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Act 293

FINANCE ACT 1983

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Act 293

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LAWS OF MALAYSIA

Act 293

FINANCE ACT 1983

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Real Property Gains Tax Act 1976 and the Stamp Ordinance 1949, the Stamp Ordinance (Sabah), the Stamp Ordinance (Sarawak), the Finance (Estate Duty) Act 1980, the Sales Tax Act 1972, the Service Tax Act 1975, the Excise Act 1976 and the Customs Act 1967 and to provide for matters connected therewith.

[]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

CHAPTER I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Finance Act 1983 and shall have effect or be deemed to have effect as provided in this Act.

Amendments of Acts and Ordinances

2. The Income Tax Act 1967 [Act 53], the Petroleum (Income Tax) Act 1967 [Act 543], the Real Property Gains Tax Act 1976 [Act 169], *the Stamp Ordinance 1949 [Ord. 59 of 1949], **the Stamp Ordinance (Sabah) [Sabah Cap. 137], †the Stamp Ordinance (Sarawak) [Swk. Cap. 32], ††the Finance (Estate Duty) Act 1980 [Act 224], the Sales Tax Act 1972 [Act 64], the Service Tax Act 1975 [Act 151], the Excise Act 1976 [Act 176] and the Customs Act 1967 [Act 235] are amended respectively in the manner specified in Chapters II, III, IV, V, VI, VII, VIII, IX, X, XI and XII respectively.

*NOTE—The Stamp Ordinance 1949 [Ord. 59 of 1949] has since been revised as the Stamp Act 1949 [Act 378].

**NOTE—The Stamp Ordinance of Sabah has since been wholly repealed except for section 83—see the Schedule of the Stamp (Amendment and Extension) [Act A723].

†NOTE—The Stamp Ordinance of Sarawak has since been repealed—see the Schedule of the Stamp (Amendment and Extension) Act 1989 [Act A723].

††NOTE—The Finance (Estate Duty) Act 1980 has since been repealed by the Finance Act 1992 [Act 476].

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Except for sections 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, the provisions of this Chapter shall have effect for the year of assessment 1984 and subsequent years of assessment.

(2) Sections 4, 5, 6, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21 and 2 shall be deemed to have come into force on 21 October 1983.

(3) Section 7 shall be deemed to have come into force on 1 January 1984.

(4) Sections 12, 13 and 14 shall have effect for the year of assessment 1984 and subsequent years of assessment:

Provided that income which would have qualified for exemption or abatement under section 54A or 54B respectively of the Income Tax Act 1967 immediately before the coming into force of this subsection shall be treated as exempt or abated income under that Act.

Amendment of section 2

4. Section 2 of the Income Tax Act 1967, which in this Chapter is referred to as “the principal Act”, is amended by deleting paragraphs (c) and (d) of the definition of “royalty”.

New section 4A

5. The principal Act is amended by inserting immediately after section 4 the following new section 4A:

“Special classes of income on which tax is chargeable

4A. Notwithstanding the provisions of section 4 and subject to this Act, the income of a person not resident in Malaysia for the basis year for a year of assessment in respect of—

- (i) amounts paid in consideration of services rendered by the person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;

- (ii) amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or
- (iii) rent or other payments made under any agreement or arrangement for the use of any moveable property,

which is derived from Malaysia is chargeable to tax under this Act.”.

Amendment of section 6

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

- (a) by substituting for the full stop at the end of paragraph (d) a semicolon; and
- (b) by inserting immediately after paragraph (d) the following new paragraph (e):

“(e) subject to the provisions of section 109B but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a person charged under section 4A at the appropriate rate as specified under Part V of Schedule 1.”.

Amendment of section 13

7. Paragraph 13(1)(b) of the principal Act is amended—

- (a) by deleting the words “or passages between Malaysia and any place outside Malaysia” in subparagraph (i);
- (b) by inserting immediately after subparagraph (i) the following new subparagraph (ii):

“(ii) a benefit or amenity consisting of leave passages within Malaysia not exceeding three times in any calendar year or between Malaysia and any place outside Malaysia not exceeding one passage in any calendar year:

Provided that the benefit or amenity enjoyed under this subparagraph is confined only to the employee and members of his immediate family.”; and

- (c) by renumbering the existing subparagraphs (ii) and (iii) as the new subparagraphs (iii) and (iv) respectively.

Deletion of section 13A

8. The principal Act is amended by deleting the whole of section 13A.

New section 15A

9. The principal Act is amended by inserting immediately after section 15 the following new section 15A:

“Derivation of special classes of income in certain cases

15A. Gross income in respect of—

- (a) amounts paid in consideration of services rendered by a person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;
- (b) amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;
- (c) rent or other payments made under any agreement or arrangement for the use of any moveable property,

shall be deemed to be derived from Malaysia—

- (i) if responsibility for payment of the above or other payments lies with the Government or a State Government;
- (ii) if responsibility for the payment of the above or other payments lies with a person who is a resident for that basis year; or
- (iii) if the payment of the above or other payments is charged as an outgoing or expense in the accounts of a business carried on in Malaysia.”.

Amendment of section 24

10. Section 24 of the principal Act is amended by inserting immediately after subsection (7) the following new subsection (8):

“(8) This section shall not apply to income under section 4A.”.

Amendment of section 39

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

- (a) by deleting the word “or” at the end of paragraph (h);
- (b) by substituting for the full stop at the end of paragraph (i) a semicolon and the word “or”; and
- (c) by inserting immediately after paragraph (i) the following new paragraph (j):

“(j) any payments from which tax is deductible under section 109B, if tax has not been deducted there from and paid to the Director General in accordance with subsection (1) of that section.”.

Amendment of section 54

12. Section 54 of the principal Act is amended by deleting the words “or section 54B” in paragraph (2)(a).

Amendment of section 54A

13. Section 54A of the principal Act is amended by substituting the following therefor:

“Exemption of shipping profits

54A. (1) Subject to the following subsections, the statutory income of a person for any year of assessment from the business of transporting passengers or cargo by sea on board Malaysian ships shall be exempt from tax.

(2) In determining the income of a person under this section—

- (a) the capital allowances claimed in respect of any Malaysian ship shall only be made against the income exempt under the provisions of this section, and the balance of such allowances shall not be available as a deduction against his other income;
- (b) an adjusted loss incurred by that person in respect of the operation of a Malaysian ship for any year shall only be deducted against the income exempt under the provisions of this section, and the balance of such loss shall not be available as a deduction against his other income.

(3) The following provisions shall apply to a person carrying on the business of transporting passengers or cargo on board a Malaysian ship:

- (a) he shall maintain a separate account for the income derived or deemed to be derived from each Malaysian ship from that business for the purpose of this section:

Provided that where expenses have been incurred by that person which are not directly attributable to a Malaysian ship, the Director General may allocate as expenses such amounts as might reasonably and properly have been incurred in the normal course of his business in respect of such ship;
- (b) as soon as any amount of income of the Malaysian ship is exempted under this section, such amount shall be credited to an exempt account;
- (c) where such exempt account is in credit at the date on which any dividends are paid by that person (out of income which has been exempted), an amount equal to such dividends or to such credit whichever is the lesser, shall be debited to such account;
- (d) any dividend paid, credited or distributed in a basis period out of such exempt account shall be exempt from tax;
- (e) where such dividend is received 'by a shareholder and that shareholder is a company, any dividend paid by that shareholding company to its shareholders shall, to the extent that the Director General is satisfied that the dividend so paid is paid out of such exempt dividend, be exempt from tax in the hands of the shareholders; and

(f) section 108 shall not apply to such dividend.

(4) That person shall deliver to the Director General a copy of the accounts referred to in subsection (3) made up to any date specified by him whenever called upon to do so by notice in writing.

(5) Notwithstanding the foregoing provisions of this section, where it appears to the Director General that:

(a) any income of that person which has been exempt;
or

(b) any dividend (including a dividend paid by a holding company to which paragraph (3)(e) applies) exempted in the hands of any shareholder,

ought not to have been so exempt, the Director General may at any time—

(i) make such assessment or additional assessment upon that person or any shareholder as may appear to be necessary in order to make good any loss of tax;
or

(ii) direct that person to debit his account kept in accordance with subsection (3) with such amount as the circumstances may require:

Provided that the direction given under this paragraph shall be deemed to be a notice of assessment for the purposes of section 99.

(6) For the purposes of this section—

“Malaysian ship” means a ship registered as such under the Merchant Shipping Ordinance 1952;

“person” includes a partnership;

“transporting passengers or cargo” is the business of carrying of passengers, mails, livestock or goods by sea-going Malaysian ships owned by the person and includes the chartering of Malaysian ships by him for such business.”.

Deletion of section 54B

14. Section 54B of the principal Act is deleted.

Amendment of section 67

15. Section 67 of the principal Act is amended by substituting for the words “or 109A” in subsection (4) the words “109A or 109B”.

Amendment of section 103

16. Section 103 of the principal Act is amended by inserting immediately after the figures “109(2)” in subsection (7) the words “or 109B(2)”.

Amendment of section 104

17. Section 104 of the principal Act is amended by inserting immediately after the figures “109(2)” in paragraph (1)(c) the words “or 109B(2)”.

Amendment of section 107A

18. Subsection 107A(5) of the principal Act is amended by substituting for the definition of “services under a contract” the following:

“services under a contract”, in relation to any non-resident contractor, means the performing or rendering of any work or professional service in Malaysia, being work or professional service in connection with, or in relation to, any contract project.’.

New section 109B

19. The principal Act is amended by inserting immediately after section 109A the following new section 109B:

“Deduction of tax from special classes of income in certain cases derived from Malaysia”

109B. (1) Where any person (in this section referred to as “the payer”) is liable to make classes of payments to a non-resident—

- (a) for services rendered by the non-resident person or his employee in connection with the use of property

or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such non-resident;

(b) for technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or

(c) for rent or other payments made under any agreement or arrangement for the use of any moveable property,

which is deemed to be derived from Malaysia, he shall, upon paying or crediting the payments, deduct therefrom tax at the rate applicable to such payments, and (whether or not that tax is so deducted) shall within one month after paying or crediting such payment, render an account and pay the amount of that tax to the Director General:

Provided that the Director General may—

(i) give notice in writing to the payer requiring him to deduct and pay tax at some other rates or to pay or credit the payments without deduction of tax; or

(ii) under special circumstances, allow extension of time for tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), the amount which he fails to pay shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the person to whom the payer was liable to pay the payments to which the amount relates; and

(b) if the payer has not deducted that amount in paying the payment under subsection (1) with respect to which the amount relates, he may recover that amount from that person as a debt due to the payer.

(4) In this section “person” includes a partnership.”.

Amendment of section 110

20. Section 110 of the principal Act is amended—

- (a) by inserting immediately after the words “under section 109” in subsection (1) the words “or services, technical advice, assistance, rental or other income under section 109B”; and
- (b) by substituting for the words “or royalty” wherever they appear after the words “dividend, interest” the words “, royalty, services, technical advice, assistance, rental or other income”.

Amendment of section 127

21. Section 127 of the principal Act is amended by substituting for the words “or 109” wherever they appear in subsection (5) the words “109 or 109B”.

Amendment of section 145

22. Subsection 145(2) of the principal Act is amended by substituting for paragraph (a) the following new paragraph (a):

- “(a) in the case of a company, partnership or body of persons having a registered office in Malaysia—
 - (i) to that registered office;
 - (ii) to its last known address; or
 - (iii) to any person authorized by it to accept service of process;”.

Amendment of Schedule 1

23. Schedule 1 to the principal Act is amended by inserting immediately after PART IV the following new PART V:

“PART V

Notwithstanding Part I and Part II, income tax shall be charged on the income of a non-resident person consisting of—

- (i) amounts paid in consideration of services rendered by the person or his employee in connection with the

use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;

- (ii) amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or
- (iii) rent or other payments made under any agreement or arrangement for the use of any moveable property:

which is derived from Malaysia at the rate of 15% of gross.”.

Amendment of Schedule 3

24. Schedule 3 to the principal Act is amended—

- (a) by inserting immediately after the word “research” wherever it appears in paragraph 37B and its title the words “or industrial training”; and
- (b) by inserting immediately after paragraph 37B the following new paragraph 37c:

“Qualifying expenditure: Building used for warehouse

37c. The provisions of this Schedule relating to industrial building shall apply, *mutatis mutandis*, to a building or part thereof used by a person solely for the purpose of storage of goods for export or for the storage of imported goods which are to be processed and re-exported.”.

Amendment of Schedule 6

25. Part I of Schedule 6 to the principal Act is amended—

- (a) by deleting paragraph 34; and

(b) by inserting immediately after paragraph 33 the following new paragraphs 34 and 35:

“34. Income of any person derived from exercising an employment on board a Malaysian ship.

For the purpose of this paragraph “a Malaysian ship” means a ship registered as such under the Merchant Shipping Ordinance 1952.

35. Interest paid or credited to any individual in respect of security or bond issued by the Government.”.

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

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

26. The provisions of this Chapter shall be deemed to have come into force on 21 October 1983.

Amendment of section 18

27. Subsection 18(1) of the *Petroleum (Income Tax) Act 1967 [*Act 45 of 1967*] is amended by substituting for the words “or royalty” in paragraph (h) the words “royalty, services, technical advice, assistance, rent or other payments made under any agreement or arrangement for the use of moveable property”.

CHAPTER IV

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

28. The provisions of this Chapter shall have effect for the year of assessment 1984 and subsequent years of assessment.

*NOTE—The Petroleum (Income Tax) Act 1967 [*Act 45 of 1967*] has since been revised as the Petroleum (Income Tax) Act 1967 [*Act 543*].

Amendment of Schedule 2

29. Schedule 2 to the Real Property Gains Tax Act 1976 [*Act 169*], which in this Chapter is referred to as “the principal Act”, is amended by inserting immediately after subparagraph 17(4) the following new subparagraph (5):

“(5) Notwithstanding the provisions of other paragraphs in this Act and for the purposes of this paragraph, where an asset is transferred for the purposes of restructuring in compliance with Government policy on capital participation in industry which has been approved by the Director General, the date of acquisition by the transferee company is deemed to be the date when the transferor company first acquired that asset.”.

Amendment of Schedule 4

30. Schedule 4 to the principal Act is amended by inserting immediately after paragraph 3 the following new paragraph 4:

“4. A gain equal to the amount of estate duty payable under any law relating to estate duty applicable in Malaysia on an estate of a deceased person accruing in respect of a disposal of a chargeable asset from that estate where the Director General is satisfied that the disposer is compelled to dispose the property in order to pay the estate duty.”.

CHAPTER V

AMENDMENTS TO THE STAMP ORDINANCE 1949

Commencement of amendments to the Stamp Ordinance 1949

31. The provisions of this Chapter shall come into force on 1 January 1984.

Amendment of section 2

32. Section 2 of the Stamp Ordinance 1949 [*Ord. 59 of 1949*], which in this Chapter is referred to as “the Ordinance”, is amended—

- (a) by deleting the words “or in the Republic of Singapore” in the definition of “contract note”; and

(b) by inserting immediately after the definition of ‘ ‘executed” and “execution” ’ the following new definition:

‘ “foreign currency loan means any loan denominated wholly in currencies other than the Ringgit;’.

Amendment of section 15

33. Section 15 of the Ordinance is amended—

- (a) by inserting immediately after the words “Stamp Duties that” in subsection (1) the words “the scheme is in compliance with Government policy on capital participation in industry and”;
- (b) by inserting immediately after the words “registered” and “incorporated” respectively in paragraph (1)(b) of the words “in Malaysia”; and
- (c) by inserting immediately after the words “references to a company” and “incorporation of a company” respectively in paragraph (7)(a) of the words “(other than that of the transferee company)”.

Amendment of First Schedule

34. Item 27 of the First Schedule to the Ordinance is amended by substituting for sub-item (a) the following new sub-item (a):

“(a) Being the only or principal or primary security (other than an equitable mortgage or an assignment of receivables of the kind mentioned in paragraph (d)) for the payment or repayment of money—

(i) where section 5A applies—

For an amount not exceeding RM250,000 of the aggregate loans in a calendar year	RM1.00 for every RM1,000 or fractional thereof
---	--------	--

For each additional RM1,000 or part thereof	RM5.00
--	--------	--------

- (ii) where the loan is a foreign
currency loan RM2.50 for every
RM500 or part thereof
but the total duty
payable shall not
exceed RM500
- (iii) in any other case—
For each RM500 or part thereof RM2.50”

CHAPTER VI

AMENDMENTS TO THE STAMP ORDINANCE
(SABAH)**Commencement of amendments to the Stamp Ordinance (Sabah)**

35. The provisions of this Chapter shall come into force on 1 January 1984.

Amendment of section 2

36. Section 2 of the Stamp Ordinance (Sabah) [*Sabah Cap. 137*], which in this Chapter is referred to as “the Ordinance”, is amended—

- (a) by substituting for the words “the Colony” in the definition of “contract note” the word “Malaysia”; and
- (b) by inserting immediately after the definition of “executed” and “execution” the following new definition—

“foreign currency loan” means any loan denominated wholly in currencies other than the Ringgit;’.

Amendment of section 15

37. Section 15 of the Ordinance is amended—

- (a) by inserting immediately after the words “Collector that” in subsection (1) the words “the scheme is in compliance with Government policy on capital participation in industry and”;
- (b) by inserting immediately after the words “registered” and “incorporated” respectively in paragraph (1)(b) the words “in Malaysia”;

- (c) by renumbering the existing paragraphs (7)(a) and (b) as the new paragraphs (7)(b) and (c) respectively; and
- (d) by inserting immediately before paragraph (7)(b) the following new paragraph (7)(a):

“(a) references to a company (other than that of the transferee company) or to the registration of a company (other than that of the transferee company) shall be construed as references to a company, wherever registered or incorporated;”.

Amendment of First Schedule

38. Item 27 of the First Schedule to the Ordinance is amended by substituting for sub-item (a) the following new sub-item (a):

“(a) Being the only or principal or primary security (other than an equitable mortgage or an assignment of receivables of the kind mentioned in paragraph (d)) for the payment or repayment of money—

(i) where section 5A applies—

For an amount not exceeding RM250,000 of the aggregate loans in a calendar year	RM1.00 for every RM1,000 or fractional thereof
---	--------	--

For each additional RM1,000 or part thereof	RM5.00
--	--------	--------

(ii) where the loan is a foreign currency loan		RM2.50 for every RM500 or part thereof but the total duty payable shall not exceed RM500
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(iii) in any other case—

For each RM500 or part thereof	RM2.50”.
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CHAPTER VII

AMENDMENTS TO THE STAMP ORDINANCE (SARAWAK)

Commencement of amendments to the Stamp Ordinance (Sarawak)

39. The provisions of this Chapter shall come into force on 1 January 1984.

Amendment of section 2

40. Section 2 of the Stamp Ordinance (Sarawak) [*Swk. Cap. 32*], which in this Chapter is referred to as “the Ordinance”, is amended by inserting immediately after the definition of “company” the following new definition:

‘ “foreign currency loan” means any loan denominated wholly in currencies other than the Ringgit;’.

Amendment of the First Schedule

41. (1) Item 27 of the First Schedule to the Ordinance is amended by substituting for sub-item (*a*) the following new sub-item (*a*):

“(a) Being the only or principal or primary security (other than an equitable mortgage or an assignment of receivables of the kind mentioned in paragraph (*d*)) for the payment or repayment of money—

(i) where section 3A applies—

For an amount not exceeding RM250,000 of the aggregate loans in a calendar year	RM1.00 for every RM1,000 or fractional thereof
---	--------	--

For each additional RM1,000 or part thereof	RM5.00
--	--------	--------

(ii) where the loan is a foreign
currency loan

... ..	RM2.50 for every RM500 or part thereof but the total duty payable shall not exceed RM500
--------	--

(iii) in any other case—

For each RM500 or part thereof	RM2.50”.
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(2) Item 43 of the First Schedule to the Ordinance is amended by substituting for the figures “20A” the figures “3B”.

CHAPTER VIII

AMENDMENTS TO THE FINANCE (ESTATE DUTY) ACT 1980

Commencement of amendments to the Finance (Estate Duty) Act 1980

42. The provisions of this Chapter shall be deemed to have come into force on 21 October 1983 and shall apply in the case of any person dying on or after that date.

Amendment of the First Schedule

43. The Finance (Estate Duty) Act 1980 [Act 224], which in this Chapter is referred to as “the principal Act”, is amended by substituting for the First Schedule the following new First Schedule:

“FIRST SCHEDULE

(Section 5)

RATES OF ESTATE DUTY IN CASE OF PERSON DYING DOMICILED IN ANY PART OF MALAYSIA

Principal Value of the Estate		Rate of Duty
For every ringgit of the first RM600,000	... ..	NIL
For every ringgit of the next RM100,000	... ..	12 percent
For every ringgit of the next RM100,000	... ..	16 percent
For every ringgit of the next RM200,000	... ..	20 percent
For every ringgit of the next RM300,000	... ..	25 percent
For every ringgit of the next RM500,000	... ..	30 percent
For every ringgit of the next RM500,000	... ..	35 percent
For every ringgit of the next RM1,000,000	... ..	40 percent
For every ringgit of the next RM1,000,000	... ..	45 percent
For every ringgit of the next RM1,000,000	... ..	50 percent
For every ringgit of the next RM1,000,000	... ..	55 percent
For every ringgit of the next RM6,300,000	... ..	60 percent”.

Amendment of the Second Schedule

44. The principal Act is amended by substituting for the Second Schedule the following new Second Schedule:

“SECOND SCHEDULE

(Section 6)

RATES OF ESTATE DUTY IN CASE OF PERSON DYING
DOMICILED OUTSIDE MALAYSIA

Principal Value of the Estate		Rate of Duty
For every ringgit of the first RM120,000	... ..	NIL
For every ringgit of the next RM40,000	... ..	5 percent
For every ringgit of the next RM100,000	... ..	9 percent
For every ringgit of the next RM200,000	... ..	14 percent
For every ringgit of the next RM300,000	... ..	18 percent
For every ringgit of the next RM300,000	... ..	22 percent
For every ringgit of the next RM500,000	... ..	28 percent
For every ringgit of the next RM500,000	... ..	35 percent
For every ringgit of the next RM500,000	... ..	40 percent
For every ringgit of the next RM500,000	... ..	45 percent
For every ringgit of the next RM1,000,000	... ..	50 percent
For every ringgit of the next RM1,000,000	... ..	55 percent
For every ringgit exceeding RM5,060,000	... ..	60 percent”.

CHAPTER IX

AMENDMENTS TO THE SALES TAX ACT 1972

Commencement of amendments to the Sales Tax Act 1972

45. The provisions of this Chapter shall be deemed to have come into force on 21 October 1983.

Amendment of section 2

46. Section 2 of the Sales Tax Act 1972 [*Act 64*], which in this Chapter is referred to as “the principal Act”, is amended—

(a) by inserting immediately after the definition of “Customs” the following new definitions:

“customs control” shall have the meaning assigned to it under subsection 2(2) of the Customs Act 1967 [*Act 235*];

“customs warehouse” shall have the meaning assigned to it under subsection 2(1) of the Customs Act 1967;

(b) by inserting immediately after the definition of “Director General” the following new definition:

‘ “excise control” shall have the meaning assigned to it under subsection 2(2) of the Excise Act 1976 [Act 176];’; and

(c) by inserting immediately after the definition of “licensed manufacturer” the following new definition:

‘ “licensed warehouse” means a warehouse or other place licensed under section 65 of the Customs Act 1967;’.

Amendment of section 9

47. Section 9 of the principal Act is amended—

(a) by inserting immediately after subsection (2) the following new subsections (3), (4), (5) and (6) respectively:

“(3) Where a person who is not licensed imports taxable goods on behalf of and for delivery to a licensed manufacturer, such person may deliver such goods as may be approved by the Director General free of sales tax provided such person is authorized by the Director General to import such goods on behalf of and for delivery to a licensed manufacturer free of sales tax, subject to such conditions as may be prescribed.

(4) Where a person who is not licensed acquires taxable goods from a licensed manufacturer on behalf of and for delivery to another licensed manufacturer, such person may acquire and deliver such goods as may be approved by the Director General free of sales tax provided such person is authorized by the Director General to acquire such goods from a licensed manufacturer on behalf of and for delivery to another licensed manufacturer free of sales tax, subject to such conditions as may be prescribed.

(5) Where a licensed manufacturer requires another licensed manufacturer to complete the manufacture of taxable goods, the first mentioned manufacturer may acquire back such goods as may be approved by the Director General free of sales tax, provided such manufacturer is authorized by the Director General to acquire back such goods free of sales tax, subject to such conditions as may be prescribed and for the purpose of this Act such goods shall be construed as being manufactured by the first mentioned manufacturer.

(6) Where a licensed manufacturer acquires taxable goods which are deposited or kept in a customs warehouse or a warehouse licensed under section 65 of the Customs Act 1967 [Act 235], such manufacturer may acquire such goods as may be approved by the Director General free of sales tax, provided such manufacturer is authorized by the Director General to acquire such goods from a customs warehouse or licensed warehouse free of sales tax subject to such conditions as may be prescribed.”;

(b) by renumbering the existing subsection (3) as the new subsection (7); and

(c) by substituting for the words “or subsection (2)” in subsection (7) the words”, (2), (3), (4), (5) or (6)”.

Amendment of section 15

48. Section 15 of the principal Act is amended by substituting for the word “ten” appearing twice in subsection (2) the words “one hundred and twenty”.

Amendment of section 22

49. Section 22 of the principal Act is amended by inserting immediately after the words “to a” in paragraph 3(b) the words “customs warehouse or a”.

Amendment of section 23

50. Section 23 of the principal Act is amended—

(a) by renumbering it as subsection 2(1); and

(b) by adding immediately after subsection (1) the following new subsection (2):

“(2) In any suit to recover the sales tax and penalty, if any, under subsection (1), the production of a certificate signed by the Director General giving the name and address of the taxable person and the amount of sales tax and penalty, if any, due by him shall be sufficient authority for the Court to give judgment for the same amount.”.

Amendment of section 30

51. Section 30 of the principal Act is amended by inserting immediately after the words “Customs control” the words “or at a place or places specified in the licence issued under section 13”.

New section 60A

52. The principal Act is amended by inserting immediately after section 60 the following new section 60A:

“Protection of public officer

60A. Nothing done by a public officer in the cause of his duties shall be deemed to be an offence under this Act.”.

Deletion of Part XV

53. The principal Act is amended by deleting the whole of Part XV.

CHAPTER X

AMENDMENTS TO THE SERVICE TAX ACT 1975

Commencement of amendments to the Service Tax Act 1975

54. The provisions of this Chapter shall be deemed to have come into force on 21 October 1983.

Amendment of section 5

55. Section 5 of the Service Tax Act 1975 [*Act 151*] is amended by substituting for the words “twenty one” appearing twice in subsection (3) the words “one hundred and twenty”.

CHAPTER XI

AMENDMENTS TO THE EXCISE ACT 1976

Commencement of amendments to the Excise Act 1976

56. The provisions of this Chapter shall be deemed to have come into force on 21 October 1983.

Amendment of section 6

57. Section 6 of the Excise Act 1976 [*Act 176*], which in this Chapter is referred to as “the principal Act”, is amended by substituting for the word “twenty-one” appearing twice in subsection (2) the words “one hundred and twenty”.

Amendment of section 12

58. Section 12 of the principal Act is amended by deleting the words “to which they would have been liable if they had not been the subject of an exemption,” in subsection (1).

Amendment of section 13

59. Section 13 of the principal Act is amended—

(a) by inserting immediately after the word “overpaid” appearing twice the words “or erroneously paid”; and

(b) by inserting immediately after the word “overpayment” in the proviso the words “or erroneous payment”.

Amendment of section 28

60. Section 28 of the principal Act is amended—

(a) by inserting immediately after the word “warehouse” in paragraph (b) the words “or for manufacture in another place licensed under section 20” and by deleting the word “or” after the semi-colon;

(b) by inserting immediately after paragraph (b) the following new paragraph (c):

“(c) upon security being given to the Director General for storage in any place as the Minister may direct; or”; and

(c) by renumbering the existing paragraph (c) as the new paragraph (d).

Amendment of section 69

61. Section 69 of the principal Act is amended by substituting for the word “one” in subsection (1) the word “two”.

Amendment of section 73

62. Section 73 of the principal Act is amended by substituting for the word “one” in subsection (1) the word “two”.

Amendment of section 74

63. Section 74 of the principal Act is amended by substituting for subparagraphs (1)(i) and (ii) the following new subparagraphs (i) and (ii):

“(i) on the first conviction, to a fine of not less than ten times the amount of the duty or ten thousand ringgit, whichever is the lesser, and of not more than twenty times the amount of the duty or ten thousand ringgit, whichever is the greater:

Provided that when no duty is involved or the amount of duty cannot be ascertained, the penalty may amount to a fine not exceeding ten thousand ringgit; and

(ii) on the second or subsequent conviction, to a fine of not less than twenty times the amount of the duty or ten thousand ringgit, whichever is the lesser, and of not more than forty times the amount of duty or twenty thousand

ringgit, whichever is the greater, or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment:

Provided that when no duty is involved or the amount of duty cannot be ascertained, the penalty may amount to a fine not exceeding twenty thousand ringgit.”.

Amendment of section 78

64. Section 78 of the principal Act is amended by substituting for the words “three” and “five” in subsection (1) the words “five” and “ten” respectively.

Amendment of section 79

65. Section 79 of the principal Act is amended by substituting for the word “two” the word “four”.

Amendment of section 81

66. Section 81 of the principal Act is amended—

(a) by substituting for the words “one additional month” the words “two additional months”; and

(b) by substituting for the word “three” the word “six”.

CHAPTER XII

AMENDMENTS TO THE CUSTOMS ACT 1967

Commencement of amendments to the Customs Act 1967

67. The provisions of this Chapter shall be deemed to have come into force on 21 October 1983.

Amendment of section 11

68. Section 11 of the Customs Act 1967 [*Act 235*], which in this Chapter is referred to as “the principal Act”, is amended by substituting for the words “twenty one” appearing twice in subsection (2) the words “one hundred and twenty”.

Amendment of section 14

69. Section 14 of the principal Act is amended—

- (a) by inserting immediately after the word “duty” in subsection (1) the words “or any other prescribed fee or charge”; and
- (b) by inserting immediately after the word “duties” in paragraphs (2)(a) and (b) the words “or any other prescribed fees or charges”.

New section 14A

70. The principal Act is amended by inserting immediately after section 14 the following new section 14A:

“Minister may remit customs duties

14A. The Minister may, if he thinks it just and equitable to do so, and subject to such conditions as he may deem fit to impose, remit the whole or any part of the customs duties or any other prescribed fees or charges payable under this Act.”.

Amendment of section 16

71. Section 16 of the principal Act is amended by substituting the following therefor:

“Return of duty or other charges overpaid or erroneously paid

16. It shall be lawful for the Director General, if it is proved to his satisfaction that any money has been overpaid or erroneously paid as customs duties or as warehouse rent or as any other fee or charge under this Act, to order the refund of the money so overpaid or erroneously paid:

Provided that no such refund shall be allowed unless a claim in respect thereof is made in the prescribed form within one year after the overpayment or erroneous payment was made.”.

New section 29A

72. The principal Act is amended by inserting immediately after section 29 the following new section 29A:

“Importation or exportation by pipeline

29A. No goods shall be imported or exported by pipeline unless such pipeline is approved by the Director General who, in granting such approval, may impose such conditions as he may deem fit.”.

Amendment of section 57

73. Section 57 of the principal Act is amended by substituting for the word “two” the word “seven”.

Amendment of section 69

74. Section 69 of the principal Act is amended by substituting for subsection (1) the following new subsection (1):

“(1) The proper officer of customs may detain in a customs warehouse or any other place deemed to be under customs control any goods if he is in doubt whether such goods are dutiable or not, or for any other reason.”.

Amendment of section 75

75. The proviso to section 75 of the principal Act is amended—

- (a) by inserting immediately after the word “petroleum” the words “or any other dutiable goods as approved by the Director General”; and
- (b) by substituting for the word “import” the word “customs”.

Amendment of section 93

76. Subsection 93(1) of the principal Act is amended—

- (a) by inserting immediately after the figures “95” the words “and section 96”;
- (b) by substituting for the word “five” in paragraph (b) the word “fifty”;

- (c) by inserting immediately after the words “is made” in paragraph (e) the words “in the prescribed form”; and
- (d) by deleting the words “except as provided by section 96,” in paragraph (f).

Amendment of section 99

77. Subsection 99(1) of the principal Act is amended—

- (a) by deleting the word “and” appearing after the word “manufacturer” in paragraph (d);
- (b) by substituting for the full stop at the end of paragraph (e) a semi-colon and the word “and”; and
- (c) by inserting immediately after paragraph (e) the following new paragraph (f):

“(f) such claim in respect thereof is made in the prescribed form.”.

Amendment of section 121

78. Section 121 of the principal Act is amended by substituting for the words “at least three” in subsection (3) the words “not less than ten”.

New sections 122A and 122B

79. The principal Act is amended by inserting immediately after section 122 the following new sections 122A and 122B:

“Proof as to tonnage or build of a craft

122A. (1) Where in any prosecution under this Act or any regulation made thereunder, it is relevant to ascertain the tonnage or build or such other particulars descriptive of the identity of a craft, and if any of these particulars relating to the identity of the craft is in question, then any document produced by the prosecution purporting to be a certificate in respect of any such matter given and signed by any officer responsible for such under any written law for the time being in force in Malaysia shall be admissible in evidence, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Proof as to accuracy of a compass radar, etc.

122B. Where in any proceedings it is necessary to prove the accuracy of a compass, radar or any other navigational aid, a certificate purporting to be signed by a harbour master or any officer appointed by the Minister responsible in respect of such compass, radar or any other navigational aid, shall be accepted by the court as *prima facie* proof of the facts certified in such certificate.”.

Amendment of section 123

80. Section 123 of the principal Act is amended—

(a) by substituting for the scale the following new scale:

“	Where the fine					The period may
						extend to
	does not exceed fifty ringgit	...	...	...	...	two months
	exceeds fifty ringgit but does not exceed					
	one hundred ringgit	...	...	...	...	four months
	exceeds one hundred ringgit but does not					
	exceed two hundred ringgit	...	...	...	...	six months”;
						and

(b) by substituting for the words “one” and “three” the words “two” and “six” respectively.

Amendment of section 131

81. Section 131 of the principal Act is amended—

(a) by substituting for the word “one” in subsection (1) the word “two”; and

(b) by substituting for the word “fifty” in subsection (2) the words “one hundred”

Amendment of section 135

82. Section 135 of the principal Act is amended by substituting for subparagraph (1)(i) the following new subparagraph (i):

- “(i) in the case of goods included in a class of goods appearing in an order made under subsection 11(1), be liable for the first offence to a fine of not less than ten times the amount of the customs duty or ten thousand ringgit, whichever is the lesser amount, and of not more than twenty times the amount of the customs duty or ten thousand ringgit, whichever is the greater amount, and for a second or any subsequent offence to a fine of not less than ten times the customs duty or ten thousand ringgit, whichever is the lesser amount, and of not more than forty times the customs duty or twenty thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding four years or to both:

Provided that when the amount of the customs duty cannot be ascertained, the penalty may amount to a fine not exceeding ten thousand ringgit;”.

Amendment of section 137

83. Section 137 of the principal Act is amended by substituting for the words “three” and “five” in subsection (1) the words “five” and “ten” respectively.

Amendment of section 138

84. Section 138 of the principal Act is amended by substituting for the word “two” the word “four”.

LAWS OF MALAYSIA**Act 293****FINANCE ACT 1983**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975

LAWS OF MALAYSIA**Act 293****FINANCE ACT 1983**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Throughout the Act	Act 160	29-08-1975

