FINANCE ACTS by ABDUL HALIM BIN A. HAMID, EzriLaw Firm

The Finance Acts are introduced to cater to the proposals every year when a Budget approved.

The Finance Acts 2020 repealed 21 items to cater to Budget 2020 and are summarised as below:

NO.	SECTION	TOPIC	ACT 2019	ACT 2020
1		New Chargeable Income Band	More than RM2,000,000 be taxed at 28%	More than RM2,000,000 be taxed at 30%
2		Threshold for Lower Corporate Tax Rate for Small and Medium Enterprises	17% on the first RM500,000 of their chargeable income and for every ringgit exceeding the first RM500,000 the normal corporate tax rate of 24%	17% on the first RM600,000 of their chargeable income and for every ringgit exceeding the first RM600,000 the normal corporate tax rate of 24%
3	Section 109G(1) of the Income Tax Act 1967 ("ITA")	Withdrawals from Deferred Annuity or Private Retirement Scheme (before the individual reaches the age of 55 are taxed at 8%.)	However, the amount withdrawn would not be subject to tax if the withdrawals are due to permanent total disablement, serious disease, mental disability, death or permanently leaving Malaysia.	Withdrawals for reasons of healthcare or housing would also not be subject to tax provided that such withdrawals are in compliance with the relevant Securities Commission guidelines.
4	Section 44 of the ITA	Gift of Money or Contribution In Kind	Tax deduction presently available to a person (other than a company) 7% of the aggregate income of that person in the relevant year: - gift of money to approved institutions, organizations or funds - gift of money for approved sports activities - gift of money or cost of contribution in kind for approved projects of national interest	Tax deduction presently available to a person (other than a company) 10% of the aggregate income of that person in the relevant year: - gift of money to approved institutions, organizations or funds - gift of money for approved sports activities - gift of money or cost of contribution in kind for approved projects of national interest
5	Section 46(1)(g) of ITA	Tax Relief for Medical Expenses	The tax deduction of up to RM6,000 presently available to individuals in respect of medical expenses expended or deemed expended by the individual on himself/herself or his/her spouse or child	Medical expenses expended or deemed expended by the individual on himself/herself or his/her spouse or child be extended to also cover medical expenses for fertility treatment, provided that such individual is married.
6	Paragraph 19A of Schedule 3 to the ITA	Special Allowance for Small Value Assets (which special allowance can be claimed by SMEs and nonSMEs)	i) RM1,300; and ii) the limit of qualifying plant expenditure RM13,000	i) RM2,000; and ii) the limit of qualifying plant expenditure RM20,000
7	Section 77B(4) of the ITA	Increase in Tax for **Amended Tax Return** (where a person makes an amendment to a tax return, any amount of tax or additional tax payable by that person pursuant to the amended return)	Shall only be increased by 10% of the amount of such tax or additional tax payable and 5% imposed in respect of an amended return which is furnished after 60 days from the due date	Shall only be increased by 10% of the amount of such tax or additional tax payable.
8	Section 103 of the ITA	Increase on **Unpaid Tax** After Payment Due Date (if any tax that is due and payable has not been paid by its payment due date)	The unpaid tax shall be increased by 10% and additional tax increase of 5% imposed after 60 days from the due date	The unpaid tax shall only be increased by a single rate of 10%.

9	Section 104(1)(b) of the ITA	Recovery from Persons Leaving Malaysia (for failure by a company to furnish a tax estimate has not been paid)		Such persons would include a director of the company who holds directly or indirectly a minimum of 20% of the ordinary share capital of the company
10	Section 153 of the ITA with effect from 1 January 2021	Licensing of Tax Agents	Power to approve applications, renewal and determine fees charged for tax agent licences lies with the MOF	Such powers to be exercised by the Director General of Inland Revenue (“DGIR”) instead. That person may further, within 1 month, appeal to the MOF against that decision.
11	Double Tax Agreement (“DTA”) and Section 65A(1A) of the PITA	Ratification of Multilateral Instrument under Petroleum (Income Tax) Act 1967 (“PITA”)	If there is any conflict between the provisions of a Double Tax Agreement (“DTA”) and the provisions of the PITA, Section 65A of the PITA stipulates that the DTA shall prevail.	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Sharing (MLI) or any other arrangements which modify any existing DTA would also prevail over the PITA.
12	Section 65AA PITA	International Obligations		(New) empower the MOF to declare by way of statutory order that certain arrangements as specified in the order shall have effect in relation to tax under the PITA as well as any other taxes of every kind under any written law
13	Section 100(1) of the ITA and Section 44(1) of the PITA	Extension of Time to Appeal against Assessments under ITA and PITA (any taxpayer who wishes to appeal against an assessment under the ITA or PITA after the expiration of the prescribed period)	To file an appeal, the taxpayer <u>may at any time</u> make an application for extension of time via Form N to the DGIR.	Can only be made to the DGIR within 7 years after the expiration of the prescribed period to file an appeal.
14	Section 91 of the ITA and Section 39 of the PITA	Assessments or Additional Assessments Raised under ITA or PITA in Consequence of Mutual Agreement Procedure in DTAs		To empower the DGIR to raise assessments or additional assessments at any time in consequence of a mutual agreement procedure in DTAs.
15		Special Commissioners of Income Tax (“SCIT”) and the Customs Appeal Tribunal (“CAT”) will be merged into a new Tax Appeal Tribunal (“TAT”).		However, no amendments have been proposed in the Finance Bill 2019 to remove the provisions relating to the SCIT and CAT from the applicable tax legislation and to replace the same with a new set of provisions for the TAT.
16	Item 27(a)(ii) of the First Schedule to the Stamp Act 1949	Stamp Duty on Foreign Currency Loan Agreements (the maximum amount of stamp duty payable on foreign currency loan agreements under Item 27(a)(ii) of the First Schedule to the Stamp Act 1949 be increased from RM500 to RM2,000)	RM500	RM2,000.

17	RPGT rates under Part II of Schedule 5 to the Real Property Gains Tax Act 1976 (“RPGTA”)	Real Property Gains Tax (“RPGT”) Rates	Shall apply to any company whereas RPGT rates under Part III of Schedule 5 to the RPGTA shall apply to an individual who is not a citizen and not a permanent resident or an executor of the estate of a deceased person who is not a citizen and not a permanent resident.	The rates under Part II are only applicable to a company incorporated in Malaysia and a trustee of a trust and the rates under Part III are to be extended to also cover a company not incorporated in Malaysia.
18		Acquisition Price for Real Property Acquired Prior to 1 January 2013	The acquisition price for the disposal of real properties acquired prior to year 2013 by Malaysian citizens and permanent residents.	Market value as at 1 January 2013 to be used instead as the acquisition price for the disposal of real properties acquired prior to year 2013 by Malaysian citizens and permanent residents.
19	Section 21B(1A) of the RPGTA	Retention Sum for RPGT	Confined to disposals of chargeable asset by an individual who is not a Malaysian citizen or permanent resident,	Requirement for the acquirer to retain and pay to the DGIR either 7% of the total value of consideration or the whole of the cash consideration (whichever is lesser) Also cover instances where the disposer is a company not incorporated in Malaysia.
20	Sales Tax Act 2018	Approved Major Exporter Scheme		Allows a trader or manufacturer to be exempted from the whole payment of sales tax on taxable goods that are imported, transported from designated areas or special areas or purchased from a registered manufacturer
21		Clarification on the Commencement Date for the Removal of the Election to be Taxed at RM20,000 for Labuan Entities. Labuan entities which carry on Labuan trading activity are taxed at the rate of 3% under the Labuan Business Activity Tax Act 1990.	Pursuant to the Finance Act 2018, that option has been removed effective from 1 January 2019.	It is proposed that the Finance Act 2018 be amended to clarify that the commencement date for the removal of the said option is from YA 2020.