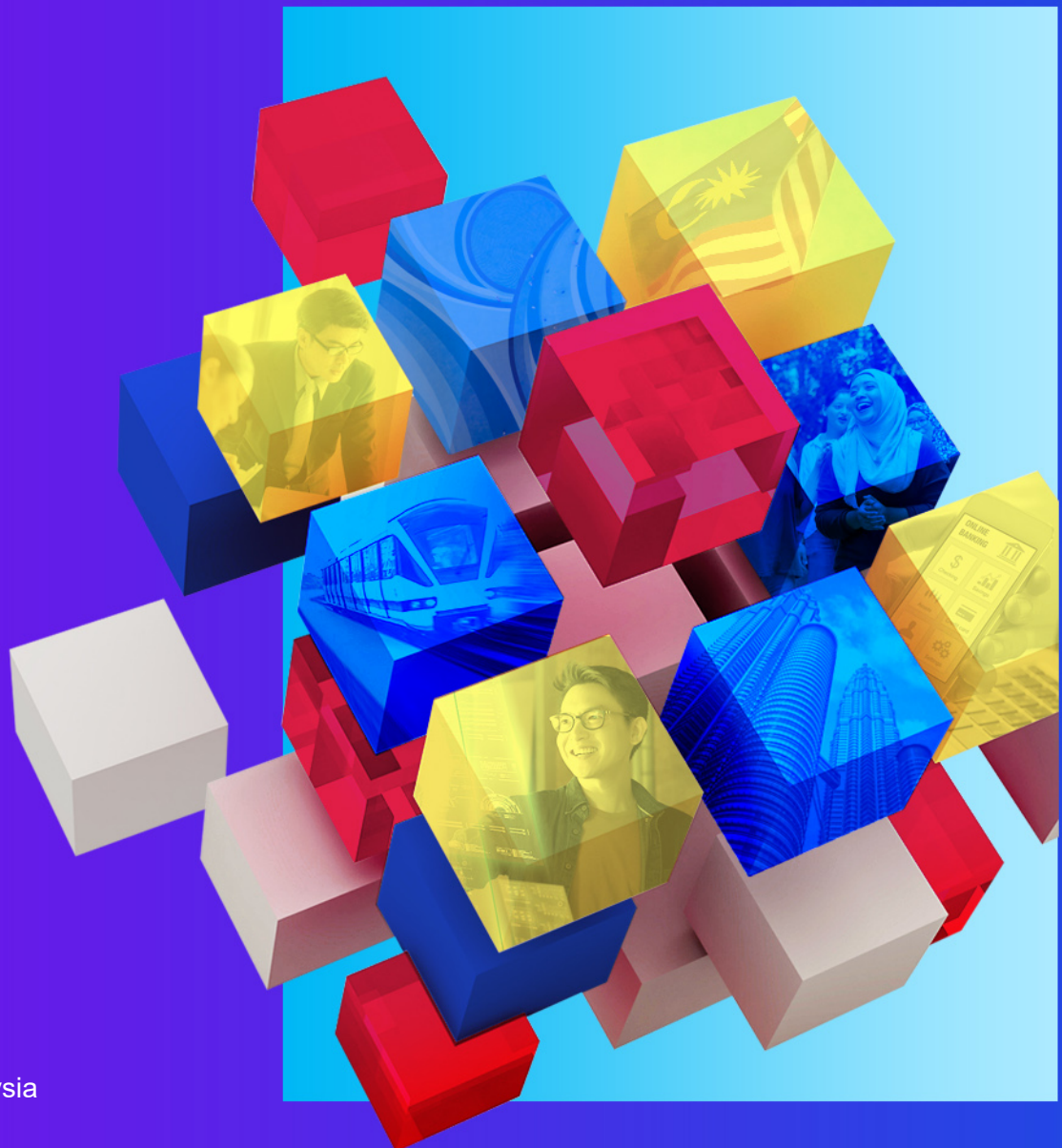




# Finance Bill 2023 Highlights



March 2023

KPMG in Malaysia

# Table of Contents

## 01 Business Tax

### Income Tax

- Definition of plant for claiming capital allowances
- Corporate income tax rate

### Administrative Matters

- Due date for remittance of withholding tax on payment made to agent, dealer or distributor
- Submission of returns and amended return through e-Filing
- Allow payment by instalments for balance of tax payable under deemed assessments
- Allow second revision for tax instalment scheme (CP500)
- Submission of exploration income and expenditure tax returns / exploration income amended return through e-Filing
- Amendment of return on exploration expenditure

## 02 RPGT

- Transfer of assets between former spouses
- Limitation to the scope of no gain no loss transaction

## 03 Stamp Duty

- Stamp duty on education loan / scholarship agreement
- Security instrument relating to discounting invoices or hire purchase receivables or factoring agreement entered by SME

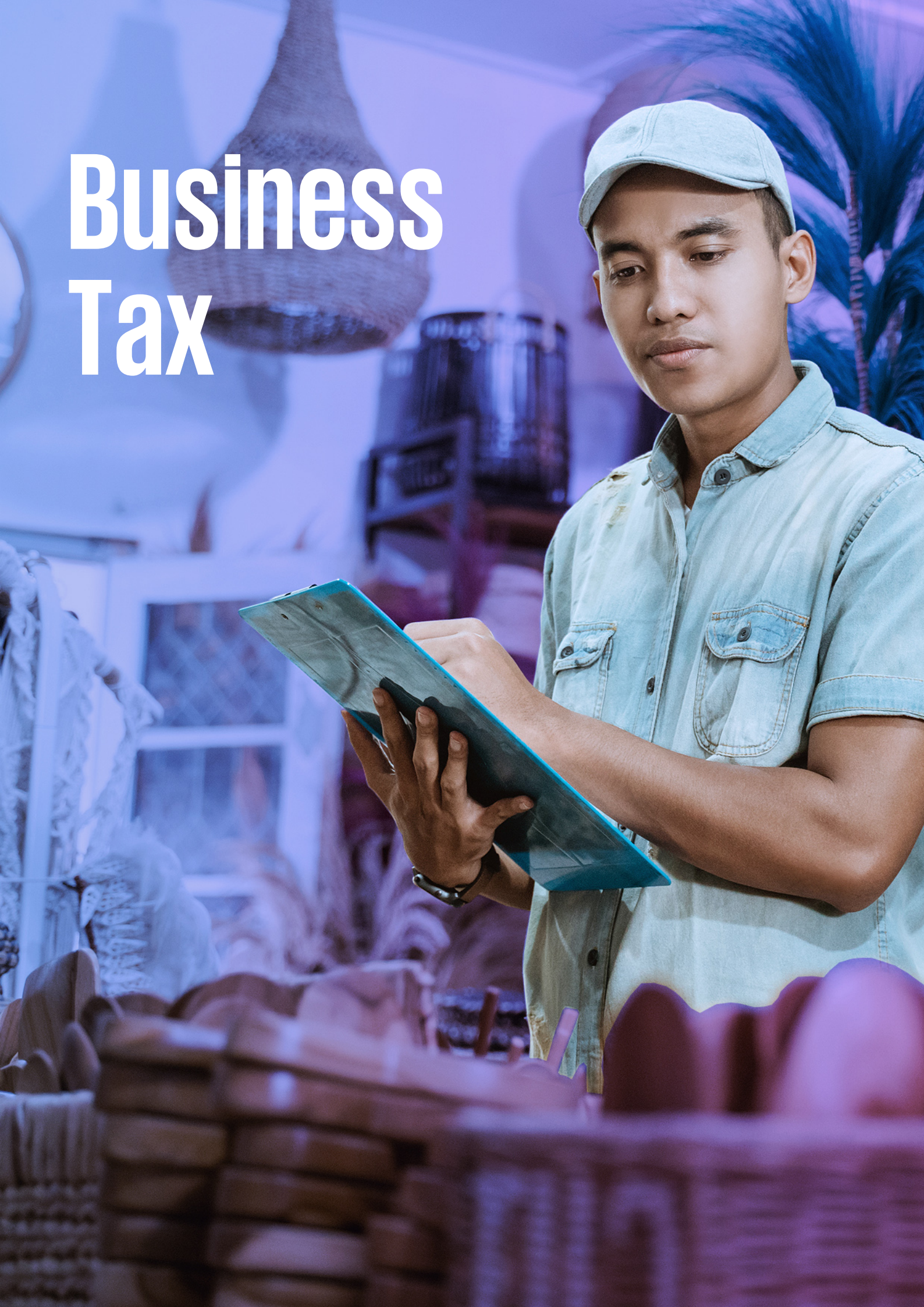
# Table of Contents

## 04 Personal Tax

- Changes to income tax rates for resident individual
- Expansion of scope of tax relief and increase in tax relief limit



# Business Tax







Tai Lai Kok  
Executive Director  
Head of Corporate Tax

## Key Message

“Overall, the Government has taken a responsible and balanced approach in providing an enhanced ecosystem for the MSME to be competitive within the wider ASEAN landscape. In line with the Government’s commitment towards accomplishing the Malaysia MADANI principles, the much-needed measures such as financial assistance and reduction of income tax rate from 17% to 15% for the first RM150,000 chargeable income of MSME are very much welcomed by the stakeholders.

Apart from embracing Malaysia MADANI principles, everyone should be conversant with the available tax incentives and legislative changes in order to maximise their tax savings in line with the Government’s initiatives.”

# Income Tax

## 1 Definition of plant for claiming capital allowances

Taxpayers may claim capital allowances on qualifying capital expenditure incurred on provision of plant or machinery for the purposes of a business.

### Current

Currently, “plant” is defined for ITA purposes as an apparatus used by a person for carrying on his business but does not include:

- a) a building;
- b) an intangible asset, or;
- c) any asset used and that functions as a place within which a business is carried on.

### Proposed

It is proposed that “plant” be defined for ITA purposes as an apparatus used by a person for carrying on his business but does not include:

- a) a building;
- b) any asset used and that functions as a place within which a business is carried on.

Notwithstanding the above, the Minister of Finance may prescribe any other assets as assets which are excluded from the definition of “plant”.

### Effective Date

The above proposal is effective from YA 2023.

Based on the principles established in case law, a plant includes whatever apparatus used by a person for carrying on his business but does not include stock in trade. Thus, in determining whether an asset is a plant, the function and need of the asset in a business activity have to be determined based on the functional test and premise test. If an asset meets the function as a tool which needs to be used in carrying on a business, then the asset is a plant. Where an asset that is used and functions as a premise or a setting within a business is carried on, it is not a plant (i.e. premise test).

Paragraph 70A, Schedule 3 of the ITA has explicitly excluded intangible assets from the definition of plant. However, the above proposed amendment has been introduced to remove this exclusion.

Additionally, the proposal excludes “*any asset prescribed by the Minister*” from the definition of “plant”, which grants the Minister of Finance the power to restrict what is considered a “plant”.

## 2 Corporate income tax rate

It is proposed that a new condition be imposed and the corporate income tax rate be amended for companies / LLPs resident and incorporated in Malaysia which:

- a. have a paid-up capital in respect of ordinary shares / total contribution of capital of RM2.5 million and less at the beginning of the basis period for a YA [subject to the related parties / partners proviso (Paragraphs 2B and 2E, Schedule 1 of the ITA refer)]; and
- b. have a gross income from source or sources consisting of a business not exceeding RM50 million for the basis period for that YA.

Income Tax Rate (%)	Chargeable Income (RM) (Current)	Chargeable Income (RM) (Proposed) (Effective from YA 2023)	New Condition (Proposed) (Effective from YA 2024)
15	-	Up to 150,000	Not more than 20% of the paid-up capital in respect of ordinary shares / total contribution of capital at the beginning of the basis period for a YA <u>is directly or indirectly</u> owned / contributed by a company or companies incorporated outside Malaysia or an individual or individuals who are not Malaysian citizen.
17	Up to 600,000	150,001 to 600,000	
24	>600,000	>600,000	

The above proposals on the amended income tax rate and the new condition are effective from YA 2023 and YA 2024 respectively.

# Administrative Matters

## 1 Due date for remittance of withholding tax on payment made to agent, dealer or distributor

Currently, withholding tax under Section 107D of the ITA is required to be remitted to the DGIR within 30 days after paying or crediting the agent, dealer or distributor.

With effect from 1 July 2022, the Inland Revenue Board has administratively allowed the withholding tax to be remitted by the end of the calendar month immediately following the calendar month in which the payment was made.

It is proposed that the above administrative payment arrangement be enacted in the ITA.

The above proposal comes into operation on 1 January 2023.



## 2 Submission of returns and amended return through e-Filing

Currently, the income tax return forms of a company and LLP as well as the return form of employer of a company are required to be submitted through an electronic medium or by way of electronic transmission. Manual filing is not allowed.

It is proposed that the e-Filing requirement is expanded to the following category of taxpayers:

Type of Form Filed Electronically	Category of Taxpayer (Current)	Category of Taxpayer (Proposed)
Income Tax Return Form	Company, LLP	All categories
Amended Tax Return Form	None	Company, LLP, trust body and co-operative society
Return Form of Employer (Form E)	Company	Company, LLP, trust body and co-operative society
Partnership Return Form	None	Partnership

The above proposal is effective from YA 2024.

### 3 Allow payment by instalments for balance of tax payable under deemed assessments



Currently, the DGIR is authorised to allow payments of tax for formal assessments made under Subsections 90(3), 91, 92, 96A of the ITA or reviews under Subsection 101(2) of the ITA, to be settled through instalments.

It is proposed that the balance of tax payable under deemed assessments may be allowed to be settled through instalments.

The above proposal is effective from YA 2023.

### 4 Allow second revision for tax instalment scheme (CP500)

Currently, every person chargeable to tax for a YA, other than a company, trust body, co-operative society or LLP, may, upon an application being made by the person not later than 30 June in that YA, revise his CP500.

It is proposed that an application shall be allowed for a revision of a CP500 for the second time to be made not later than 31 October in that YA.

The above proposal is effective from YA 2023.

### 5 Submission of exploration income and expenditure tax returns / exploration income amended return through e-Filing

Currently, pursuant to Sections 30 / 30A and 30B of the PITA, a chargeable person is required to submit the above returns i.e. Forms CPP, CPE and BNT CPP, either by way of manual filing or electronic filing.

It is proposed that a chargeable person shall file Forms CPP, CPE and BNT CPP through an electronic medium or by way of electronic transmission.

In view of the above, manual filing for the abovementioned Forms is no longer allowed.

The above proposal is effective from YA 2023.



## 6 Amendment of return on exploration expenditure

A new Section 30C of the PITA has been proposed to allow a chargeable person to amend the amount of exploration expenditure incurred in relation to petroleum operations in the exploration period.

The amended return must be submitted to the DGIR within 6 months from the due date of filing of the Form CPE.

Further, the amended return shall only be made once.

The above proposal is effective from YA 2023.



# Real Property Gains Tax





## 1 Transfer of assets between former spouses

Currently, the transfer of Malaysian real property between former spouses is subject to RPGT at the prescribed rates ranging from 0% to 30% depending on the holding period and residence status of the disposer.

It is proposed that the scope for no gain no loss transaction be expanded to include the transfer of assets between former spouses pursuant to an order of any court in consequence of the dissolution or annulment of their marriage. The transfer of assets shall involve assets owned by a citizen.

The above proposal is effective on the coming into operation of the Finance Act.

## 2 Limitation to the scope of no gain no loss transaction



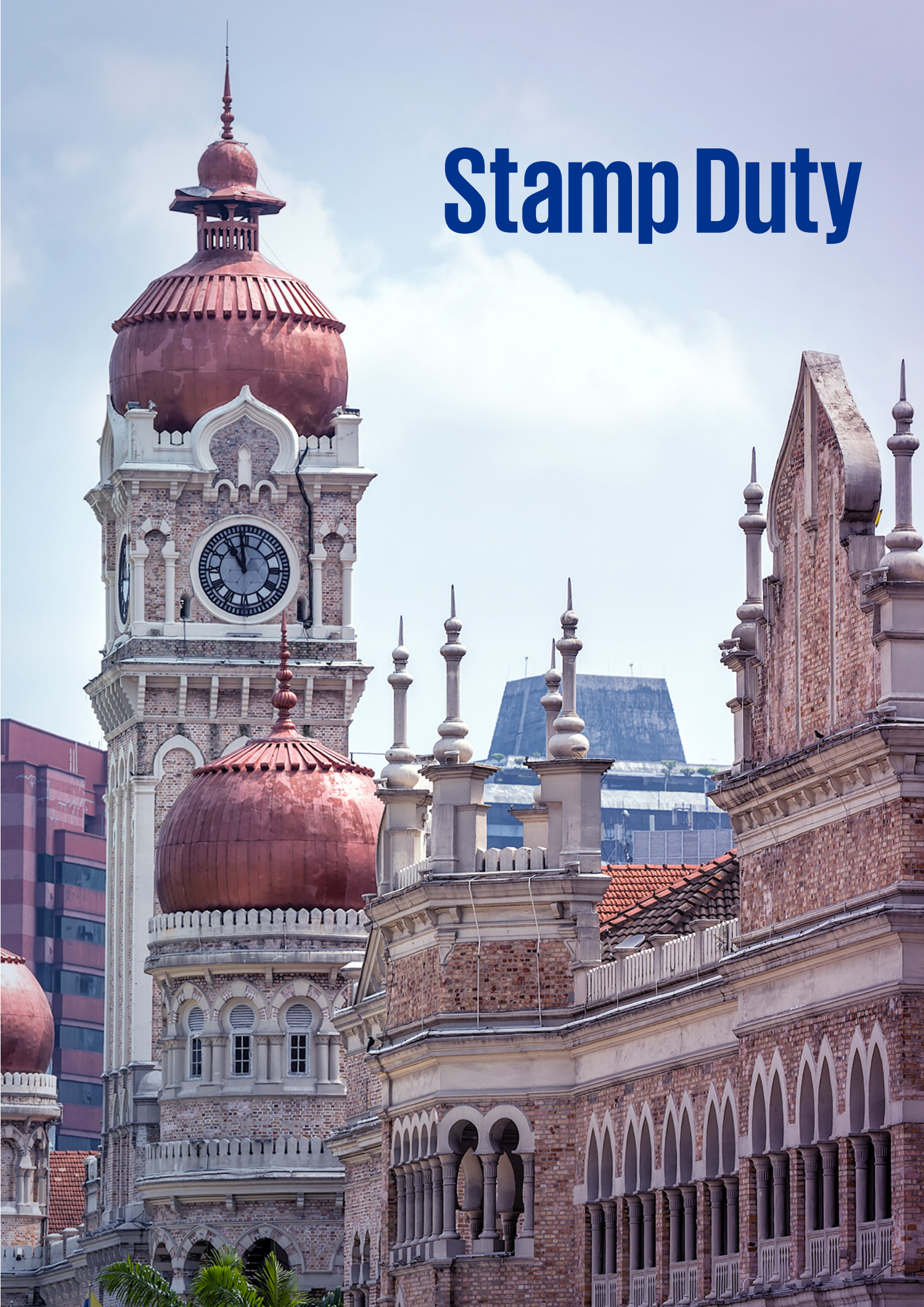
Currently, the transfer of assets owned by an individual, his spouse, jointly owned with his spouse or connected person, or by his and/or her nominee / trustee, to a controlled company is a no gain no loss transaction. This is regardless of whether the controlled company is resident in Malaysia, provided that the transfer is for a consideration consisting of shares in the company, or for a consideration consisting substantially of shares (i.e. not less than 75% of shares) in the company and the balance of a money payment.

It is proposed that the scope of the above no gain no loss provision be limited to the transfer of assets to a controlled company incorporated in Malaysia.

The above proposal is effective on the coming into operation of the Finance Act.



# Stamp Duty





## 1 Stamp duty on education loan / scholarship agreement

Currently, stamp duty at the fixed rate of RM10 is applicable to education loans / scholarship agreements for the purpose of pursuing higher education in higher educational institutions.

It is proposed that the stamp duty at the fixed rate of RM10 be extended to education loans / scholarship agreements for the purpose of pursuing any courses of study in any institutions.

The above proposal comes into operation on 1 June 2023.

## 2 Security instrument relating to discounting invoices or hire purchase receivables or factoring agreement entered by SME

Currently, stamp duty at the fixed rate of RM10 is applicable to the following instruments:

Item in First Schedule of Stamp Act 1949	Type of Instrument
27(d)	Instrument of a charge or a mortgage on or an assignment by way of security of accounts receivables to a licensed bank or financial institution, pursuant to an agreement for discounting invoices or hire purchase receivables
32(c)	Instrument on the absolute sale of any accounts receivable or book debts to a licensed bank or financial institution, pursuant to a factoring agreement

It is proposed that the stamp duty at the fixed rate of RM10 be extended to similar instruments entered with any statutory body, agency of the Government or of the State Government, or any company in which the Government or the State Government has interest, which provides financing to SME.

The above proposal is effective on the coming into operation of the Finance Act.

# Personal Tax







## Key Message

“Budget 2023: *Membangun Malaysia Madani* emphasizes the Government’s initiatives in providing assistance to the *Rakyat* to alleviate their day-to-day challenges. It is notable that B40 group and M40 group continue to be supported by the Government under the proposals of the Budget 2023.”

### Long Yen Ping

Executive Director  
Head of Global Mobility  
Services

## 1 Changes to income tax rates for resident individual

It is proposed that the personal income tax rates for resident individuals at the chargeable income bands between RM35,001 to RM1,000,000 be amended as follows:

Chargeable Income (RM)	Current Tax Rate (%)	Proposed Tax Rate (%)
0 – 5,000	0	0
5,001 – 20,000	1	1
20,001 – 35,000	3	3
35,001 – 50,000	8	6 (↓ 2%)
50,001 – 70,000	13	11 (↓ 2%)
70,001 – 100,000	21	19 (↓ 2%)
100,001 – 250,000	24	25 (↑ 1%)
250,001 – 400,000	24.5	25 (↑ 0.5%)
400,001 – 600,000	25	26 (↑ 1%)
600,001 – 1,000,000	26	28 (↑ 2%)
1,000,001 – 2,000,000	28	28
Above 2,000,000	30	30

The above proposal is effective from YA 2023.

## 2 Expansion of scope of tax relief and increase in tax relief limit

It is proposed that the following existing reliefs and relief limits be expanded or increased:

Type of Tax Relief	Tax Relief Amount (Current) RM	Tax Relief Amount (Proposed) RM	Proposed Changes and Effective Period
<p>Expenses for taxpayer, spouse and children on:</p> <ul style="list-style-type: none"> <li>(i) Treatment for serious diseases;</li> <li>(ii) Fertility treatment;</li> <li>(iii) Vaccination; and</li> <li>(iv) Full medical check-up, COVID-19 detection test / purchase of COVID-19 self-detection test kit, or mental health examination or consultation.</li> </ul>	<p>Maximum: 8,000 (Restricted to RM1,000 each for item (iii) and (iv))</p>	<p>Maximum: 10,000 (Restricted to RM1,000 each for item (iii) and (iv))</p>	<p>The maximum relief has been increased by RM2,000 and the scope of medical expenses is expanded to include expenses incurred up to RM4,000 for children aged 18 years and below on:</p> <ul style="list-style-type: none"> <li>i. assessment for the purpose of diagnosis of learning disability ** provided in Malaysia by a medical practitioner registered with the Malaysian Medical Council; or</li> <li>ii. early intervention programme or rehabilitation treatment for learning disability ** conducted in Malaysia by an allied health practitioner registered under the Allied Health Profession Act 2016.</li> </ul> <p>** Learning disabilities include autism spectrum disorder, attention deficit hyperactivity disorder, global developmental delay, intellectual disability, down syndrome and specific learning disability.</p> <p>(Effective from YA 2023)</p>

Type of Tax Relief	Tax Relief Amount (Current) RM	Tax Relief Amount (Proposed) RM	Proposed Changes and Effective Period
Fees paid to registered child-care centres or kindergartens for child aged 6 years and below	3,000	3,000	The relief of RM3,000 be extended to YA 2024.
Contribution to approved scheme (other than a private retirement scheme) or voluntary contribution to EPF by self-employed individuals and pensionable officers or contribution under any written law	4,000	4,000	It is expanded to include voluntary contribution to EPF by employees. (Effective from YA 2023)
Payment of premiums or takaful contributions on life insurance policy	3,000	3,000	It is expanded to cover voluntary contribution to EPF by any individual. (Effective from YA 2023)

Tapayers are reminded to retain documentary evidence to support their claims for relief. In the event of a tax audit, the absence of documentary evidence could result in a disallowance of the relief and attract penalties of up to 100% of the tax under-paid.



The table below sets out the various abbreviations and references used in this publication.

Abbreviation	Reference
ASEAN	Association of Southeast Asian Nations
COVID-19	Coronavirus Disease 2019
DGIR	Director General of Inland Revenue
EPF	Employees Provident Fund
ITA	Income Tax Act 1967
LLP	Limited Liability Partnership
MSME	Micro, Small and Medium Enterprise
PITA	Petroleum (Income Tax) Act 1967
RM	Ringgit Malaysia
RPGT	Real Property Gains Tax
SME	Small and Medium Enterprise
YA	Year of Assessment

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