

Finance (No. 2) 1

**THE LAW  
MALAYSIA**

Act 801

**FINANCE ACT (NO. 2) 2017**

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## **MALAYSIAN LAW**

Act 801

## **FINANCE ACT (NO. 2) 2017**

An Act to amend the Income Tax Act 1967, Act

Real Estate Gains Tax 1976, Goods Tax Act and

Services 2014 and Finance Act 2013.

[ ]

DONE by the Parliament of Malaysia as follows:

BaB I

## **BEGINNING**

Short title

1. This Act may be called the Finance Act (No. 2) 2017.

Amendment Act

2. Income Tax Act 1967 [Act 53], Profits Tax Act

Real Estate 1976 [Act 169], Goods and Services Tax Act 2014

[Act 762] and the Finance Act 2013 [Act 755] amended accordingly

the way stated respectively in Chapters II, III, IV and V.

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BaB II

## **AMENDMENTS TO THE INCOME TAX ACT 1967**

## Commencement of the amendment to the Income Tax Act 1967

3. (1) Sections 4, 7 and 8 are in force for the assessment year 2019 and subsequent assessment years.

(2) Sections 5, 9, 10, 13 and 14 come into force when effect of this Act.

(3) Sections 6 and 12 are in force for the assessment year 2018 and subsequent assessment years.

(4) Section 11 comes into force on 1 January 2018.

## Amendment of section 21a

4. The Income Tax Act 1967, referred to as the "Parent Act" in

This chapter, amended in section 21a, by inserting after subsection (3) of the following subsection:

"(3a) Where a company, limited liability partnership, trust body or co-operative society has made up the accounts of its operations for a period of twelve months ending on a day in a base year and has failed to make up its accounts ending on the corresponding day in the following base year (hereafter referred to as "the new accounts"), the company, limited liability partnership, trust body or co-operative society shall notify the Director General of such failure in the prescribed form?

(a) in the case where the new accounts are made up ending before the corresponding day, thirty days before the end of the new accounts; or

(b) in the case where the new accounts are made up ending after the corresponding day, thirty days before the corresponding day.".

#### Amendment of section 44

5. Subsection 44(12) of the principal Act is amended by inserting after the word "company" wherever there is a word  
", limited liability partnership".

#### Amendment of section 60aa

6. Section 60aa of the principal Act is amended?

(a) by replacing subparagraph (9)(b)(iii) with  
the following subparagraphs:

"(iii) the amount of management expenses incurred  
by him in that period in connection with?

(A) wakalah fee receivable in relation to the  
general fund, inward retakaful fund,  
offshore fund or family retakaful fund;

(B) any other fee receivable in relation to  
the general fund, inward retakaful fund,  
offshore fund or family retakaful fund; or

(C) any other fee receivable in relation to an  
investment fund from the family fund;  
and?;

(b) by substituting subparagraph (10)(b)(iii) with  
the following subparagraphs:

"(iii) the amount of management expenses incurred  
by him in that period in connection with?

(A) wakalah fee receivable in relation to the  
general fund, inward retakaful fund,  
offshore fund or family retakaful;

(B) any other fee receivable in relation to

the general fund, inward retakaful fund,  
offshore fund or family retakaful fund; or  
(C) any other fee receivable in relation to an  
investment fund from the family fund;  
and?; and

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(c) by inserting after subsection (10a) subsection  
the following:

"(10B) The management expenses incurred for the  
base period for a year of assessment under?

(a) subsubparagraph (9)(b)(iii)(B) or (C) shall be  
determined in accordance with the following  
formula:

$A \times C$

**B**

where A is the total amount of gross  
income for that period referred  
to in subparagraph (9)(a)(iii)  
excluding the amount of gross  
income in respect of wakalah  
fees;

B is the total amount of gross  
income for that period referred  
to in subparagraph (9)(a)(iii)  
excluding the amount of gross  
income in respect of wakalah  
fee for commission; and

C is the total management expenses incurred under subparagraph (9)(b)(iii); or (b) subsubparagraph (10)(b)(iii)(B) or (C) shall be determined in accordance with the following formula:

$A \times C$

**B**

where A is the total amount of gross income for that period referred to in subparagraph (10)(a)(iii) excluding the amount of gross income in respect of wakalah fees;

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B is the total amount of gross income for that period referred to in subparagraph (10)(a)(iii), excluding the amount of gross income in respect of wakalah fee for commission; and

C is the total management expenses incurred under subparagraph (10)(b)(iii).".

Amendment of section 107c

7. Section 107c of the principal Act is amended by inserting after subsection (11a) of the following subsection:

"(11B) Where there is a failure by a company, limited liability partnership, trust body or co-operative society to make up its accounts ending on the corresponding day in the following basis year pursuant to subsection 21a(3) and the company, limited liability partnership, trust body or co-operative society fails to give a notification in accordance with subsection 21a(3a), any amount of increase or sum that had been imposed under this section based on the accounting period prior to the new one accounts as mentioned in subsection 21a(3a) shall continue to be recoverable as if it were tax due and payable from the company, limited liability partnership, trust body or co-operative society to the Government.".

#### Amendment of section 112

8. Section 112 of the principal Act is amended by inserting after subsection (3) of the following subsection:

"(3a) Where there is a failure by a company, limited liability partnership, trust body or co-operative society to make up its accounts ending on the corresponding day in the following basis year pursuant to subsection 21a(3) and the company, limited liability partnership, trust body or co-operative society fails to give a notification in accordance with subsection 21a(3a), any penalty that had been imposed under subsection (3) based on the accounting period prior to the new accounts as mentioned in subsection 21a(3a) shall continue to be recoverable under this Act.?".

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#### Amendment of section 120



9. Subsection 120(1) of the principal Act is amended?

(a) in paragraph (f), by deleting the word "or";

(b) in paragraph (h), by substituting a comma

at the end of that paragraph with the words "; or"; and

(c) by inserting after paragraph (h) paragraph

the following:

"(i) fails to notify the Director General as required

by subsection 21a(3a),".

Amendment of section 127

10. Proviso to subsection 127(5) of the principal Act amended by

substitute the word "or 109B" wherever it occurs

with the words ", 109B or 109d".

Amendment of section 140a

11. Section 140a of the principal Act is amended?

(a) in the shoulder note, by deleting the words "and

disallowance of interest";

(b) in subsection (2), by substituting the words

"subsections (3) and (4)" with the words "subsection (3)";

(c) by deleting subsection (4); and

(d) in subsection (5)?

(i) by replacing the words "or the financial

assistance referred to in subsection (2) or (4)

respectively," with the words "referred to in

subsection (2)?; and

(ii) by deleting the word "or financial

assistance".

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## Amendment of Schedule 1

12. Paragraph 1 of Part 1 of Schedule 1 to the main Act is amended in the "Rates of Income Tax" column?

(a) by substituting the words "5 per cent" with the words "3 per cent";

(b) by substituting the words "10 per cent" with the words "8 per cent"; and

(c) by substituting the words "16 per cent" with the word "14 percent".

## Amendment of Schedule 3

13. Schedule 3 to the principal Act is amended by substituting subparagraph 61a(5) with the following subparagraph:

"(5) Where paragraph (4) applies, in determining the residual expenditure of such asset for that following base period, the total qualifying expenditure incurred by that person shall be reduced by?

(a) any initial allowance made to that person in relation to that asset for any year of assessment;

(b) any annual allowance made to that person in relation to that asset for any year of assessment; and

(c) an amount of annual allowance which would have been made to that person for the base period in which the asset was classified as held for sale as if the asset had been in use that basis period for the purpose of a business of his.".

## Amendment of Table 6

14. Schedule 6 to the main Act is amended in subparagraph 22(b), by cutting the words "(that is to say, any professional entertainer, artiste, athlete or other individual who entertains

whether in public or private for profit on stage, radio or television,  
at a stadium or sports ground, or otherwise)".

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BaB III

## **AMENDMENT TO PROPERTY PROFITS TAX ACT LAND 1976**

Commencement of the amendment to the Profit Tax Act

Real Estate 1976

15. Sections 16, 17 and 18 come into force on 1 January 2018.

Amendment of section 21b

16. Real Property Gains Tax Act 1976, cited

?mother Act? in this Chapter, amended by section 21B?

(a) in subsection (1), by substituting the words ?If?

with the words ?Subject to subsection (1a),

if?;

(b) by inserting after subsection (1) subsection

the following:

"(1a) For the purposes of subsection (1), if the liquidator

in a disposal referred to in subsection

that is a person who is not a citizen and is not

permanent resident, the acquirer shall hold

save all that money or a sum of money

not exceeding seven percent of the total value

the reply is whichever is lower,

and (whether the amount is held in custody or not)

he shall within sixty days after

the date of the disposal pays the amount to

Director General.?

## Amendment of Schedule 2

17. Schedule 2 to the principal Act is amended?

(a) in paragraph 3?

(i) by renumbering paragraphs which

existing as sub-paragraph (1); and

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(ii) by inserting after sub-paragraph (1)

which are renumbered subparagraphs which

the following:

"(2) Any transfer of assets between husbands

wife or to the company mentioned in

sub-subparagraph (1)(b) shall involve assets

owned by a citizen.";

(b) in subparagraph 16(a), by striking out the words

"or an authority or committee that

appointed by the Government or a State Government"; and

(c) in subparagraphs 19(5) and 34(1), by substituting

the words "subparagraph 3(b)" wherever they appear

with the words "subsubparagraph 3(1)(b)".

## Amendment of Schedule 5

18. Part III Schedule 5 to the main Act is amended by

replace the words "In the case of an individual who is not

citizen and not a permanent resident? with the words

"In the case of disposers who are not citizens and are not

permanent resident, or executor of the estate of the deceased who is not

citizens and not permanent residents".

## **AMENDMENTS TO THE GOODS TAX ACT AND 2014 SERVICE**

Commencement of the amendment to the Goods Tax Act  
and Services 2014

19. Sections 20, 21, 22 and 23 come into force on the date  
determined by the Minister through notification in the Gazette.

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Amendment of section 22

20. The Goods and Services Tax Act 2014, referred to  
"Mother act" in this Chapter, amended in paragraph 22(3)(a),  
by inserting after the word "shall be supplied" the word  
", as a result of the cessation of business,".

Amendment of section 43

21. Section 43 of the principal Act is amended?

(a) by inserting after subsection (1) subsection  
the following:

"(1a) If any person other than the liable person  
tax?

(a) not submit a declaration  
under section 42; or

(b) submit a declaration  
which turned out that the Director General did not  
complete or incorrect,

The Director General can assess according to  
the best judgment is the amount of tax and penalty  
under subsection 42(4), if any, which expires

and must be paid by that person and shall be with  
immediately notify the person in writing of  
that assessment.?

(b) in subsection (3), by inserting after  
the words "(1)" the words ", (1a)"; and

(c) in subsection (8), by inserting after  
the word "(1)", the word "(1a),".

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Amendment of section 64

22. Section 64 of the principal Act is amended?

(a) in paragraph (1)(a), by substituting the words  
"and State Government" with the words ", Government  
State and local authorities?;

(b) in paragraph (1)(b), by striking out the words  
"local authorities and"; and

(c) in subsection (2), by striking out the words "party  
local authority or" wherever found.

Second Schedule Amendment

23. The principal act is amended in paragraph 2 of the Second Schedule?

(a) by replacing shoulder notes with shoulder notes which  
the following:

"Pension pool, etc."; and

(b) by inserting after the words "law  
written" words "or any levy under the Act

Development of Human Resources Berhad 2001 [Act 612]?

BaB V

## **AMENDMENT TO FINANCE ACT 2013**

## Commencement of the amendment of the Finance Act 2013

24. This chapter takes effect from assessment year 2018.

### Amendment of section 3

25. Finance Act 2013 amended in subsection 3(7), by  
replace the words "and 2017" with the words ", 2017,  
2018, 2019 and 2020".