



# LAWS OF MALAYSIA

REPRINT

**Act 591**

## **FINANCE (NO. 2) ACT 1998**

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**FINANCE (NO. 2) ACT 1998**

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# LAWS OF MALAYSIA

## Act 591

### FINANCE (NO. 2) ACT 1998

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**LAWS OF MALAYSIA****Act 591****FINANCE (NO. 2) ACT 1998**

An Act to amend the Income Tax Act 1967, the Real Property Gains Tax Act 1976 and the Labuan Offshore Business Activity Tax Act 1990.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**CHAPTER I****PRELIMINARY****Short title**

1. This Act may be cited as the Finance (No. 2) Act 1998.

**Amendments of Acts**

2. The Income Tax Act 1967 [*Act 53*], the Real Property Gains Tax Act 1976 [*Act 169*] and the Labuan Offshore Business Activity Tax Act 1990 [*Act 445*] are amended in the manner specified in Chapters II, III and IV respectively.

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

3. (1) Except for sections 4, 6, 8, 10 and 13, this Chapter shall have effect for the year of assessment 1999 and subsequent years of assessment.

(2) Section 4 shall be deemed to have come into force on 24 October 1998.

(3) Sections 6 and 10 shall have effect for the year of assessment 2000 and subsequent years of assessment.

(3A) Section 8 shall be deemed to have effect for the year of assesment 1995 and subsequent years of assesment.

(4) Section 13 shall be deemed to have effect for the year of assessment 1998 and subsequent years of assessment.

### **Amendment of section 13**

4. The Income Tax Act 1967, which in this Chapter is referred to as the “principal Act”, is amended by substituting for subparagraph 13(1)(b)(ii) the following subparagraph:

“(ii) a benefit or amenity consisting of—

(A) leave passages for travel within Malaysia not exceeding three times in any calendar year; or

(B) one leave passage for travel between Malaysia and any place outside Malaysia in any calendar year, limited to a maximum of three thousand ringgit:

Provided that the benefit or amenity enjoyed under this subparagraph is confined only to the employee and members of his immediate family;”.

### **Amendment of section 34**

5. Paragraph 34(6)(h) of the principal Act is amended by substituting for the words “relevant authority” the word “Minister”.

### **Amendment of section 44**

6. Section 44 of the principal Act is amended—

(a) in paragraph (1)(b) by substituting for the words “or 4B” the words, “4B or 4C”;

(b) in subsection (6) by substituting for the words “or 4B,” the words, “4B or 4C”; and

- (c) in subsection (6A) by substituting for the words “or 4B,” the words, “4B or 4C”.

### **Amendment of section 54A**

#### **7. Section 54A of the principal Act is amended—**

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

“(1) Subject to the following subsections, where a person who is resident for the basis year for a year of assessment carries on the business of—

- (a) transporting passengers or cargo by sea on a Malaysian ship; or
- (b) letting out on charter a Malaysian ship owned by him on a voyage or time charter basis,

the statutory income for that year of assessment from that business shall be exempt from tax.”;

- (b) in subsection (3) by substituting for the words “the business of transporting passengers or cargo on board a Malaysian ship” the words “a business in respect of which his income is exempt under subsection (1)”;
- and

- (c) in subsection (6)—

- (i) by substituting for the semicolon appearing at the end of the definition of “person” a full stop; and
- (ii) by deleting the definition of “transporting passengers or cargo”.

### **Amendment of section 60**

#### **8. Section 60 of the principal Act is amended—**

- (a) by substituting for subparagraph (3A)(a)(iii) the following subparagraph:

“(iii) the amount of the actuarial surplus from the life fund that is transferred to the shareholders’ fund; and”; and

(b) by substituting for subparagraph (4A)(a)(iii) the following subparagraph:

“(iii) the amount of the actuarial surplus from the life fund that is transferred to the shareholders’ fund; and”.

### **Substitution of section 130**

9. The principal Act is amended by substituting for section 130 the following section:

#### **“Non-resident citizen relief**

**130.** (1) There shall be allowed a relief to an individual who is a citizen but not resident for the basis year for a year of assessment by reason of his employment which is exercised outside Malaysia in the public services or the service of a statutory authority.

(2) The relief shall be such relief as will reduce the amount of tax chargeable on him in respect of his chargeable income for that year of assessment to an amount which bears the same proportion to the amount of tax which would be so chargeable if he were resident for that basis year and the tax were charged on his aggregate income as the amount of his total income bears to the amount of his aggregate income.

(3) An individual claiming relief under this section shall make his claim in the prescribed form and shall furnish such further particulars as the Director General may require.

(4) In this section, “aggregate income”, in relation to an individual claiming relief under this section for a year of assessment, means his total income, accruing in or derived from Malaysia or elsewhere, computed in accordance with the provisions of this Act:

Provided that where subsection 45(2) applies in arriving at the aggregate income the reference to total income shall include the total income of the wife of the individual.”.



**New Schedule 4c**

**10.** The principal Act is amended by inserting after Schedule 4B the following Schedule:

“SCHEDULE 4C

[Section 44]

***Deduction for Approved Food Production Projects***

1. Subject to this Schedule, a company resident in Malaysia in the basis year for a year of assessment (referred to in this Schedule as a “surrendering company”) may surrender its adjusted loss, in full or in part, in the basis period for that year of assessment in respect of an approved food production project to one or more related companies resident in Malaysia in the basis year for that year of assessment (referred to in this Schedule as a “claimant company”).
2. In relation to an approved food production project—
  - (a) the application for approval for the project shall be made not later than 31 December 1999;
  - (b) the project shall commence within one year from the date of approval; and
  - (c) at least eighty per cent of the sales, if any, of the produce are made within Malaysia.
3. For the purposes of this Schedule, a surrendering company is related to a claimant company if at the end of the basis period for a year of assessment at least—
  - (a) seventy per cent of the issued share capital of the surrendering company are directly owned by the claimant company;
  - (b) seventy per cent of the issued share capital of the claimant company are directly owned by the surrendering company; or
  - (c) seventy per cent each of the issued share capital of the surrendering company and claimant company are directly owned by another company.
4. The amount of adjusted loss surrendered shall be allowed as a deduction against the aggregate income of the claimant company pursuant to subsection 44(1).
5. Any amount of adjusted loss from the approved food production project that is not surrendered in any year of assessment shall not be available to any claimant company for any subsequent year of assessment.
6. Where the basis period of the surrendering company does not coincide with the basis period of the claimant company, the adjusted loss from the

approved food production project shall be deemed to have accrued evenly over the basis period of the surrendering company and the amount of adjusted loss surrendered shall not exceed such amount that is apportioned to the period that coincides with the basis period of the claimant company.

7. Where a company has commenced an approved food production project, that company shall maintain a separate account for the income derived from that project:

Provided that where expenses have been incurred by that company which are not directly attributable to that project, the Director General may allocate as expenses such amount as might reasonably and properly have been incurred in the normal course of its business in respect of such project.

8. Any claim for a deduction under this Schedule shall be made in a written statement and shall be accompanied by a notice of consent given by the surrendering company containing such particulars as to show the amount of adjusted loss being surrendered.

9. Notwithstanding the foregoing provisions of this Schedule, where it appears to the Director General that the deduction as mentioned in paragraph 4 ought not to have been so given, the Director General may raise such assessment or additional assessment upon that claimant company as may be necessary in order to make good any loss of tax.

10. The provisions of this Schedule shall not apply to a surrendering company which has been allowed a deduction under Schedule 4A or given an allowance under Schedule 7A, or granted any incentive under the Promotion of Investments Act 1986 [*Act 327*] in respect of the same activity.

11. In this Schedule, “approved food production project” means an agricultural project which is approved by the Minister of Agriculture for the cultivation of maize for animal feed, cattle farming or any other activities as may be prescribed by the Minister of Finance.”.

### **Amendment of Schedule 6**

11. Schedule 6 to the principal Act is amended—

- (a) in paragraphs 1A and 1B by substituting for the words “Raja Permaisuri or Tengku Ampuan” the words “Tengku Ampuan, Raja Permaisuri, Tengku Permaisuri, or Permaisuri”;
- (b) in paragraph 30 by deleting the words “resident for the basis year for a year of assessment”;

(c) by substituting for paragraph 34 the following paragraph:

‘**34.** (1) Income of an individual derived from exercising an employment on board a Malaysian ship.

(2) For the purposes of subparagraph (1), “Malaysian ship” has the same meaning as in subsection 54A(6).’; and

(d) by inserting after paragraph 35 the following paragraph:

“**35A.** Income of a unit trust in respect of interest derived from Malaysia and paid or credited by any bank or financial institution licensed under the Banking and Financial Institutions Act 1989 [*Act 372*] or the Islamic Banking Act 1983 [*Act 276*].”.

#### **Amendment of Schedule 7**

**12.** Schedule 7 to the principal Act is amended by deleting paragraph 8.

#### **Amendment of Schedule 7A**

**13.** Schedule 7A to the principal Act is amended—

(a) in subparagraph (1)(a) by inserting after the semicolon the word “and”;

(b) in subparagraph (1)(b) by substituting for the words “; and” a comma; and

(c) by deleting subparagraph (1)(c).

### CHAPTER III

#### AMENDMENT TO THE REAL PROPERTY GAINS TAX ACT 1976

#### **Commencement of amendment to the Real Property Gains Tax Act 1976**

**14.** This Chapter shall have effect upon the coming into operation of this Act.

**Amendment of section 53**

**15.** The Real Property Gains Tax Act 1976 is amended by substituting for paragraph 53(2)(a) the following paragraph:

- “(a) in the case of a company, partnership or body of persons having a registered office in Malaysia—
- (i) to that registered office;
  - (ii) to its last known address; or
  - (iii) to any person authorized by it to accept service of process;”.

## CHAPTER IV

AMENDMENTS TO THE LABUAN OFFSHORE BUSINESS  
ACTIVITY TAX ACT 1990**Commencement of amendments to the Labuan Offshore Business Activity Tax Act 1990**

**16.** This Chapter shall have effect for the year of assessment 1999 and subsequent years of assessment.

**Amendment of section 2**

**17.** The Labuan Offshore Business Activity Tax Act 1990, which in this Chapter is referred to as the “principal Act”, is amended in subsection 2(1)—

- (a) by substituting for the proviso to the definition of “offshore business activity” the following proviso:

“Provided that—

- (a) in relation to an offshore company carrying on an offshore banking business, such activity may be carried on with residents and, where permitted under subsection 20(2) of the Offshore Banking Act 1990 [Act 443], transactions may be carried on in Malaysian currency;
- (b) in relation to an offshore company carrying on an offshore insurance business, such activity may be

carried on with residents and, where permitted under subsection 21(2) of the Offshore Insurance Act 1990 [*Act 444*], transactions may be carried on in Malaysian currency;

- (c) in relation to the holding of investments by an offshore company in a domestic company, such holding may be in Malaysian currency;
- (d) in relation to an offshore company carrying on a money-broking business, such activity may be carried on with residents where permitted under paragraph 7(3)(a) of the Offshore Companies Act 1990 [*Act 441*] ;
- (e) in relation to an offshore company carrying on an offshore leasing business, such activity may be carried on with residents where permitted under paragraph 7(3)(a) of the Offshore Companies Act 1990; or
- (f) the Minister may approve the carrying on of such activity with residents or such transactions in Malaysian currency;”; and

(b) by inserting after the definition of “resident” the following definition:

“shipping operations” means the transportation of passengers or cargo by sea or the letting out on charter of ships on a voyage or time charter basis;’.

#### **Deletion of section 10A**

**18.** The principal Act is amended by deleting section 10A.

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**LAWS OF MALAYSIA****Act 591****FINANCE (NO. 2) ACT 1998**

## LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 631	Finance Act 2003	01-01-1999

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## LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
3	Act 631	01-01-1999

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