



LAWS OF MALAYSIA

Act 831

FINANCE ACT 2020

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LAWS OF MALAYSIA

Act 831

FINANCE ACT 2020

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LAWS OF MALAYSIA

Act 831

FINANCE ACT 2020

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;”;
- (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 was 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” appearing in the fifth line the words “13 per cent”; 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”.