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Act 631

FINANCE ACT 2003

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LAWS OF MALAYSIA

Act 631

FINANCE ACT 2003

An Act to amend the Income Tax Act 1967, the Finance (No. 2) Act 1998, the Income Tax (Amendment) Act 2000, the Petroleum (Income Tax) Act 1967 and the Labuan Offshore Business Activity Tax Act 1990.

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ENACTED by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance Act 2003.

Amendments of Acts

2. The Income Tax Act 1967 [*Act 53*], the Finance (No. 2) Act 1998 [*Act 591*], the Income Tax (Amendment) Act 2000 [*Act A1093*], the Petroleum (Income Tax) Act 1967 [*Act 543*] and the Labuan Offshore Business Activity Tax Act 1990 [*Act 445*] 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) Sections 4, 6, 8 and 16 and paragraphs 17(*a*) and 19(*b*) have effect for the year of assessment 2003 and subsequent years of assessment.

(2) Sections 12 and 15 have effect for the year of assessment 2003.

(3) Sections 5, 7, 9, 11, 13, 14, 18 and 20 have effect for the year of assessment 2004 and subsequent years of assessment.

(4) Section 10 has effect for the years of assessment 2003, 2004 and 2005.

(5) Paragraph 17(*b*) is deemed to have come into operation on 1 January 2001.

(6) Subparagraph 19(*a*)(i) is deemed to have come into operation on 13 September 2003.

(7) Subparagraph 19(*a*)(ii) has effect for the year of assessment 2000 (current year) and subsequent years of assessment.

Amendment of section 2

4. The Income Tax Act 1967, which in this Chapter is referred to as the “principal Act”, is amended in section 2 by inserting after subsection (7) the following subsection:

“(8) Subject to subsection (7), any reference in this Act to the disposal of an asset or a lease shall exclude any disposal of an asset or lease by or to a person pursuant to a scheme of financing in accordance with the principles of Syariah.”.

Amendment of section 34

5. Subsection 34(6) of the principal Act is amended—

(*a*) by substituting for paragraph (*k*) the following paragraph:

“(*k*) an amount equal to the expenditure incurred by the relevant person in the relevant period for sponsoring any local or foreign arts or cultural activity approved by the Ministry of Culture, Arts and Tourism:

Provided that the amount deducted in respect of expenditure incurred for sponsoring those activities shall not in aggregate exceed three hundred thousand

ringgit of which the amount deducted in respect of expenditure incurred in sponsoring foreign arts or cultural activities shall not exceed two hundred thousand ringgit;”;

(b) by substituting for paragraph (m) the following paragraph:

“(m) an amount equal to the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purposes of—

- (i) obtaining certification for recognized quality systems and standards, and *halal* certification, evidenced by a certificate issued by a certification body as determined by the Minister; or
- (ii) obtaining accreditation for a laboratory or as a certification body, as evidenced by a certificate issued by the Department of Standards Malaysia:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;”;

(c) in paragraph (n), by substituting for the full stop at the end of subparagraph (ii) the words “; and”; and

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

“(o) an amount equal to the expenditure incurred by a company in the relevant period for participating in international standardization activities approved by the Department of Standards Malaysia.”.

Amendment of section 34A

6. Section 34A of the principal Act is amended—

(a) in subsection (4)—

- (i) by substituting for the full stop at the end of that subsection a colon; and

- (ii) by inserting below that subsection the following proviso to that subsection:

“Provided that where subsection (4A) applies, the amount of deduction to be made shall be the amount of expenditure incurred.”;

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

“(4A) A pioneer company may, in a return of income for the year of assessment in which the expenditure referred to in subsection (1) had been incurred, elect that the amount of that expenditure be deducted in the first basis period in respect of its post-pioneer business for a year of assessment”; and

- (c) by inserting after subsection (5) the following subsection:

“(6) For the purposes of this section, the words “pioneer company” and “post-pioneer business” have the respective meanings assigned to them under the Promotion of Investments Act 1986.”.

Amendment of section 35

7. Subsection 35(2) of the principal Act is amended by substituting for the words “and 34A” the words “, 34A and 34B”.

Amendment of section 36

8. Section 36 of the principal Act is amended—

- (a) in subsection (1)—

- (i) in paragraph (a)—

(A) in subparagraph (iii), by deleting the word “or”;

(B) in subparagraph (iv), by substituting for the word “and” the word “or”; and

(C) by inserting after subparagraph (iv) the following subparagraph:

“(v) such other transaction as may be prescribed; and”; and

- (ii) in paragraph (b), by inserting after the words “adjusted income” the words “and statutory income”; and

(b) in subsection (2)—

- (i) by substituting for the words “and adjusted income” the words “, adjusted income and statutory income”; and
- (ii) in paragraph (b), by inserting after the words “adjusted income” the words “and statutory income”.

Amendment of section 39

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

- (a) by substituting for the words “any expenses” the words “a sum equal to fifty percent of any expenses”; and

(b) in the proviso to that paragraph—

- (i) by deleting the word “or” appearing at the end of paragraph (vi); and
- (ii) by inserting after paragraph (vi) the following paragraph:

“(vii) the provision of entertainment which is related wholly to sales arising from the business of that person; or”.

New section 46A

10. The principal Act is amended by inserting after section 46 the following section:

“Deduction for individual on interest expended

46A. (1) Subject to this section, in the case of an individual who is a resident for the basis year for the relevant year, there shall be allowed for that relevant year personal

deduction in respect of interest expended in that basis year by the individual to finance the purchase of a residential property:

Provided that—

- (a) the residential property is the first residential property purchased by the individual to be occupied as his place of residence;
- (b) the residential property had been purchased from a housing developer or statutory body or co-operative society;
- (c) the purchase price of the residential property is not less than RM100,000.00 and not more than RM180,000.00; and
- (d) the Sale and Purchase Agreement for the purchase had been executed on or after 1 June 2003 but not later than 31 May 2004.

(2) The amount of deduction to be made under subsection (1) shall be a maximum of—

- (a) RM5,000 for the year of assessment 2003;
- (b) RM3,000 for the year of assessment 2004;
- (c) RM2,000 for the year of assessment 2005.

(3) Where—

- (a) two or more individuals are each entitled to claim deduction for the relevant year under this section for interest expended in respect of the same residential property; and
- (b) the total amount of interest expended by those individuals in the basis year for that relevant year exceed the amount of deduction allowable for that relevant year under subsection (2),

there shall be allowed to each of those individuals for that relevant year an amount to be determined in accordance with the following formula:

$$\frac{A \times B}{C}$$

- where
- A is the total amount of deduction allowed under subsection (2) for that relevant year;
 - B is the total interest expended in the basis year for that relevant year by that individual; and
 - C is the total interest expended in the basis year for that relevant year by all such individuals.

(4) For the purposes of subsection (1), any amount expended by the wife or the husband in the relevant year, where—

- (a) subsection 45(2) applies, shall be deemed to have been expended by the husband of the wife who elects or by the wife of the husband who elects, as the case may be; or
- (b) the wife or the husband has no total income, shall be deemed to have been expended by the husband of that wife or the wife of that husband, as the case may be:

Provided that where paragraph 45(2)(b) applies or the husband has no total income, any amount expended by the husband shall be deemed to have been expended by the wife who has been allowed a deduction under section 45A.

(5) For the purposes of this section—

“co-operative society” means a co-operative society registered or deemed to be registered under the Co-operative Societies Act 1993 [*Act 502*];

“first residential property” includes a second residential property purchased by the individual following the disposal of a low cost property by him;

“housing developer” means a housing developer licensed under the Housing Development (Control and Licensing) Act 1966 [*Act 118*];

“low cost property” means the only residential property owned by the individual and that property had been held by the individual for not less than five years and purchased by him for not more than RM42,000.00;

“relevant year” means the year of assessment 2003, 2004 or 2005;

“residential property” means a completed house, condominium unit, apartment or flat which had been built as a dwelling house;

“statutory body” means a body incorporated by a State or Federal law.”.

Amendment of section 48

11. Paragraph 48(2)(a) of the principal Act is amended by substituting for the words “eight hundred” the words “one thousand”.

Amendment of section 77

12. Section 77 of the principal Act, which has effect for the year of assessment 2003, is amended—

- (a) in subsection (1A), by substituting for the word “six” the word “seven”; and
- (b) in subsection (1B), by substituting for the word “six” the word “seven”.

Amendment of section 77A

13. Section 77A of the principal Act, which has effect for the year of assessment 2004 and subsequent years of assessment, is amended—

- (a) in subsection (1), by substituting for the word “six” the word “seven”; and
- (b) in subsection (2), by substituting for the word “six” the word “seven”.

Amendment of section 103

14. Paragraph 103(12)(a) of the principal Act, which has effect for the year of assessment 2004 and subsequent years of assessment, is amended by substituting for the word “sixth” the word “seventh”.

Amendment of section 103A

15. Subsection 103A(12) of the principal Act, which has effect for the year of assessment 2003, is amended by substituting for the word “sixth” the word “seventh”.

Amendment of section 107C

16. Section 107C of the principal Act is amended—

(a) in subsection (7), by inserting after the words “sixth month” the words “or the ninth month, or in both months”; and

(b) by substituting for subsection (12) the following subsection:

“(12) For the purposes of this section—

“due date” means the tenth day of a calendar month;

“revised estimate” means a revised estimate made in the ninth month of the basis period or if there is no revised estimate made in the ninth month of the basis period, the revised estimate made in the sixth month of the basis period.”.

Amendment of section 108

17. Section 108 of the principal Act is amended—

(a) in subsection (5), by substituting for the word “six” the word “seven”; and

(b) in subsection (14A)—

(i) in paragraph (a), by deleting the word “or” appearing at the end of the paragraph;

(ii) in paragraph (b), by substituting for the full stop at the end of the proviso to that paragraph the words “; or”; and

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

“(c) the amount of tax paid under subsection 129(2).”

Amendment of Schedule 1

18. Part I of Schedule 1 to the principal Act is amended in paragraph 2A by substituting for the word “100,000” wherever appearing the word “500,000”.

Amendment of Schedule 3

19. Schedule 3 to the principal Act is amended—

(a) in paragraph 27—

- (i) by substituting for the word “ten” the word “six”; and
- (ii) in the proviso to that paragraph, by inserting after the words “the beginning of” the words “the year of assessment following”; and

(b) by inserting after paragraph 80 the following paragraph:

“81. The Minister may prescribe any capital expenditure incurred by a person in his business as qualifying agriculture expenditure under paragraph 7 and the amount of the allowance or allowances in respect of that qualifying agriculture expenditure which would otherwise fall to be made to him under paragraphs 22 and 23.”.

Amendment of Schedule 6

20. Schedule 6 to the principal Act is amended—

(a) by substituting for paragraph 28 the following paragraph:

“28. (1) Without prejudice to the provisions of section 130, income of any person, other than a resident company carrying on the business of banking, insurance or sea or air transport, for the basis year for a year of assessment derived from sources outside Malaysia and received in Malaysia.

(2) Paragraphs 5 and 6 of Schedule 7A shall apply *mutatis mutandis* to the amount of income derived and received by a resident company exempted under subparagraph (1).”;

(b) by inserting after paragraph 32D the following paragraph:

“32E. Income of an individual for the basis year for a year of assessment being payment by way of fee or honorarium in respect of services provided for purposes of validation, moderation or accreditation of franchised educational programmes in higher educational institutions and the services are verified by the Lembaga Akreditasi Negara:

Provided that the exemption shall not apply where the payment arises to the individual as part of his emoluments in the exercise of his official duties.”; and

(c) by inserting after paragraph 34 the following paragraph:

“34A. Interest paid or credited to any individual in respect of Merdeka Bonds issued by the Central Bank of Malaysia.”.

CHAPTER III

AMENDMENT TO THE FINANCE (NO. 2) ACT 1998

Amendment of section 3

21. (1) Section 3 of the Finance (No. 2) Act 1998 is amended—

(a) in subsection (1), by inserting after the words “6,” the words “8,”; and

(b) by inserting after subsection (3) the following subsection:

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

(2) The amendments in subsection (1) are deemed to have come into operation on 1 January 1999.

(3) For the avoidance of doubt, it is declared that subparagraphs (3A)(a)(iii) and (4A)(a)(iii) of section 60 of the Income Tax Act 1967 as amended in accordance with section 8 of the Finance (No. 2) Act 1998 are deemed to have effect for the year of assessment 1995 and subsequent years of assessment.

CHAPTER IV**AMENDMENT TO THE INCOME TAX (AMENDMENT)
ACT 2000****Amendment of section 24**

22. (1) The Income Tax (Amendment) Act 2000 is amended by substituting for section 24 the following section:

“Revision of balance

24. Notwithstanding the provision of section 23 of this Act, where subsequent to 1 January 2001, there is an assessment, a revision to any assessment or a remission of tax, for the year of assessment 2000 on current year basis or prior years of assessment, the balance for the credit of the company as at 31 December 2000 may be increased or reduced (hereinafter referred to in this Part as the revised balance) by so much of the amount of the tax or additional tax charged, the amount of the increase in the tax charged mentioned in subsection 101(8), the amount of tax discharged or the amount of tax remitted, whichever is applicable, for those years of assessment (less any rebate under section 6B or any relief given for those years of assessment under section 132 or 133).”.

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2001.

CHAPTER V**AMENDMENT TO THE PETROLEUM (INCOME TAX)
ACT 1967****Amendment of section 18**

23. (1) The Petroleum (Income Tax) Act 1967 is amended in paragraph 18(1)(n) by substituting for the words “any expenses” the words “a sum equal to fifty per cent of any expenses”.

(2) Subsection (1) has effect for the year of assessment 2004 and subsequent years of assessment.

CHAPTER VI
AMENDMENTS TO THE LABUAN OFFSHORE BUSINESS
ACTIVITY TAX ACT 1990

Commencement of amendments to the Labuan Offshore Business Activity Tax Act 1990

24. Sections 25 and 26 have effect for the year of assessment 2004 and subsequent years of assessment.

New section 8A

25. The Labuan Offshore Business Activity Tax Act 1990, which is referred to as the “principal Act” in this Chapter, is amended in Part II by inserting after section 8 the following section:

“Tax rebate

8A. (1) A rebate shall be granted to an offshore company upon tax charged under section 4, 7 or 8 for each year of assessment for any *zakat* which is paid in the basis period for that year of assessment to, and evidenced by a receipt issued by, a Labuan Islamic religious authority.

(2) Where the total amount of the rebate under subsection (1) exceeds the tax charged (before any such rebate) for any year of assessment, the excess shall not be paid to the offshore company or available as a credit to set off his tax liability for that year of assessment or any subsequent year.”.

Amendment of section 11

26. The principal Act is amended by substituting for section 11 the following section:

“Payment of tax

11. An offshore company shall—

(a) at the time of filing of the statutory declaration and return of its profits for a year of assessment under section 5, make full payment on account of—

(i) tax to be charged for that year of assessment;
or

- (ii) tax to be charged for that year of assessment after reduction of rebate under section 8A; or
 - (b) at the time of filing of the statutory declaration under section 7 or 8, make full payment of—
 - (i) the tax charged for that year of assessment; or
 - (ii) the tax charged for that year of assessment after reduction of rebate under section 8A.”.
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LAWS OF MALAYSIA**Act 631****FINANCE ACT 2003****LIST OF AMENDMENTS**

Amending law

Short title

In force from

—NIL —

LAWS OF MALAYSIA**Act 631****FINANCE ACT 2003**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	—NIL—	

