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Act 513

FINANCE ACT 1994

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LAWS OF MALAYSIA

Act 513

FINANCE ACT 1994

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LAWS OF MALAYSIA

Act 513

FINANCE ACT 1994

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967 and the Stamp Act 1949.

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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 1994.

Amendments of Acts

2. The Income Tax Act 1967 [*Act 53*], the Petroleum (Income Tax) Act 1967 [*Act 45 of 67*] and the Stamp Act 1949 [*Act 378*] 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, 7, paragraphs 8(*d*), 10(*a*), sections 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, paragraph 28(*d*) and section 29, this Chapter shall have effect for the year of assessment 1994 and subsequent years of assessment.

(2) Section 4, paragraph 10(a) and section 11 shall be deemed to have come into force on 1 June 1991.

(3) Section 7, paragraph 8(d), sections 12, 14, and 29 shall come into force on 1 January 1994.

(4) Section 13 shall be deemed to have come into force on 1 January 1993.

(5) Paragraph 28(d) shall be deemed to have come into force on 16 February 1993.

(6) Sections 17, 18, 19, 20, 21, 22, 23, 24 and 25 shall have effect upon the coming into force of this Act.

Amendment of section 2

4. The Income Tax Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in subsection 2(1) in the definition of “approved scheme” by inserting after the word “means” the words “the Employees Provident Fund or”.

Amendment of section 6A

5. Subsection 6A(2) of the principal Act is amended—

- (a) by substituting for the word “sixty” in paragraph (a) the word “ninety”; and
- (b) by substituting for the word “thirty” in paragraph (b) the word “fifty”.

Amendment of section 34

6. Section 34 of the principal Act is amended—

- (a) in subsection (4), by substituting for the word “fifteen” in paragraph (a) the word “sixteen”;
- (b) in subsection (6)—
 - (i) by deleting the word “and” at the end of paragraph (e);
 - (ii) by substituting for the full stop at the end of paragraph (f) the punctuation mark and word “; and”; and

(iii) by inserting after paragraph (f) the following paragraph:

“(g) an amount equal to the expenditure incurred by the relevant person in the relevant period on the provision of library facilities which are accessible to the public and in respect of contributions to public libraries and libraries of schools and institutions of higher education:

Provided that the amount that may be deducted shall not exceed one hundred thousand ringgit.”.

Amendment of section 34B

7. Section 34B of the principal Act is amended by substituting for the word “wholly” appearing in paragraphs (4)(a) and (4)(b) the word “mainly”.

Amendment of section 44

8. Section 44 of the principal Act is amended—

(a) in subsection (6), by substituting for the full stop a colon;

(b) by inserting after subsection (6) the following proviso:

“Provided that in respect of any gift of money made by him during the period from 1 November 1993 to 31 January 1994 to the Government low-cost housing fund managed by the Central Bank of Malaysia, there shall be given a further deduction of an amount equal to that gift of money.”;

(c) in subsection (7), in the definition of “organization”, by substituting for the full stop at the end of paragraph (g) the punctuation mark and word “; or”; and

(d) in subsection (7), in the definition of “organization”, by inserting after paragraph (g) the following paragraph:

“(h) an organization established exclusively for the conservation or protection of the environment.”.

Amendment of section 48

9. Section 48 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Where for a year of assessment any individual is entitled under paragraph (1)(b) or (c) to a deduction (in this subsection referred to as the ordinary deduction)—

- (a) in respect of a child who at any time in the basis year for that year of assessment is over the age of eighteen years and—
 - (i) is receiving full-time instruction at a university, college or other establishment (similar to a university or college) of higher education; or
 - (ii) is serving under articles or indentures with a view to qualifying in a trade or profession,

(in this subsection referred to as receiving further education) then, if that individual satisfies the Director General that he has directly expended in that basis year a sum or sums exceeding the ordinary deduction on the maintenance of that child or in making (in connection with that child’s further education) any payment to which paragraph (1)(b) or (c) applies, there shall be allowed in respect of that child, in substitution for the ordinary deduction, a deduction equal to the total sum or sums so expended but not exceeding four times the amount of the ordinary deduction in respect of a child receiving further education in Malaysia and not exceeding twice the amount of the ordinary deduction in respect of a child receiving further education outside Malaysia:

Provided that in respect of a child who commenced receiving further education in a place outside Malaysia in the basis year for the year of assessment 1994, or in the basis year for any prior year of assessment, there shall be allowed in substitution for the ordinary deduction, a deduction equal to the total sum or sums so expended but not exceeding four times the amount of the ordinary deduction;

- (b) where that individual is resident in East Malaysia for that basis year, in respect of a child who for the whole or part of that basis year is receiving full-time instruction at a school or other educational institution in *Peninsular Malaysia and who commenced receiving such instruction in the basis year for the year of assessment 1994 or in the basis year for any prior year of assessment, then that individual shall be entitled to, in substitution for the ordinary deduction, the deduction in respect of a child receiving further education in Malaysia referred to in paragraph (a).”.

Amendment of section 49

10. Section 49 of the principal Act is amended—

- (a) in paragraph (1)(b), by substituting for the words “Employees Provident Fund Ordinance 1951” the words “Employees Provident Fund Act 1991”;
- (b) in subsection (1), by substituting for the words “three thousand five hundred” the words “five thousand”;
- (c) in subsection (1A), by substituting for the words “three thousand five hundred” wherever appearing therein the words “five thousand”; and
- (d) by substituting for the marginal reference “*F.M. 21/1951.*” the marginal reference “*Act 452.*”.

Amendment of section 50

11. Section 50 of the principal Act is amended—

- (a) in paragraph (3)(c), by substituting for the words “Employees Provident Fund Ordinance 1951” the words “Employees Provident Fund Act 1991”; and
- (b) by substituting for the marginal reference “*F.M. 21/1951.*” the marginal reference “*Act 452.*”.

Amendment of section 60D

12. Section 60D of the principal Act is amended in subsection (5), in the definition of “venture capital company”, by substituting for paragraph (b) the following paragraph:

- “(b) is engaged wholly in the making of investments and, throughout the basis period for a year of assessment, not less than seventy per cent of the total funds invested

*NOTE—All references to “West Malaysia” shall be construed as reference to “Peninsular Malaysia”—see the Interpretation (Amendment) Act 1997 [*Act A996*], subsection 5(2).

consist of the holding of shares in a venture company, the shares in which are not listed for quotation in the official list of a stock exchange in Malaysia at the time of acquisition of such shares by that venture capital company; and”.

Amendment of section 60E

13. Subsection 60E(7) of the principal Act is amended—

- (a) in the definition of “approved operational headquarters company”, by substituting for the comma in paragraph (c) a semicolon;
- (b) in the definition of “approved operational headquarters company”, by deleting the words “but does not include a company which carries on a finance business or which provides professional services;”; and
- (c) in the definition of “qualifying services”, by substituting for paragraph (b) the following paragraph:
 - “(b) provision of treasury and fund management services to its offices outside Malaysia or its related companies outside Malaysia and, where such services include the provision of credit facilities, where the funds for providing such facilities are obtained from outside Malaysia; and”.

Amendment of section 76

14. Section 76 of the principal Act is amended—

- (a) by substituting for the full stop at the end of subsection (1) a colon; and
- (b) by inserting after subsection (1) the following proviso:
 - “Provided that where no such nomination has been made by a Ruler or Ruling Chief, section 66 shall apply to such Ruler or Ruling Chief.”.

Amendment of section 108

15. Section 108 of the principal Act is amended—

(a) by inserting after subsection (2B) the following subsection:

“(2C) Notwithstanding any other provision of this Act, where a dividend is paid, credited or distributed with or without deduction of tax during the basis year for the year of assessment 1994, the amount of the dividend received by the shareholder shall be deemed to be a dividend of such a gross amount as after deduction of tax at the rate of thirty-two per cent would be equal to—

(a) the amount in fact paid or credited; or

(b) where the dividend consists of property other than money, the amount of the market value of that property at the time of the dividend’s distribution,

and a sum equal to the difference between that gross amount and the amount mentioned in paragraph (a) or (b), as the case may be, shall be deemed to have been deducted from the dividend as tax.”; and

(b) by inserting after subsection (4B) the following subsection:

“(4C) In any case where tax has been deducted or deemed to have been deducted at the rate of thirty-four per cent on any dividend paid, credited or distributed during the basis year for the year of assessment 1994 to which subsection (2C) applies, the compared total shall be determined at the rate of thirty-two per cent.”.

Amendment of section 110

16. Section 110 of the principal Act is amended by inserting after subsection (1B) the following subsection:

“(1C) Notwithstanding subsection (1), where tax on any dividend paid, credited or distributed during the basis year for the year of assessment 1994 has been deducted at the rate of thirty-four per cent, the tax to be set off under subsection (1) shall be the sum deemed to be the tax deducted from such dividend under subsection 108(2C).”.

Amendment of section 112

17. Subsection 112(1) of the principal Act is amended by substituting for the words “not exceeding one thousand ringgit” the words “of not less than two hundred ringgit and not more than two thousand ringgit”.

Amendment of section 113

18. Subsection 113(1) of the principal Act is amended by substituting for the words “not exceeding five thousand ringgit” the words “of not less than one thousand ringgit and not more than ten thousand ringgit”.

Amendment of section 114

19. Subsection 114(1) of the principal Act is amended by substituting for the words “not exceeding ten thousand ringgit” the words “of not less than one thousand ringgit and not more than twenty thousand ringgit”.

Amendment of section 115

20. Subsection 115(1) of the principal Act is amended by substituting for the words “not exceeding one thousand ringgit” the words “of not less than two hundred ringgit and not more than two thousand ringgit”.

Amendment of section 116

21. Section 116 of the principal Act is amended by substituting for the word “two” the word “four”.

Amendment of section 117

22. Subsection 117(1) of the principal Act is amended by substituting for the word “two” the word “four”.

Amendment of section 118

23. Section 118 of the principal Act is amended by substituting for the word “ten” the word “twenty”.

Amendment of section 119

24. Section 119 of the principal Act is amended by substituting for the word “ten” the word “twenty”.

Amendment of section 120

25. Section 120 of the principal Act is amended by substituting for the words “not exceeding one thousand ringgit” the words “of not less than two hundred ringgit and not more than two thousand ringgit”.

Amendment of Schedule 1

26. Schedule 1 to the principal Act is amended in paragraph 2 of PART I by substituting for the figures “34” the figures “32”.

Amendment of Schedule 3

27. Schedule 3 to the principal Act is amended—

(a) in subparagraph 37B(a), by substituting for the words “paragraph 34A(1)(a)” the words “paragraph 34A(1)(a) and subsection 34B(4)”; and

(b) by inserting after paragraph 42 the following paragraph:

“42A. (1) Where a person carrying on a business of manufacturing has incurred in the basis period for a year of assessment expenditure on the construction or purchase of a building for the purposes of that business for the provision of living accommodation for individuals employed by him in that business, that building shall be treated as an industrial building for the purposes of that business at any time that it is occupied by individuals so employed, and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16, 17 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.

(2) Where a person has for the purposes of a business of his incurred in the basis period for a year of assessment expenditure on the construction or purchase of a building for the purposes of that business for the provision of child care facilities for individuals employed by him in that business, that building shall be treated as an industrial building for the purposes of that business at any time that it is used by individuals so employed, and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16, 17 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.

(3) Notwithstanding any other provision of this Schedule, for the purposes of this paragraph the qualifying expenditure in the case of a purchased building shall be the purchase price of that building.

(4) For the purposes of subparagraph (1), “individuals employed by him” does not include a director, an individual having control of that business or an individual who is a member of the management, administrative or clerical staff engaged in that business.”.

Amendment of Schedule 6

28. Schedule 6 to the principal Act is amended—

- (a) in paragraph 32, by inserting after the word “work” the parentheses and words “(other than any original painting)”;
- (b) in paragraph 32A—
 - (i) by substituting for the word “six” the word “twelve”;
 - and
 - (ii) by inserting after the words “in respect of” the words “any musical composition or in respect of”;
- (c) in paragraph 32B—
 - (i) by substituting for the word “twelve” the word “twenty”;

- (ii) by inserting after the word “royalty” the parentheses and words “(other than royalty in respect of recording discs or tapes)”; and
 - (iii) by inserting after the word “work” the words “or any original painting”; and
- (d) in paragraph 35—
- (i) by substituting for the full stop at the end of subparagraph (c) the punctuation mark and word “; or”; and
 - (ii) by inserting after subparagraph (c) the following subparagraph:

“(d) in respect of Bon Simpanan Malaysia issued by the Central Bank of Malaysia.”.

Amendment of Schedule 7A

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

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

“1. Where a company which is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment capital expenditure on a factory, plant or machinery, used in Malaysia for the purposes of any qualifying project, there shall be given to the company for that year of assessment a reinvestment allowance of fifty per cent of that expenditure:

Provided that in the case of a company other than a small scale company as defined under subsection 33(4) of the Promotion of Investments Act 1986 [*Act 327*] whose basis period for the year of assessment 1995 includes a period prior to 1 January 1994, the reinvestment allowance to be given shall be the total of—

- (i) forty per cent of the capital expenditure incurred prior to 1 January 1994; and

- (ii) fifty per cent of the capital expenditure incurred after 31 December 1993:

Provided further that capital expenditure shall not include capital expenditure incurred on plant or machinery where such plant or machinery is provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.”; and

- (b) by substituting for subparagraph 2(b) the following subparagraph:

“(b) shall be given only in respect of expenditure incurred from 1 January 1979.”.

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Commencement of amendments to the Petroleum (Income Tax) Act 1967

30. (1) Except for paragraph 34(b), this Chapter shall be deemed to have come into force on 23 January 1991.

(2) Paragraph 34(b) shall have effect for the year of assessment 1994 and subsequent years of assessment.

Amendment of section 2

31. The Petroleum (Income Tax) Act 1967, which is referred to as the “principal Act” in this Chapter, is amended in section 2—

- (a) in the definition of “chargeable person” in subsection (1), by inserting after subparagraph (i) the following subparagraph:

“(i) Malaysia-Thailand Joint Authority,”;

- (b) in the definition of “chargeable person” in subsection (1), by renumbering the existing subparagraph (ii) as subparagraph (iii);

- (c) by inserting after the definition of “entertainment” in subsection (1) the following definition:

“Joint Development Area” has the meaning assigned thereto by the Malaysia-Thailand Joint Authority Act 1990 [*Act 440*];’;

- (d) in the definition of “petroleum agreement” in subsection (1), by inserting after the words “Petrolium Nasional Berhad” the words “or the Malaysia-Thailand Joint Authority”;
- (e) in subsection (2), by inserting after the words “Petrolium Nasional Berhad” the words “or the Malaysia-Thailand Joint Authority”;
- (f) in subparagraph (4)(a)(ii), by inserting after the words “Petrolium Nasional Berhad” the words “or the Malaysia-Thailand Joint Authority”; and
- (g) by inserting after subsection (4) the following subsection:

“(5) For the purposes of this Act, the date of production in relation to a petroleum agreement with the Malaysia-Thailand Joint Authority means the date of first commercial production of petroleum under that agreement.”.

Amendment of section 4

- 32.** Section 4 of the principal Act is amended in subsection (3), by inserting after the words “Petrolium Nasional Berhad” the words “or the Malaysia-Thailand Joint Authority”.

Amendment of section 13A

- 33.** Section 13A of the principal Act is amended in subsection (1), by inserting after the words “Petrolium Nasional Berhad” wherever appearing therein and in the marginal note the words “or the Malaysia-Thailand Joint Authority”.

Amendment of section 23

34. Section 23 of the principal Act is amended—

- (a) by renumbering the existing section 23 as subsection 23(1);
- (b) by substituting for the words “forty-five” in the renumbered subsection 23 (1) the word “forty”; and
- (c) by inserting after the renumbered subsection (1) the following subsections:

“(2) Notwithstanding subsection (1), the chargeable tax for any year of assessment of a chargeable person on income derived from petroleum operations in the Joint Development Area shall be an amount equal to—

- (a) zero per cent of the chargeable income ascertained from income for any of the first eight years of production; or
- (b) ten per cent of the chargeable income ascertained from income for any of the next seven years of production; or
- (c) twenty per cent of the chargeable income ascertained from income for any subsequent year of production:

Provided that where the chargeable income ascertained relates to income from two production periods, that chargeable income shall be apportioned to each of those periods (the apportionment being made in the proportion that the number of months of the relevant production period bears to the number of months of that basis period) and the chargeable tax shall be arrived at by applying the rate applicable to each of the relevant production periods to the chargeable income so apportioned.

(3) For the purposes of subsection (2), the “production period” means the number of years of production referred to in paragraph (2)(a), (b) or (c) as the case may be.”.

New section 65B

35. The principal Act is amended by inserting after section 65A the following section:

“Exemption to give effect to agreements in overlapping areas

65B. (1) The Minister may, by statutory order, exempt from tax any chargeable person or exempt from tax the income (wholly or in part) of any chargeable person to give effect to any agreement or arrangement made by the Government with the government of any territory outside Malaysia for the joint exploration and exploitation of petroleum in overlapping areas.

(2) Any order made under subsection (1) shall be laid before the House of Representatives.

(3) Nothing in subsection (1) shall absolve or be deemed to have absolved the said chargeable person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of this Act in respect of the income exempted under this section.”.

Amendment of Schedule 2

36. Schedule 2 to the principal Act is amended—

- (a) in subparagraph 41(b), by inserting after the words “Petroleum Nasional Berhad” the words “or the Malaysia-Thailand Joint Authority”; and
- (b) in paragraph 48A, by inserting after the words “Petroleum Nasional Berhad” the words “or the Malaysia-Thailand Joint Authority”.

CHAPTER IV**AMENDMENTS TO THE STAMP ACT 1949****Commencement of amendments to the Stamp Act 1949**

37. This Chapter shall come into force on 1 January 1994.

Amendment of section 2

38. The Stamp Act 1949, which is referred to as the “principal Act” in this Chapter, is amended in section 2 by deleting the definition of “share certificate”.

Amendment of section 9

39. (1) Paragraph 9(1)(c) of the principal Act is amended—

- (a) by inserting after the word “January” a comma;
- (b) by substituting for the words “and the 1st day of July” the words “the 1st day of April, the 1st day of July and the 1st day of October”; and
- (c) by substituting for the word “eight” the word “fourteen”.

(2) A banker, stockbroker or insurer authorized under subsection 9(1) of the principal Act before 1 January 1994 shall as from that date be subject to the conditions in that subsection as amended by subsection (1) of this section.

Amendment of section 80

40. Section 80 of the principal Act is amended—

- (a) in subsection (2), by inserting after the word “chargeable” the words “or the further amount payable under paragraph 9(1)(c)”;
- (b) in subsection (3), by inserting after the figure “(1)” the word and figure “or (2)”;
- (c) in subsection (3), by inserting after the word “such” the word and punctuation mark “exemption,”.

Amendment of First Schedule

41. The First Schedule to the principal Act is amended—

- (a) in item 31, under the heading “Proper Stamp Duty”, by substituting for the amount “RM1.00” the amount “RM1.50”; and
- (b) by deleting item 70.

Amendment of Second Schedule

42. The Second Schedule to the principal Act is amended by deleting item 19.

Amendment of Fifth Schedule

43. The Fifth Schedule to the principal Act is amended by deleting item 7.

LAWS OF MALAYSIA

Act 513

FINANCE ACT 1994

LIST OF AMENDMENTS

Amending law	Short title	In force from
	– NIL –	

LAWS OF MALAYSIA**Act 513****FINANCE ACT 1994****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
	– NIL –	

