# Take 5 for business

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## Malaysia Budget 2023

Building a better working world

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Whilst anticipating a potentially challenging outlook in the near term, Budget 2023 seeks to further Malaysia's economic recovery post-pandemic, continue fiscal reforms and build resilience and sustainable growth for the future.

We are encouraged by the incentives and assistance to targeted segments of the *rakyat* as well as incentives to key economic sectors, all of which should facilitate further expansion of domestic economic activities and attraction of quality foreign investments. Continued focus on digitalisation should help enhance industry competitiveness in the medium to long term. Emphasis on areas of concern namely food security, public healthcare, national security and ESG also sums up a broad and balanced Budget 2023.

As always, we look forward to the continuing effort in ensuring a successful implementation of the Budget.

# Budget 2023 perspectives

Budget 2023 is comprehensive, disciplined and forward-thinking, with a focus on reforms to build resilience and weather uncertainties amidst an increasingly challenging global economic and geopolitical outlook. The Budget also lays the foundation for future growth and competitiveness in strategic areas, such as sustainability and digitalisation.

The Budget was unveiled against the backdrop of a projected national economic growth of between 6.5% and 7% this year, and between 4% and 5% in 2023. The Budget 2023 allocation is 12.1% higher than Budget 2022, with an increase from RM332.1b to RM372.3b.

Budget 2023, themed "*Keluarga Malaysia: Makmur Bersama*", focuses on incentives and financing for the B40 and M40 categories, youth, women, the unemployed and entrepreneurs.

The key revenue-raising measures announced were the implementation of the 15% global minimum tax and Qualified Domestic Minimum Top-up Tax (QDMTT) in 2024, e-invoicing, potential carbon taxes and increased customs enforcement. Where relevant, appropriate transitional rules should be developed to ensure businesses have adequate time to study the impact and prepare for the implementation of such measures. It is also important that these measures be balanced with initiatives to maintain Malaysia's attractiveness as an investment destination.

In formulating Budget 2023, we note a continuing trend of consultation, focus group discussions and engagement by the Ministry of Finance (MOF), including the publication of a Pre-Budget Statement and several Public Consultation Papers. This is consistent with international best practices and helps ensure that the budget proposals take into account the views of a diverse range of stakeholders.

## Some key measures

**Sustainable Socio-Economic Resilience of *Keluarga Malaysia***

Budget 2023 proposes personal income tax cuts for the M40, additional cash handouts and loans, and income tax exemptions for women returning to the workforce after a career break.

The allocation for obligations, assistance and subsidies is expected to increase significantly from RM31.0b to RM77.7b. The Government will also implement comprehensive reforms in 2023 to address subsidy leakages and to ensure subsidies are only enjoyed by the targeted groups.

**Environmental, Social and Governance (ESG) and Sustainability**

- Intention to introduce a carbon tax and to study the feasibility of a carbon pricing mechanism
- Introduction of a Sustainability Framework with associated targets for a fully ESG-compliant portfolio and carbon neutral operations for government-linked companies
- Extension of incentive period for Green Investment Tax Allowance (GITA) and Green Income Tax Exemption (GITE)
- Measures to incorporate planetary health in the national development agenda, such as enhancing penalties on environmental polluters
- Allocation of funds for the development of eco-friendly projects including those supporting the carbon market development and forest restoration
- Enhancing the Green Technology Financing Scheme (GTFS) to increase the guaranteed sum to RM3b until the year 2025, and expanding the scope of financing to include the electric vehicle (EV) sector
- Manufacturers of EV charging equipment will be given 100% income tax exemption on statutory income or 100% Investment Tax Allowance (ITA)
- Allocations to address food security and natural disasters

## Key tax measures:

### ▶ Small and medium enterprises (SMEs)

Budget 2023 recognises the importance of SMEs, informal sector workers and youth as engines for growth and innovation, through the introduction of schemes to promote and bolster development in these sectors. These include the reduction of corporate tax rates and the provision of a one-off grant for eligible SMEs, and the introduction of various hiring and training incentives. Collectively, these measures should create a supportive environment for SMEs and serve as a catalyst for economic growth through job creation and increased disposable income.

### ▶ Expanded incentives to strengthen economic resilience

Incentive programmes for selected industries have either been introduced, expanded or renewed to strengthen the resilience of the local economy. Expanded incentives to encourage automation in the manufacturing and services sector have also been proposed.

### ▶ Minimum tax on multinational enterprises (MNEs) and strengthening the tax system

The targeted introduction of the 15% global minimum tax underpins Malaysia's commitment to the Organisation for Economic Cooperation and Development (OECD)'s Base Erosion and Profit Shifting (BEPS) 2.0 initiative.

Malaysia will join more than 40 countries which have adopted or will be adopting e-invoicing. Together with the use of the Tax Identification Number (TIN), this will reduce the shadow economy, increase compliance and expand the tax net. This reinforces other initiatives of the Inland Revenue Board (IRB) such as the Tax Corporate Governance Framework (TCGF), which promotes better governance and transparency, and cooperation between the IRB and taxpayers.

## Our views

It is very encouraging to see the Government taking concrete and strategic steps in respect of sustainability and the ESG agenda. There were various proposals introduced to strengthen the economic recovery from the COVID-19 pandemic and to encourage growth in selected industries. On the ESG front, Bursa Malaysia had earlier indicated that it will launch the voluntary carbon market (VCM) exchange by the end of 2022, to ensure that we are well-positioned to address risks and leverage opportunities in this space as early movers in the ASEAN region.

The allocation for social support as well as the proposed reduction in income tax rates for individuals should help to increase disposable income and cushion the effects of rising inflation. While SMEs, a segment arguably most vulnerable to external economic shocks, would welcome the proposed reduction in corporate income tax rate from 17% to 15%, it is important to note that this only applies to the first RM100,000 of taxable income. Hence, some SMEs may feel that this 15% rate should have applied to a higher threshold of income.

Overall, Budget 2023 is disciplined and forward-thinking, focusing on addressing immediate concerns while laying the foundation for sustainable growth and competitiveness in strategic areas.

Businesses should carefully consider how they will be impacted by Budget 2023 and evaluate whether they will qualify for any of the incentives that were proposed. Groups that are within the scope of Country-by-Country Reporting (CbCR) should immediately consider the impact of the global minimum tax, which is discussed further on page 16.

# Economic overview

# Budget 2023: overview

Budget 2023, themed "*Keluarga Malaysia, Makmur Bersama*" is based on the following goals and strategies:

**Responsive**
- Expansionary fiscal policy
- Priority to the *rakyat*
- Business support

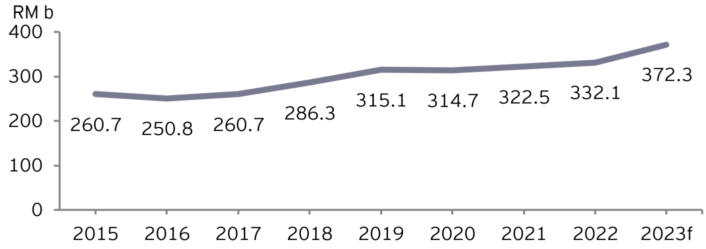
**Responsible**
- Fiscal responsibility
- Building national resilience
- Public service delivery efficiency

**Reformist**
- New growth areas
- National infrastructure development
- Inclusive development
- Sustainability development

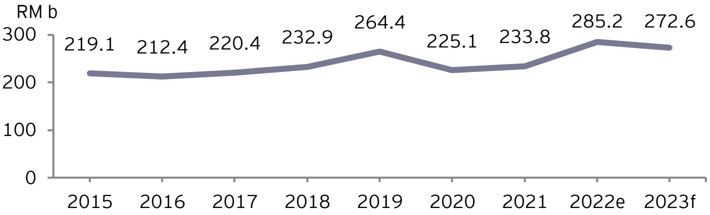
The 2023 Pre-Budget Statement released on 3 June 2022, discussed the following:

- Reinforcing the momentum of economic recovery by ensuring it is not just a recovery in GDP terms but also a recovery of jobs and income for Malaysians and businesses
- Strengthening economic resilience against future shocks, through reforms towards better social protection especially of the vulnerable segments of society, a stronger public health system, more sustainable fiscal position and more targeted forms of subsidies and assistance
- Implementing comprehensive reforms for businesses, priority sectors and the nation to emerge more competitive globally while advancing the nation's sustainable development agenda

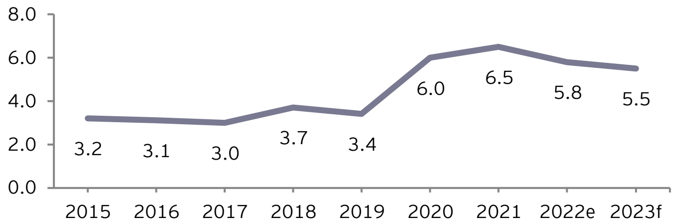
**1** Budget allocation[1]



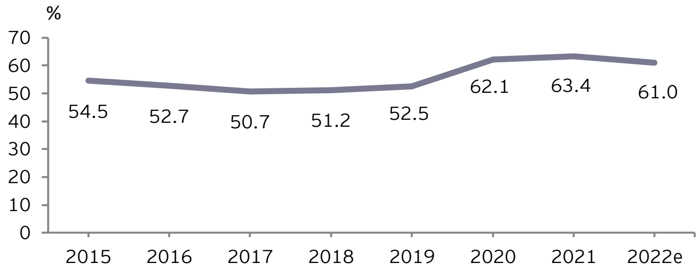

**2** Government revenue



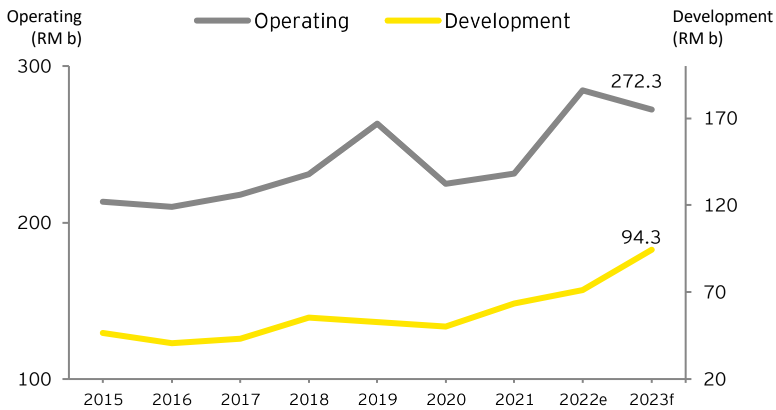

**3** Budget deficit




**4** Government debt/GDP ratio[2]




**5** Operating and development expenditure




**Notes:**
[1] Budget allocation includes operating expenditure, development expenditure and COVID-19 fund but excludes contingency reserves

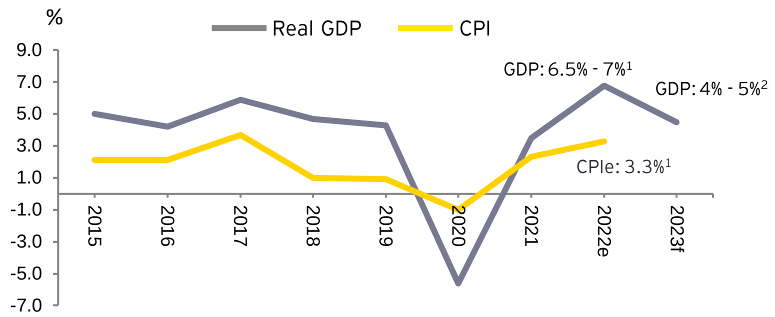
[2] Government debt/GDP ratio for 2022e as of end-June 2022

e = Estimate
f = Forecast
*Numbers may not add up due to rounding

**Sources:**
- Budget and pre-Budget statement 2023, MOF
- Budget speeches, Budget 2015 to Budget 2023, MOF
- MOF economic reports, 2015 to 2023

# Economic indicators

## Real GDP versus CPI

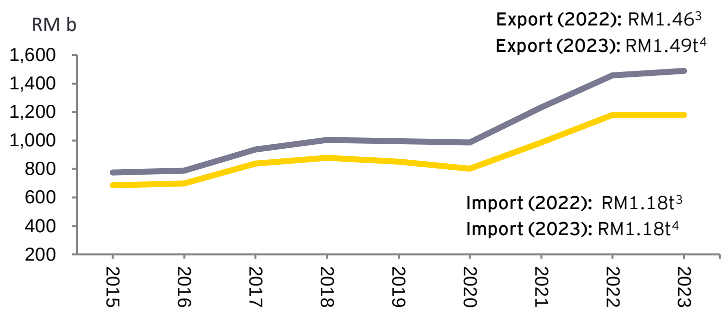



[1]Estimate for 2022
[2]Forecast for 2023

The Malaysian economy is projected to grow between 6.5% to 7% in 2022, supported by the expansionary measures implemented under Budget 2022, the reopening of all economic sectors, strong domestic demand and strong export performance.

In 2023, Malaysia's GDP is expected to moderate to between 4% and 5% supported by the services and manufacturing sectors. The higher inflation rate of 3.3% (est.) for 2022 is due to rising non-energy commodity prices.

## Trade (goods and services)

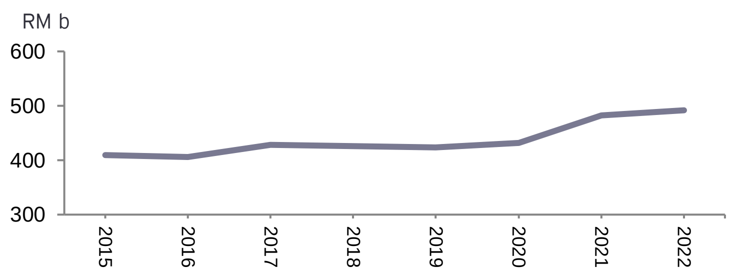



[3]Estimate for 2022
[4]Forecast for 2023

In 2022, total trade is estimated to reach RM2.63t, increasing 18.2% year-on-year (YoY). It is expected to reach RM2.67t in 2023.

Strong external demand for electrical and electronics (E&E), petrochemicals and palm-oil based products, coupled with the price surge in commodities, resulted in Malaysia's stellar trade performance.

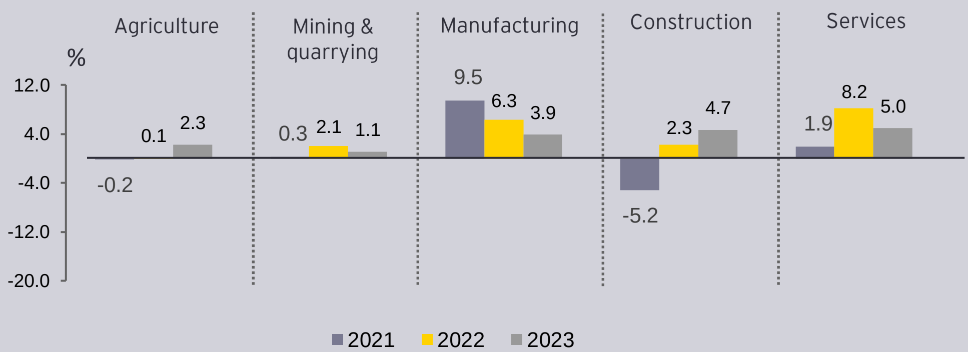
## Net international reserves[5]




[5]As at 30 September 2022

As of 30 September 2022, Malaysia's total international reserves amounted to RM491.9b, equivalent to 5.6 times of retained imports and 1.1 times of external short-term debt.

## Growth by sectors




In 2022, all sectors are expected to record growth. The services sector is expected to recover well with the anticipated growth of domestic retail activities, the rebound of tourism and the return of trade and business activities. Strong external demand is driving the growth of the manufacturing sector. Overall, private consumption remains the key driver of growth, supported by pent-up domestic demand and improved consumer confidence.

Source:
- MoF economic reports

# Tax measures

## Tax measures: Individuals

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| --- | --- |
| Tax rates | ► Tax rate reduction of two percentage points for resident individuals with chargeable income between RM50,001 and RM70,000, and chargeable income between RM70,001 and RM100,000<br><br>Chargeable income bands (RM) / Current tax rate (%) / Proposed tax rate (%):<br>50,001 - 70,000 / 13 / 11<br>70,001 - 100,000 / 21 / 19<br><br>► Tax rate brackets for resident individuals with chargeable income between RM250,001 and RM400,000 and between RM400,001 and RM600,000 will be combined and subject to tax at 25%<br>► This proposal is effective from Year of Assessment (YA) 2023 |
| Exemptions, deductions and reliefs | ► Income tax exemption on employment income for women returning to work after a career break. Applications for the exemption must be received by Talent Corporation Malaysia Berhad (TalentCorp) between 1 January 2023 and 31 December 2027 and the career break must have been for at least two years on the date the application is received by TalentCorp. This exemption is effective from YA2023 to YA2028<br>► Scope of tax relief for life insurance premium or takaful contributions to be expanded to include voluntary contributions to Employees Provident Fund (EPF), from YA2023<br>► Scope of tax relief for medical expenses to be expanded to include dental examination and treatment expenses of up to RM1,000. The examination and treatment must be provided by a dental practitioner registered with the Malaysian Dental Council. This applies from YA2023<br>► Scope of tax relief for Covid-19 detection test to be expanded to include tests conducted in a laboratory recognised by the Ministry of Health, from YA2023<br>► Extension of the following tax reliefs:<br>  ► Childcare fees of RM3,000 paid to a registered childcare centre or kindergarten, up to YA2024<br>  ► Net deposits in Skim Simpanan Pendidikan Nasional (SSPN) of RM8,000, up to YA2024 |
| Special tax rate for non-residents holding C-suite positions in electrical and electronics (E&E) companies relocating their operations to Malaysia | ► The special flat tax rate of 15% for non-Malaysian individuals holding C-suite positions in E&E companies relocating their operations to Malaysia is extended to YA2024 |
| Equity Crowdfunding (ECF) | ► Scope of tax incentive for individual investors who invest in ECF to be expanded to include investments made by an individual investor through a Limited Liability Partnership Nominee Company<br>► This tax incentive is extended for a period of three years, for investments made up to 31 December 2026 |
| Angel Investor | ► Tax incentive for angel investors who invest in an investee company in the form of ordinary shares is extended for a period of three years, for applications received by MOF up to 31 December 2026 |

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| EPF and Social Security Organisation (SOCSO) | ► Limit for voluntary contribution to EPF to be increased from RM60,000 to RM100,000 per year<br>► *Kasih Suri Keluarga Malaysia* programme under EPF to be extended to the year 2023. Under this programme, eligible housewives will receive up to RM600 per year, which consists of RM480 in EPF and RM120 in SOCSO contributions<br>► *I-Saraan* programme under EPF for self-employed individuals to be extended to the year 2023. In addition, matching contributions to be increased from RM250 to RM300<br>► 80% of SOCSO contribution subsidy to be given by the Government for self-employed individuals. From the year 2023 onwards, this subsidy will be expanded to include taxi drivers and gig workers under the information technology sector<br>► Mandatory contribution to SOCSO Self-Employment Social Security Scheme (SKSPS) for all self-employed individuals in selected sectors. This will be implemented in stages, starting with the public transport and food and goods delivery sectors<br>► Mobility assistance of RM500 to be provided by SOSCO to employees who are employed outside their home state and RM1,000 for work-related migration from Sabah or Sarawak to Peninsular Malaysia and vice versa |
| Stamp duty | ► Stamp duty exemption for instruments of purchase of residential property valued between RM500,001 and RM1m will be increased from 50% to 75%, up to 31 December 2023. This applies to first-time homeowners only.<br>► From 1 January 2023, RM10 stamp duty is applicable on:<br>  ► Instrument of transfer of real property between family members (between spouses, parent and child, and grandparent and grandchild) by way of love and affection, provided the transferee is a Malaysian citizen<br>  ► Educational loan or scholarship agreement for all levels, including certificates (education / skills / professional) at any educational and training institution. The RM10 stamp duty was previously only applicable to loans made for the purpose of pursuing higher education in higher educational institutions. |
| Tax administration | ► Individuals aged 18 years and above will automatically receive a TIN from the year 2023 onwards |

## Tax rate

- Income tax rate for Micro, Small and Medium Enterprises (as defined) will be reduced from 17% to 15% for the first RM100,000 of chargeable income, from YA2023.

| Taxable income | Tax rate (%) |
|---|---|
| **First RM100,000** | **15** |
| RM100,001 to RM600,000 | 17 |
| RM600,001 and above | 24 |

## Tax losses

- Carry-forward of losses for companies in sectors with long-gestation periods (e.g., forestry and hydroelectric projects) will be extended from 10 YAs to 20 YAs

## Capital allowances

- The definition of "plant" under Schedule 3 of the Income Tax Act 1967 will be expanded to include "intangibles" such as software. Further guidance is expected on this point.

## Exemptions and deductions

- Further deduction given on the remuneration of ex-convicts is extended to attendees and former attendees of the Henry Gurney School, protection and rehabilitation institutions and non-government care centres registered under the Department of Social Welfare. This proposal is effective from YA2023 until YA2025.
- Deduction for contributions to the Trust Fund for the Treatment of Rare Diseases, to be established by the Government
- Deduction for contributions to the *Tabung Komuniti Filem dan Pembangunan Filem Kenegaraan* under National Film Development Corporation Malaysia (FINAS)
- Deduction for contributions to non-governmental organisations (NGO) focusing on sports development at the grassroot level
- Deduction of up to RM1.5m in relation to cost of listing on the Access, Certainty, Efficiency (ACE) and Leading Entrepreneur Accelerator Platform (LEAP) markets to be extended for another three years, until YA2025. Scope of deduction to be expanded for YA2023 to YA2025 to include cost of listing technology-based companies on the Bursa Main Market.
- Extension of the following tax exemptions:
  - Tax incentive package for economic corridors expiring in 2022 for another two years, with enhancement
  - Principal Hub 3.0 incentive for another three years, for applications received by MIDA up until 31 December 2025
  - Global Trading Centre incentive for another three years, for applications received by MIDA up until 31 December 2025
- Currently, 100% accelerated capital allowance (ACA) and 100% income tax exemption is given on the cost of qualifying capital expenditure incurred on automation equipment by manufacturing and services companies. The ACA will be enhanced to include adaptation of Industry 4.0 elements within the automation scope and to include the agriculture sector. The capital expenditure threshold will be aligned and increased to RM10m. This proposal is for applications received by MIDA and the Ministry of Agriculture and Food Industries (MAFI) from 1 January 2023 until 31 December 2027.

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| BioNexus status company | ► Income tax exemption on statutory income for BioNexus status companies increased from 70% to 100%. This proposal is for applications received by Malaysian Bioeconomy Development Corporation from 1 January 2023 until 31 December 2024. |
| Intellectual property development | ► 100% income tax exemption is available on qualifying intellectual property income from patents and copyright software for a period of 10 years. It is proposed that the application period for this incentive be extended until 31 December 2025. Applications are to be submitted to MIDA. |
| Tax administration | ► Implementation of e-Invoicing in stages effective from 2023, with a pilot project for selected taxpayers<br>► TIN will be mandatory for stamping of all instruments and documents from 2023<br>► Taxpayers to remit tax payments electronically with effect from YA2024 |
| Stamp duty | ► Stamp duty exemption for restructuring or rescheduling of a business loan or financing agreement executed between a borrower or customer and a financial institution will be extended until 31 December 2024<br>► Stamping of instruments and payment of stamp duty to the IRB will need to be carried out online by 2024, through the Stamp Assessment and Payment System |

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| **Green economy** | ► For GITA and GITE: |

| Qualifying activities | % of GITA | Set off against % of statutory income | Incentive period |
|---|---|---|---|
| Tier 1: Qualifying activities other than solar and solar + Battery Energy Storage System (BESS) *(Project, Green Building and Asset)* | 100% | 70% | 5 years |
| Tier 2: Qualifying activities related to solar *(Asset and Project)* | 60% | 70% | 3 years |

| Qualifying activities | % of GITE on statutory income | Incentive period |
|---|---|---|
| Tier 1: Qualifying activities other than solar and solar + BESS | 70% | 5 YAs |
| Tier 2: Qualifying activities related to solar | 70% | 3 YAs |
| Solar leasing | 70% | Up to 10 years |

Applications must be received by MIDA from 1 January 2024 until 31 December 2025.

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| **Ship-building and ship-repairing (SBSR) industry** | ► Application period for the tax incentives (i.e., ITA or Pioneer Status) for the SBSR industry to be extended for five years, up until 31 December 2027 |
| **Pharmaceutical** | ► Preferential tax rates (0% to 10% for the first 10 years and 10% for the next 10 years) for manufacturers of pharmaceutical products will be extended until 31 December 2025. |
| **Agriculture** | ► Application period for 100% tax exemption for new or expanded food production projects, planting of seeds for agro-food, and high seas fishing projects to be extended by three years, until 31 December 2025. Further, the scope of the incentive is expanded to include agricultural-based projects on Controlled Environment Agriculture (CEA). |
| **Aerospace** | ► The application period for tax incentives for aerospace companies will be extended for another three years. Applications now need to be received by MIDA by 31 December 2025 |
| **E&E companies relocating their operations to Malaysia** | ► The application period for the tax incentives for relocation of E&E companies' operations to Malaysia will be extended until 2024. |

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| **Hotel and tourism** | ▸ Reinvestment Allowance of 60% on qualifying capital expenditure on renovation, expansion and modernisation activities to be set-off against 70% of statutory income for selected hotel and tourism projects for a period of 5 years from YA2023 to YA2027, subject to fulfillment of conditions<br>▸ Special tax deduction of up to RM500,000, for expenditure incurred by hoteliers on qualified Malaysian-made handicraft purchased from handicraft entrepreneurs certified by the Malaysian Handicraft Development Corporation from 1 January to 31 December 2023.<br>▸ Updated conditions (i.e., higher local and inbound tourist participation) for the existing 100% tax exemption for tour operators, and extension of the incentive up to YA2023 |

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| **Healthcare** | ▸ Guidelines will be established to outline the income tax exemption available to charitable hospitals registered as Companies Limited by Guarantee. The exemption will be equivalent to the amount of charitable expenditure incurred. Donors will be given tax deductions of up to 10% of their aggregate income in the relevant YA.<br>▸ Application period for 100% ITA (to be set-off against 100% of statutory income) of private healthcare companies undertaking new investments or engaging in expansion, modernisation or refurbishment activities, to be extended by three years. Applications must now be received by MIDA by 31 December 2025.<br>▸ Income tax exemption equivalent to 100% of increased value in exports of services to be set-off against 70% of statutory income derived from the export of private healthcare services, to be extended for another three years until YA2025 |

# **Tax measures:** Indirect tax

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| Tourism vehicles | ► 50% excise duty exemption will be granted on purchase of new locally-assembled vehicles (i.e., hire and drive cars and excursion buses) used for tourism, for applications received by MOF from 1 January 2023 until 31 December 2024 |
| Executive taxis and airport taxis | ► Currently, excise duty and sales tax exemptions apply on the sale, transfer, private use or disposal of individually owned budget taxis and hired cars with vehicle age exceeding seven years from the date of registration.<br>► From 1 January 2023, the excise duty and sales tax exemption will be expanded to include executive taxis and TEKS1M, as well as airport taxis (covering budget, premium and family taxis), and the vehicle age requirement is reduced to at least five years from the date of registration. |
| Nicotine Replacement Therapy (NRT) | ► Nicotine gum and nicotine patches used in NRT will be exempted from import duty and sales tax, for applications received by MOF from 1 January 2023 until 31 December 2027. |
| Studio and filming production equipment | ► Import duty and sales tax exemptions on studio and filming production equipment will be given to equipment providers and production services, including post-production, studio and cinema, for applications received by MOF from 1 January 2023 until 31 December 2024. |
| Multi-agency task force to manage tax leakages | ► Enhanced Customs enforcement on the importation of tobacco products and alcoholic drinks via Customs ports of entry and private jetties.<br>► Transshipment of alcoholic drinks will be limited to only specific ports of entry.<br>► Provision of special rewards to strengthen efforts to curb the smuggling of tobacco products and alcoholic drinks |
| Locally-assembled buses | ► Sales tax exemption on purchase of locally-assembled buses (inclusive of locally-installed air-conditioning) given to eligible bus operators such as school bus, stage bus, express bus, excursion bus and employee bus, will be extended. Applications must now be received by MOF by 31 December 2024. |
| Digital services related to banking/financial services | ► The period of the service tax exemption on digital services related to banking or financial services, provided by both local financial institutions or banks, and local non-financial institutions or banks, has been streamlined and will be available up until 31 July 2025. |
| BioNexus status company | ► Import duty exemption on raw materials or components, and machinery or equipment, for BioNexus status companies will be extended. Applications must now be received by the Malaysian Bioeconomy Development Corporation by 31 December 2024. |
| SBSR industry with *bona fide* status | ► Import duty and sales tax exemptions on materials and equipment used directly for the construction or repair of vessels by SBSR companies with *bona fide* status will be extended. Applications must now be received by MIDA and MOF by 31 December 2027. |


## Special focus:

- BEPS 2.0
- The ESG agenda: tax considerations

# BEPS 2.0

As of 7 October 2022, 137 countries and jurisdictions have committed to fundamental changes to the international corporate tax system through the adoption of a two-pillar plan, otherwise referred to as BEPS 2.0. Spearheaded by the Organisation for Economic Co-operation and Development (OECD) and G20, the BEPS 2.0 project aims to address gaps in current tax rules that have emerged from globalisation and the digitalisation of the economy.

## BEPS 2.0 Two-Pillar solution

| | Pillar One | Pillar Two |
|---|---|---|
| In brief | Pillar One prescribes new nexus and profit allocation rules that will reallocate a certain amount of taxing rights over profits of large multinational businesses to "market jurisdictions", i.e., the jurisdictions in which goods and services are ultimately consumed.<br><br>This is a fundamental change to current international tax rules, which generally only allow business profits of a multinational enterprise to be taxed in jurisdictions where it has a physical presence. | Pillar Two advocates a new 15% GMT framework[1], which would give countries rights to impose top-up taxes on low-taxed income.<br><br>The group's effective tax rate (ETR) in each jurisdiction it operates in will need to be calculated separately. Where the group has an ETR of below 15% in any jurisdiction[2], there will be a top up tax elsewhere. Alternatively, countries may implement rules to impose domestic top-up taxes.<br><br>Pillar Two could significantly increase the ETR of Malaysian businesses, especially those operating in countries with no or low statutory tax rates and businesses that currently benefit from tax incentives |
| Who is impacted? | MNEs with global turnover above €20b[3] (approx. RM90b[4]) and profitability above 10%[5] | MNEs with group global turnover of at least €750m (approx. RM3.5b[4]) in two out of the four fiscal years immediately preceding the tested fiscal year |
| When will these rules take effect? | The OECD targets a mid-2023 signing of a Multilateral Convention (MLC) to implement Pillar One, for entry into force in 2024.<br><br>Looking ahead, significant work still needs to be done with respect to the Pillar One rules. Implementation of Pillar One will require that a critical mass of countries agrees to the MLC and makes necessary changes to their domestic tax laws. | The OECD set an ambitious 2023 target to implement GMT. However, as the OECD has yet to release its GMT Implementation Framework and continues to work on other important details, many countries have announced that they will only adopt GMT rules in 2024.<br><br>Action by a critical mass of countries is not required for the GMT rules to take effect. Once one country implements the rules, it may be collecting top-up taxes in respect of undertaxed profits in other countries. |

**Note:**
[1] In addition to the Global Anti-Base Erosion (GloBE) rules that set the common approach for a 15% global minimum tax, Pillar Two also proposes a tax treaty-based subject to tax rule (STTR) which may subject certain intra-group cross-border payments such as interest and royalties to increased withholding taxes. Details on the STTR have yet to be finalised.
[2] The OECD acknowledges that companies which have significant substance in a jurisdiction should be cushioned from the impact of the top-up tax. Hence, certain substance-based carve-outs, referenced to personnel costs and the carrying value of tangible assets, have been built into the Pillar Two architecture.
[3] The revenue threshold will potentially be reduced to EUR10b over time, which may bring many more groups within scope, subject to a review scheduled to take place seven years after the profit reallocation rules comes into force.
[4] €1 = RM4.63
[5] Exclusions apply for taxpayers in the regulated financial services and extractives sectors

# BEPS 2.0:
# What is Malaysia's position?

On 3 June 2022, the MOF released its 2023 pre-budget statement revealing that it was reviewing the technical details of both pillars, including the introduction of a Pillar Two QDMTT[1].

On 1 August 2022, the MOF released a Public Consultation Paper (PCP)[2] which reinforced Malaysia's commitment to explore the introduction of GMT and QDMTT.

Budget 2023 reaffirms Malaysia's commitment to implement GMT and Malaysia's target to implement QDMTT in 2024.

The introduction of QDMTT in Malaysia would ensure that any GMT top-up tax in respect of profits earned in Malaysia is collected in Malaysia, without ceding taxing rights to other countries. We believe that most countries will ultimately seek to implement a QDMTT or some other form of minimum tax, for this reason.

## Considerations for large multinational corporations

- While the Malaysian corporate income tax rate generally stands at 24%, Malaysia offers a wide range of tax incentives that can reduce a company's ETR below 15%.
- MNEs which are within the scope of Pillar Two should anticipate an increased compliance burden, potential accounting and cash tax increases, increased costs to be factored into merger and acquisition modeling, and the need to re-evaluate their holding and financing structures as well as their supply chains and operating models.
- BEPS 2.0 calculations involve vast amounts of data that tax departments do not currently collect. MNEs are expected to need systems reconfiguration, automation and additional resources, to meet the Pillar Two compliance and reporting requirements.

**Note:**
[1] A QDMTT is a top-up tax that is applied to excess profits of domestic entities within the scope of Pillar Two, calculated in a manner consistent with the outcome and objectives of the GloBE rules. The QDMTT effectively changes the order in which countries are entitled to impose top-up taxes.

[2] Refer to the EY Special Edition Tax Alert (5 August 2022) for further discussion on the PCP and the Pillar Two GloBE rules (click on link)

## How do Malaysian companies prepare for BEPS 2.0?

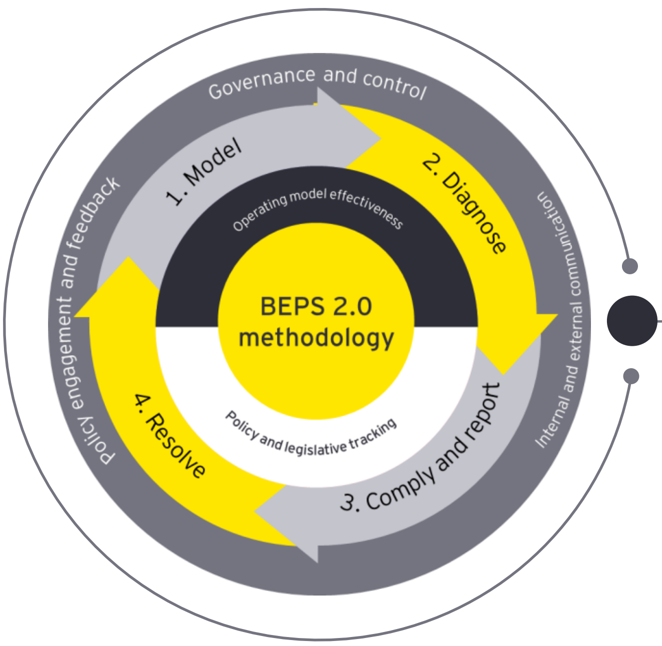
BEPS 2.0 is set to transform the international tax landscape and introduce significant change in reporting and compliance. Companies need to re-evaluate whether their finance data strategy, tax technology enablers and process delivery model are fit for the future compliance.

With the imminent implementation of BEPS 2.0, companies should start taking action now.

### Some key questions for MNEs

- Is BEPS 2.0 (in particular Pillar Two) applicable to us?
- What are the cash tax and financial reporting impacts and how will this impact the expected return-on-investment on projects?
- Are current tax incentives still effective? Do they need to be re-negotiated?
- Are we ready for BEPS 2.0 compliance?
- What data is needed and where is the data maintained in the group?
- What is my technology and data approach?
- What planning options can be explored?

### BEPS 2.0 impact and readiness assessments should be undertaken to:

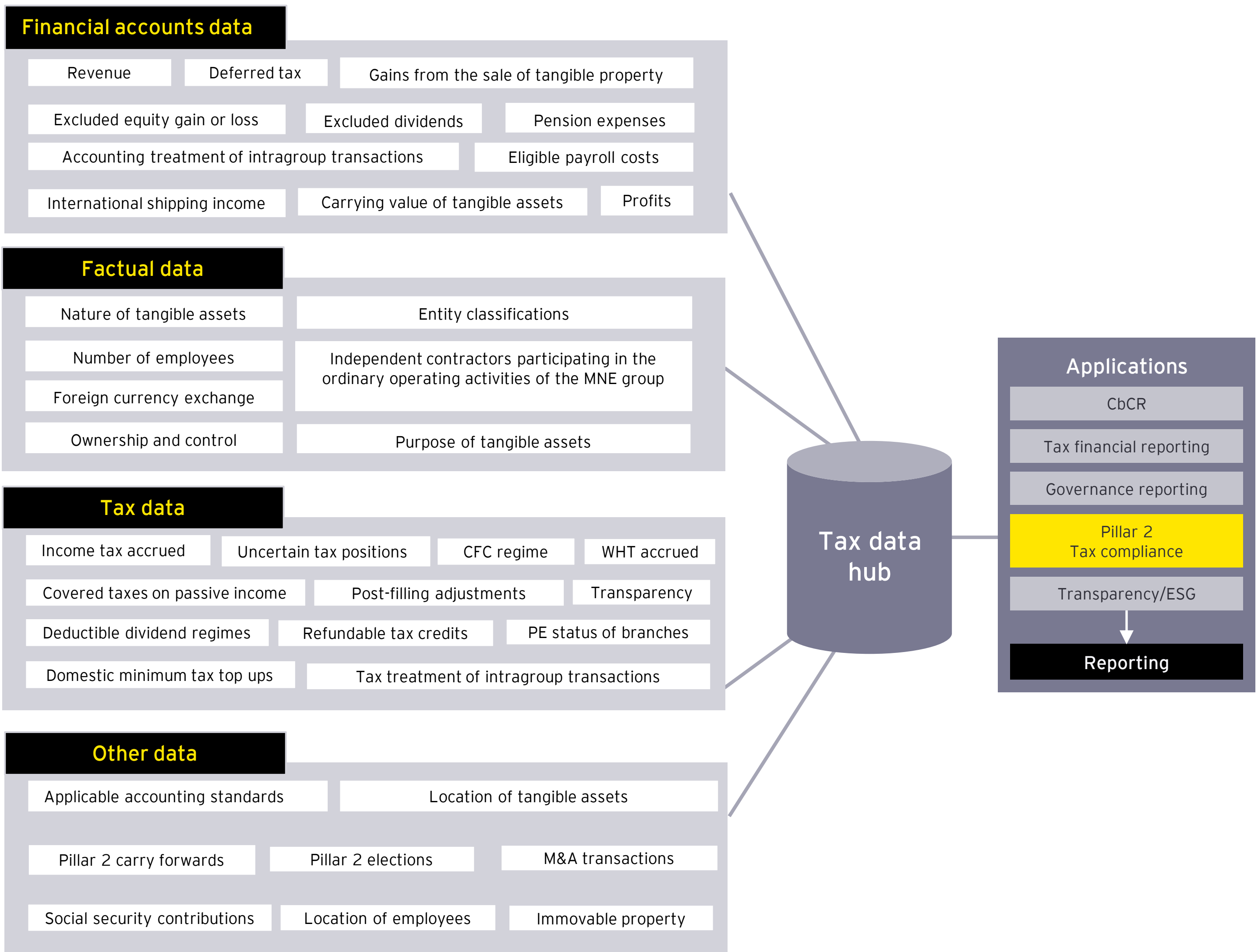



1. Assess BEPS 2.0 readiness and identify gaps covering structure, operating model, process, systems, people and data
2. Identify key risk areas and potential BEPS 2.0 impact
3. Identify risk mitigation and planning opportunities
4. Design roadmap and implementation plans for BEPS 2.0 compliance

## BEPS 2.0 data readiness: vast amounts of 'new' data required

- For Pillar Two, up to 120 different data points are required to be collected for each legal entity across the MNE group.
- These data points need to be extracted from various source systems, such as consolidation systems and human resource systems.
- Given the vast amount of data points required for each legal entity, companies need to automate data extraction for BEPS 2.0.

> "
> Data and technology will be core to operationalizing BEPS 2.0 – to enable modelling, tax accounting, compliance, analytics and reporting. Determining the right technology enablement, will be critical to prepare for BEPS 2.0
>
> **Anil Kumar Puri**
> Malaysia International Corporate Tax Advisory Leader and Partner, Ernst & Young Tax Consultants Sdn Bhd



# The ESG agenda: tax considerations

As the ESG agenda becomes a key priority in corporate strategies, senior management and board discussions on ESG should include tax strategies and considerations.

From an environmental perspective, it is imperative to consider the role of tax in climate policies, in the form of carbon credits, incentives and taxes.

In tandem with a number of regional jurisdictions, the Malaysian Government is undertaking a study on the implementation of carbon tax. This study is still ongoing. More recently, Bursa Malaysia announced the launch of a voluntary carbon market (VCM) exchange by the end of 2022, which will enable companies to purchase and sell carbon credits from their climate-friendly projects and solutions.

Industry sources indicate that one-third of Malaysia's top 80 companies have voluntarily adopted emission-reduction targets, and many of them may require carbon credits to meet their targets.

“

As Malaysia develops her climate policies, we anticipate policymakers and regulators will increasingly consider fiscal tools to encourage participation in the green economy, through the introduction of incentives in parallel with taxes and emissions trading schemes (ETS). A growing number of jurisdictions are already considering or implementing such carbon pricing tools.

**Sharon Yong**
Sustainability Tax Lead and Partner,
International Tax and Transaction Services,
Ernst & Young Tax Consultants Sdn Bhd

## How a Voluntary Carbon Market (VCM) works

Developers of projects resulting in the avoidance, decrease or removal of carbon emissions can appoint certification bodies to certify their project and prove the amount of carbon emissions reductions based on established standards. As a result of project certification, developers can obtain voluntary carbon credits (VCC). One carbon credit represents a one-tonne reduction of $CO_2$ emissions.

The VCCs are stored in a personalized account in a registry owned or retained by the standard that certified the project. The developer can either retire the credits, i.e., annul them to claim the reductions they represent, or sell them to another entity owning an account with the registry.

**The tax implications of carbon credit transactions, including VCM transactions, would need to be considered. This would include the taxability of the income from the disposal of carbon credits and the deductibility of the costs incurred.**

EY Green Tax Tracker (link)
Monitoring sustainability tax policies globally

## Malaysia's green technology tax incentives

For companies that are exploring emission reductions, energy efficiency or renewable energy options, feasibility or location studies should take into account matters such as the availability of tax incentives or tax credits, funding support (e.g., grants) and commercial considerations. Set out below is an overview of green technology tax incentives available in Malaysia. Please refer to page 12 for the proposed updates to these incentives in Budget 2023.

### 1 GITE services

70% income tax exemption on statutory income for three Years of Assessment (YAs)

New or existing companies which propose to provide Green Technology (GT) services (including consultancy, testing and commissioning services, system design and feasibility studies etc.)

### 2 GITE leasing

70% income tax exemption on statutory income for five or ten YAs

Solar leasing service provider verified by the Sustainable Energy Development Authority (SEDA) and listed under the Registered Photovoltaic Investor (RPVI) directory

### 3 GITA project

100% ITA for three YAs, to be offset against 70% of statutory income in a YA. Unutilised ITA can be carried-forward indefinitely.

New companies which propose to undertake GT projects; or

Existing companies which:
- undertake GT projects for their own consumption or are project based; or
- undertake new business in qualifying activities and generates a new source of income.

### 4 GITA assets

100% ITA for three YAs to be offset against 70% of statutory income in a YA. Unutilised ITA can be carried-forward.

Company which purchase GT assets certified as MyHijau by the Malaysian Green Technology and Climate Change Centre (MGTC)

**Notes:**
- The current position is that applications for the above incentives must be received by Malaysian Investment Development Authority (MIDA) or Malaysian Green Technology And Climate Change Corporation (MGTC) by 31 December 2023.
- Qualifying activities for GT projects and services include those involving energy efficiency, green building and green data centre, rainwater collection, renewable energy and utilization systems.
- 'New company' is a newly incorporated company which proposes to undertake qualifying activities and has yet to generate any income
- GITE Services and Leasing incentives are mutually exclusive. The company or its related company cannot enjoy both incentives within the same period.

## Proposed incentives for the EV industry

- Budget allocation for the GTFS has been expanded to include the EV sector. Further, the scheme has been increased to RM3b until the year 2025.
- 100% import duty and excise duty exemption on importation of Completely Built-Up (CBU) EVs will be extended until 31 December 2024
- Manufacturers of EV charging equipment will be given:
  - 100% income tax exemption on statutory income from YA 2023 to YA 2032. Companies that make investments after the YA 2023 are eligible to enjoy the remaining exemption period only; or
  - 100% ITA for five YAs, to be set off against 100% statutory income

  Applications must be received by MIDA by 31 December 2025.
- Tax deduction of up to RM300,000 on rental expenses for EVs used for business purposes. It appears that this RM300,000 restriction applies on a per-vehicle basis. This proposal applies from YA2023 to YA2025.

## Proposed tax deduction on collection of plastic waste

To support recycling of plastic waste, a tax deduction will be given to taxpayers who donate or sponsor Smart Artificial Intelligence (AI)-Driven Reverse Vending Machine equipment.

This proposal is for contributions/ sponsorships and applications received by the MOF between 1 January 2023 and 31 December 2024.

## Proposed tax incentives for carbon capture and storage (CCS)

| CCS activities | Income tax exemption[1] | | ITA[1] | | | Tax deduction[2] | Import duty and sales tax exemption[1] |
|---|---|---|---|---|---|---|---|
| | % of statutory income | Incentive period | % of ITA | Set off against % of statutory income | Incentive period | | |
| Own consumption | --- | --- | 100% | 100% | 10 years | Expenses incurred within 5 years prior to commencement | From 1 January 2023 to 31 December 2027 |
| Service provider[3] | 70% | 10 years | 100% | 100% | 10 years | --- | From 1 January 2023 to 31 December 2027 |
| Service recipient | --- | --- | --- | --- | --- | Fees incurred | --- |

**Notes:**
[1] Applications must be received by the MOF between 1 January 2023 and 31 December 2027.
[2] Tax deduction can be claimed in the tax returns from YA2023 to YA2027.
[3] The service provider can only apply for ITA or income tax exemption, and not both

## Malaysia's Sustainable Responsible Investment (SRI) development

In August 2022, the Securities Commission of Malaysia (SC) announced the expansion of its existing SRI *Sukuk* and Bond grant scheme (Grant) to SRI-linked *sukuk* issued under the SC's SRI-linked *Sukuk* Framework (Framework) which was introduced in June 2022. The Grant facilitates the raising of *sukuk* by companies to meet their sustainable finance needs.

SRI-Linked *sukuk* issuances made under the framework from 8 August 2022 onwards would be eligible for the Grant. The following tax benefits are available:

### *Sukuk* Issuer

**SRI *Sukuk* and Bond grant scheme (the Grant)**

| Eligibility | Claim amount | Income tax exemption |
|---|---|---|
| *Sukuk* issued under the SC's SRI *Sukuk* Framework / SRI-Linked *Sukuk* Framework or bonds issued under the ASEAN Green, Social and Sustainability Bond Standards (ASEAN Standards) | Eligible issuers can claim the grant of up to 90% of the external review costs incurred, subject to a maximum of RM300,000 per issuance. | Five years income tax exemption on the amount of Grant received, from the YA2021 to YA2025 |

*The application period starts from January 2021 until the Grant is fully utilized

**Deduction for cost of issuance or offering of SRI *Sukuk***

Tax deductions allowed from YA2016 to YA2023 for the expenditure incurred on the issuance or offering of a SRI *sukuk*, approved or authorized by, or lodged with the SC.

### *Sukuk* Fund manager

**Income tax exemption**

Income tax exemption from YA2018 to YA2023 on statutory income derived from the business of providing fund management services for a SRI fund in Malaysia

### Budget 2023 proposal

**Income tax deduction**

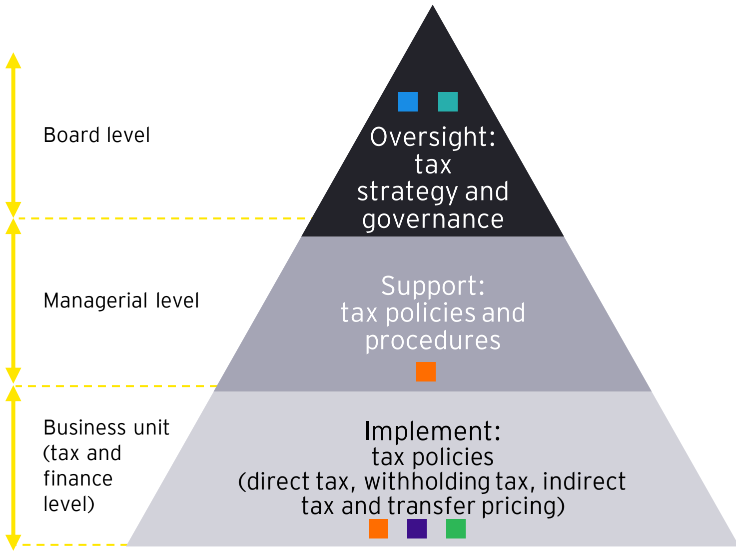
Income tax deduction has been proposed on the cost of issuing SRI-linked *Sukuk* which has been approved or permitted or deposited with the SC. This is effective from YA2023 to YA2027.

## IRB: Tax Corporate Governance Framework (TCGF) Programme

The IRB introduced the Tax Corporate Governance Framework (TCGF) Guidelines in April 2022 (updated in July 2022) to assist companies in designing and operating their tax governance frameworks. The TCGF contains components regarded by the IRB as the best practices that taxpayers can voluntarily adopt.

The IRB also introduced a TCGF programme, in which taxpayers whose TCGF meets IRB's requirements, and which have received an authentication letter from the IRB, will enjoy benefits such as reduced scrutiny (e.g., lesser tax audits), expedited tax refunds and the appointment of a dedicated IRB officer as a single point of contact in relation to the taxpayer's tax matters. The TCGF programme is currently in its pilot phase until June 2024. Organisations that are keen to participate can reach out to the IRB.

### Overview of TCGF




**Five key components of a TCGF**

- Tax governance
- Tax reporting
- Tax risk management/internal controls
- Tax planning or strategy
- Tax documentation

### Key ESG tax considerations for businesses

1. Feasibility of adopting an internal carbon price, and ability to collate reliable data on carbon emissions
2. Potential introduction of carbon taxes or carbon border measures or emission caps in the locations you operate in or trade with (example, EU Carbon Border Adjustment Mechanism (CBAM))
3. Availability of tax incentives/grants/funding to undertake "green" activities or address ESG requirements
4. Availability and/or robustness of existing TCGF and how to address gaps
5. How should the tax function evolve to ensure tax is always considered in the ESG and sustainability strategies of the business

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