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Act 451

FINANCE ACT 1991

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LAWS OF MALAYSIA

Act 451

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LAWS OF MALAYSIA**Act 451****FINANCE ACT 1991**

An Act to amend the Income Tax Act 1967, the Supplementary Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Customs Act 1967, the Sales Tax Act 1972, the Service Tax Act 1975 and the Excise Act 1976.

[]

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 1991.

Amendments of Acts

2. The Income Tax Act 1967 [*Act 53*], the Supplementary Income Tax Act 1967 [*Act 54*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Customs Act 1967 [*Act 235*], the Sales Tax Act 1972 [*Act 64*], the Service Tax Act 1975 [*Act 151*] and the Excise Act 1976 [*Act 176*] are amended in the manner specified in Chapters II, III, IV, V, VI, VII and VIII respectively.

CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Except for sections 7, 8, 10, paragraphs 11(a), 11(b), section 19, paragraph 20(b), sections 21, 23, 26, 27, paragraphs 28(d) and (e), this Chapter shall have effect for the year of assessment 1991 and subsequent years of assessment.

(2) Section 19, paragraph 20(b), sections 23 and 27 shall be deemed to have come into force on 14 December 1990.

(3) Sections 7, 8, 10, paragraphs 11(a), 11(b) and section 26 shall have effect for the year of assessment 1992 and subsequent years of assessment.

(4) Section 21, paragraphs 28(d) and (e) shall be deemed to have come into force on 1 October 1989.

Deletion of section 3A

4. The Income Tax Act 1967 [Act 53], which in this Chapter is referred to as the “principal Act”, is amended by deleting section 3A.

Amendment of section 6

5. Section 6 of the principal Act is amended by deleting paragraph (1)(c).

Amendment of section 6A

6. Section 6A of the principal Act is amended by substituting for the colon immediately after the words “ten thousand ringgit” in paragraph (2)(a) a semicolon and deleting the proviso thereto.

Amendment of section 19

7. Section 19 of the principal Act is amended by substituting for the words “Schedule 2, 3, 4 and 4A” in subsection (5) the words “Schedules 2, 3, 4, 4A and 4B”.

New section 34B

8. The principal Act is amended by inserting, immediately after section 34A, the following new section 34B:

“Special deduction for contribution to an approved research institute or payment for use of services of an approved research institute or company

34B. (1) Subject to this section, in ascertaining the adjusted income of a person from a business for this basis period for a year of assessment, a deduction shall be made, as specified in subsection (3), from the gross income from the business for that period in respect of expenditure, not being capital expenditure, incurred by that person during that period in respect of—

- (a) contribution in cash to an approved research institute; or
- (b) payment for the use of the services of an approved research institute or an approved research company.

(2) The amount of deduction to be made under subsection (1) shall be twice the amount of expenditure, not being capital expenditure, referred to in that subsection.

(3) Where any deduction in respect of expenditure referred to in subsection (1) is made under this section, no deduction in respect of that expenditure shall be made under section 33, 34 or 34A.

(4) In this section—

- (a) an “approved research institute” means an institute, including a company licensed under section 24 of the Companies Act 1965 [*Act 125*], approved by the Minister to wholly carry on research in an industry specified in the approval and to commercially exploit the benefit of such research thereof;
- (b) an “approved research company” means a company, other than a company licensed under section 24 of the Companies Act 1965, approved by the Minister to wholly carry on research in an industry specified in the approval and to commercially exploit the benefit of such research thereof.”

Amendment of section 39

9. Section 39 of the principal Act is amended by substituting for the word “twenty-five” wherever it appears in paragraph (1)(k) the word “fifty”.

Amendment of section 43

10. Section 43 of the principal Act is amended by substituting for the words “or 4A” in paragraph (1)(c) the words “, 4A or 4B”.

Amendment of section 44

11. Section 44 of the principal Act is amended—

- (a) by substituting for the words “or 4A” in paragraph (1)(b) the words “, 4A or 4B”;
- (b) by substituting for the words “subsection (2), Schedule 4 or Schedule 4A” in subsection (6) the words “subsection (2) or Schedule 4, 4A or 4B”; and
- (c) by substituting for the colon immediately after the word “concerned” in subsection (6) a full stop and deleting the proviso thereto.

Amendment of section 45

12. Section 45 of the principal Act is amended—

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

“(2) Where an individual and a wife of his were living together in the basis year for a year of assessment and did not in that basis year cease to live together or to be husband and wife of each other, then the wife may elect in writing before the first day of April in the year of assessment or any subsequent date (as may be permitted by the Director General) in the year of

assessment that her total income shall be aggregated with the total income (if any) of her husband and assessed in his name for that year of assessment:

Provided that where a wife is not resident for the basis year for a year of assessment, she may elect under this subsection only if she is a citizen.”; and

(b) by deleting subsections (4), (5) and (6).

Amendment of section 46

13. Section 46 of the principal Act is amended—

(a) by deleting the word “and” at the end of paragraph (a);

(b) by substituting for the full stop at the end of paragraph (b) a semicolon and inserting, immediately thereafter, the word “and”; and

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

“(c) an amount limited to a maximum of one thousand ringgit in respect of medical expenses expended in that basis year by that individual for his parents:

Provided that the claim is evidenced by a receipt by a medical practitioner certifying that treatment was provided to the parents.”.

Amendment of section 47

14. Section 47 of the principal Act is amended—

(a) by substituting for the word “two” wherever it appears in subsections (1) and (3) the word “three”;

(b) by substituting for the words “the income from her employment, pension or profession” in subsection (4) the words “her income”; and

- (c) by inserting, immediately after subsection (4), the following new subsection (5):

“(5) Notwithstanding subsection 45(2) but subject to subsection (4), where an individual’s wife has no total income which can be aggregated with that of her husband for a year of assessment, an allowance or deduction shall be made to him in respect of that wife under subsection (1).”.

Amendment of section 48

15. Section 48 of the principal Act is amended—

- (a) by substituting for the words “the income from her employment, pension or profession under subsection 45(4)” in the proviso to subsection (1) the words “her income”;
- (b) by substituting for paragraph (2)(a) the following:

“(a) in respect of children falling under paragraphs (1) (a) to (c), for the first five children in order of age, eight hundred ringgit for each child;” and

- (c) by substituting for the words “four hundred” in paragraph (2)(b) the words “one thousand”.

Amendment of section 49

16. Section 49 of the principal Act is amended by substituting for the proviso to subsection (1) the following:

“Provided that where subsection 45(2) and paragraph 50(3)(b) or (c) apply, there shall be allowed for that year of assessment a further deduction of the aggregate amount of the payments or contributions or both made by the wife or a deduction of three thousand five hundred ringgit, whichever is the less.”.

Amendment of section 50

17. Section 50 of the principal Act is amended—

- (a) by substituting for the words “Subject to subsection (4), in” in subsection (3) the word “In”;

- (b) by inserting, immediately before the words “any premium” in paragraph (3)(b), the words “where subsection 45(2) applies to the husband and the wife for the year of assessment to which the relevant year relates,”; and
- (c) by deleting subsection (4).

Amendment of section 65A

- 18.** Section 65A of the principal Act is amended—
- (a) by renumbering subsection 65A(1) as section 65A; and
 - (b) by deleting subsection (2).

Amendment of section 78

- 19.** Section 78 of the principal Act is amended—
- (a) by inserting, immediately after the words “chargeable to tax”, the words “or for determining his liability”;
 - (b) by deleting the word “or” at the end of paragraph (b);
 - (c) by substituting for the full stop at the end of paragraph (c) a semicolon and inserting, immediately thereafter, the word “or”; and
 - (d) by inserting, immediately after paragraph (c), the following new paragraph (d):
 - “(d) to provide in writing such information or particulars which the Director General deems necessary.”.

Amendment of section 82

- 20.** Section 82 of the principal Act is amended—
- (a) by substituting for the words “eighteen” and “twelve” in paragraph (1)(b) the words “one hundred and fifty” and “one hundred” respectively; and
 - (b) by deleting the words “who is an accountant within the meaning of subsection 153(3)” in subsection (5).

Amendment of section 109c

21. Section 109c of the principal Act is amended by substituting for the words “a bank licensed under the Banking Act 1973 or the Islamic Banking Act 1983, a finance company licensed under the Finance Companies Act 1969” and the marginal references to the numbers of the Acts in subsection (4) the following:

“a bank or finance company licensed under the Banking and Financial Institutions Act 1989 [Act 372] or the Islamic Banking Act 1983 [Act 276].”

Amendment of section 130

22. Section 130 of the principal Act is amended—

(a) by substituting for paragraph (2)(a) the following:

“(a) the wife was resident and the individual was a citizen at some time in the basis year for that year of assessment; and”;

(b) by substituting for the words “such total income of the wife or the husband as the case may be” in subsection (8) the words “the total income of the wife”; and

(c) by deleting subsection (9).

Amendment of section 153

23. Section 153 of the principal Act is amended—

(a) by substituting for the word “accountants” in the marginal note the words “tax agents”;

(b) by substituting for the words “an accountant” wherever they appear in subsection (1), including in paragraph (a) and subparagraph (a)(i) of the proviso the words “a tax agent”; and

(c) by substituting for the word “accountant” where it first appears in subsection (3) the words “tax agent”.

Amendment of Schedule 1

24. Schedule I to the principal Act is amended—

(a) by substituting for the rates appearing in paragraph (1) of Part I the following:

“ Chargeable Income	Rate of Income Tax
For every ringgit of the first RM2,500	4 per cent
For every ringgit of the next RM2,500	7 per cent
For every ringgit of the next RM5,000	10 per cent
For every ringgit of the next RM10,000	12 per cent
For every ringgit of the next RM15,000	17 per cent
For every ringgit of the next RM15,000	22 per cent
For every ringgit of the next RM20,000	27 per cent
For every ringgit of the next RM30,000	32 per cent
For every ringgit exceeding RM100,000	35 per cent”;

(b) by deleting Part III.

Amendment of Schedule 3

25. Schedule 3 to the principal Act is amended—

(a) by substituting for the word “twenty-five” in subparagraph 2(2) the word “fifty”;

(b) by inserting, immediately after subparagraph 62(2), the following new subparagraph (3):

“(3) Where pursuant to an agreement with the Government, State Government or a local authority in respect of a privatization project an asset used in the privatization project is disposed of to the Government, State Government or local authority, as the case may be, its disposal value shall be taken to be an amount equal to the net proceeds of the disposal.”; and

(c) by inserting, immediately after the words “the public” in subparagraph 63(d), the words “or is that of a telecommunication undertaking providing telecommunication services to the public”.

New Schedule 4B

26. The principal Act is amended by inserting, immediately after Schedule 4A, the following new Schedule 4B:

“

SCHEDULE 4B

(Sections 43 and 44)

QUALIFYING PRE-OPERATIONAL BUSINESS
EXPENDITURE

1. Qualifying pre-operational business expenditure for purposes of this Schedule is expenditure within the meaning of paragraph 2, incurred by a company resident in Malaysia in connection with a proposal by that company to undertake investment in a business venture as approved by the Minister in a country outside Malaysia.
2. Subject to paragraph I, qualifying pre-operational business expenditure for the purposes of this Schedule is—
 - (a) expenses directly attributable to the conduct of feasibility studies;
 - (b) expenses directly attributable to the conduct of market research or the obtaining of marketing information; or
 - (c) expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being travel necessarily undertaken for the purposes of conducting feasibility study or market survey, and actual expenses, subject to a maximum of four hundred ringgit per day, for accommodation and sustenance for the whole period commencing with the representative's departure from Malaysia and ending with his return to Malaysia.
3. Subject to this Schedule, there shall be deducted for a year of assessment under subsection 44(1) an amount equal to so much of the qualifying pre-operational business expenditure as was incurred in the basis period for the year of assessment (in this Schedule that year of assessment being referred to as “the relevant year”).
4. Where by reason of the fact that there is for the relevant year no or no sufficient defined aggregate, a deduction which would otherwise be made under subsection 44(1) pursuant to this Schedule cannot be made or can be made only in part, the deduction (or, where the deduction can be made only in part, so much of the deduction as cannot be made) shall be made for the first year of assessment (being a year of assessment subsequent to the relevant year) for which in computing the total income there is a defined aggregate, and so on for the years of assessment subsequent to that first year until the whole amount of the deduction has been made.
5. In this Schedule, “defined aggregate”, in relation to a year of assessment, means the aggregate income for that year reduced by a deduction made pursuant to subsection 44(2) or Schedule 4 or 4A.”.

Amendment of Schedule 5

27. Schedule 5 to the principal Act is amended by substituting for the words “an accountant” wherever they appear in subparagraph 14(b) the words “a tax agent”.

Amendment of Schedule 6

28. Schedule 6 to the principal Act is amended—

(a) by substituting for paragraph 21 the following:

“21. Subject to paragraph 22, the income of an individual from an employment exercised by him in Malaysia—

(a) for a period which together do not exceed sixty days in the basis year for a year of assessment; or

(b) for a continuous period (not exceeding sixty days) which overlaps the basis years for two successive years of assessment; or

(c) for a continuous period (not exceeding sixty days) which overlaps the basis years for two successive years of assessment and for a period or which together with that continuous period do not exceed sixty days,

if he is not resident for that basis year or for each of those basis years, as the case may be.”;

(b) by substituting for the word “or” in subparagraph 30(a) the word “and”;

(c) by substituting for subparagraph 30(b) the following:

“(b) where the pension is paid other than under any written law, from a pension or provident fund, scheme or society which is an approved scheme.”;

(d) by substituting for the words “Banking Act 1973” and the marginal reference to the Act number in paragraph 33 the words “Banking and Financial Institutions Act 1989” and “Act 372.” respectively; and

- (e) by substituting for the words “section 14 of the Banking Act 1973” in the proviso to paragraph 33 the words “section 37 of the Banking and Financial Institutions Act 1989” and deleting the marginal reference to the Act number.

Amendment of Schedule 7A

29. Schedule 7A to the principal Act is amended—

- (a) by substituting for the word “approved” in paragraphs 1 and 2 the word “qualifying”;
- (b) by substituting for the word “twelve” in subparagraph 2(b) the word “seventeen”;
- (c) by deleting the figures “, 34” in subparagraph 7(c);
- (d) by substituting for the word “approved” in paragraph 8 the word “qualifying”; and
- (e) by substituting for subparagraph 8(a) the following:

“(a) a project for manufacturing or processing undertaken by a company in expanding or modernising its existing business in respect of a product or any related product within the same industry or in diversifying its existing business into any related product within the same industry; or”.

CHAPTER III

AMENDMENTS TO THE SUPPLEMENTARY INCOME TAX ACT 1967

Commencement of amendments to the Supplementary Income Tax Act 1967

30. This Chapter shall have effect for the year of assessment 1991 and subsequent years of assessment.

Amendment of section 13

31. Section 13 of the Supplementary Income Tax Act 1967 [Act 54], which in this Chapter is referred to as the “principal Act”, is amended by substituting for the proviso to subsection (1) the following:

“Provided that this Part shall not apply to income of—

- (a) a person under section 4A of the principal Act; or
- (b) a person (other than a company) not resident in Malaysia for the basis year for a year of assessment in respect of services performed or rendered in Malaysia as a public entertainer, as defined under the principal Act.”.

Amendment of section 15

32. Section 15 of the principal Act is amended—

(a) by substituting for subsection (1) the following:

“(1) Where subsection 45(2) of the principal Act applies to an individual and his wife or wives for a year of assessment, the reference in section 16 to his development income for that year of assessment shall be taken as regards that individual to be a reference to the aggregate of his development income (if any) and her development income or, as the case may be, to the aggregate of his development income (if any) and the development income of each of those wives for that year of assessment, and any development source of that wife or, as the case may be, each of those wives shall be deemed to be his development source.”;

(b) by substituting for the words “Subject to subsection (3), where” in subsection (2) the word “Where”; and

(c) by deleting subsection (3).

Amendment of section 16

33. Section 16 of the principal Act is amended by substituting for the word “four” appearing after the words “rate of” in paragraphs (a) and (b) the word “three”.

CHAPTER IV

AMENDMENTS TO THE PETROLEUM (INCOME TAX)
ACT 1967**Commencement of amendments to the Petroleum (Income Tax)
Act 1967**

34. This Chapter shall have effect for the year of assessment 1991 and subsequent years of assessment.

Amendment of section 18

35. Section 18 of the Petroleum (Income Tax) Act 1967, which in this Chapter is referred to as the “principal Act”, is amended by substituting for the word “twenty-five” wherever it appears in paragraph (1)(m) the word “fifty”.

Amendment of Schedule 2

36. Schedule 2 to the principal Act is amended by substituting for the word “twenty-five” in subparagraph 2(2) the word “fifty”.

CHAPTER V

AMENDMENTS TO THE CUSTOMS ACT 1967

Commencement of amendments to the Customs Act 1967

37. This Chapter shall be deemed to have come into force at 4.00 p.m. on 14 December 1990.

Amendment of section 155

38. Section 155 of the Customs Act 1967 [*Act 235*], which in this Chapter is referred to as the “principal Act”, is amended by substituting for subparagraph (1)(a)(i) the following:

“(i) petroleum and petroleum products; and”.

Amendment of section 158

39. Section 158 of the principal Act is amended—

- (a) by deleting the words “intoxicating liquor, tobacco, cigars, cigarettes, matches,”; and
- (b) by inserting, immediately before the words “petroleum products”, the words “petroleum and”.

Amendment of section 160

40. Section 160 of the principal Act is amended—

- (a) by deleting the words “intoxicating liquors, tobacco, cigars, cigarettes, matches,”; and
- (b) by inserting, immediately before the words “petroleum products”, the words “petroleum and”.

CHAPTER VI

AMENDMENTS TO THE SALES TAX ACT 1972

Commencement of amendments to the Sales Tax Act 1972

41. (1) Sections 42, 43 and 44 shall be deemed to have come into force on 1 January 1991.

(2) Sections 45, 46 and 47 shall be deemed to have come into force at 4.00 p.m. on 14 December 1990.

Amendment of section 2

42. Section 2 of the Sales Tax Act 1972 [*Act 64*], which in this Chapter is referred to as the “principal Act”, is amended by substituting for the words “one calendar month” appearing in the definition of “taxable period” the words “two calendar months”.

Amendment of section 19

43. Section 19 of the principal Act is amended by substituting for the word “twelve” appearing in subsection (2) the word “six”.

Amendment of section 71

44. Section 71 of the principal Act is amended by substituting for the words “a calendar month” appearing in the marginal note and the section the words “two calendar months”.

Amendment of section 73

45. Section 73 of the principal Act is amended by substituting for paragraph (a) the following:

“(a) no sales tax shall be payable upon any taxable goods imported into Labuan or transported to Labuan from the principal customs area other than any taxable goods which the Minister may from time declare by order published in the *Gazette*.”.

Amendment of section 77

46. Section 77 of the principal Act is amended by deleting the words “intoxicating liquor, tobacco, cigars, cigarettes or” and “other” appearing in the proviso thereto.

Amendment of section 79

47. Section 79 of the principal Act is amended by deleting the words “intoxicating liquors, tobacco, cigars, cigarettes or” and “other” appearing therein.

CHAPTER VII**AMENDMENTS TO THE SERVICE TAX ACT 1975****Commencement of amendments to the Service Tax Act 1975**

48. This Chapter shall be deemed to have come into force on 1 January 1991.

Amendment of section 2

49. Section 2 of the Service Tax Act 1975 [*Act 151*] which is this Chapter is referred to as the “principal Act”, is amended by substituting for the definition of “taxable period” the following:

‘ “taxable period” means, subject to subsection 12(2), two calendar months or part thereof ending on the last day of the second calendar month;’.

Amendment of section 12

50. Section 12 of the principal Act is amended substituting for the words “one month” in subsection (2) the words “two months”.

CHAPTER VIII

AMENDMENT TO THE EXCISE ACT 1976

Commencement of amendment to the Excise Act 1976

51. This Chapter shall be deemed to have come into force at 4.00 p.m. on 14 December 1990.

Amendment of section 88

52. Section 88 of the Excise Act 1976 [*Act 176*] is amended by deleting the words “, matches, intoxicating liquor, tobacco, cigars, cigarettes” in paragraph (i).

LAWS OF MALAYSIA**Act 451****FINANCE ACT 1991**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 497	Finance Act 1993	Paragraphs 15(1)(a) and (b) shall have effect for the years of assessment 1991 and 1992

LAWS OF MALAYSIA**Act 451****FINANCE ACT 1991****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
3	Act 497	Years of assessment 1991 and 1992
