



LAWS OF MALAYSIA

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Act 337

FINANCE ACT 1987

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LAWS OF MALAYSIA**Act 337****FINANCE ACT 1987**

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LAWS OF MALAYSIA**Act 337****FINANCE ACT 1987**

An Act to amend the Income Tax Act 1967, the Real Property Gains Tax Act 1976, the Share (Land Based Company) Transfer Tax Act 1984, the Petroleum (Income Tax) Act 1967 and the Sales Tax Act 1972.

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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**

1. This Act may be cited as the Finance Act 1987.

Amendments of Acts

2. The Income Tax Act 1967 [*Act 53*], the Real Property Gains Tax Act 1976 [*Act 169*], the *Share (Land Based Company) Transfer Tax Act 1984 [*Act 310*], the Petroleum (Income Tax) Act 1967 [*Act 543*] and the Sales Tax Act 1972 [*Act 64*] are amended in the manner specified in Chapters II, III, IV, V and VI respectively.

CHAPTER II**AMENDMENTS TO THE INCOME TAX ACT 1967****Commencement of amendments to the Income Tax Act 1967**

3. (1) Except for sections 10 and 13, this Chapter shall have effect for the year of assessment 1988 and subsequent years of assessment.

*NOTE—The Share (Land Based Company) Transfer Tax Act 1984 [*Act 310*] has since been repealed by the Finance Act 1988 [*Act 364*]-see section 26 of Act 364.

(2) Section 10 shall be deemed to have come into force on the 24 October 1986.

(3) Section 13 shall come into force on 1 January 1989.

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 substituting for the definition of “Malaysia” in subsection (1) the following:

‘ “Malaysia” means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;’.

Substitution of section 3A

5. The principal Act is amended by substituting for section 3A the following:

“Charge of excess profit tax

3A. Subject to and in accordance with this Act, in addition to the income tax chargeable, there shall be charged for each year of assessment in respect of the income of any person other than a company accruing in or derived from Malaysia or received in Malaysia from outside Malaysia a tax to be known as excess profit tax upon his chargeable income which exceeds three hundred thousand ringgit:

Provided that this section shall not apply to the income of a person under section 4A.”.

Amendment of section 5

6. Section 5 of the principal Act is amended by deleting subsections (3) and (4).

Amendment of section 7

7. Section 7 of the principal Act is amended by substituting for the words “that period forms part of a period of more than one hundred and eighty-two consecutive days” in paragraph (1)(b) the words “that period is linked by or to another period of one hundred and eighty-two or more consecutive days”.

Amendment of section 45

8. Section 45 of the principal Act is amended—

- (a) by substituting for the words “or any subsequent date (as may be permitted by the Director General) in the year of assessment” in subsection (4) the words “in the year of assessment or any subsequent date (as may be permitted by the Director General)”; and
- (b) by substituting for the words “paragraph 3A(b)” in subsection (6) the words “section 3A”.

Amendment of section 60

9. Section 60 of the principal Act is amended—

- (a) by deleting the word “and” at the end of subparagraph (3)(b)(ii);
- (b) by substituting for the full stop at the end of subparagraph (3)(b)(iii) a semicolon and inserting immediately thereafter the word “and”;
- (c) by inserting immediately after subparagraph (3)(b)(iii) the following new subparagraph (iv):
 - “(iv) an amount equivalent to two per cent of the balance of revenue account as at the last day of the basis period for that year of assessment, but not exceeding the total commissions paid in that period in connection with that business:

Provided that no deduction under this subparagraph shall be made for any year of assessment for which a deduction is made in respect of commissions paid in connection with that business pursuant to subparagraph (iii).”;

- (d) by deleting the word “and” at the end of subparagraph (4)(b)(ii);
- (e) by substituting for the full stop at the end of subparagraph (4)(b)(iii) a semicolon and inserting immediately thereafter the word “and”;
- (f) by inserting immediately after subparagraph (4)(b)(iii) the following new subparagraph (iv):

“(iv) an amount equivalent to two per cent of the balance of revenue account as at the last day of the basis period for that year of assessment, but not exceeding the total commissions paid in that period in connection with that business:

Provided that no deduction under this subparagraph shall be made for any year of assessment for which a deduction is made in respect of commissions paid in connection with that business pursuant to subparagraph (iii).”; and

- (g) by inserting immediately after the definition of “offshore insurance policies” in subsection (11) the following new definition of “revenue account”:

“revenue account” means the revenue account lodged in respect of life business under paragraph 1(2)(a) of the Fourth Schedule to the Insurance Act 1963 [Act 89].’.

Amendment of section 82

10. Section 82 of the principal Act is amended by substituting for the words “paragraph 15 of Schedule 5” in subsection (5) the words “subsection 153(3)”.

Amendment of section 83

11. Section 83 of the principal Act is amended—

- (a) by substituting for the word “thirty” in subsection (5) the word “ninety”; and
- (b) by substituting for the full stop at the end of subsection (5) a comma and inserting immediately thereafter the words “and if at any time the Director General directs him to pay the full amount or a portion of those moneys towards payment of the tax payable by the employee, he shall pay as directed.”.

Amendment of section 107

12. Section 107 of the principal Act is amended by substituting for the words “which by reason of his failure cannot be recovered” in subsection (4) the word “due”.

New section 107B

13. The principal Act is amended by inserting immediately after section 107A the following new section 107B:

“Payment by instalments

107B. (1) Subject to this section, every person chargeable to tax for a year of assessment, other than an individual to whom section 107 applies, shall make payment by instalments on account of tax which is or may be payable by that person for that year of assessment, at such times and in such amounts as the Director General may direct, whether or not the tax has been assessed.

(2) In determining the amount to be paid under subsection (1), the Director General may take into consideration the tax assessed, if any, in respect of the person for the year of assessment preceding that year of assessment:

Provided that the Director General may, upon an application made by the person not later than the fifteenth day of April in that year of assessment, vary the amount to be paid by instalments on account of tax and the number of instalments.

(3) Where any instalment amount due and payable on the date specified by the Director General pursuant to subsection (1) or (2) has not been paid within thirty days of the due date, the amount unpaid shall, without any further notice being served, be increased by a sum equal to ten per cent of the amount unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act:

Provided that, where the amount unpaid is subsequently paid, the Director General may treat it as having been paid on its due date.

(4) In any case to which the proviso to subsection (2) applies, where the tax payable under an assessment for that year of assessment exceeds the total of the instalments payable and the difference is more than thirty per cent of the tax payable under the assessment, then, without any further notice being served, the amount of the difference which exceeds thirty per cent of the tax payable under the assessment shall be increased by a sum equal to ten per cent of that amount of the difference, and that sum shall be recoverable as if it were tax due and payable under this Act.

(5) Nothing in this section shall prevent the collection of any tax from a person to whom this section applies in accordance with section 103 or the payment of that tax being enforced in accordance with section 106:

Provided that in any such case for the purposes of section 103 the Director General shall determine the period within which that tax shall be payable.”.

Amendment of section 108

14. Section 108 of the principal Act is amended by deleting subsection (12).

Amendment of section 127

15. Section 127 of the principal Act is amended by substituting for subsection (1) the following:

“(1) Notwithstanding any other provision of this Act, any income specified in Part 1 of Schedule 6 shall, subject to this section, be exempt from tax.”.

Amendment of Schedule 1

16. Schedule 1 to the principal Act is amended by substituting for Part III the following:

“PART III

Excess profit tax shall be charged for each year of assessment at the rate of 5 per cent”.

CHAPTER III

AMENDMENTS TO THE REAL PROPERTY
GAINS TAX ACT 1976

**Commencement of amendments to the Real Property Gains
Tax Act 1976**

17. (1) Paragraph 18(*a*) shall be deemed to have come into force on 24 October 1986.

(2) Paragraphs 18(*b*) and (*c*) and section 19 shall come into force on 23 October 1987.

Amendment of section 2

18. Section 2 of the Real Property Gains Tax Act 1976, which in this Chapter is referred to as “the principal Act”, is amended—

(*a*) by substituting for the words “paragraph 15 of Schedule 5 to” in the definition of “accountant” in subsection (1) the words “subsection 153(3) of”;

(*b*) by inserting immediately after the word “includes” in the definition of “acquire” in subsection (1) and immediately after the word “means” in the definition of “dispose” in that subsection the words “, subject to subsection (4),”; and

(*c*) by inserting immediately after subsection (3) the following new subsection (4):

“(4) Where any land which is held by two or more persons as co-proprietors is partitioned so as to vest in each of them, under a separate title, a portion of the land of an area proportionate as nearly as may be to his undivided share in the whole, the partition of the land shall not be regarded for the purposes of this Act as involving the acquisition or disposal of any part of or interest in the land by any such person.”.

Amendment of Schedule 2**19.** Schedule 2 to the principal Act is amended—

(a) by substituting for paragraph 12 the following:

“Gifts

12. Where an asset is disposed of by way of a gift, the disposal shall be deemed to be a disposal at the market value of the asset:

Provided that, where the donor and recipient are husband and wife, parent and child or grandparent and grandchild, and the gift is made within five years after the date of acquisition of the asset by the donor, the donor shall be deemed to have received no gain and suffered no loss on the disposal and the recipient shall be deemed to have acquired the asset at an acquisition price equal to the acquisition price paid by the donor plus the permitted expenses incurred by the donor.”;

(b) by inserting immediately after subparagraph 15B(2) the following new subparagraph (3):

“(3) Where land vested in a person as a result of a partition mentioned in subsection 2(4) is disposed of, the disposer shall be deemed to have acquired it on the date of acquisition of his undivided share in the land as a co-proprietor.”; and

(c) by inserting immediately after subparagraph 19(7) the following new subparagraph (8):

“(8) Where land vested in a person as a result of a partition mentioned in subsection 2(4) is disposed of, the disposer shall be deemed to have acquired it at the acquisition price paid by him for the acquisition of his undivided share in the land as a co-proprietor or, if his undivided share in the land was acquired by him prior to 1 January 1970, at the market value thereof as at 1 January 1970 plus the permitted expenses incurred by him 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 him as from 1 January 1970.”.

CHAPTER IV

AMENDMENT TO THE SHARE (LAND BASED
COMPANY) TRANSFER TAX ACT 1984

**Commencement of amendment to the Share (Land Based
Company) Transfer Tax Act 1984**

20. This Chapter shall come into force on 23 October 1987.

Amendment of section 4A

21. Section 4A of the Share (Land Based Company) Transfer Tax Act 1984 is amended by inserting immediately after subsection (2) the following new subsection (3):

“(3) The Director General may withdraw any approval for a transfer or disposal given under subsection (1) within three years after giving it if—

- (a) it appears to him that the transfer or disposal was made wholly or partly for some purpose other than the purpose mentioned in that subsection; or
- (b) in the case of an approval under paragraph (1)(a), the asset is subsequently transferred so that the ownership of the asset no longer remains with the group.”.

CHAPTER V

AMENDMENT TO THE PETROLEUM (INCOME TAX)
ACT 1967

**Commencement of amendment to the Petroleum (Income Tax)
Act 1967**

22. This Chapter shall have effect for the year of assessment 1988 and subsequent years of assessment.

Amendment of section 2

23. Section 2 of the Petroleum (Income Tax) Act 1967 is amended by substituting for the definition of “Malaysia” the following:

“Malaysia” means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;’.

CHAPTER VI

AMENDMENTS TO THE SALES TAX ACT 1972

Commencement of amendments to the Sales Tax Act 1972

24. This Chapter shall come into force on 24 October 1987.

Amendment of section 13

25. Section 13 of the Sales Tax Act 1972 is amended—

- (a) by deleting the words “(2) or” in subsections (1) and (5);
and
- (b) by deleting subsection (2).

Amendment of section 14

26. Section 14 of the Sales Tax Act 1972 is amended by deleting the proviso.

LAWS OF MALAYSIA

Act 337

FINANCE ACT 1987

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

LAWS OF MALAYSIA

Act 337

FINANCE ACT 1987

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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- NIL -

