



LAWS OF MALAYSIA

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Act 264

FINANCE ACT 1982

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LAWS OF MALAYSIA

Act 264

FINANCE ACT 1953

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LAWS OF MALAYSIA

Act 264

FINANCE ACT 1982

An Act to amend the Income Tax Act 1967 and the Real Property Gains Tax Act 1976 and to provide for matters connected therewith.

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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 1982 and shall have effect or be deemed to have effect as provided in this Act.

Amendment of Acts

2. The Income Tax Act 1967 [*Act 53*] and the Real Property Gains Tax Act 1976 [*Act 169*] are amended respectively in the manner specified in Chapters II and III.

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Except for section 10, the provisions of this Chapter shall have effect for the year of assessment 1982 and subsequent years of assessment.

(2) Section 10 shall be deemed to have come into force on 1 January 1982.

Amendment of section 6B

4. Section 6B of the Income Tax Act 1967 [Act 53], which in this Chapter is referred to as “the principal Act”, is amended by deleting the words “calculated on term loan basis” appearing in subsection (1).

Amendment of section 54

5. Section 54 of the principal Act is amended by inserting immediately after the words “Subject to section 54A” appearing in paragraph (2)(a) the words “or section 54B”.

Amendment of section 54A

6. Section 54A of the principal Act is amended—

(a) by substituting for the words “for a period of twelve years of assessment” appearing in paragraph (1)(a) the words “for twelve years of assessment (hereinafter referred to as the exemption period) commencing from the year of assessment 1982 or in the case of a company whose first basis period ends after 31 December 1981”;

(b) by substituting for the word “ten” appearing in paragraph (2)(a) the word “fifteen”;

(c) by substituting for paragraphs (2)(c) and (d) the following new paragraphs (c) and (d):

“(c) during every four consecutive basis periods for the exempt years of assessment (hereinafter referred to as the relevant period) the company shall undertake a programme to increase the tonnage of its fleet of ships or vessels and shall for this purpose incur capital expenditure on the acquisition of ships or vessels which shall not be less than seventy-five per cent of such fleet acquisition reserve as at the end of the relevant period:

Provided that if at the end of the twelve year period where a person has incurred capital expenditure on the acquisition of ships or vessels of not less than seventy-five per cent of the total fleet acquisition reserve, he shall be entitled to the full exemption specified in paragraph (1)(a); and

(d) where at any time during a relevant period any of the conditions have not been complied with or where the Director General is of the opinion that any expenditure deemed to have been incurred has not in fact been incurred, this section shall be deemed never to have had effect for that relevant period.”; and

(d) by adding immediately after subsection (2) the following new subsection (3):

“(3) For the purposes of this section, capital expenditure is deemed to have been incurred—

- (i) when expenditure is made;
- (ii) on the signing of a contract for the purchase of a ship or vessel; or
- (iii) when a similar commitment is undertaken and it is proved to the satisfaction of the Director General that such commitment is for the actual purchase of a ship or vessel.”.

New section 54B

7. The principal Act is amended by inserting immediately after section 54A the following new section 54B:

“Abatement of chargeable income of resident companies carrying on sea transport undertakings

54B. (1) (a) Subject to the conditions referred to in subsection (2), a company shall have its chargeable income in respect of a business of transporting passengers or cargo by sea to which paragraph 54(2)(a) applies (hereinafter referred to as that business) abated by fifty per cent for twelve years of assessment (hereinafter referred to as that period) commencing from the year of assessment immediately following the expiration of its exemption period under section 54A; and

(b) as soon as any amount of the chargeable income of that business has been abated, it shall be credited to an account (that account being referred to as the exempt account) and paragraph 5 (except sub-paragraph (1) thereof) and paragraph 6 of Schedule 7A shall apply as if any reference in those

paragraphs to any income exempted or which has become exempt under paragraph 3 were a reference to income credited to the exempt account.

(2) (a) The total dividend (including any dividend paid out of the exempt account) paid, credited or distributed in a basis period shall not exceed fifteen per cent of the paid up capital as at the first day of such basis period;

(b) any excess of the audited net profit for the basis period over such dividend less any tax payable for that year of assessment shall be credited to a fleet acquisition reserve which shall not be reduced other than for the purposes of paragraph (c);

(c) during that period the company shall undertake a programme to increase the tonnage of its fleet of ships or vessels and shall for this purpose incur capital expenditure on the acquisition of ships or vessels which at the end of every four consecutive basis periods (hereinafter referred to as the relevant period) shall not be less than seventy-five per cent of such fleet acquisition reserve; and

(d) where at any time during a basis period any of the conditions have not been complied with or where the Director General is of the opinion that any expenditure deemed to have been incurred has not in fact been incurred, this section shall be deemed never to have had effect for that relevant period.

(3) For the purposes of this section, capital expenditure is deemed to have been incurred—

- (i) when expenditure is made;
- (ii) on the signing of a contract for the purchase of a ship or vessel; or
- (iii) when a similar commitment is undertaken and it is proved to the satisfaction of the Director General that such commitment is for the actual purchase of a ship or vessel.”.

Amendment of section 60

8. Section 60 of the principal Act is amended—

- (a) by substituting for subsection (2) the following new subsection (2):

“(2) For the purposes of this section—

- (a) subject to paragraph (b), where an insurer carries on life business in conjunction with general business, the life business and the general business shall be treated as separate insurance businesses;
- (b) (i) where an insurer carries on inward re-insurance business, the inward re-insurance business and the general business (excluding the inward re-insurance business and offshore insurance business) shall be treated as separate general businesses;
- (ii) where an insurer carries on offshore insurance business, the offshore insurance business and the general business (excluding the offshore insurance business and inward re-insurance business) shall be treated as separate general businesses.”;

(b) by inserting immediately after subsection (5A) the following new subsection (5B):

“(5B) The adjusted income for the basis period for a year of assessment from the offshore insurance business of an insurer resident for that basis year for that year of assessment shall consist of an amount arrived at by applying subsection (5) as if references therein to “general business” and “general policies” were references to “offshore insurance business” and “offshore insurance policies” respectively.”;

(c) by inserting immediately after subsection (6A) the following new subsection (6B):

“(6B) The adjusted income for the basis period for a year of assessment from the off-shore insurance business of an insurer not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, consist of an amount arrived at by applying subsection (6) as if references therein to “general business” and “Malaysian general policies” were references to “offshore insurance business” and “offshore insurance policies” respectively.”;

- (d) by substituting for the words “or (6A)” appearing in the proviso to subsection (7) the words “, (6A) or (6B)”;
- (e) by substituting for the words “and in section 60A” appearing in subsection (11) the words “, section 60A and section 60B”; and
- (f) by substituting for the full stop at the end of the definition of “Malaysian general policy” and “Malaysian life policy” in subsection (11) a semicolon and by adding immediately thereafter the following new definitions:

““offshore insurance ” means insurance of a risk under a general policy where the risk is outside Malaysia and the policy of insurance is issued by an insurer resident in Malaysia or by a branch in Malaysia of an insurer not resident in Malaysia, and where any risk is in transit in Malaysia it shall be deemed to be outside Malaysia;

“offshore insurance policies ” means policies issued in respect of offshore insurance.”.

New section 60B and renumbering of section 60B as section 60C

9. The principal Act is amended—

- (a) by inserting immediately after section 60A the following new section 60B:

“Offshore insurance: chargeable income, reduced rate and exempt dividend

60B. (1) (a) Where an insurer carries on offshore insurance business in conjunction with other insurance businesses, the part of the chargeable income for a year of assessment which is attributable to that offshore insurance business shall consist of an amount which bears the same proportion to the chargeable income for that year of assessment of the insurer as the part of the aggregate income which relates to the offshore insurance business bears to the whole of the aggregate income for that year of assessment from all sources of the insurer; and

(b) the amount arrived at under paragraph (a) shall be treated as the chargeable income for a year of assessment of an insurer from offshore insurance business for the purposes of paragraph 3 of Part I of Schedule 1.

(2) As soon as any amount of chargeable income from the offshore insurance business of an insurer (being a company) resident for the basis year for a year of assessment has been subject to income tax at the rate of five per cent—

(a) the net amount of that income (after deduction of such tax) shall be credited to an account (that account and company being referred to as the exempt account and the relevant company respectively); and

(b) paragraph 5 (except subparagraph (1) thereof) and paragraph 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempt under paragraph 3 were a reference to income credited to the exempt account.”; and

(b) by renumbering the existing section 60B as section 60c.

Amendment of section 103

10. Section 103 of the principal Act is amended by substituting for subsection (5A) the following new subsection (5A):

“(5A) Where the tax due and payable has been increased under subsection (4) or (5) any balance remaining unpaid upon expiration of sixty days from the date of such increase shall without any further notice being served be further increased by a sum equal to five per cent of the balance unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act.”

Amendment of Schedule 1

11. Part I of Schedule 1 to the principal Act is amended by inserting immediately after the words “inward re-insurance business” appearing in paragraph 3 the words “or offshore insurance business”.

Amendment of Schedule 6

12. Paragraph 33 of Part I of Schedule 6 to the principal Act is amended—

- (a) by deleting the words “carrying on the business of banking” appearing after the words “for a year of assessment”;
- (b) by inserting immediately after the words “credited by any person” the words “(whether the same person or not)”; and
- (c) by substituting for the full stop at the end of that paragraph a colon and by inserting immediately below that paragraph the following new proviso:

“Provided that the exemption under this paragraph shall not apply to interest paid or credited on funds required for the purposes of maintaining net working funds as prescribed by the Central Bank of Malaysia in pursuance of section 14 of the *Banking Act 1973 [Act 102]. ”

CHAPTER III

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

13. (1) Except for paragraph 14(i), the provisions of this Chapter shall be deemed to have come into force on 23 October 1981.

(2) Paragraph 14(i) shall be deemed to have come into force on 7 November 1975.

Amendment of Schedule 2

14. 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—

- (a) by deleting the words “(including the compulsory acquisition under any law)” appearing in paragraph 2;

* *NOTE*—The Banking Act 1963 [Act 102] has since been repealed by the Banking and Financial Institutions Act 1989 [Act 372]—see subsection 128(1) of Act 372.

- (b) by inserting the words “the transfer of assets between spouses or” immediately before the words “the transfer of assets” appearing in subparagraph 3(b);
- (c) by substituting for the full stop appearing at the end of subparagraph 3(e) the word “; or”;
- (d) by inserting immediately after subparagraph 3(e) the following new subparagraph (f):
 - “(f) the disposal of an asset as a result of a compulsory acquisition under any law.”;
- (e) by substituting for the full stop appearing at the end of subparagraph 9(d) the word “; or”;
- (f) by inserting immediately after subparagraph 9(d) the following new subparagraph (e):
 - “(e) where subsection 25(2) applies.”;
- (g) by substituting for subparagraph 17(1) the following new subparagraph (1):

“(1) Subject to this paragraph, where with the prior approval of the Director General—

- (a) an asset is transferred between companies in the same group to bring about greater efficiency in operation for a consideration consisting of shares in the company or substantially of shares in the company and the balance of a money payment;
- (b) an asset is transferred for any consideration between companies in any scheme of reorganization, reconstruction or amalgamation; or
- (c) an asset is distributed by a liquidator of a company and the liquidation of the company was made under a scheme of reorganization, reconstruction or amalgamation:

and the transferee company is resident in Malaysia, the transfer shall be treated as a disposal on which the transferor company or the liquidator receives no gain and suffers no loss:

Provided that no approval shall be given for any transfer or distribution of asset in any scheme under subparagraph (1)(b) or (1)(c) unless the Director General is satisfied

that such an asset is transferred to implement any such scheme directly connected with any transfer or distribution of ownership of an asset in Malaysia to a company resident in Malaysia in compliance with Government policy on capital participation in industry.”;

- (h) by substituting for subparagraph 19(5) the following new subparagraph (5):

“(5) Where an asset which has been transferred under paragraph 3(b) is subsequently disposed of by the spouse or the company, the disposer shall be deemed to have acquired the asset at an acquisition price equal to the acquisition price paid by the transferor or plus the permitted expenses incurred by the transferor or, if the asset was acquired by the transferor prior to 1 January 1970, the market value of the asset as at 1 January 1970 plus the permitted expenses incurred by the transferor as from 1 January 1970 less the sum of the kind referred to in paragraph 4(1)(a), (b) or (c) received by or forfeited as the case may be to the transferor as from 1 January 1970;”;

- (i) by substituting for the words “payment as stipulated in the agreement” in subparagraph 24(3) the words “payment as stipulated in the agreement”.

Amendment of Schedule 5

15. Part I of Schedule 5 to the principal Act is amended—

- (a) by deleting the words “or thereafter” appearing after the words “acquisition of the chargeable asset”; and
 (b) by inserting at the end of that Part the following:

“Disposal in the seventh year after the date of acquisition of the chargeable asset or thereafter Nil.”.

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LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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– NIL –
