Chapters II, III, IV, V, VI, VII, VIII and IX respectively.

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Sections 4, 6, 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25 and 27, paragraph 5(a), paragraph 5(b) in relation to paragraph 6(1)(o) of the Income Tax Act 1967 and paragraph 26(b) in relation to Part XIX of Schedule 1 to the Income Tax Act 1967 come into operation on 1 January 2022.

(2) Sections 7, 10, 11, 12, 15, 19 and 28, paragraph 9(b) in relation to subparagraph 46(1)(h)(iii) of the Income Tax Act 1967 and paragraph 9(c) have effect for the year of assessment 2022 and subsequent years of assessment.

(3) Paragraph 5(b) in relation to paragraph 6(1)(p) of the Income Tax Act 1967 and paragraph 26(b) in relation to Part XX of Schedule 1 to the Income Tax Act 1967 come into operation from 1 January 2022 until 30 June 2022.

(4) Section 8 is deemed to have effect for the year of assessment 2019 and subsequent years of assessment.

(5) Paragraphs 9(a), (d), (g) and (h) have effect for the years of assessment 2022 and 2023.

(6) Paragraph 9(b) in relation to subparagraphs 46(1)(h)(i) and (ii) of the Income Tax Act 1967 has effect for the year of assessment 2021 and subsequent years of assessment.

(7) Paragraph 9(e) in relation to subparagraphs 46(1)(s)(i) and (ii) of the Income Tax Act 1967 and paragraph 26(a) have effect for the year of assessment 2022.

(8) Paragraph 9(e) in relation to subparagraph 46(1)(s)(iii) of the Income Tax Act 1967 and paragraph 9(f) have effect for the years of assessment 2021 and 2022.

Amendment of section 5

4. The Income Tax Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in subsection 5(1A) by inserting after the words “109D,” the words “109DA in respect of a non-resident unit holder other than an individual,”.

Amendment of section 6

5. Subsection 6(1) of the principal Act is amended—

(a) in paragraph (n), by substituting for the full stop at the end of that paragraph a semicolon; and

(b) by inserting after paragraph (n) the following paragraphs:

“(o) subject to section 109DA but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a unit holder other than an individual which consists of interest distributed or credited by a unit trust that is a retail money market fund referred to in subsection 61(1A) at the appropriate rate as specified under Part XIX of Schedule 1;

(p) income tax shall be charged upon the income of a person who is a resident which is received in Malaysia from outside Malaysia from 1 January 2022 until 30 June 2022 at the appropriate rate as specified under Part XX of Schedule 1.”.

Amendment of section 6D

6. Paragraph 6D(3)(c) of the principal Act is amended by substituting for the words “31 December 2021” the words “31 December 2022”.

Amendment of section 39

7. Subsection 39(1) of the principal Act is amended—

(a) in paragraph (q), by deleting the word “or” at the end of that paragraph;

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

(c) by inserting after paragraph (r) the following paragraph:

“(s) any payment from which tax is deductible under section 107D, if tax has not been deducted therefrom and paid to the Director General in accordance with that section:

Provided that—

- (i) this paragraph shall not apply if the payer has paid the amount of tax and the increased sum due from him to the Government in accordance with subsection 107D(3); and
- (ii) where such amount of tax and the increased sum are paid after the due date for the furnishing of a return for a year of assessment that relates to such tax and the increased sum, the amount of tax and the increased sum so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer.”.

Amendment of section 44

8. Subsection 44(5F) of the principal Act is amended by substituting for the word “seven” the word “ten”.

Amendment of section 46

9. Subsection 46(1) of the principal Act is amended—

(a) in subparagraph (f)(iii)—

- (i) by substituting for the words “years of assessment 2021 and 2022” the words “years of assessment 2022 and 2023”; and

- (ii) by substituting for the words “one thousand ringgit” the words “two thousand ringgit”;

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

“(h) an amount limited to a maximum of one thousand ringgit expended or deemed expended under subsection (3) in that basis year by that individual on himself or on his wife or on his child, or in the case of a wife, on herself or on her husband or on her child, in respect of—

- (i) complete medical examination expenses as evidenced by receipts issued by a hospital or a medical practitioner registered with the Malaysian Medical Council;
- (ii) Coronavirus Disease 2019 (COVID-19) detection test, as evidenced by receipts issued by a hospital or a medical practitioner registered with the Malaysian Medical Council or receipts of the purchase of Coronavirus Disease 2019 (COVID-19) self-detection test kit; or
- (iii) mental health examination or consultation as evidenced by receipts issued by a hospital, a psychiatrist within the meaning of section 2 of the Mental Health Act 2001 [*Act 615*], a clinical psychologist registered with the Malaysian Allied Health Professions Council under the Allied Health Professions Act 2016 [*Act 774*] or a counsellor registered with the Board of Counsellors under the Counsellors Act 1998 [*Act 580*]:

Provided that the deduction under this paragraph shall be part of the amount limited to a maximum of eight thousand ringgit in paragraph (g);”;

(c) in paragraph (n)—

- (i) by substituting for the words “two hundred and fifty ringgit” the words “three hundred and fifty ringgit”; and
- (ii) by inserting after the words “Employees Social Security Act 1969” the words “or Employment Insurance System Act 2017 [*Act 800*]”;

(d) in paragraph (c) of the proviso to paragraph (r), by substituting for the words “years of assessment 2020 and 2021” the words “years of assessment 2020 until 2023”;

(e) by substituting for paragraph (s) the following paragraph:

“(s) an amount limited to a maximum of one thousand ringgit expended or deemed expended under subsection (3) in that basis year by that individual as evidenced by receipts on the amount expended—

- (i) for the payment of accommodation at the premises registered with the Commissioner of Tourism under the Tourism Industry Act 1992 [*Act 482*];
- (ii) for the payment of entrance fee to a tourist attraction; or
- (iii) for the purchase of domestic tour package through a licensed travel agent registered with the Commissioner of Tourism under the Tourism Industry Act 1992:

Provided that—

- (a) for the purposes of subparagraphs (i) and (ii), the payment is made on or after 1 March 2020 but not later than 31 December 2022; and

(b) for the purposes of subparagraph (iii), the purchase is made on or after 1 January 2021 but not later than 31 December 2022;”;

(f) in paragraph (t)—

(i) in paragraph (a) of the proviso, by substituting for the words “31 December 2020” the words “31 December 2022”; and

(ii) in paragraph (b) of the proviso, by deleting the word “and” at the end of that paragraph;

(g) in paragraph (u), by substituting for the full stop at the end of that paragraph the words “; and”; and

(h) by inserting after paragraph (u) the following paragraph:

“(v) an amount limited to a maximum of two thousand and five hundred ringgit expended for each basis year for the years of assessment 2022 and 2023 by that individual for the payment of installation, rental, purchase including hire-purchase of equipment or subscription for use of electric vehicle charging facility for his own vehicle and not being used for the purposes of his own business as evidenced by receipts issued in respect of the payment on the amount expended.”.

Amendment of section 49

10. Section 49 of the principal Act is amended—

(a) in paragraph (1)(b), by inserting after the words “Employees Provident Fund Act 1991 [Act 452]” the words “, or a pensionable officer within the meaning of section 2 of the Pensions Act 1980”; and

(b) in subsection (2), by inserting after the words “subsection (1),” the words “other than voluntary contributions made by a self-employed person within the meaning of the Employees Provident Fund Act 1991 or a pensionable officer within the meaning of section 2 of the Pensions Act 1980,”.

Amendment of section 50

11. Subsection 50(3) of the principal Act is amended by inserting after the words “Employees Provident Fund Act 1991” the words “, or as a pensionable officer within the meaning of section 2 of the Pensions Act 1980”.

Amendment of section 60AA

12. Section 60AA of the principal Act is amended—

(a) in subparagraph (9)(a)(iii)—

- (i) by inserting after the words “in connection with the” the words “family fund,”; and
- (ii) by deleting the words “, or any other fee receivable in respect of an investment fund from the family fund”;

(b) in subparagraph (9)(b)(iii)—

- (i) in subsubparagraph (A)—
 - (A) by inserting after the words “in relation to the” the words “family fund,”; and
 - (B) by inserting the word “or” at the end of that subsubparagraph;
- (ii) in subsubparagraph (B)—
 - (A) by inserting after the words “in relation to the” the words “family fund,”; and
 - (B) by substituting for the word “or” at the end of that subsubparagraph the word “and”; and
- (iii) by deleting subsubparagraph (C);

(c) in subparagraph (9)(b)(iv), by inserting after the words “in connection with his” the words “family business and”;

(d) in subparagraph (10)(a)(iii)—

(i) by inserting after the words “in connection with the” the words “family fund,”; and

(ii) by deleting the words “, or any other fee receivable in respect of an investment fund from the family fund”;

(e) in subparagraph (10)(b)(iii)—

(i) in subparagraph (A)—

(A) by inserting after the words “in relation to the” the words “family fund,”; and

(B) by inserting the word “or” at the end of that subparagraph;

(ii) in subparagraph (B)—

(A) by inserting after the words “in relation to the” the words “family fund,”; and

(B) by substituting for the word “or” at the end of that subparagraph the word “and”; and

(iii) by deleting subparagraph (C);

(f) in subparagraph (10)(b)(iv), by inserting after the words “in connection with his” the words “family business and”;

(g) by deleting subsection (10B);

(h) by deleting subsection (11);

(i) by deleting subsection (17); and

(j) by inserting after the deleted subsection (17) the following subsections:

“(17A) Allowances under Schedule 3 shall only be available for deduction against the adjusted income of the shareholders’ fund of the takaful operator and the balance of such allowances shall not be available for deduction against the adjusted income of the family fund or general fund of the takaful operator.

(17B) The allowances under subsection (17A) shall be in relation to any asset acquired under the shareholders’ fund of the takaful operator on or after 1 January 2022.

(17C) Notwithstanding paragraph 75 of Schedule 3, any unabsorbed allowances of the shareholders’ fund of the takaful operator shall only be available for deduction against the adjusted income for the basis period for a year of assessment and subsequent years of assessment in respect of the shareholders’ fund of the takaful operator.

(17D) Where in respect of any asset acquired prior to 1 January 2022, allowances under Schedule 3 which have been claimed or ought to have been claimed as deduction against the adjusted income of the family fund or general fund of the takaful operator, such allowances shall be claimed as deduction against the adjusted income of the family fund or general fund of the takaful operator until the whole amount of the allowances is claimed.”.

Amendment of section 61

13. Proviso to subsection 61(1A) of the principal Act is amended by inserting after the words “section 61A” the words “or paragraph 35A of Schedule 6 on the income of a unit trust in respect of interest derived from Malaysia and paid or credited to a unit trust that is a retail money market fund which is distributed to a unit holder other than an individual”.

New section 66A

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

“Tax identification number

66A. (1) For the purposes of this Act, the following person shall have a tax identification number:

- (a) any person who is assessable and chargeable to tax under this Act;
- (b) any person who is required under this Act to furnish a return; or
- (c) any person who is a citizen aged eighteen years old and above.

(2) The tax identification number referred to in subsection (1) shall be assigned by the Director General as he may determine.

(3) Any person who has been assigned a reference number by the Director General in exercising his powers and functions under this Act on or before 1 January 2022 is deemed to have been assigned a tax identification number under this Act and the reference number shall be the tax identification number of that person.”.

Amendment of section 77A

15. Section 77A of the principal Act is amended by substituting for subsection (4) the following subsection:

“(4) Where a company, limited liability partnership, trust body or co-operative society is required to prepare financial statements in accordance with any written law, the return furnished under this section shall be made based on such financial statements.”.

Amendment of section 89

16. Section 89 of the principal Act is amended by substituting for the words “in writing” the words “in the prescribed form”.

Amendment of section 97A

17. Subsection 97A(10) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) the applicant may, within six months after being informed of the decision, request in the prescribed form for the Director General to forward the application to the Special Commissioners;”.

New section 106A

18. The principal Act is amended by inserting after section 106 the following section:

“Power to call for bank account information for purpose of making garnishee order application

106A. (1) Where civil proceedings have been instituted against a person under section 106 and a judgement has been obtained against the person, the Director General may by notice under his hand require any financial institution to furnish within a time specified in the notice, the bank account information of that person, if any, for the purpose of making an application to court for a garnishee order.

(2) Where a financial institution is required to furnish bank account information in accordance with subsection (1), that financial institution shall not disclose to any person that such request was made to the financial institution.

(3) In this section, “financial institution” means—

(a) any person licensed under the Financial Services Act 2013 to carry on a banking business in Malaysia;

- (b) any person licensed under the Islamic Financial Services Act 2013 to carry on an Islamic banking business in Malaysia; or
- (c) any development financial institution prescribed under the Development Financial Institutions Act 2002 [*Act 618*].”.

Amendment of section 107c

19. Subsection 107c(10A) of the principal Act is amended—

- (a) in paragraph (a), by inserting after the words “company,” the words “limited liability partnership,”;
- (b) in paragraph (c), by inserting after the words “company,” the words “limited liability partnership,”; and
- (c) in the proviso, by inserting after the words “company,” the words “limited liability partnership,”.

New section 107d

20. The principal Act is amended by inserting after section 107c the following section:

“Deduction of tax from payment made to agent, etc.

107d. (1) Where a company, in this section referred to as the payer, is liable to make payments in monetary form to an agent, a dealer or a distributor at any time in a basis year for a year of assessment arising from sales, transactions or schemes carried out by that agent, dealer or distributor, the payer shall upon paying or crediting such payments deduct therefrom tax at the rate of two per cent of the payments on account of tax which is or may be payable by that agent, dealer or distributor for any year of assessment and, whether or not that tax is so deducted, shall within thirty days after paying or crediting such payments render an account and pay the amount of that tax to the Director General:

Provided that the Director General may—

- (a) give notice in writing to the payer requiring the payer to deduct and pay tax at some other rates or to pay or credit the payments without deduction of tax; or
- (b) under special circumstances, allow extension of time for tax deducted to be paid over.

(2) Subsection (1) shall apply if the total sum of payments, whether in monetary form or otherwise, received by that agent, dealer or distributor from the payer in the immediately preceding basis year for a year of assessment arising from sales, transactions or schemes carried out by that agent, dealer or distributor is more than one hundred thousand ringgit.

(3) Where the payer fails to pay any amount due from him under subsection (1), the amount which the payer fails to pay shall be increased by a sum equal to ten per cent of the amount which the payer fails to pay, and that amount and the increased sum shall be a debt due from the payer to the Government and shall be payable forthwith to the Director General.

(4) Pursuant to this section, where any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

- (a) the Director General shall apply the amount paid or recovered under subsection (1) towards payment of the tax payable for any year of assessment by that agent, dealer or distributor to whom the payer was liable to make payments in monetary form to which that amount relates; and
- (b) if the payer has not deducted any amount upon making the payments with respect to which the amount relates, the payer may recover the amount from that agent, dealer or distributor as a debt due to the payer.

(5) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (1) is increased by a sum under subsection (3), the Director General may in

his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(6) In this section, “agent”, “dealer” or “distributor” means any individual resident who is authorized by a company to act as its agent, dealer or distributor, and who receives payments, whether in monetary form or otherwise, from the company arising from sales, transactions or schemes carried out by him as its agent, dealer or distributor.”.

New section 109DA

21. The principal Act is amended by inserting after section 109D the following section:

“Deduction of tax on distribution of income of unit trust to unit holder other than individual

109DA. (1) This section shall only apply to income of a unit trust that is a retail money market fund exempt under paragraph 35A of Schedule 6 in respect of income distributed to a unit holder other than an individual.

(2) Where a unit trust, in this section referred to as the payer, distributes income which is derived from Malaysia to a unit holder, the payer shall upon distributing the income, deduct therefrom tax at the rate applicable to such income and shall within one month after distributing such income, render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances allow extension of time for tax deducted to be paid over.

(3) Where the payer fails to pay any amount due from him under subsection (2), that amount which the payer fails to pay shall be increased by a sum equal to ten per cent of that amount, and the amount which the payer fails to pay

and the increased sum shall be a debt due from the payer to the Government and shall be payable forthwith to the Director General.

(4) Pursuant to this section, where any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) in relation to a resident unit holder, the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the unit holder to whom the payer distributes income to which that amount relates; and

(b) if the payer has not deducted that amount in distributing the income under subsection (2) with respect to which that amount relates, the payer may recover that amount from that unit holder as a debt due to the payer.

(5) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (2) is increased by a sum under subsection (3), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(6) Section 110 shall apply *mutatis mutandis* to tax deducted under this section other than to tax deducted in respect of a non-resident unit holder.”.

Amendment of section 120

22. Subsection 120(1) of the principal Act is amended—

(a) in paragraph (a), by substituting for the words “or 87” the words “, 87 or subsection 106A(1)”; and

- (b) in paragraph (d), by substituting for the words “or subsection 153(1)” the words “, subsection 106A(2) or 153(1)”.

Amendment of section 127

- 23.** The proviso to subsection 127(5) of the principal Act is amended by substituting for the words “or 109D” wherever appearing the words “, 109D or 109DA”.

Amendment of section 131

- 24.** Subsection 131(5) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) the applicant may, within six months after being informed of the decision, request in the prescribed form for the Director General to forward the application to the Special Commissioners;”.

Amendment of section 131A

- 25.** Subsection 131A(5) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) the applicant may, within six months after being informed of the decision, request in the prescribed form for the Director General to forward the application to the Special Commissioners;”.

Amendment of Schedule 1

- 26.** Schedule 1 to the principal Act is amended—

(a) in Part I, in paragraph 2—

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

- (ii) by inserting after the renumbered subparagraph (1) the following subparagraph:

“(2) Notwithstanding subparagraph (1), income tax shall be charged for a year of assessment on the chargeable income of a company other than a company to which paragraph 2A applies which has chargeable income exceeding one hundred million ringgit in the basis period for the year of assessment 2022 at the following rates:

<i>Chargeable income</i>	<i>RM</i>	<i>Rate of income tax</i>
For every ringgit of the first	100,000,000	24 per cent
For every ringgit exceeding	100,000,000	33 per cent”;

- (b) by inserting after Part XVIII the following parts:

“PART XIX

Notwithstanding Parts I, II and IV, income tax shall be charged for a year of assessment on the income of a unit holder other than an individual referred to in section 109DA which is derived from Malaysia at the rate of 24 per cent of gross.

PART XX

Notwithstanding Parts I and IV, income tax shall be charged on the income of a person who is a resident which is received in Malaysia from outside Malaysia at the rate of 3 per cent of gross.”.

Amendment of Schedule 6

- 27.** Schedule 6 to the principal Act is amended in Part I—

- (a) by substituting for paragraph 28 the following paragraph:

“**28.** The income arising from sources outside Malaysia and received in Malaysia by any person who is not resident in Malaysia.”;

(b) in paragraph 33A, by substituting for subparagraph (2) 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; or

(b) interest paid or credited by a special purpose vehicle to a company pursuant to the issuance of asset-backed securities lodged with the Securities Commission Malaysia from 1 January 2022 where the company and the person who established the special purpose vehicle solely for the issuance of the asset-backed securities are in the same group.”;

(c) in paragraph 33B—

(i) in subsubsubparagraph (2)(b)(iii), by substituting for the full stop at the end of that subsubsubparagraph the words “; or”; and

(ii) by inserting after subparagraph (2)(b) the following subparagraph:

“(c) interest paid or credited by a special purpose vehicle to a company pursuant to the issuance of asset-backed securities lodged with the Securities Commission Malaysia or approved by the Labuan Financial Services Authority from 1 January 2022 where the company and the person who established the special purpose vehicle solely for the issuance of the asset-backed securities are in the same group.”; and

(d) by inserting after paragraph 36 the following paragraph:

“37. In this Schedule, “special purpose vehicle” means a company incorporated under the Companies Act 2016 or a company incorporated under the Labuan Companies Act 1990 [Act 441] which has made an election under section 3A of the Labuan Business Activity Tax Act 1990 and established solely for the purpose of issuance of sukuk or debenture for asset-backed securities in a securitization transaction lodged with the Securities Commission Malaysia or approved by the Labuan Financial Services Authority.”.

Amendment of Schedule 7A

28. Schedule 7A to the principal Act is amended—

(a) in paragraph 2B—

(i) in subparagraph (a), by substituting for the words “and 2022” the words “, 2022, 2023 and 2024”;

(ii) in subparagraph (b)—

(A) by substituting for the words “and 2022” the words “, 2022, 2023 and 2024”; and

(B) by deleting the word “or” at the end of that subparagraph;

(iii) in subparagraph (c)—

(A) by substituting for the words “year of assessment 2022” the words “years of assessment 2022, 2023 and 2024”; and

(B) by substituting for the full stop at the end of that subparagraph the words “; or”; and

(iv) by inserting after subparagraph (c) the following subparagraphs:

“(d) ends in the year of assessment 2022, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the years of assessment 2023 and 2024; or

(e) ends in the year of assessment 2023, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the year of assessment 2024.”;

(b) in paragraph 4B, by inserting after the words “paragraph 2” the words “or 2B”; and

(c) by inserting after paragraph 4B the following paragraph:

“4c. Notwithstanding paragraph 4, so much of the allowance or allowances as cannot be given to a person as ascertained under that paragraph which relates to capital expenditure incurred after the end of the period of fifteen consecutive years of assessment referred to in paragraph 2B until the year of assessment 2024—

(a) shall only be given to that person in accordance with paragraph 4 for a period of seven consecutive years of assessment and that period commences immediately following the year of assessment 2024; and

(b) any amount of the allowance or aggregate amount of the allowance at the end of that period which has not been given to that person, by reason of insufficiency or absence of statutory income from his business for that period, shall be disregarded for the purposes of this Schedule.”.

CHAPTER III

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

29. This Chapter comes into operation on 1 January 2022.

Amendment of section 21B

30. The Real Property Gains Tax Act 1976, which is referred to as the “principal Act” in this Chapter, is amended in section 21B, by substituting for subsection (1A) the following subsection:

“(1A) For the purposes of subsection (1), where the disposer in a disposal referred to in that subsection is—

(a) a disposer under Part II of Schedule 5, the acquirer shall, in relation to disposal within a period of three years after the acquisition date of the chargeable asset, retain the whole of that money or a sum

not exceeding five per cent of the total value of the consideration, whichever is the less, and whether or not that amount is so retained, the acquirer shall within a period of sixty days after the date of such disposal pay that amount to the Director General; or

- (b) a disposer under Part III of Schedule 5, the acquirer shall retain the whole of that money or a sum not exceeding seven per cent of the total value of the consideration, whichever is the less, and whether or not that amount is so retained, the acquirer shall within sixty days after the date of such disposal pay that amount to the Director General.”.

Amendment of section 32

31. Subsection 32(1) of the principal Act is amended—

- (a) by inserting after the word “tax” the words “, sums or debt”; and
- (b) by substituting for the words “not exceeding five thousand ringgit” the words “not less than two hundred ringgit and not more than twenty thousand ringgit”.

New section 57B

32. The principal Act is amended by inserting after section 57A the following section:

“Tax identification number

57B. For the purposes of this Act, every person shall use the tax identification number assigned by the Director General under section 66A of the Income Tax Act 1967.”.

Amendment of Schedule 2

33. Schedule 2 to the principal Act is amended—

(a) in paragraph 3, by substituting for subsubparagraph 3(1)(b) the following subsubparagraph:

“(b) (i) the transfer of assets between spouses; or

(ii) the transfer of assets owned by an individual, by the wife of the individual or by an individual jointly with his wife or with a connected person, by a nominee for the individual, a nominee for the wife of the individual or a nominee for both, or by a trustee for the individual, a trustee for the wife of the individual or a trustee for both, to a company resident in Malaysia or not, controlled by the individual, by the wife of the individual, by the individual jointly with his wife or with a connected person, by the nominee for the individual, the nominee for the wife of the individual or the nominee for both, or by the trustee for the individual, the trustee for the wife of the individual or the trustee for both, for a consideration consisting of shares in the company or for a consideration consisting substantially of shares in the company and the balance of a money payment;” and

(b) in subparagraph 33(d), by inserting after the word “paragraph” the words “34 or”.

Amendment of Schedule 4

34. Schedule 4 to the principal Act is amended in paragraph 2 by substituting for the formula to that paragraph the following formula:

“(a) relating to the disposal of real property—

$$\frac{A \times C}{B}$$

where

A	is part of the area of the chargeable asset disposed;
B	is the total area of the chargeable asset;
C	is ten thousand;

or ten per cent of the chargeable gain, whichever is greater;

(b) relating to the disposal of shares—

$$\frac{A \times C}{B}$$

- where
- A is the number of shares deemed to be a chargeable asset under paragraph 34 or 34A of Schedule 2 disposed;
 - B is the total number of issued shares deemed to be a chargeable asset in relation to shares deemed to be chargeable asset under paragraph 34 or 34A of Schedule 2;
 - C is ten thousand;

or ten per cent of the chargeable gain, whichever is greater.”.

Amendment of Schedule 5

35. Schedule 5 to the principal Act is amended—

- (a) in Part I, in the column Rate of tax, by substituting for the words “5 per cent” the word “Nil” appearing in the fourth line; and
- (b) in Part II, by substituting for the words “society registered under the Societies Act 1966 [Act 335]” the words “body of persons registered under any written law in Malaysia”.

CHAPTER IV

AMENDMENTS TO THE STAMP ACT 1949

Commencement of amendments to the Stamp Act 1949

36. This Chapter comes into operation on 1 January 2022.

New section 36D

37. The Stamp Act 1949, which is referred to as the “principal Act” in this Chapter, is amended by inserting after section 36C the following section:

“Finality of assessment

36D. (1) For the purposes of this Act, an assessment shall be final and conclusive where—

- (a) no valid notice of appeal against the assessment has been given under section 39 within the time specified by that section;
- (b) the assessment has been determined on appeal and there is no right of further appeal; or
- (c) a valid notice of appeal against the assessment has been given but the appellant dies before the hearing of the appeal by the High Court is commenced or completed and no personal representative of the estate of the deceased appellant applies to the High Court within two years after his death to proceed with or complete the hearing.

(2) Nothing in subsection (1) shall prejudice the application of section 36B or 50A.”.

Amendment of section 37

38. Section 37 of the principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) Where an instrument is chargeable with duty which exceeds ten ringgit and the duty is exempted, the person bringing the instrument to the Collector shall pay a fee of ten ringgit for the Collector to certify by indorsement on such instrument that the duty is exempted.”.

Amendment of section 39

39. Section 39 of the principal Act is amended—

- (a) in subsection (4), by substituting for the word “If” the words “Subject to subsection (4A), if”; and
- (b) by inserting after subsection (4) the following subsection:

“(4A) Nothing in this section shall operate to compel the Collector to refund the excess amount of duty which may have been paid in conformity with the erroneous assessment, together with any fine or penalty which may have been paid unless the assessment has become final and conclusive in accordance with section 36D.”.

Amendment of section 57

40. Paragraph (a) of the proviso to section 57 of the principal Act is amended by substituting for the words “twelve months” wherever appearing the words “twenty-four months”.

Amendment of section 58

41. Section 58 of the principal Act is amended by substituting for the words “twelve months” wherever appearing the words “twenty-four months”.

Amendment of section 77A

42. Subsection 77A(1) of the principal Act is amended—

- (a) in paragraph (c), by deleting the word “or” at the end of that paragraph;
- (b) in paragraph (d), by substituting for the full stop at the end of that paragraph a semicolon; and

(c) by inserting after paragraph (d) the following paragraphs:

“(e) to obtain a review of an assessment in a case where section 38A applies; or

(f) to obtain a refund of duty paid in a case where section 57, 58 or 80B, or subsection 21(7), 39(4) or 80(3) applies.”.

New section 77c

43. The principal Act is amended by inserting after section 77B the following section:

“Tax identification number

77c. For the purposes of this Act, every person shall use the tax identification number assigned by the Director General under section 66A of the Income Tax Act 1967.”.

Amendment of First Schedule

44. The First Schedule to the principal Act is amended by substituting for item 31 and the particulars relating to it the following item and particulars:

“31 CONTRACT NOTE:

Relating to the sale of any shares, stock or marketable securities in companies incorporated in Malaysia or elsewhere—

(a) For every RM1,000 or fractional part of RM1,000 of the value of any shares or stock RM1.50

(b) For every RM1,000 or fractional part of RM1,000 of the value of any marketable securities RM1.00”.

CHAPTER V

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

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

45. This Chapter comes into operation on 1 January 2022.

Amendment of section 37

46. The Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in section 37 by substituting for the words “in writing” the words “in the prescribed form”.

Amendment of section 41A

47. Subsection 41A(10) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) the applicant may, within six months after being informed of the decision, request in the prescribed form for the Director General to forward the application to the Special Commissioners;”.

Amendment of section 43

48. Section 43 of the principal Act is amended by inserting after subsection (3) the following subsection:

“(4) This section shall not apply to an assessment made under subsection 38(1) or section 39A, except where a chargeable person in respect of such assessment is aggrieved by the public ruling made under section 71B or any practice of the Director General generally prevailing at the time when the assessment is made.”.

Amendment of section 65c

49. Section 65c of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The Minister may, in any particular case, exempt any chargeable person from all or any of the provision of this Act,

either generally or in respect of any income of a particular kind or any class of income of a particular kind.”.

Amendment of section 66

50. Subsection 66(5) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) the applicant may, within six months after being informed of the decision, request in the prescribed form for the Director General to forward the application to the Special Commissioners;”.

Amendment of section 66A

51. Subsection 66A(5) of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) the applicant may, within six months after being informed of the decision, request in the prescribed form for the Director General to forward the application to the Special Commissioners;”.

CHAPTER VI

AMENDMENTS TO THE LABUAN BUSINESS
ACTIVITY TAX ACT 1990

Commencement of amendments to the Labuan Business Activity Tax Act 1990

52. (1) Section 53 is deemed to have come into operation on 1 January 2019.

(2) Section 54 is deemed to have effect for the year of assessment 2020 and subsequent years of assessment.

(3) Sections 55 and 56 have effect for the year of assessment 2022 and subsequent years of assessment.

(4) Sections 57 and 58 come into operation on 1 January 2022.

Amendment of section 2B

53. The Labuan Business Activity Tax Act 1990, which is referred to as the “principal Act” in this Chapter, is amended in section 2B by inserting after subsection (1B) the following subsections:

“(1C) The net profits referred to in paragraph (1B)(a) shall not include any income derived from royalty and other income derived from an intellectual property right if it is receivable as consideration for the commercial exploitation of that right.

(1D) Any income derived from intellectual property right referred to in subsection (1C) is subject to tax under the Income Tax Act 1967.

(1E) In this section, “intellectual property right” has the same meaning assigned to it under subsection 4(5).”.

Amendment of section 8

54. Section 8 of the principal Act is amended by deleting the words “which is a Labuan trading activity”.

Amendment of section 10

55. Section 10 of the principal Act is amended—

(a) in the shoulder note, by inserting after the words “**Statutory declaration**” the words “**and return of profits**”; and

(b) by inserting after the words “a statutory declaration” the words “and a return of profits of the Labuan entity”.

Amendment of section 11

56. Section 11 of the principal Act is amended—

(a) by inserting after the words “section 5” the words “or 10”; and

(b) by inserting after the word “tax” wherever appearing the words “, if any,”.

New section 16A

57. The principal Act is amended by inserting after section 16 the following section:

“Director’s liability

16A. (1) Notwithstanding anything contrary to this Act or any other written law, where any tax is due and payable under this Act by a company, any person who is a resident director of that company during the period in which that tax is liable to be paid by that company, shall be jointly and severally liable for such tax that is due and payable and shall be recoverable under section 14 from that person.

(2) In this section, “director” means any person who—

(a) is occupying the position of director, by whatever name called, including any person who is concerned in the management of the company’s business; and

(b) is, either on his own or with one or more associates, the owner of, or able directly or through the medium of other companies or by any other indirect means to control, not less than twenty per cent of the ordinary share capital of the company.

(3) For the purposes of paragraph (2)(b), “associate” means, in relation to a person—

(a) in any of the following relationships to that person, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother, sister and partner;

(b) the trustee or trustees of a settlement in relation to that person is, or any such relative of his, living or dead, as is mentioned in paragraph (a) of this definition is or was, a settlor;

(c) where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein.”.

Amendment of section 23

58. Paragraph 23(b) of the principal Act is amended by inserting after the words “a statutory declaration” the words “and return of profits”.

CHAPTER VII

AMENDMENTS TO THE PROMOTION OF INVESTMENTS ACT 1986

Commencement of amendments to the Promotion of Investments Act 1986

59. This Chapter comes into operation on 1 January 2022.

Amendment of section 2

60. The Promotion of Investments Act 1986, which is referred to as the “principal Act” in this Chapter, is amended in subsection 2(1)—

(a) in the definition of “contract research and development company”, by substituting for the words “which provides” the words “which is approved as a research and development status company under section 4H to provide”; and

(b) in the definition of “research and development company”, by substituting for the words “which provides” the words “which is approved as a research and development status company under section 4H to provide”.

Amendment of title to Chapter 1 of Part II

61. Chapter 1 of Part II of the principal Act is amended in the title, by substituting for the words “*Pioneer Status*” the words “*Research and Development Status, and Pioneer Status*”.

New sections 4G, 4H, 4I, 4J, 4K and 4L

62. The principal Act is amended by inserting after the title “*Chapter 1- Research and Development Status, and Pioneer Status*” the following sections:

“Application for approval of research and development status

4G. (1) For the purposes of this Act, a research and development company, or a contract research and development company is a company approved as a research and development status company.

(2) Any company may make an application in writing to the Minister to be approved as a research and development status company, and the Minister may impose any pre-condition for the application.

(3) Any company applying to be approved as a research and development status company shall state that the company carries on activity relating to research and development under this Act and complies with any pre-condition imposed for the application.

(4) Upon receipt of an application under subsection (2), the Minister may request for any information or additional document relating to the application, if necessary.

Grant of research and development status

4H. (1) If the Minister is satisfied that the pre-condition under subsection 4G(2) has been complied with, the Minister may grant an approval for a research and development status to the company for a period of five consecutive years beginning from the date of the grant of approval or any other date as may be determined by the Minister.

(2) The Minister may, with the concurrence in writing of the Minister of Finance, impose any condition as he deems fit when granting an approval under subsection (1).

(3) The Minister may, with the concurrence in writing of the Minister of Finance, vary the condition in the approval granted under subsection (2).

(4) The Minister may, where necessary, amend the approval granted other than the period referred to in subsection (1).

Non-compliance of approval

4I. Where a company which has been granted with an approval under subsection 4H(1) fails to comply with the conditions under subsections 4H(1) and (2), the Minister shall by notice in writing require the company within thirty days from the date of service of the notice to remedy the failure or to establish to the satisfaction of the Minister that the failure was due to some cause beyond the control of the company.

Withdrawal of approval

4J. (1) The Minister may withdraw the approval granted under subsection 4H(1) to a company by way of a notice in writing where—

- (a) the company has failed to comply with a notice served on it under section 4I; or
- (b) the Minister is satisfied that the company has contravened any provision of this Act or any condition imposed under section 4H and that in all the circumstances it is expedient to do so.

(2) The withdrawal of the approval referred to in subsection (1) shall have effect—

- (a) on the date the approval was granted; or
- (b) on any other date as may be determined by the Minister.

Surrender of research and development status

4K. (1) Any company granted with research and development status under subsection 4H(1) may, at any time, surrender the status by giving a notice in writing together with any reason of the surrender to the Minister.

(2) Where the Minister is satisfied with the reasons for the surrender of status under subsection (1), the Minister may approve the notice of surrender and the surrender shall have effect—

(a) on the date the notice of surrender is received by the Minister; or

(b) on any other date as may be determined by the Minister.

Extension of research and development status period

4L. (1) The Minister may, with the concurrence in writing of the Minister of Finance, extend the research and development status period referred to in subsection 4H(1) where the Minister is satisfied that the company has, by the end of the research and development status period under that subsection, complied with the condition imposed on the approval referred to in subsection 4H(2) or (3), as the case may be.

(2) The extension of the research and development status period granted under this section shall begin from the date following the end of the research and development status period under section 4H and continue for a period of five years.

(3) A research and development status company shall make an application in writing to the Minister for an extension of its research and development status period within thirty days or such further period as the Minister may allow after the end of the research and development status period under subsection 4H(1).

(4) On receipt of an application under subsection (3), the Minister may request for further particulars or any proof of the information given in the application which he considers necessary and—

- (a) if the Minister is satisfied that the company has complied with the condition referred to in subsection (1), the Minister may, with the concurrence in writing of the Minister of Finance, grant the extension of the research and development status period; or
- (b) if the Minister is not satisfied, the Minister shall cause a notice of his refusal to grant the extension to be sent to the company.

(5) The extension of the research and development status period shall be granted subject to the condition imposed in the approval granted under subsection 4H(2).”.

Savings and transitional

63. (1) If a company falls within the definition of a research and development company or a contract research and development company under the principal Act prior to the commencement of this Chapter, the company shall, on the commencement of this Chapter, fall within the definition of a research and development company or a contract research and development company under the principal Act as amended by this Chapter for a period of six months from the commencement date, which shall be referred to as the “grace period”.

(2) If the company referred to in subsection (1) intends to fall within the definition of a research and development company or a contract research and development company under the principal Act as amended by this Chapter after the expiry of the grace period, the company within the grace period, shall make a notification for the consideration of the Minister stating the desire of the company to fall within the definition of a research and development company or a contract research and development company under the principal Act as amended by this Chapter.

(3) On the expiry date of the grace period, if the company referred to in subsection (1) fails to submit the notification referred to in subsection (2), the company shall immediately cease to fall within the definition of a research and development company or a contract research and development company under the principal Act as amended by this Chapter.

CHAPTER VIII

AMENDMENT TO THE FINANCE ACT 2012

Commencement of amendment to the Finance Act 2012

64. This Chapter comes into operation on 1 January 2022.

Amendment of section 3

65. The Finance Act 2012 is amended by substituting for subsection 3(4) the following subsection:

“(4) Section 10 comes into operation from the year of assessment 2012 until the year of assessment 2021 and in respect of paragraph 10(c) until the year of assessment 2025.”.

CHAPTER IX

AMENDMENT TO THE FINANCE ACT 2018

Commencement of amendment to the Finance Act 2018

66. This Chapter is deemed to have effect from the year of assessment 2019 and subsequent years of assessment.

Amendment of section 11

67. The Finance Act 2018 is amended in section 11 by substituting for the words “year of assessment 2025” wherever appearing the words “year of assessment 2028”.