

Finance Act 1998

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LAWS OF MALAYSIA

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Act 578

FINANCE ACT 1998

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Act 578

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LAWS OF MALAYSIA

Act 578

FINANCE ACT 1998

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Real Property Gains Tax Act 1976, the Stamp Act 1949, the Sales Tax Act 1972, the Customs Act 1967 and the Free Zones Act 1990.

[]

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 1998. Amendments of Acts

2. The Income Tax Act 1967 [Act 53], the Petroleum (Income Tax) Act 1967 [Act 543], the Real Property Gains Tax Act 1976 [Act 169], the Stamp Act 1949 [Act 378], the Sales Tax Act 1972 [Act 64], the Customs Act 1967 [Act 235] and the Free Zones Act 1990 [Act 438] are amended in the manner specified in Chapters II, III, IV, V, VI, VII and VIII respectively.

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CHAPTER II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Except for sections 7, 8, 10, 14, 15 and 18 and paragraphs 21(d) and

21(g), this Chapter shall have effect for the year of assessment 1998 and subsequent years of assessment. (2) Sections 7, 8, 14 and 15 and paragraph 21(g) shall come into force on 1 January 1999.

(3) Section 10 shall be deemed to have come into force on 17 October 1997.

(4) Section 18 shall have effect upon the coming into force of this Act.

(5) Paragraph 21(d) shall have effect for the year of assessment 1999 and subsequent years of assessment.

Deletion of section 3C

4. The Income Tax Act 1967, which in this Chapter is referred to as the "principal Act", is amended by deleting section 3C. Amendment of section 6A

5. Section 6A of the principal Act is amended-- (a) in subsection (1) by substituting for the words "and (3)" the words ", (3) and (3A)";

(b) by inserting after subsection (3) the following subsection: "(3A) A rebate of four hundred ringgit shall be granted to an individual for a year of assessment in respect of the purchase, evidenced by a receipt, of a personal computer in the basis year for that year of assessment: Provided that no rebate under this subsection shall be granted to that individual--

(a) for the four following years of assessment;

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(b) where the personal computer was used for the

purposes of his business; or

(c) where such rebate has been granted to the spouse."; and

(c) in subsection (4) by substituting for the words "and (3)" the words ", (3) and (3A)".

New section 6C

6. The principal Act is amended by inserting after section 6B the following section:

"Tax rebate on fees

6C. Income tax charged for each year of assessment upon the chargeable income of an individual shall be rebated in respect of any fee paid to the Government in the basis year for that year of assessment pursuant to any order made under section 3 of the Fees Act 1951 [Act 209], for the issue of an Employment Pass, Visit Pass (Temporary Employment) or Work Pass before any set off is made under section 110 and any credit is allowed under section 132 or 133: Provided that where the rebate exceeds the income tax charged (before any such rebate) for any year of assessment, the excess shall not be paid to that individual and shall not be available as a credit to set off his tax liability for any subsequent year of assessment. "

Amendment of section 25

7. Section 25 of the principal Act is amended-- (a) in subsection (3) by substituting for the word "eleven" wherever it appears the word "five";

(b) in subparagraph (4) (a) (i) by substituting for the word "nine" wherever it appears the word "five"; and

(c) in paragraphs (4) (b) and (4) (c) and subsection (5) by substituting for the word "eleven" wherever it appears the word "five".

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Amendment of section 27

8. Section 27 of the principal Act is amended-- (a) in paragraphs (2) (b) and (2) (c) by substituting for the word "eleven" wherever it appears the word "five"; and (b) in subsection (3) by substituting for the word "eleven" wherever it appears the word "five".

Amendment of section 34

9. Section 34 of the principal Act is amended-- (a) in paragraph (4) (a) by substituting for the word "seventeen" the word "nineteen";

(b) by deleting the word "and" at the end of paragraph (6) (i); (c) by substituting for the full stop at the end of paragraph (6) (j) the word "; and"; and

(d) by inserting after paragraph (6) (j) the following paragraph: "(k) an amount equal to the expenditure incurred by the relevant person in the relevant period for

sponsoring any arts or cultural activity approved by the Ministry of Culture, Arts and Tourism:

Provided that the amount deducted shall not exceed two hundred thousand ringgit."

Amendment of section 39

10. Subsection 39(1) of the principal Act is amended by inserting after paragraph (g) the following paragraph:

"(h) any sum paid by way of a bonus to an employee in excess of two twelfths of his wages or salary;"

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Amendment of section 44

11. Section 44 of the principal Act is amended-- (a) by substituting for paragraph (1) (d) the following paragraph: "(d) thereafter, by any deduction falling to be so made pursuant to subsection (8), (9), (10) or (11).";

(b) in subsection (6A) by substituting for the words "or manuscript" the words ", manuscript or painting"; and (c) by inserting after subsection (8) the following subsections: "(9) There shall be deducted pursuant to this

subsection from the aggregate income of a relevant person who is an individual for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or contribution in kind (the value to be determined by the relevant local authority) made by him in the basis year for that year for the provision of facilities in public places for the benefit of disabled persons. (10) There shall be deducted pursuant to this

subsection from the aggregate income of a relevant person who is an individual for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or the cost or value (as certified by the Ministry of Health) of any gift of medical equipment made by him in the basis year for that year to any health care facility approved by that Ministry, and that amount shall not exceed twenty thousand ringgit.

(11) There shall be deducted pursuant to this

subsection from the aggregate income of a relevant person for the relevant

year reduced by any deduction for that year in accordance with subsection (1) an amount equal to the value of any gift of painting (to be determined by the National Art Gallery or any state art gallery) made by him in the basis year for that year to the National Art Gallery or any state art gallery."

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Amendment of section 48

12. Section 48 of the principal Act is amended by substituting for paragraph (3) (a) the following paragraph:

"(3) (a) in respect of a child over the age of eighteen years and is receiving instruction at any educational establishment mentioned therein or 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) but not including a child receiving instruction at any school, then, if that individual satisfies the Director General that he has directly expended in that basis year for that year of assessment a sum or sums exceeding the ordinary deduction on the maintenance of that child or in making any payment in connection with that child's further education, there shall be allowed in substitution for the ordinary deduction, a deduction equal to the total sum or sums so expended but not exceeding-- (i) four times the amount of the ordinary deduction if that child is receiving further education in

Malaysia;

(ii) four times the amount of the ordinary deduction if that child commenced receiving further education in a place outside Malaysia at any time in the

basis year for the year of assessment 1994 or at

any time in the basis year for any prior year of

assessment; or

(iii) twice the amount of the ordinary deduction if that child commenced receiving further education

in a place outside Malaysia beginning from 1

January 1994 to 16 October 1997."

Amendment of section 60

13. Section 60 of the principal Act is amended-- (a) by substituting for the full stop at the end of paragraph (2) (c) a colon;

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(b) by inserting after paragraph (2) (c) the following proviso: "Provided that--

(i) where the insurer also carries on life re-insurance business, the life re-insurance business shall be a separate source from life business and shall

be treated as a general business; or

(ii) where the insurer also carries on inward life re-insurance business, the inward life re-insurance business shall be a separate source from life

business and shall be treated as a general

business;";

(c) by inserting after the proviso to paragraph (2) (c) the following paragraph:

"(d) where an insurer carries on only life re-insurance business, the life re-insurance business shall be treated as a general business.";

(d) in subsection (3) by inserting after the words "life fund" the words ", other than income arising from life re-insurance business,";

(e) in subparagraph (3A) (a) (iii) by inserting after the words "life fund" the words ", other than the surplus from life re-insurance business,";

(f) in subparagraph (3A) (b) (ii) by inserting after the words "life fund" the words ", other than the deficit from life re-insurance business";

(g) in subsection (4) by inserting after the words "the life fund" the words ", other than income arising from life re-insurance business,";

(h) in subparagraph (4A) (a) (iii) by inserting after the words "life fund" the words ", other than the surplus from life re-insurance business,";

(i) in subparagraph (4A) (b) (ii) by inserting after the words "life fund" the words ", other than the deficit from life re-insurance business";

(j) by inserting after subsection (5B) the following subsection: "(5C) The adjusted income for the basis period for a year of assessment from the life re-insurance business of a life insurer resident for the basis year for that year of assessment shall consist of an amount arrived at by applying subsection (5) as if references therein to-- (a) "general business of an insurer" were references to "life re-insurance business of a life insurer"; (b) "general policies" were references to "life

re-insurance policies"; and

(c) "reserve fund for unexpired risks" were references to "actuarial valuation reserve" ';

(k) by inserting after subsection (6B) the following subsection: "(6C) The adjusted income for the basis period for a year of assessment from the life re-insurance business of a life insurer not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, consist of an amount arrived at by applying subsection (6) as if references therein to-- (a) "general business of an insurer" were references to "life re-insurance business of a life insurer"; (b) "Malaysian general policies" were references to "Malaysian life re-insurance policies"; and

(c) "reserve fund for unexpired risks" were references to "actuarial valuation reserve" '; and

(l) by substituting for subsection (11) the following subsection: "(11) In this section, sections 60A and 60B--

"general business" means all insurance business

which is not life business;

"general policy" means a policy other than a life policy;

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"insurer" means a person who carries on insurance business and includes a professional re-insurer;

"investments" includes any accretions thereto;

"inward re-insurance" means any re-insurance of a risk under a policy where

the risk is outside Malaysia and the original insurance policy--

(a) is issued by an insurer not resident in Malaysia but not issued by a branch in Malaysia of such

insurer; or

(b) is issued by a branch outside Malaysia of an

insurer resident in Malaysia,

and where any risk is in transit in Malaysia it shall be deemed to be outside Malaysia;

"inward re-insurance contract" means a Malaysian

policy in respect of inward re-insurance;

"life business" has the same meaning assigned thereto under section 2 of the Insurance Act 1996 [Act 553]; "life policy" has the same meaning assigned thereto under section 2 of the Insurance Act 1996;

"Malaysian life fund" means the fund established

pursuant to section 38 of the Insurance Act 1996; "Malaysian policy" has the same meaning assigned

thereto under section 2 of the Insurance Act 1996; "offshore insurance" means insurance of a risk under a general policy where the risk is outside Malaysia and the insurance policy is issued by an insurer resident in Malaysia or by a branch in Malaysia of an insurer not resident in Malaysia, and where any risk is in transit in Malaysia it shall be deemed to be outside Malaysia;

"offshore insurance policies" means policies issued in respect of offshore insurance;

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"policy" has the same meaning assigned thereto under section 2 of the Insurance Act 1996;

"premium" has the same meaning assigned thereto

under section 2 of the Insurance Act 1996;

"re-insurance" has the same meaning assigned thereto under section 2 of the Insurance Act 1996;

"revenue account" means the revenue account lodged in respect of life business under section 87 of the Insurance Act 1996.'.

Amendment of section 60E

14. Subsection 60E(4) of the principal Act is amended by substituting for the word "twelve" the word "six". Amendment of section 91

15. Section 91 of the principal Act is amended-- (a) in subsection (1) by substituting for the word "twelve" the word "six"; and

(b) in paragraph (2) (b) by substituting for the word "twelve" the word "six".

Amendment of section 108

16. Section 108 of the principal Act is amended-- (a) by inserting after subsection (2D) the following subsection: "(2E) 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 1998, 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 twenty-eight per cent would be equal to--

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

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(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 (4D) the following subsection: "(4E) In any case where tax has been deducted or

deemed to have been deducted at the rate of thirty per cent on any dividend paid, credited or distributed during the basis year for the year of assessment 1998 to which subsection (2E) applies, the compared total shall be determined at the rate of twenty-eight per cent.". Amendment of section 110

17. Section 110 of the principal Act is amended-- (a) by substituting for subsection (1) the following subsection: "(1) Any tax which is deducted from any dividend

under section 108 or from any interest or royalty under section 109 or from any payment for services, technical advice, assistance, or rental or other income under section 109B (including any amount recovered by the Director General pursuant to section 109(2) or 109B(2) but excluding any increase thereof) shall, when the dividend, interest, royalty, or payment for services, technical advice, assistance, or rental or other income is gross income of a person from a source of his for the basis period for a year of assessment, be set off against the tax charged on his chargeable income, if any, for that year."; and

(b) by inserting after subsection (1D) the following subsection: "(1E) Notwithstanding subsection (1), where tax on any dividend paid, credited or distributed during the basis year for the year of assessment 1998 has been deducted at the rate of thirty 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

section 108(2E).".

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Amendment of section 120

18. Paragraph 120(e) of the principal Act is amended by inserting after the word "section" the words "83(5) or".

Amendment of Schedule 1

19. Schedule 1 to the principal Act is amended-- (a) in Part I--

(i) in paragraph 1 by inserting after the words "where paragraphs" the word "1A, ";

(ii) by inserting after paragraph 1 the following paragraph:

"1A. Except where paragraph 2 provides

otherwise, income tax shall be charged for a

year of assessment on the chargeable income of

a person (other than a company) not resident

for the basis year for that year of assessment at the rate of 30 per cent on every ringgit of the

chargeable income.";

(iii) in paragraph 2--

(aa) by deleting subparagraph (b); and

(bb) by substituting for the figure "30" the

figure "28"; and

(b) in Part VIII by inserting after the words "life fund" the words ", other than income arising from life re-insurance business and inward life re-insurance business,". Amendment of Schedule 3

20. Schedule 3 to the principal Act is amended in paragraph 37C by substituting for the word "re-exported" the words "distributed or re-exported and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16 or 17 an allowance of an amount equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment".

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Amendment of Schedule 7A

21. 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--

(a) has been in operation for not less than twelve months;

(b) has incurred in the basis period for a year of assessment capital expenditure on a factory, plant or machinery used in Malaysia for the purposes

of a qualifying project; and

(c) has shown an increase in productivity in the basis period for that year of assessment or in the basis period for the following year of assessment,

there shall be given to the company for that year of assessment a reinvestment allowance of an amount

equal to sixty per cent of that expenditure:

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

(b) in paragraph 1A by inserting after the word "which" the words "has been in operation for not less than twelve months and";

(c) by substituting for paragraph 2 the following paragraph: "2. An allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred in the basis periods for five consecutive years of assessment beginning from the year of assessment for the basis period in which the capital expenditure was first incurred.";

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(d) by inserting after paragraph 2 the following paragraph: "2A. Where an asset is disposed of at any time within two years from the date of acquisition of that asset, an allowance given under paragraph 1 or 1A in respect of that asset shall be deemed to have not been given to the company to which it would otherwise be entitled."; (e) by substituting for paragraph 3 the following paragraph: "3. Where an allowance is given to a company under paragraph 1 or 1A for a year of assessment, so much of the statutory income of that business of that company for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowances as the case may be) but not exceeding seventy per cent of the statutory income shall be exempt from tax for that year of assessment:

Provided that where the qualifying project is located within the States of

Sabah, Sarawak, the Eastern Corridor of Peninsular Malaysia and such other areas which the Minister may from time to time determine or where the qualifying project has achieved the level of productivity as prescribed by the Minister, the amount to be exempt shall be equal to the allowance (or to the aggregate amount of any such allowances as the case may be) but not exceeding the statutory income for that year of assessment.";

(f) by substituting for paragraph 4 the following paragraph: "4. Where, by reason of the restriction of the

allowance to seventy per cent of the statutory income or of an insufficiency or absence of statutory income from a business of the company for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any allowance or allowances to which the company is entitled under this Schedule for that year of assessment in relation to the source consisting of that business, so much of the allowance or allowances as cannot be given for that year shall be given to the company under this Schedule for the first subsequent year of assessment for the basis period for 21Finance

which there is statutory income from that business, and for subsequent years of assessment until the company has received the whole of the allowance or allowances to which it is so entitled.";

(g) in paragraph 6--

(i) by inserting after the words "this Schedule," the words "where paragraph 2A applies or";

(ii) by substituting for the word "twelve" the word "six"; and

(iii) by inserting after the words "make such" the words "assessment or";

(h) in paragraph 7--

(i) by substituting for subparagraph (b) the following subparagraph:

"(b) for the period prescribed under section 29(2), 29A(3), 29B(2), 29c(2) or 29G(2) of the

Promotion of Investments Act 1986 [Act

327] in respect of a promoted activity or

promoted product for which the company

has been granted approval under section

27, 27A, 27B, or 27F of that Act;"; and

(ii) by deleting subparagraph (c);

(i) by substituting for subparagraph 8(a) the following subparagraph:

"(a) a project undertaken by a company, in expanding, modernising or automating its existing business

in respect of manufacturing or processing of a

product or any related product within the same

industry or in diversifying its existing business into any related product within the same

industry;"; and

(j) in paragraph 9--

(i) by inserting after the definition of "capital expenditure" the following definition:

` "disposed of" means sold, conveyed,

transferred, assigned, or alienated with or

without consideration;';

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(ii) by substituting for the full stop at the end of the definition of "Eastern Corridor of Peninsular

Malaysia" a semicolon; and

(iii) by inserting after the definition of "Eastern Corridor of Peninsular Malaysia" the following definition: ` "incurred" has the same meaning assigned

thereto in paragraphs 46 and 55 of Schedule 3.'.

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX)

ACT 1967

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

22. (1) Except for sections 24, 27 and 28, this Chapter shall have effect for the year of assessment 1998 and subsequent years of assessment.

(2) Section 24 shall be deemed to have come into force on 17 October 1997.

(3) Sections 27 and 28 shall come into force on 1 January 1999. Amendment of section 16

23. The Petroleum (Income Tax) Act 1967, which in this Chapter is referred to as the "principal Act", is amended in section 16-- (a) in paragraph (3) (a) by substituting for the word "seventeen" the word "nineteen"; and

(b) by inserting after subsection (7D) the following subsection: "(7E) There shall be deducted from the relevant gross income an amount equal to the amount of expenditure incurred by the relevant chargeable person in the relevant period for sponsoring any arts or cultural activity approved by the Ministry of Culture, Arts and Tourism: Provided that the amount deducted shall not exceed two hundred thousand ringgit."

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Amendment of section 18

24. Subsection 18(1) of the principal Act is amended by inserting after paragraph (k) the following paragraph:

"(l) any sum paid by way of a bonus to an employee in excess of two twelfths of his wages or salary;"

Amendment of section 22

25. Section 22 of the principal Act is amended-- (a) in subsection (1A) by substituting for the words "or manuscript" the words ", manuscript or painting"; and (b) by inserting after subsection (1A) the following subsections: "(1B) The chargeable income of a chargeable person for a year of assessment shall consist of the amount of his assessable income for that year reduced by an amount equal to any gift of money or contribution in kind (the value to be determined by the relevant local authority) made by him in the

basis period for that year of

assessment to the Government or State Government

for the provision of facilities in public places for the benefit of disabled persons.

(1C) The chargeable income of a chargeable person for a year of assessment shall consist of the amount of his assessable income for that year reduced by an amount equal to any gift of money or the cost or value (as certified by the Ministry of Health) of any gift of medical equipment made by him in the basis period for that year of assessment to any health care facility approved by that Ministry, and that amount shall not exceed twenty thousand ringgit.

(1D) The chargeable income of a chargeable person for a year of assessment shall consist of the amount of his assessable income for that year reduced by an amount equal to the value of any gift of painting (to be determined by the National Art Gallery or any state art gallery) made by him in the basis period for that year of

assessment to the National Art Gallery or any state art gallery."

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Amendment of section 23

26. Subsection 23(1) of the principal Act is amended by substituting for the word "forty" the words "thirty-eight".

Amendment of section 39

27. Section 39 of the principal Act is amended-- (a) in subsection (1) by substituting for the word "twelve" the word "six"; and

(b) in paragraph (2) (b) by substituting for the word "twelve" the word "six".

Amendment of section 50

28. Subsection 50(2) of the principal Act is amended by substituting for the word "twelve" the word "six".

CHAPTER IV

AMENDMENTS TO THE REAL PROPERTY GAINS TAX

ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

29. (1) Section 30 shall come into force on 1 January 1999. (2) Sections 31 and 32 shall be deemed to have come into force on 17 October 1997.

Amendment of section 15

30. The Real Property Gains Tax Act 1976, which in this Chapter is referred to as the "principal Act", is amended in subsection 15(1) by substituting for the word "twelve" the word "six". 25Finance

Amendment of Schedule 2

31. Schedule 2 to the principal Act is amended in paragraph 34A--

(a) by substituting for the colon at the end of subsubparagraph (2) (b) a full stop;

(b) by deleting the proviso to subparagraph (2); and (c) by substituting for subparagraph (3) the following subparagraph:

"(3) For the purposes of this paragraph, the acquisition price of a chargeable asset shall--

(a) where subparagraph (2) (a) applies, be deemed

to be equal to a sum determined in accordance

with the formula--

$A \times C,$

B

where A is the number of shares deemed

to be a chargeable asset;

B is the total number of issued

shares in the relevant company at

the date of acquisition of the chargeable asset; and

C is the defined value of the real property or shares or both owned by the relevant company

at the date of acquisition of the chargeable asset;

(b) where subparagraph (2) (b) applies, be determined in accordance with paragraph 4 or 9. "

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Amendment of Schedule 5

32. Schedule 5 to the principal Act is amended by substituting for Part III the following Part:

"
PART III

In the case of an individual who is not a citizen and not a permanent resident, the following rates of tax shall apply: Category of disposal Rate of tax

Disposal within five years after the 30 per cent date of acquisition of the chargeable asset

Disposal in the sixth year after the 5 per cent date of acquisition of the chargeable

asset or therefor

".

CHAPTER V

AMENDMENT TO THE STAMP ACT 1949

Commencement of amendment to the Stamp Act 1949

33. This Chapter shall be deemed to have come into force on 1 January 1998.

Amendment of section 55

34. The Stamp Act 1949 is amended in subsection 55(2) by substituting for the words "one ringgit" the words "ten ringgit".

AMENDMENT TO THE SALES TAX ACT 1972

Commencement of amendment to the Sales Tax Act 1972

35. This Chapter shall be deemed to have come into force on 17 October 1997.

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Amendment of section 14

36. Section 14 of the Sales Tax Act 1972 is amended by substituting for the full stop at the end of that section a colon and by inserting thereafter the following proviso:

"Provided that, notwithstanding that any person is exempted under such order, such person may apply to be licensed as a licensed manufacturer, whereupon the provisions of this Act shall apply to such person."

CHAPTER VII

AMENDMENTS TO THE CUSTOMS ACT 1967

Commencement of amendments to the Customs Act 1967

37. (1) This Chapter, except paragraph 38(d) and sections 47, 48, 49, 51, 52 and 53, shall be deemed to have come into force on 17 October 1997.

(2) Paragraph 38(d) and sections 47, 48, 49, 51, 52 and 53 shall come into force on a date to be appointed by the Minister by notification in the Gazette.

Amendment of section 2

38. The Customs Act 1967, which in this Chapter is referred to as the "principal Act", is amended in subsection 2(1)— (a) by inserting after the definition of "export" the following definition:

` "export by air" includes exportation in any manner or by any means by air;`;

(b) by inserting after the definition of "import" the following definition:

` "import by air" includes importation in any manner or by any means by air;`;

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(c) by inserting after the definition of "legal landing place" the following definition:

` "licensed carrier" means a person approved by

the Director General to operate vehicles by road for the carriage of any goods in transit or any dutiable goods under this Act or under the Excise Act 1976 [Act 176];`; and

(d) by substituting for the definition of "value" in relation to imported goods the following definition:

` "value" in relation to imported goods means customs value as determined under subsection 142(35B);`.

Amendment of section 21

39. The principal Act is amended by substituting for section 21 the following section:

"Time of importation and exportation when duty is imposed or repealed

21. When by virtue of an order made under subsection 11(1) a customs duty is fixed on any goods which previously were not dutiable goods or any customs duty on goods is abolished or when the importation or exportation of any goods is prohibited or any such prohibition is abolished by an order made under section 31 and it becomes necessary for the purpose of this Act to determine

the time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such importation or exportation shall, notwithstanding anything in this Act contained, be deemed to be the time at which the goods are released by the proper officer of customs."

Amendment of section 24

40. Section 24 of the principal Act is amended by inserting after the word "airport" the words "and such goods may be cleared at an inland clearance depot or an inland customs station". Amendment of section 29

41. Section 29 of the principal Act is amended by inserting after the word "airport" the words "and such goods may be cleared at an inland clearance depot or an inland customs station". 29Finance

Amendment of section 35

42. Section 35 of the principal Act is amended-- (a) in paragraph (a) by deleting the word "or" at the end of the paragraph;

(b) in paragraph (b) by substituting for the full stop at the end of the paragraph a semicolon and inserting thereafter the word "or"; and

(c) by inserting after paragraph (b) the following paragraph: "(c) if they have been cleared by a proper officer of customs at an inland clearance depot or at an

inland customs station on their route out of

Malaysia through a customs port or airport."

Amendment of section 66

43. The proviso to subsection 66(1) of the principal Act is amended--

(a) in paragraph (b) by inserting before the words "inland customs station" wherever they appear the words "inland clearance depot or"; and

(b) by substituting for paragraph (c) the following paragraph: "(c) where the bill of lading, airway bill, invoice or other document covering any such goods landed

at a customs port or airport shows them to be

consigned to a person at an inland clearance depot or at an inland customs

station, such goods may

be forwarded by rail or road to an inland clearance depot or to an inland customs station, and such

goods shall be deemed for the purposes of this

Part, and Part IX, to have first arrived on reaching such inland clearance depot or inland customs

station;".

Amendment of section 80

44. Subsection 80(2) of the principal Act is amended by substituting for paragraphs (a), (b), (c) and (d) the following paragraphs: "(a) at an inland clearance depot or at an inland customs station or at a customs port where goods are loaded if export is by sea;

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(b) at an inland clearance depot or at an inland customs station where goods are loaded or at the place of export if export is by rail;

(c) at the place of export if export is by road, but the Director General may allow the declaration to be made to a proper officer of customs at an inland clearance depot or at an inland customs station if such export by road is on their route to a customs port or airport or any other place approved by him;

(d) at an inland clearance depot or at an inland customs station or at a customs airport where goods are loaded if export is by air."

New section 87A

45. The principal Act is amended under the heading "Non-dutiable goods" by inserting after section 87 the following section: "Provisional declaration of exported goods

87A. (1) Notwithstanding sections 80(1), 84, 85, 86 and 87, the Director General may allow any document approved by him to be used as a provisional declaration, in lieu of the prescribed form, for goods if--

(a) such goods are to be exported by air, sea, rail or in any other manner approved by the Director General; (b) unnecessary delay will be occasioned in preparing the prescribed form;

(c) such goods are not subject to a drawback claim under sections 93 and 99;

(d) such goods are not prohibited from export; and (e) the exporter of such goods makes personally or by his agent to a proper officer of customs at the place of export where the provisional declaration was

approved, a declaration substantially in the prescribed form within 7 days after the release of such goods. (2) The provisional declaration referred to in subsection (1) shall give a full and true account of the number, description and quantity, weight or measure, value and destination of such goods. 31Finance

(3) Paragraphs 80(2) (a), (b), (c) and (d) shall also be applicable to a provisional declaration under this section in relation to places where such provisional declaration may be made.". New section 91A

46. The principal Act is amended by inserting after section 91 the following section:

"Licensed carrier

91A. (1) The Director General may grant a licence to any person to act as a licensed carrier subject to such terms and conditions as he may deem fit to impose and may suspend or withdraw such licence.

(2) In granting a licence under subsection (1), the Director General may require such security to be furnished as he may consider adequate to cover the customs duty payable on the goods moved and for the faithful and incorrupt conduct of such licensed carrier and of his agents and employees acting for him both as regards the customs and his employers.". New section 100A

47. The principal Act is amended by inserting after section 100 the following section:

"Records of imported goods

100A. (1) Every person who has possession of documents and records pertaining to valuation of goods imported shall preserve for a period of six years following the importation of the goods all records that relate to the purchase of, importation of, cost of, value of, payment for and disposal of the goods.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and--

(a) where the value of the goods can be ascertained, shall be liable to a fine of not less than two times and not more than ten times the value of the goods; or

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(b) where the value of the goods cannot be ascertained, shall be liable to a fine of not less than one hundred thousand ringgit and not more than five hundred

thousand ringgit."

Amendment of section 115

48. Paragraph 115(1)(b) of the principal Act is amended by substituting for subparagraph (i) the following subparagraph: "(i) for property other than dutiable or uncustomed goods, its open market value, and for dutiable or uncustomed goods, their value, on the date on which the property or goods are so returned;".

New section 125A

49. The principal Act is amended by inserting after section 125 the following section:

"Confidentiality of information

125A. (1) Any information relating to valuation is confidential and any proper officer of customs or any person who in the ordinary course of his duties come into possession of or has control of or access to such information shall not--

(a) communicate such information; or

(b) suffer or permit any person to have access to such information.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) Notwithstanding subsection (1), it shall not be an offence--

(a) as regards information relating to the valuation of imported goods, if disclosure is made--

(i) on the order of a court; or

(ii) after written consent has been obtained from the person or government

giving such

information; and

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(b) as regards information relating to the valuation of exported goods, if the Director General deems it

expedient or necessary to allow disclosure of certain information to such person as he thinks fit."

Amendment of section 133

50. Subsection 133(1) of the principal Act is amended-- (a) in paragraph (e) by deleting the word "or" at the end of the paragraph;

(b) in paragraph (f) by substituting for the comma at the end of the paragraph a semicolon and inserting thereafter the word "or"; and

(c) by inserting after paragraph (f) the following paragraph: "(g) being so required under section 87A fails to make a declaration in the prescribed form, within the

stipulated period thereunder, of goods exported,". Amendment of section 142

51. Section 142 of the principal Act is amended by inserting after paragraph (35A) the following paragraph:

"(35B) to determine the customs value of imported goods;". New section 143A

52. The principal Act is amended by inserting after section 143 the following section:

"Appeal on valuation of imported goods

143A. (1) Notwithstanding section 143, any person aggrieved by a decision of the Director General on the valuation of imported goods may appeal therefrom to the court. (2) On an appeal under subsection (1), the court may-- (i) dismiss the appeal;

(ii) substitute for the amount decided upon by the Director General another amount; or

(iii) make such other decision as the court deems fit." 34 Laws of Malaysia

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CHAPTER VIII

AMENDMENTS TO THE FREE ZONES ACT 1990

Commencement of amendments to the Free Zones Act 1990

53. This Chapter shall come into force on a date to be appointed by the Minister by notification in the Gazette.

Amendment of section 2

54. The Free Zones Act 1990, which in this Chapter is referred to as the "principal Act", is amended in subsection 2(1) by substituting for the definition of "value" in relation to imported goods the following definition:

` "value" in relation to imported goods has the meaning assigned to it under section 2 of the Customs Act 1967 [Act 438].'. Amendment of section 27

55. Paragraph 27(1) (b) of the principal Act is amended by substituting for subparagraph (i) the following subparagraph: "(i) for property other than dutiable or uncustomed goods, its open market value, and for dutiable or uncustomed goods, their value, on the date on which the property or goods are so returned;".

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FINANCE ACT 1998

LIST OF AMENDMENTS

Amending law Short title In force from

? NIL ?

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FINANCE ACT 1998

LIST OF SECTIONS AMENDED

Section Amending authority In force from

? NIL ?

DICETAK OLEH

PERCETAKAN NASIONAL MALAYSIA BERHAD,

KUALA LUMPUR

BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA



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