

# FINANCE BILL 2020

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## ARRANGEMENT OF CLAUSES

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*Clause*

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2. Amendment of Acts

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A BILL

*i n t i t u l e d*

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 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 2020.

**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 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 and VIII respectively.

## CHAPTER II

## AMENDMENTS TO THE INCOME TAX ACT 1967

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

3. (1) Sections 4, 5, 6, 13, 15, 16, 17, 23 and 27, and subparagraphs 14(a)(i), (ii), (iii), (iv) and (v), subparagraph 14(a)(viii) and paragraph 14(b) in relation to paragraph 46(1)(u) of the Income Tax Act 1967, and paragraph 28(a) have effect for the year of assessment 2021 and subsequent years of assessment.

(2) Sections 7, 8 and 9 come into operation on the coming into operation of this Act.

(3) Sections 10, 11, 18, 20, 21, 24, 25 and 26, and paragraph 28(b) come into operation on 1 January 2021.

(4) Section 12 has effect for the year of assessment 2022 and subsequent years of assessment.

(5) Subparagraphs 14(a)(vi) and (vii), subparagraph 14(a)(viii) in relation to paragraph 46(1)(s) of the Income Tax Act 1967, paragraph 14(b) in relation to paragraphs 46(1)(r) and (s) of the Income Tax Act 1967, and section 29 have effect for the years of assessment 2020 and 2021.

(6) Subparagraph 14(a)(viii) and paragraph 14(b) in relation to paragraph 46(1)(t) of the Income Tax Act 1967 have effect for the year of assessment 2020.

(7) Sections 19 and 22 are deemed to have come into operation on 1 January 2020.

(8) Section 30 has effect for the years of assessment 2020, 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 “section 109C,” the words “109D,”.

**Amendment of section 6****5. Section 6 of the principal Act is amended—**

(a) in subsection (1)—

- (i) in paragraph (a), by substituting for the words “section 6A” the words “sections 6A and 6D”;
- (ii) in paragraph (l), by substituting for the full stop at the end of that paragraph a semi colon; and
- (iii) by inserting after paragraph (l) the following paragraphs:

“(m) income tax shall be charged for each year of assessment upon the chargeable income of a person who carries on business in respect of a qualifying activity under an incentive scheme approved by the Minister at the appropriate rate as specified in Part XVII of Schedule 1;

(n) income tax shall be charged for each year of assessment upon the chargeable income of an individual resident who is not a citizen having and exercising employment in a company which carries on business in respect of a qualifying activity under an incentive scheme approved by the Minister at the appropriate rate as specified in Part XVIII of Schedule 1.”; and

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

“(1A) An incentive scheme referred to in paragraphs (1)(m) and (n) shall be the incentive scheme for a qualifying activity prescribed by the Minister which includes—

- (a) any high technology activity in manufacturing and services sector; and
- (b) any other activities which would benefit the economy of Malaysia.”.

**New section 6D**

6. The principal Act is amended by inserting after the deleted section 6C the following section:

**“Tax rebate for company or limited liability partnership**

**6D.** (1) A rebate may be granted for a period of three consecutive years from the year of assessment in which a company or limited liability partnership first commences operation, in an amount equivalent to its operating or capital expenditure which it has incurred limited to a maximum amount of twenty thousand ringgit for each year of assessment.

(2) Where the total amount of the rebate under subsection (1) exceeds the income tax charged (before any such rebate) for any year of assessment, the excess shall not be paid to the company or limited liability partnership, or be available as credit to set off the tax liability of the company or limited liability partnership for that year of assessment or any subsequent year.

(3) The company or limited liability partnership referred to in subsection (1) shall be a company or limited liability partnership resident and incorporated or registered in Malaysia—

(a) which has a paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of two million and five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment;

(b) which has a gross income from source or sources consisting of a business not exceeding fifty million ringgit for the basis period for that year of assessment; and

(c) which has commenced operation on or after 1 July 2020 but not later than 31 December 2021.

(4) The Minister may, by statutory order, impose such conditions as he thinks fit to give effect to or for carrying out the purposes of this section.



(5) Where in a year of assessment the company or limited liability partnership fails to fulfil the conditions specified in subsection (3) or (4), the amount of rebate under subsection (1) shall not be granted for that year of assessment in which the failure occurs and in the subsequent years of assessment.

(6) The statutory order made under subsection (4) shall be laid before the Dewan Rakyat.”.

#### **Amendment of section 34**

7. Subsection 34(7) of the principal Act is amended by inserting after the words “relevant person” the words “resident in Malaysia”.

#### **Amendment of section 34A**

8. Section 34A of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after the words “a person” the words “resident in Malaysia”; and

(ii) by inserting after the words “by the Minister” the words “and the amount of expenses on research and development incurred during that period outside Malaysia shall not be more than thirty per cent of the total expenses on research and development incurred by that person”;

(b) in subsection (4), by substituting for the proviso to that subsection the following proviso:

“Provided that the amount of deduction to be made shall be the amount of expenditure incurred—

(a) where the amount of expenses on research and development incurred for the basis period for a year of assessment outside Malaysia is more

than thirty per cent of the total expenses on research and development incurred by that person; or

(b) where subsection (4A) applies.”; and

(c) in subsection (4A), by inserting after the words “A pioneer company” the words “resident in Malaysia”.

#### **Amendment of section 34B**

9. Subsection 34B(1) of the principal Act is amended by inserting after the words “a person” the words “resident in Malaysia”.

#### **Amendment of section 39**

10. Paragraph 39(1)(r) of the principal Act is amended by substituting for the words “Labuan company” the words “Labuan entity referred to in paragraph 2B(1)(a) of the Labuan Business Activity Tax Act 1990”.

#### **Amendment of section 44**

11. Section 44 of the principal Act is amended—

(a) in subparagraph (5B)(a)(ii), by deleting the word “nominal”;  
and

(b) in paragraph (5C)(a), by deleting the word “nominal”.

#### **Amendment of section 44A**

12. Paragraph 44A(3)(c) of the principal Act is amended by inserting after the word “indirectly” the words “(through the medium of other companies resident and incorporated in Malaysia)”.

**Amendment of section 45A**

**13.** Subsection 45A(1) of the principal Act is amended by substituting for the words “three thousand five hundred ringgit” the words “five thousand ringgit”.

**Amendment of section 46**

**14.** Section 46 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (c), by substituting for the words “five thousand ringgit” the words “eight thousand ringgit”;

(ii) by substituting for paragraph (f) the following paragraph:

“(f) fees expended in that basis year by that individual on himself for—

(i) any course of study up to tertiary level, other than a Masters or Doctorate degree, undertaken for the purpose of acquiring legal, accounting, Islamic financing, technical, vocational, industrial, scientific or technological qualification or skill, in any institution or professional body in Malaysia recognized by the Government or approved by the Minister;

(ii) any course of study for a Masters or Doctorate degree undertaken for the purpose of acquiring any qualification or skill, in any institution or professional body in Malaysia recognized by the Government or approved by the Minister; or

- (iii) any course of study undertaken for the purpose of upskilling or self-enhancement and that course is conducted by a body recognized by the Director General of Skills Development under the National Skills Development Act 2006 [Act 652], for the years of assessment 2021 and 2022, limited to a maximum amount of one thousand ringgit for each year of assessment,

and the total deduction under this paragraph shall be subject to a maximum amount of seven thousand ringgit;”;

(iii) in paragraph (g)—

- (A) in subparagraph (i), by deleting the word “or” at the end of that subparagraph;
- (B) in subparagraph (ii), by substituting for the colon at the end of that subparagraph the words “; or”;
- (C) by inserting after subparagraph (ii) the following subparagraph:
  - “(iii) on himself, his wife or child for vaccination, or in the case of a wife, on herself, her husband or child for vaccination an amount limited to a maximum of one thousand ringgit;”;
- (D) in paragraph (b) of the proviso, by substituting for the words “six thousand ringgit; and” the words “eight thousand ringgit;”;
- (E) in subparagraph (c)(B) of the proviso, by inserting the word “and” at the end of that subparagraph; and

(F) by inserting after paragraph (c) of the proviso the following paragraph:

“(d) for the purposes of subparagraph (iii), the vaccinations which qualify for deduction are for:

(i) pneumococcal;

(ii) human papillomavirus (HPV);

(iii) influenza;

(iv) rotavirus;

(v) varicella;

(vi) meningococcal;

(vii) TDAP combination (tetanus-diphtheria-acellular-pertussis); and

(viii) Coronavirus Disease 2019 (COVID-19);”;

(iv) in paragraph (h)—

(A) by substituting for the words “five hundred ringgit” the words “one thousand ringgit”; and

(B) in the proviso, by substituting for the words “six thousand ringgit” the words “eight thousand ringgit”;

(v) in subparagraph (p)(i)—

(A) by inserting after the word “purchase” the words “or subscription”; and

(B) by deleting the word “printed”;

- (vi) in paragraph (c) of the proviso to paragraph (q), by deleting the word “and” at the end of that paragraph;
- (vii) in the proviso to paragraph (r)—
  - (A) by deleting the word “and” at the end of paragraph (a);
  - (B) by substituting for the full stop at the end of paragraph (b) the words “; and”; and
  - (C) by inserting after paragraph (b) the following paragraph:

“(c) a further one thousand ringgit shall be allowed for the years of assessment 2020 and 2021;” and
- (viii) by inserting after paragraph (r) the following paragraphs:
  - “(s) an amount limited to a maximum of one thousand ringgit expended or deemed expended under subsection (3) in respect of the payment for accommodation at the premises registered with the Commissioner of Tourism under the Tourism Industry Act 1992 [*Act 482*] and entrance fee to a tourist attraction in that basis year by that individual as evidenced by receipts on the amount expended:

Provided that the payment is made on or after 1 March 2020 but not later than 31 December 2021;
  - (t) an amount limited to a maximum of two thousand and five hundred ringgit expended or deemed expended under subsection (3) in that basis year by that individual for the purchase of

a personal computer, smartphone or tablet (not being used for the purposes 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 as evidenced by receipts issued in respect of the purchase and the deduction under this paragraph shall be additional to any deduction under paragraph (p):

Provided that—

- (a) the purchase is made on or after 1 June 2020 but not later than 31 December 2020; and
  - (b) the total amount of deduction under this paragraph shall exclude the amount deducted under paragraph (p); and
- (u) an amount limited to a maximum of five hundred ringgit expended or deemed expended under subsection (3) in that basis year by that individual—
- (i) for the purchase of sports equipment for any sports activity as defined under the Sports Development Act 1997 [*Act 576*] (excluding motorized two-wheel bicycles);
  - (ii) for the payment of rental or entrance fee to any sports facility; and
  - (iii) for the payment of registration fee for any sports competition where the organizer is approved and licensed by the Commissioner of Sports under the Sports Development Act 1997,

for his own use or under his name or for the use of or under the name of his wife or child, or in the case of a wife, for her own use or under her name or for the use of or under the name of her husband or child as evidenced by receipts issued in respect of the purchase or payment, as the case may be, and the deduction under this paragraph shall be additional to any deduction under paragraph (p):

Provided that the total amount of deduction under this paragraph shall exclude the amount deducted under paragraph (p).”; and

(b) in subsection (3), by substituting for the words “and (r)” the words “, (r), (s), (t) and (u)”.

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

**15.** Paragraph 47(1)(b) of the principal Act is amended by substituting for the words “three thousand five hundred ringgit” the words “five thousand ringgit”.

#### **New section 65B**

**16.** The principal Act is amended by inserting after section 65A the following section:

##### **“Incentive scheme**

**65B.** (1) Where a person referred to in paragraph 6(1)(m) carries on a business in Malaysia in respect of a source consisting of a qualifying activity under an incentive scheme approved by the Minister, the business shall be treated as a separate and distinct business and source of that person.



(2) The chargeable income of a person in respect of the source consisting of the qualifying activity referred to in subsection (1), for a year of assessment shall be the statutory income from that source reduced by any amount of deduction falling to be made pursuant to subsection 43(2) relating to that source and so much of the amount which has not been deducted from that statutory income for the year of assessment the incentive scheme ends shall only be deductible in accordance with subsection 43(2) for a period of seven consecutive years of assessment.

(3) For the purposes of subsection (2), the period of seven consecutive years of assessment shall commence immediately following that year of assessment the incentive scheme ends and any amount of balance of the amount referred to in that subsection which is not deductible at the end of that period shall be disregarded for the purposes of this Act.

(4) The chargeable income of a person in respect of the source or sources other than the source consisting of the qualifying activity referred to in subsection (1) for a year of assessment shall be the statutory income from that source or the aggregate of the statutory income from each of those sources, as the case may be, reduced by any deduction falling to be made pursuant to subsections 43(2) and 44(1):

Provided that in so making the deductions under subsections 43(2) and 44(1), no regard shall be had to the adjusted loss, if any, from the source consisting of such qualifying activity.

(5) Where the person referred to in subsection (1) fails to comply with the conditions prescribed by the Minister under Part XVII of Schedule 1, the Director General may at any time within five years after the expiration of the year of assessment for which the rate prescribed by the Minister under Part XVII of Schedule 1 was applied, make such additional assessments upon that person as appears to the Director General to be necessary in order to counteract any benefit obtained under Part XVII of Schedule 1.

(6) The person who carries on a business in respect of the source consisting of a qualifying activity referred to in subsection (1) shall maintain a separate account for the income derived from such qualifying activity for the basis period for each year of assessment.”.

### **Amendment of section 77A**

17. Subsection 77A(1A) of the principal Act is amended by inserting after the words “a company” the words “and a limited liability partnership”.

### **Amendment of section 83**

18. Section 83 of the principal Act is amended—

(a) in subsection (2), by substituting for the words “shall not later than one month thereafter give written notice to the Director General stating the full name and address of the individual and the terms and date of commencement of the employment” the words “shall give notice in the prescribed form to the Director General not later than thirty days after the commencement of the employment”;

(b) in subsection (3)—

(i) by inserting after the word “employment” the words “or where an individual under his employment dies”;

(ii) by substituting for the words “not less than one month before the cessation give written notice thereof to the Director General stating the full name and address of the individual and the expected date of cessation” the words “, not less than thirty days before the cessation of the employment, or in respect of cessation by reason of death not more than thirty days after being informed of the death of the individual, give notice in the prescribed form to the Director General of the cessation of the employment”;

- (iii) in the first proviso to subsection (3), by substituting for the words “a notice given less than one month before the cessation or a notice given on or after the cessation” the words “a notice in the prescribed form given less than thirty days before the cessation of the employment, or a notice in the prescribed form given on or after the cessation, or in respect of cessation by reason of death a notice in the prescribed form given more than thirty days after being informed of the death of the individual”; and
  - (iv) in the second proviso to subsection (3), by substituting for the words “the written notice” the words “the notice in the prescribed form to the Director General”; and
- (c) in subsection (4)—
- (i) by substituting for the words “one month” wherever appearing the words “thirty days”;
  - (ii) by substituting for the words “written notice of the individual’s departure” the words “notice in the prescribed form”; and
  - (iii) in paragraph (a) of the proviso, by inserting after the words “a notice” wherever appearing the words “in the prescribed form”.

### **Amendment of section 103**

**19.** Subsection 103(9) of the principal Act is amended by deleting the words “(1A),”.

**New section 103B**

20. The principal Act is amended by inserting after the deleted section 103A the following section:

**“Tax payable notwithstanding institution of proceedings under any other written law**

**103B.** The institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from liability for the payment of any tax, debt or other sum for which he is or may be liable to pay under this Part.”.

**Amendment of section 104**

21. Section 104 of the principal Act is amended—

(a) in paragraph (1)(b), by substituting for the words “103(1A), (3)” the words “103(3)”; and

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

“(1A) The certificate referred to in subsection (1) may be issued to any Commissioner of Police or Director of Immigration through an electronic medium or by way of electronic transmission.”.

**Amendment of section 106**

22. Subsection 106(3) of the principal Act is amended by substituting for the words “103(1A), (3)” the words “103(3)”.

**Amendment of section 109D**

**23.** Section 109D of the principal Act is amended by deleting paragraph (4)(a) and subsection (5).

**New section 113B**

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

**“Failure to furnish contemporaneous transfer pricing documentation**

**113B.** (1) Any person who makes default in furnishing contemporaneous transfer pricing documentation in respect of any year of assessment, in accordance with any rules made under paragraph 154(1)(ed) to implement and facilitate the operation of section 140A, shall be guilty of an offence and shall, on conviction, be liable to a fine 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 contemporaneous transfer pricing documentation 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 provisions 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.

(4) Where in relation to any year of assessment a person makes default in furnishing contemporaneous transfer pricing documentation in accordance with any rules made under paragraph 154(1)(ed) to implement and facilitate the operation of section 140A, and no prosecution under subsection (1) has been instituted in respect of the default in furnishing contemporaneous transfer pricing documentation, the Director General may by notice in writing or in the notice of assessment require that person to pay a penalty

of not less than twenty thousand ringgit and not more than one hundred thousand ringgit and, if that person pays that penalty, or where the penalty is abated or remitted under subsection 124(3), so much, if any, of the penalty as has not been abated or remitted, he shall not be liable to be charged on the same facts with an offence under subsection (1).

(5) The person served with a notice in writing referred to in subsection (4) may appeal to the Special Commissioners within thirty days as if the notice were a notice of assessment and the provisions of this Act relating to appeals shall apply accordingly with any necessary modifications.”.

#### **Amendment of section 124**

**25.** Section 124 of the principal Act is amended—

- (a) in the shoulder note, by inserting after the word “**remit**” the words “**surcharge or**”; and
- (b) in subsection (3), by inserting after the words “remit any” the words “surcharge or”.

#### **Amendment of section 140A**

**26.** Section 140A of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**the price on certain transactions**” the words “**price, disregard structure and impose surcharge**”;
- (b) by inserting after subsection (3) the following subsections:
  - “(3A) The Director General may disregard any structure adopted by a person in entering into a transaction if—
  - (a) the economic substance of that transaction differs from its form; or

(b) the form and substance of that transaction are the same but the arrangement made in relation to the transaction, viewed in totality, differs from those which would have been adopted by independent persons behaving in a commercially rational manner and the actual structure impedes the Director General from determining an appropriate transfer price.

(3B) Where the Director General disregards any structure adopted by a person entering into a transaction under subsection (3A), the Director General shall make adjustments to the structure of that transaction as he thinks fit to reflect the structure that would have been adopted by an independent person dealing at arm's length having regard to the economic and commercial reality.

(3C) Where this section and any rules made under paragraph 154(1)(ed) apply, the Director General may by notice in writing require that person to pay a surcharge of not more than five per cent of the amount of increase of any income generally, or reduction of any deduction or loss, as the case may be, as a consequence of exercising his powers to substitute the price in respect of a transaction entered into by a person to reflect an arm's length price for that transaction or to disregard any structure adopted by a person in entering into a transaction.

(3D) Any surcharge required to be paid by a person under subsection (3C) shall be collected by the Director General as if it were tax payable by that person, but shall not be treated as tax so payable for the purposes of any provision of this Act other than sections 103 to 106.”; and

(c) in subsection (5), by substituting for the words “subsection (2)” for the words “subsections (2) and (3A)”.

**Amendment of Schedule 1**

**27.** Schedule 1 to the principal Act is amended—

- (a) in Part I, in paragraph 1, in the column *Rate of income tax*, by substituting for the words “14 per cent” the words “13 per cent” appearing in the fifth line; and
- (b) by inserting after Part XVI the following parts:

“PART XVII

1. Notwithstanding Part I, income tax shall be charged for a specified year of assessment on the chargeable income of a person who carries on business in respect of a qualifying activity under an incentive scheme approved by the Minister at the rate of not more than 20 per cent on every ringgit of that chargeable income.
2. In this Part, the applicable rate, the specified year of assessment and the conditions of the incentive scheme shall be as prescribed by the Minister.

PART XVIII

1. Notwithstanding Parts I and II, income tax shall be charged for a specified year of assessment on the chargeable income of an individual resident who is not a citizen having and exercising employment in a company which carries on business in respect of a qualifying activity under an incentive scheme approved by the Minister at the rate of not more than 20 per cent on every ringgit of that chargeable income.
2. In this Part, the applicable rate, the specified year of assessment and the conditions of the incentive scheme shall be as prescribed by the Minister.”.

**Amendment of Schedule 3**

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

- (a) by inserting after paragraph 70 the following paragraph:

“**70A.** In this Schedule, “plant” means an apparatus used by a person for carrying on his business but does not include a building, an intangible asset, or any asset used and that functions as a place within which a business is carried on.”; and



- (b) in subsubsubparagraph 75B(1)(a)(ii), by deleting the word “nominal”.

### **Amendment of Schedule 6**

**29.** Schedule 6 to the principal Act is amended by substituting for the proviso to subsubparagraph 15(1)(b) the following proviso:

“Provided that—

- (a) this subsubparagraph shall apply to the payment made in respect of an individual who has ceased employment on or after 1 July 2008; and
- (b) a further sum of ten thousand ringgit is allowed to be multiplied by the number of completed years of service in respect of an individual who has ceased employment on or after 1 January 2020 but not later than 31 December 2021.”.

### **Amendment of Schedule 7A**

**30.** Schedule 7A to the principal Act is amended—

(a) in subparagraph 2B(a)—

- (i) by substituting for the words “year of assessment 2015” the words “year of assessment 2019”; and
- (ii) by substituting for the words “years of assessment 2016, 2017 and 2018” the words “years of assessment 2020, 2021 and 2022”;

(b) in subparagraph 2B(b)—

- (i) by substituting for the words “year of assessment 2016” the words “year of assessment 2020”; and
- (ii) by substituting for the words “years of assessment 2017 and 2018” the words “years of assessment 2021 and 2022”; and

(c) in subparagraph 2B(c)—

- (i) by substituting for the words “year of assessment 2017” the words “year of assessment 2021”; and
- (ii) by substituting for the words “year of assessment 2018” the words “year of assessment 2022”.

### CHAPTER III

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

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

**31.** This Chapter comes into operation on 1 January 2021.

#### **Amendment of section 14**

**32.** The Real Property Gains Tax Act 1976, which is referred to as the “principal Act” in this Chapter, is amended in section 14 by inserting after subsection (5) the following subsection:

“(5A) Notwithstanding subsection (5), the Director General may, in his discretion for any good cause shown, remit the whole or any part of the sum referred to in that subsection and, where the sum remitted has been paid, the Director General shall repay the same.”.

#### **Amendment of section 15**

**33.** Section 15 of the principal Act is amended by inserting after subsection (4) the following subsection:

“(4A) Notwithstanding subsection (4), the Director General may, in his discretion for any good cause shown, remit the whole or any part of the sum referred to in that subsection and, where the sum remitted has been paid, the Director General shall repay the same.”.

**Amendment of section 21B**

**34.** Subsection 21B(1A) of the principal Act is amended by substituting for the words “is not a citizen, not a permanent resident or not a company incorporated in Malaysia” the words “is a disposer under Part III of Schedule 5”.

**New section 21c**

**35.** The principal Act is amended by inserting after section 21B the following section:

**“Tax payable notwithstanding institution of proceedings under any other written law**

**21c.** The institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from liability to pay any tax, debt or other sum for which he is liable to pay under this Part.”.

**Amendment of section 22**

**36.** Section 22 of the principal Act is amended—

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

“(1A) The certificate referred to in subsection (1) may be issued to any Commissioner of Police or Director of Immigration through an electronic medium or by way of electronic transmission.”; and

(b) in subsection (6)—

(i) in the English language text, by substituting for the full stop at the end of the definition of “immigration officer” a semi colon; and

- (ii) by inserting after the definition of “immigration officer” the following definition:

‘ “person” includes a director of a company specified in subparagraph 5(1A) of Schedule 1.’.

### **Amendment of section 57A**

**37.** Section 57A of the principal Act is amended by inserting after subsection (2) the following subsections:

“(3) For the purposes of subsection (1), a person may give an authorization in writing to a tax agent, an advocate and solicitor of the High Court of Malaya or an advocate of the High Court of Sabah and Sarawak to furnish on his behalf the prescribed form in the manner provided in subsection (1).

(4) The prescribed form which is furnished pursuant to subsection (3) on behalf of any person shall be presumed to have been furnished on that person’s authority, until the contrary is proved, and that person shall be deemed to be cognizant of its contents.

(5) Where subsection (3) applies—

(a) the person who gives the authorization to the tax agent, advocate and solicitor of the High Court of Malaya or advocate of the High Court of Sabah and Sarawak shall make a declaration in the prescribed form stating that—

(i) the tax agent, advocate and solicitor of the High Court of Malaya or advocate of the High Court of Sabah and Sarawak is authorized to furnish the form to the Director General on his behalf; and

- (ii) the information given by him to the tax agent, advocate and solicitor of the High Court of Malaya or advocate of the High Court of Sabah and Sarawak for the preparation of the form is true and correct;
  - (b) the tax agent, advocate and solicitor of the High Court of Malaya or advocate of the High Court of Sabah and Sarawak shall make a declaration in the form furnished in accordance with subsection (1) stating that—
    - (i) the form is prepared pursuant to the information given by the person who gives that authorization; and
    - (ii) he has received the declaration made by the person who gives the authorization under paragraph (a);
  - (c) the person who gives that authorization shall keep and retain in safe custody the hard copy of the form so furnished and that a copy shall be made under processes and procedures which are designed to ensure that the information contained in the form shall be the only information furnished pursuant to this section;
  - (d) the hard copy referred to in paragraph (c) shall be signed by the person who gives that authorization; and
  - (e) the hard copy referred to in paragraph (c) and the declaration made under paragraph (a) shall be kept and retained for a period of seven years from the end of the year of assessment in which the form is furnished.
- (6) The form referred to in subsection (1) is deemed to have been furnished to the Director General by the person who gives that authorization on the date on which an acknowledgement of receipt of the form transmitted electronically is given by the Director General to him.”.

**Amendment of Schedule 5**

**38.** Schedule 5 to the principal Act is amended in Part II by inserting after the words “or a trustee of a trust” the words “or society registered under the Societies Act 1966 [Act 335]”.

## CHAPTER IV

## AMENDMENTS TO THE STAMP ACT 1949

**Commencement of amendments to the Stamp Act 1949**

**39.** This Chapter comes into operation on 1 January 2021.

**Amendment of section 2**

**40.** The Stamp Act 1949 [Act 378], which is referred to as the “principal Act” in this Chapter, is amended in section 2 by substituting for the definition of “duly stamped” the following definition:

‘ “duly stamped”, as applied to an instrument, means—

- (a) the instrument bears an adhesive or impressed stamp of not less than the proper amount or the amount of initial duty or the amount of advance duty paid under subsection 37(1) and that such stamp has been affixed or used in accordance with the law for the time being in force;
- (b) an official receipt for the proper amount or the amount of initial duty or the amount of advance duty is affixed to the instrument;
- (c) a stamp certificate for the proper amount or the amount of initial duty or the amount of advance duty is attached to the instrument if the instrument is stamped through an electronic medium; or
- (d) the instrument is stamped by means of digital stamping for the proper amount or the amount of initial duty or the amount of advance duty;’.

**Amendment of section 7**

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

(a) by inserting after paragraph (a) the following paragraph:

“(aa) means of an impressed stamp;”;

(b) in paragraph (b), by deleting the word “or”;

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

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

“(d) means of digital stamping.”.

**Amendment of section 9**

**42.** Subsection 9(7) of the principal Act is amended by substituting for the words “paragraph 1(a), (b) or (c)” the words “subsection (1)”.

**Amendment of section 12**

**43.** Section 12 of the principal Act is amended—

(a) by deleting the word “or” at the end of paragraph (b);

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

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

“(d) there is denoted by means of digital stamping on the duplicate or counterpart that full and proper duty has been paid in respect of the original instrument.”.

**Amendment of section 48**

**44.** Section 48 of the principal Act is amended—

- (a) by deleting the word “or” at the end of paragraph (c);
- (b) by substituting for the comma at the end of paragraph (d) the words “; or”; and
- (c) by inserting after paragraph (d) the following paragraph:

“(e) by means of digital stamping,”.

**Amendment of section 50**

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

- (a) by renumbering the existing provision as subsection (1);
- (b) in subsection (1) as renumbered, by substituting for the word “Part” the word “Act”; and
- (c) by inserting after subsection (1) as renumbered the following subsections:

“(2) The Collector and any employee of the Inland Revenue Board of Malaysia authorized by the Collector shall be deemed to be public officers authorized by the Minister under subsection 25(1) of the Government Proceedings Act 1956 [*Act 359*] in respect of all proceedings under this section.

“(3) In a suit under this section, the production of a certificate signed by the Collector giving the name and address of the defendant and the amount of the duty or penalty due from him shall be sufficient evidence of the amount so due and authority for the court to give judgment for that amount.”.



**Amendment of section 55**

**46.** Section 55 of the principal Act is amended—

- (a) in subsection (2), by deleting the words “and a further duty of ten ringgit by way of adjudication fee”; and
- (b) by deleting subsection (3).

**Amendment of section 74A**

**47.** Section 74A of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The certificate referred to in subsection (1) may be issued to any Commissioner of Police or Director of Immigration through an electronic medium or by way of electronic transmission.”.

**Amendment of section 80**

**48.** Subsection 80(1A) of the principal Act is amended—

- (a) in paragraph (i)—
  - (i) by inserting a comma after the words “any instrument”; and
  - (ii) by inserting a comma after the words “any scheme”; and
- (b) in paragraph (ii)—
  - (i) by inserting a comma after the words “any instrument”; and
  - (ii) by substituting for the words “any scheme are chargeable” the words “any scheme, are chargeable under this Act”.

**New section 80B**

**49.** The principal Act is amended by inserting after section 80A the following section:

**“Power of Collector to remit duties**

**80B.** The duty paid or payable by any person may be remitted wholly or in part on grounds of poverty by the Collector and, where the sum remitted has been paid, the Collector shall repay the same.”.

**Amendment of section 82**

**50.** Section 82 of the principal Act is amended by inserting after paragraph (*aa*) the following paragraph:

“(ab) to prescribe the means of digital stamping to be used under this Act for the payment of stamp duty, to provide for matters relating to the issuance and validity of the digital stamping;”.

**CHAPTER V****AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967****Commencement of amendments to the Petroleum (Income Tax) Act 1967**

**51.** This Chapter comes into operation on 1 January 2021.

**New section 48A**

**52.** The Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended by inserting after section 48 the following section:

**“Tax payable notwithstanding institution of proceedings under any other written law**

**48A.** The institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from liability for the payment of any tax, debt or other sum for which he is or may be liable to pay under this Part.”.

**Amendment of section 49**

**53.** Subsection 49(3) of the principal Act is amended by substituting for the words “48(4) or (5)” the words “48(4), (5) or (6)”.

**New section 71B**

**54.** The principal Act is amended by inserting after section 71A the following section:

**“Public ruling**

**71B.** (1) The Director General may at any time make a public ruling on the application of any provision of this Act in relation to any chargeable person or any type of arrangement.

(2) The Director General may withdraw, either wholly or partly, any public ruling made under subsection (1).

(3) Notwithstanding any other provisions of this Act, where a public ruling made under subsection (1) applies to any chargeable person in relation to an arrangement and the chargeable person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the chargeable person and the arrangement in accordance with the ruling.”.

## CHAPTER VI

AMENDMENTS TO THE LABUAN BUSINESS ACTIVITY  
TAX ACT 1990**Commencement of amendments to the Labuan Business Activity  
Tax Act 1990**

**55.** (1) Paragraph 56(*b*) and sections 58 and 59 are deemed to have effect for the year of assessment 2020 and subsequent years of assessment.

(2) Section 57 comes into operation on the coming into operation of this Act.

(3) Paragraph 56(*a*) and sections 60, 61 and 62 come into operation on 1 January 2021.

**Amendment of section 2B**

**56.** The Labuan Business Activity Tax Act 1990, which is referred to as the “principal Act” in this Chapter, is amended in section 2B—

(*a*) in subsection (1), by substituting for paragraph (*b*) the following paragraph:

“(*b*) shall, for the purposes of the Labuan business activity—

(i) in relation to a Labuan trading activity—

(A) have an adequate number of full time employees in Labuan; and

(B) have an adequate amount of annual operating expenditure in Labuan,

as prescribed by the Minister by regulations made under this Act; and

(ii) in relation to a Labuan non-trading activity—

(A) have an adequate number of full time employees in Labuan;

(B) have an adequate amount of annual operating expenditure in Labuan; and

(C) comply with any condition in relation to control and management in Labuan,

as prescribed by the Minister by regulations made under this Act.”; and

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

“(1B) For the purposes of subsection (1A)—

(a) the chargeable profits shall be the net profits as reflected in the audited accounts in respect of such Labuan business activity of the Labuan entity for the basis period for that year of assessment; and

(b) sections 6, 6A, 6B, 6C, 6D, 8 and 8A shall apply, with necessary modifications.”.

### **Amendment of section 3A**

**57.** Subsection 3A(2) of the principal Act is amended by inserting after the words “three months” the words “or any extended period as may be allowed by the Director General”.

### **Amendment of section 6D**

**58.** Subsection 6D(1) of the principal Act is amended by substituting for the word “assessment” wherever appearing the words “assessment or additional assessment” except for the words “assessment of income tax”.

**Amendment of section 13A**

**59.** Subsection 13A(1) of the principal Act is amended by substituting for the words “section 6” the words “subsections 6(2), (3) and (4)”.

**New section 13B**

**60.** The principal Act is amended by inserting after section 13A the following section:

**“Tax payable notwithstanding proceedings instituted under any other written law**

**13B.** The institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from the liability to pay any tax, debt or other sum under this Part.”.

**Amendment of section 20**

**61.** Section 20 of the principal Act is amended—

(a) in subsection (2), by inserting after the words “liable to a fine” the words “of not less than twenty thousand ringgit and”; and

(b) by inserting after subsection (2) the following subsections:

“(3) Any person who receives any return of profits, statutory declaration or information made or received for the purposes of this Act, knowing or having reasonable ground to believe at the time when he receives it that such return, declaration or information is communicated or disclosed to him in contravention of this Act, shall not use such return, declaration or information or produce or disclose such return, declaration or information to any other person.

(4) Any person who contravenes subsection (3) commits an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding two years or to both.”.

#### **Amendment of section 24**

**62.** Subsection 24(1) of the principal Act is amended by inserting after the words “section 22 or 23” the words “, or any regulations made pursuant to subsection 21(1)”.

### CHAPTER VII

#### AMENDMENT TO THE FINANCE ACT 2012

#### **Commencement of amendment to the Finance Act 2012**

**63.** This Chapter comes into operation on the coming into operation of this Act.

#### **Amendment of section 3**

**64.** The Finance Act 2012 is amended in subsection 3(4) by inserting after the word “2021” the words “and in respect of paragraph 10(c) in relation to paragraph 49(1D)(b) of the Income Tax Act 1967 until the year of assessment 2025”.

### CHAPTER VIII

#### AMENDMENT TO THE FINANCE ACT 2018

#### **Commencement of amendment to the Finance Act 2018**

**65.** This Chapter comes into operation on the coming into operation of this Act.

**Amendment of section 3**

**66.** The Finance Act 2018 is amended in subsection 3(3) by substituting for the words “and 2020” the words “, 2020, 2021 and 2022”.

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**EXPLANATORY STATEMENT**

This Bill seeks to amend 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 Finance Act 2012 (“Act 742”) and the Finance Act 2018 (“Act 812”).

**AMENDMENTS TO THE INCOME TAX ACT 1967**

Chapter II of this Bill seeks to amend the Income Tax Act 1967.

2. *Clause 4* seeks to amend subsection 5(1A) of Act 53 to provide that any amount or income received by a person which is subject to deduction of tax under section 109D of Act 53 shall be disregarded for the purpose of ascertaining his chargeable income. Currently, only the amount or income which is subject to deduction of tax under section 109C, 109E or 109G of Act 53 is disregarded for the purpose of ascertaining the chargeable income.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

3. *Clause 5* seeks to introduce new paragraphs 6(1)(m) and (n) and new subsection 6(1A) into Act 53.

The proposed new paragraph 6(1)(m) of Act 53 seeks to provide that the income received by any person in respect of an incentive scheme approved by the Minister is subject to the tax rate as specified in Part XVII of Schedule 1 to Act 53.

The proposed new paragraph 6(1)(n) of Act 53 seeks to provide that the income of an individual resident who is not a citizen having and exercising employment in a company which carries on a business in respect of a qualifying activity under an incentive scheme approved by the Minister is subject to the tax rate as specified in Part XVIII of Schedule 1 to Act 53.



The proposed new subsection 6(1A) of Act 53 seeks to empower the Minister to prescribe a qualifying activity for the incentive scheme referred to in the new paragraphs 6(1)(m) and (n) of Act 53.

These amendments have effect for the year of assessment 2021 and subsequent years of assessment.

4. *Clause 6* seeks to introduce new section 6D into Act 53 to provide for a tax rebate that will be granted to a company or limited liability partnership which fulfils the conditions and requirements specified in the new section 6D and such conditions imposed by the Minister in the statutory order published in the *Gazette*.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

5. *Clause 7* seeks to amend subsection 34(7) of Act 53 to clarify that the tax deduction for expenditure incurred on research and development under that subsection is only applicable to a person resident in Malaysia.

This amendment comes into operation on the coming into operation of this Act.

6. *Clause 8* seeks to amend section 34A of Act 53.

*Subparagraph 8(a)(i)* seeks to clarify that the double deduction under section 34A of Act 53 is only applicable to a person resident in Malaysia.

*Subparagraph 8(a)(ii)* seeks to provide that the double deduction shall not be allowed if the amount of expenses on research and development incurred in the basis period outside Malaysia is more than thirty per cent of the total expenses on research and development in that basis period.

*Paragraph 8(b)* seeks to substitute the existing proviso to subsection 34A(4) of Act 53 to provide that if the amount of expenses on research and development incurred outside Malaysia in a basis period for a year of assessment is more than thirty per cent of the total expenses on research and development incurred in that basis period, only a single deduction equivalent to the amount of total expenses on research and development incurred shall be allowed.

These amendments come into operation on the coming into operation of this Act.

7. *Clause 9* seeks to amend subsection 34B(1) of Act 53 to clarify that the tax deduction under subsection 34B(1) of Act 53 is only applicable to a person resident in Malaysia.

This amendment comes into operation on the coming into operation of this Act.

8. *Clause 10* seeks to amend paragraph 39(1)(r) of Act 53 to clarify that subject to any rules prescribed by the Minister, any amount in respect of payment made by a resident to a Labuan entity referred to in paragraph 2B(1)(a) of Act 445 shall not be allowed for deduction under section 39 of Act 53.

This amendment comes into operation on 1 January 2021.

9. *Clause 11* seeks to amend subparagraph 44(5B)(a)(ii) and paragraph 44(5C)(a) of Act 53 to provide that the applicable value of shares of a company is not the nominal value. This amendment is consistent with the provisions of the Companies Act 2016 [Act 777].

This amendment comes into operation on 1 January 2021.

10. *Clause 12* seeks to amend paragraph 44A(3)(c) of Act 53. The proposed provision seeks to clarify that a surrendering company and a claimant company are related companies if seventy per cent of the paid-up capital in relation to ordinary shares of the surrendering company and the claimant company are held indirectly through the medium of a company resident and incorporated in Malaysia.

This amendment has effect for the year of assessment 2022 and subsequent years of assessment.

11. *Clause 13* seeks to amend subsection 45A(1) of Act 53 to provide that the amount for personal deduction for a wife whose husband is a disabled person is increased from three thousand and five hundred ringgit to five thousand ringgit.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

12. *Clause 14* seeks to amend section 46 of Act 53.

*Subparagraph 14(a)(i)* seeks to amend subparagraph 46(1)(c) of Act 53 to increase the limit of deduction for expenses on medical treatment, special needs or carer for parents from five thousand ringgit to eight thousand ringgit.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

*Subparagraph 14(a)(ii)* seeks to amend paragraph 46(1)(f) to introduce new subparagraph (iii) into paragraph 46(1)(f) of Act 53. The new subparagraph 46(1)(f)(iii) provides that a personal deduction is granted, for the years of assessment 2021 and 2022, to an individual for payment of any course taken for the purpose of upskilling and self-enhancement conducted by a body recognized by the Director General of Skills Development under the National Skills Development Act 2006 [Act 652] limited to a maximum amount of one thousand ringgit and that amount constitutes part of the deduction amounting to seven thousand ringgit allowed under paragraph 46(1)(f) of Act 53.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

*Subparagraph 14(a)(iii)* seeks to amend paragraph 46(1)(g) of Act 53 to extend the scope of personal deduction for medical expenses limited to one thousand ringgit expended or deemed expended by an individual for himself, or his spouse or his child on vaccination for pneumococcal, human papillomavirus (HPV), influenza, rotavirus, varicella, meningococcal, TDAP combination (tetanus-diphtheria-acellular-pertussis) and Coronavirus Disease 2019 (COVID-19).

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

*Subsubparagraph 14(a)(iii)(D)* seeks to amend subparagraph 46(1)(g) of Act 53 to increase the limit of deduction for expenses on medical treatment for serious disease by an individual for himself, his spouse and his child, or fertility treatment for himself or his spouse from six thousand ringgit to eight thousand ringgit.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

*Subparagraph 14(a)(iv)* seeks to amend subparagraph 46(1)(h) of Act 53 to increase the limit of deduction for expenses on a complete medical examination for by an individual for himself, his spouse or his child from five hundred ringgit to one thousand ringgit.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

*Subparagraph 14(a)(v)* seeks to amend subparagraph 46(1)(p)(i) of Act 53 to widen the scope of lifestyle deduction to subscription of electronic newspapers.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

*Subsubparagraph 14(a)(vii)(C)* seeks to introduce new paragraph (c) into the proviso to paragraph 46(1)(r) of Act 53 to provide that an additional deduction of one thousand ringgit expended or deemed expended is allowed for the payment of child care fees for a child aged six years and below 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].

This amendment has effect for the years of assessment 2020 and 2021.

*Subparagraph 14(a)(viii)* seeks to introduce new paragraphs 46(1)(s), (t) and (u) into Act 53.

The proposed new paragraph 46(1)(s) of Act 53 seeks to introduce new personal deduction of an amount limited to a maximum of one thousand ringgit expended or deemed expended in respect of the payment for accommodation at premises registered with the Commissioner of Tourism under the Tourism Industry Act 1992 [Act 482] and entrance fee to a tourist attraction made on or after 1 March 2020 but not later than 31 December 2021.

This amendment has effect for the years of assessment 2020 and 2021.

The proposed new paragraph 46(1)(t) of Act 53 seeks to provide for personal deduction which is additional to the deduction under paragraph 46(1)(p) of Act 53 of an amount limited to a maximum of two thousand and five hundred ringgit expended or deemed expended for the purchase of a personal computer, smartphone or tablet on or after 1 June 2020 but not later than 31 December 2020 and such purchase is made not for the purposes of his own business.

This amendment has effect for the year of assessment 2020.

The proposed new paragraph 46(1)(u) of Act 53 seeks to provide for personal deduction which is additional to the deduction under paragraph 46(1)(p) of Act 53 of an amount limited to a maximum of five hundred ringgit expended or deemed expended for the purchase of sports equipment for any sports activity as defined under the Sports Development Act 1997 [Act 576], payment of rental or entrance fee to any sports facility, and payment for registration fee for any sports competition where the organizer is approved and licensed by the Commissioner of Sports under the Sports Development Act 1997.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

13. *Clause 15* seeks to amend paragraph 47(1)(b) of Act 53 to provide that the amount for personal deduction for a husband whose wife is a disabled person is increased from three thousand and five hundred ringgit to five thousand ringgit.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

14. *Clause 16* seeks to introduce new section 65B into Act 53 to provide for tax treatment for a person carrying on a business in Malaysia in respect of a source consisting of a qualifying activity under an incentive scheme approved by the Minister. The business of a person from the qualifying activity shall be treated as a separate and distinct business and source of that person. Any loss for a year of assessment which is carried forward to the following year of assessment can only be deducted from the source of income of the qualifying activity. Any unabsorbed losses during the period of an incentive scheme shall only be utilized for a period of seven consecutive years of assessment after the year of assessment in which the incentive scheme ends. If a person fails to comply with the conditions prescribed by the Minister for the approved incentive scheme, the Director General may make an additional assessment on the person at any time within five years after the expiration of the year of assessment for which the rate was applied to recover the amount of tax ought to be paid.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

15. *Clause 17* seeks to amend subsection 77A(1A) of Act 53 to require a limited liability partnership to furnish to the Director General a return in the prescribed form through an electronic medium or by way of electronic transmission in accordance with section 152A of Act 53.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

16. *Clause 18* seeks to amend section 83 of Act 53.

*Paragraph 18(a)* seeks to amend subsection 83(2) of Act 53 to require the employer to furnish to the Director General a notice in the prescribed form not later than thirty days after the commencement of employment of his employee.

*Paragraph 18(b)* seeks to amend subsection 83(3) of Act 53 to require the employer to furnish to the Director General a notice in the prescribed form in respect of the death of his employee not more than thirty days after being informed of the death of his employee.

These amendments come into operation on 1 January 2021.

17. *Clause 20* seeks to introduce new section 103B into Act 53 to provide that institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from liability for the payment of tax, debt or other sum due and payable under Part VII of Act 53.

This amendment comes into operation on 1 January 2021.

18. *Clause 21* seeks to amend section 104 of Act 53. *Paragraph 21(b)* seeks to introduce new subsection 104(1A) into Act 53 to provide that the certificate referred to in subsection 104(1) of Act 53 may be issued to any Commissioner of Police or Director of Immigration through an electronic medium or by way of electronic transmission.

This amendment comes into operation on 1 January 2021.

19. *Clause 24* seeks to introduce new section 113B into Act 53.

The proposed new section 113B of Act 53 seeks to provide for an offence for failure to furnish contemporaneous transfer pricing documentation in accordance with any rules made under paragraph 154(1)(ed) of Act 53 to implement or facilitate the operation of section 140A of Act 53 and for which the offender may 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.

This amendment comes into operation on 1 January 2021.

20. *Clause 25* seeks to amend section 124 of Act 53 to empower the Director General to remit any surcharge imposed under Act 53.

This amendment comes into operation on 1 January 2021.

21. *Clause 26* seeks to introduce new subsections 140A(3A), (3B), (3C) and (3D) into Act 53.

The proposed new subsections 140A(3A) and (3B) seek to empower the Director General to disregard any structure adopted in entering into a transaction and to make adjustment to the structure of that transaction to reflect the structure that would have been adopted by an independent person dealing at arm's length having regard to economic and commercial reality.

The proposed new subsection 140A(3C) of Act 53 seeks to provide that the Director General may by notice in writing require any person to pay surcharge of not more than five per cent of the amount of increase of any income generally, or reduction of any deduction or loss, as a consequence of exercising the Director General's power to substitute the price in respect of a transaction to reflect an arm's length transaction or to disregard any structure adopted in entering into a transaction.

The proposed new subsection 140A(3D) of Act 53 seeks to provide that any surcharge to be paid by a person shall be collected by the Director General as if it were tax payable but shall not be treated as tax so payable for the purposes of any provision of Act 53 other than sections 103 to 106 of Act 53.

These amendments come into operation on 1 January 2021.

22. *Clause 27* seeks to amend Part I of Schedule 1 to Act 53 and to introduce new Parts XVII and XVIII into Schedule 1.

*Paragraph 27(a)* seeks to amend paragraph 1 of Part I of Schedule 1 to Act 53 to reduce the rates of tax from fourteen per cent to thirteen per cent on the chargeable income of an individual between RM50,001 and RM70,000.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

The proposed new Part XVII of Schedule 1 to Act 53 seeks to provide that the chargeable income for a person in respect of an incentive scheme approved by the Minister shall be taxed at the rate of not more than twenty per cent. The Minister may prescribe the applicable rate, the year of assessment and conditions under the approved incentive scheme.

The proposed new Part XVIII of Schedule 1 to Act 53 seeks to provide that the chargeable income for an individual resident who is not a citizen having and exercising an employment in a company that carries on a business in respect of a qualifying activity under an incentive scheme approved by the Minister shall be taxed at the rate of not more than twenty per cent. The Minister may prescribe the applicable rate, the year of assessment and conditions under the approved incentive scheme.

These amendments have effect for the year of assessment 2021 and subsequent years of assessment.

23. *Paragraph 28(a)* seeks to amend Schedule 3 to Act 53 to introduce new paragraph 70A into Schedule 3 to Act 53 to define the word “plant”.

This amendment has effect for the year of assessment 2021 and subsequent years of assessment.

24. *Clause 29* seeks to amend Schedule 6 to Act 53 to substitute the proviso to subsubparagraph 15(1)(b) of Schedule 6 to Act 53 to increase the amount exempted on income from compensation for loss of employment from ten thousand ringgit to twenty thousand ringgit for each completed year of service for an individual who has ceased employment on or after 1 January 2020 but not later than 31 December 2021.

This amendment has effect for the years of assessment 2020 and 2021.

25. *Clause 30* seeks to amend Schedule 7A to Act 53 to provide that where a company has made a claim for reinvestment allowances for a consecutive period of fifteen years of assessment and that claim ends either on the year before the year of assessment 2019, on the year of assessment 2019, 2020 or 2021, that company is entitled to claim for reinvestment allowances until the year of assessment 2022.

This amendment has effect for the years of assessment 2020, 2021 and 2022.

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

Chapter III of this Bill seeks to amend the Real Property Gains Tax Act 1976.

26. *Clause 32* seeks to introduce new subsection 14(5A) into Act 169. The proposed amendment seeks to empower the Director General, on any good cause, to remit all or any part of the sum imposed on any person because the acquirer fails to retain and remit the sum required under section 21B of Act 169 due to an incorrect or wrong notification by that person.

This amendment comes into operation on 1 January 2021.

27. *Clause 33* seeks to introduce new subsection 15(4A) into Act 169. The proposed amendment seeks to empower the Director General, on any good cause, to remit all or any part of the sum imposed on any person because the acquirer fails to retain and remit the sum required under section 21B of Act 169 due to an incorrect or wrong notification by that person.

This amendment comes into operation on 1 January 2021.

28. *Clause 34* seeks to amend section 21B of Act 169 to clarify that the acquirer shall retain the whole of the money or a sum not exceeding seven per cent of the total value of the consideration if the disposer is under Part III of Schedule 5 to Act 169.

This amendment comes into operation on on 1 January 2021.

29. *Clause 35* seeks to introduce new section 21c into Act 169 to provide that institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from liability to pay any tax, debt or other sum under Part III of Act 169.

This amendment comes into operation on 1 January 2021.

30. *Clause 36* seeks to amend section 22 of Act 169.

*Paragraph 36(a)* seeks to introduce new subsection 22(1A) into Act 169 to provide that the certificate referred to in subsection 22(1) of Act 169 may be issued to any Commissioner of Police or Director of Immigration through an electronic medium or by way of electronic transmission.

*Paragraph 36(b)* seeks to introduce new definition of “person” into subsection 22(6) of Act 169 to clarify that a director of a company specified in subparagraph 5(1A) of Schedule 1 to Act 169 may be prevented from leaving Malaysia for any tax due and payable by the company.

These amendments come into operation on 1 January 2021.

31. *Clause 37* seeks to introduce new subsections 57A(3), (4), (5) and (6) into Act 169. The new provisions seek to provide for a person to authorize a tax agent, an advocate and solicitor of the High Court of Malaya or an advocate of the High Court of Sabah and Sarawak to furnish a prescribed form through an electronic medium or by way of electronic transmission on behalf of that person.

This amendment comes into operation on 1 January 2021.

32. *Clause 38* seeks to amend Part II of Schedule 5 to Act 169 to provide that the rate specified in Part II of Schedule 5 to Act 169 applies to an association registered under the Societies Act 1966 [Act 335].

This amendment comes into operation on 1 January 2021.



## AMENDMENTS TO THE STAMP ACT 1949

Chapter IV of this Bill seeks to amend the Stamp Act 1949.

33. *Clause 40* seeks to substitute the definition of “duly stamped” in section 2 of Act 378.

This amendment comes into operation on 1 January 2021.

34. *Clause 41* seeks to introduce new paragraphs 7(1)(aa) and (d) into Act 378 to provide for an impressed stamp and digital stamping as a mode of payment.

This amendment comes into operation on 1 January 2021.

35. *Clause 43* seeks to introduce a new paragraph 12(d) into Act 378 to provide that a digital stamping on duplicates and counterparts of an instrument as another means to deem that the duplicates and counterparts have been duly stamp to show that the full and proper duty has been paid on the original instrument.

This amendment comes into operation on 1 January 2021.

36. *Clause 44* seeks to introduce new paragraph 48(e) into Act 378 to provide that payment of any penalty prescribed under section 43 or 47A of Act 378 shall be denoted on the instrument by means of digital stamping and shall be certified by the Collector.

This amendment comes into operation on 1 January 2021.

37. *Clause 45* seeks to amend section 50 of Act 378.

*Paragraph 45(b)* seeks to extend the application of section 50 to the whole of Act 378.

*Paragraph 45(c)* further seeks to introduce new subsections 50(2) and (3) into Act 378. The proposed new subsection 50(2) of Act 378 seeks to provide that the Collector and any employee of the Inland Revenue Board of Malaysia authorized by the Collector shall be deemed to be public officers authorized by the Minister under subsection 25(1) of the Government Proceedings Act 1956 [Act 359] in respect of all proceedings under section 50 of Act 378.

The proposed new subsection 50(3) of Act 378 seeks to provide that in relation to a suit, the production of a certificate signed by the Collector giving the name and address of the defendant and the amount of duty or penalty due and payable from him shall be sufficient evidence of the amount so due and authority for the court to give judgment for that amount.

This amendment comes into operation on 1 January 2021.

38. *Clause 46* seeks to amend section 55 of Act 378 to reflect the current stamping practice which no longer imposes adjudication fees.

This amendment comes into operation on 1 January 2021.

39. *Clause 47* seeks to introduce new subsection 74A(1A) into Act 378 to provide that a certificate referred to in subsection 74A(1) of Act 378 may be issued to any Commissioner of Police or Director of Immigration through an electronic medium or by way of electronic transmission.

This amendment comes into operation on 1 January 2021.

40. *Clause 49* seeks to introduce new section 80B into Act 378 to empower the Collector to remit wholly or in part the duty paid on grounds of poverty.

This amendment comes into operation on 1 January 2021.

41. *Clause 50* seeks to introduce new paragraph 82(ab) into Act 378 to empower the Minister to prescribe the means of digital stamping for the payment of stamp duty under Act 378 and to provide for matters relating to the issuance and validity of digital stamping.

This amendment comes into operation on 1 January 2021.

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

Chapter V of this Bill seeks to amend the Petroleum (Income Tax) Act 1967.

42. *Clause 52* seeks to introduce new section 48A into Act 543 to provide that institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from liability for the payment of any tax, debt or other sum under Part VIII of Act 543.

This amendment comes into operation on 1 January 2021.

43. *Clause 54* seeks to introduce new section 71B into Act 543 to provide that the Director General may issue a public ruling in relation to the application of any provision of Act 543.

This amendment comes into operation on 1 January 2021.

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

Chapter VI of this Bill seeks to amend the Labuan Business Activity Tax Act 1990.

44. *Clause 56* seeks to amend section 2B of Act 445.

*Paragraph 56(a)* seeks to amend subsection 2B(1)(b) of Act 445 to provide that for the purposes of Labuan business activity, other than the requirement relating to the number of full time employees and annual operating expenditure in Labuan, the Minister may also prescribe by regulations any condition in relation to control and management in Labuan for a Labuan non-trading activity.

This amendment comes into operation on 1 January 2021.

*Paragraph 56(b)* seeks to introduce new subsection 2B(1B) into Act 445 to provide that for the purposes of the tax charged under subsection 2B(1A) of Act 445 on a Labuan entity carrying on a Labuan business activity, the chargeable profits shall be the net profits as reflected in the audited accounts of that Labuan entity. For those purposes, sections 6, 6A, 6C, 6D, 8 and 8A of Act 445 shall apply.

This amendment is deemed to have effect for the year of assessment 2020 and subsequent years of assessment.

45. *Clause 57* seeks to amend subsection 3A(2) of Act 445 to empower the Director General to allow an extension of time to a Labuan entity to furnish the irrevocable election.

This amendment comes into operation on the coming into operation of this Act.

46. *Clause 58* seeks to amend subsection 6D(1) of Act 445 to provide that a person aggrieved by an additional assessment made on him may appeal to the Special Commissioners of Income Tax under section 6D of Act 445.

This amendment is deemed to have effect for the year of assessment 2020 and subsequent years of assessment.

47. *Clause 59* seeks to amend subsection 13A(1) of Act 445 to clarify that the notice of assessment referred to in that subsection refers to the assessment raised under subsections 6(2), (3) and (4) of Act 445.

This amendment is deemed to have effect for the year of assessment 2020 and subsequent years of assessment.

48. *Clause 60* seeks to introduce new section 13B into Act 445 to provide that the institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from the liability for the payment of any tax, debt or other sum under Part IV of Act 445.

This amendment comes into operation on 1 January 2021.

49. *Clause 61* seeks to amend section 20 of Act 445.

*Paragraph 61(a)* seeks to amend subsection 20(2) of Act 445 to provide that a minimum fine of not less than twenty thousand ringgit may be imposed on any official who contravenes subsection 20(1) of Act 445.

*Paragraph 61(b)* seeks to introduce new subsections 20(3) and (4) into Act 445 to provide for an offence where any person uses, produces or discloses any return of profits, statutory declaration or information made or received for the purposes of Act 445 which is communicated or disclosed to him in contravention of Act 445 and the penalty shall be a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or imprisonment for a term not exceeding two years or to both.

This amendment comes into operation on 1 January 2021.

50. *Clause 62* seeks to amend subsection 24(1) of Act 445 to provide that any offence under the regulations made pursuant to subsection 21(1) of Act 445 may be compounded.

This amendment comes into operation on 1 January 2021.

#### AMENDMENT TO THE FINANCE ACT 2012

Chapter VII of this Bill seeks to amend the Finance Act 2012.

51. *Clause 64* seeks to amend subsection 3(4) of Act 742 to provide for an extension of time from the year of assessment 2022 until the year of assessment 2025 for an amount of deduction by an individual for a contribution made to a private retirement scheme approved by the Securities Commission.

This amendment comes into operation on the coming into operation of this Act.

#### AMENDMENT TO THE FINANCE ACT 2018

Chapter VIII of this Bill seeks to amend the Finance Act 2018.

52. *Clause 66* seeks to amend subsection 3(3) of Act 812 to provide for an extension of time from the year of assessment 2021 until the year of assessment 2022 for an amount of deduction deposited by an individual for his child into the Skim Simpanan Pendidikan Nasional account.

This amendment comes into operation on the coming into operation of this Act.

#### GENERAL

53. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

*FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)3235]