Malaysia enacts 2015 budget proposals

On 30 December 2014, Malaysia enacted budget proposals announced in the Budget 2015 speech (Budget 2015)\(^1\) through the Finance (No.2) Act (the Act). The Act adopts all the tax changes originally proposed in Budget 2015, including a one percentage point reduction in the corporate tax rate effective for year of assessment 2016,\(^2\) in line with the impending introduction of the Goods and Services Tax (GST), effective as of 1 April 2015.\(^3\) The Act includes the expanded scope of items that are not subject to GST, corporate tax incentives for selected industries and expenditure, the increased statute of limitation for transfer pricing adjustments and an increase in the withholding amount for the purpose of real property gains tax (RPGT). This Alert summarizes the key tax changes in the Act.

Expanded scope of supplies not subject to GST

The scope of items proposed to be zero rated for GST purposes has been expanded. These additional items include certain food products, pharmaceutical products listed under the national essential medicine list as well as selected reading materials such as reference books and newspapers. More significantly, the retail sales of RON 95 petrol, diesel and liquefied petroleum gas to end consumers and targeted groups will not be subject to GST.

Corporate tax incentives for selected industries and expenditure

Some of the incentives provided in the Act are described below.

- Introduction of customized incentives for Principal Hubs\(^4\) to encourage more multinational companies to establish global operational centers in Malaysia.
- 100% income tax exemption for five years for companies that manage, maintain and upgrade industrial parks in less developed areas, and 70% income tax exemption for five years for such activities undertaken in other areas.
• An automation capital allowance of 200% on the first RM4 million (US$1.2 million) incurred on automation expenditure from 2015 to 2017 for the qualifying manufacturing companies engaging in high labor intensive industries, such as rubber products, plastics, wood, furniture and textile, or on the first RM2 million (US$0.6 million) incurred within the period from 2015 to 2020 for other industries in the manufacturing sector.

• An extension of sunset provisions for tax incentives for a company that provides private healthcare facilities services to a “healthcare traveler” for applications received from 1 January 2015 to 31 December 2017. This incentive provides a tax exemption on income equivalent to an investment tax allowance of 100% of qualifying capital expenditure incurred for a period of five years.

Increased statute of limitation for transfer pricing adjustments

The current statute of limitation for tax adjustments in Malaysia is five years. Under the Act, the statute of limitation has been extended to seven years specifically for transfer pricing. As the transfer pricing provisions became effective as of 1 January 2009, this proposal effectively gives the Inland Revenue Board an additional period of two years to conduct a transfer pricing audit and raise any additional adjustment for the taxable years beginning in 2009 as a result of the transfer pricing adjustment.

Increase in the withholding amount for the purpose of RPGT

Currently, an acquirer of real property is required to withhold the whole amount of money (in the event the consideration consists wholly or partly of money) or 2% of the total value of the consideration, whichever is lower, and to pay the amount to the Director General within 60 days from the date of the disposal. Effective 1 January 2015, the maximum withholding amount has increased from 2% to 3% of the total value of the consideration.

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Endnotes


2. The term refers to an accounting/financial year which begins anytime during a given calendar year.

3. See EY Global Tax Alert, *Malaysia announces 2014 Budget Proposal*, dated 31 October 2013. The 2015 budget restated the income tax reduction originally proposed in the 2014 Budget, i.e., the reduction of the corporate tax rate from the current 25% to 24% for domestic and foreign companies, business trust, a trust body and a limited liability partnership. The concessionary 20% rate will also be reduced by one percentage point to 19% for small and medium sized enterprises.

4. The Act does not provide any details on Principal Hubs.

5. The term refers to a non-Malaysian citizen who participates in the Malaysia My Second Home Program, an expatriate who is a non-Malaysian citizen holding a Malaysian work permit and his/her dependents, or a non-Malaysian citizen who visits and receives treatment from private healthcare facilities in Malaysia.
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