27 November 2024

TaxSnaps

2025 Budget and Finance Bill 2024

Following the 2025 Budget announcement on 18 October 2024, the Finance Bill 2024 was made available for first reading at Parliament recently. Besides the said Finance Bill, another bill was also made available – Measures for the Collection, Administration and Enforcement of Tax Bill 2024. This edition of TaxSnaps covers certain selected key proposed amendments to the Income Tax Act 1967 ("ITA"), which were not covered in our earlier edition of the 2025 Budget Highlights.

Amendments to the ITA

Dividend Tax

Dividend tax at the rate of 2% is applicable to the chargeable dividend income of an individual from the dividends paid, credited or distributed by a company in excess of RM100,000 (whether in monetary form or otherwise, to the individual shareholders, either through direct shareholding or a nominee). In this regard, any deduction relating to the first RM100,000 of exempted dividend income is disregarded for the purpose of ascertaining the chargeable dividend income of the individual.

A company is required to furnish individual shareholders with a dividend certificate stating the gross amount and the amount paid or credited, upon paying, crediting or distributing the dividends. Where the dividends include property other than money, the dividend certificate is required to state the market value of that property at the time of distribution.

Based on our observation, dividend tax will be triggered in the year when the dividend income is received by the individual shareholders. Hence individual shareholders should track when dividends are being declared by companies to determine the taxability of the dividends received. Additionally, companies that declare dividends in specie of property will now be required to state the market value of that property at the time of distribution. At this juncture, it is unclear which method of property valuation will be acceptable by the Inland Revenue Board (IRB).

Effective Date : From Year of Assessment 2025

Capital Gains Tax (“CGT”) – Section 15C Shares

Section 15C was a new section under the ITA introduced when it was announced in the previous Budget 2024 that CGT will be implemented in Malaysia with effect from 1 January 2024.

In essence, Section 15C of the ITA states that the gains (accruing to a company, limited liability partnership (“LLP”), trust body or co-operative society) on the disposal of capital asset consisting of shares of a controlled company (“relevant company”) incorporated outside Malaysia shall be deemed to be derived from Malaysia where the relevant company owns real property situated in Malaysia or shares of another controlled company or both, subject to certain ‘conditions’ being met. Hence, such gains will be subject to CGT.

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Amendments to the ITA *(cont'd)*

Capital Gains Tax ("CGT") – Section 15C Shares *(cont'd)*

In the Finance Bill 2024, certain amendments were made to Section 15C of the ITA. Please refer to the following selected key points on the said amendments that may be of interest to you –

- Meaning of "another controlled company"

    - In brief, there is a need to analyse the Section 15C requirements to determine whether the real property situated in Malaysia might be owned directly or indirectly by the 'other' controlled companies below the relevant company. For example, in a complex vertical structure of a group of companies, the indirect ownership of a real property situated in Malaysia may occur. Hence, any disposal of shares of the relevant company within such structure might trigger the CGT (subject to certain 'conditions' being met; for example, the '75% threshold test').

- CGT impact on RPC shares – date of acquisition and acquisition price of the relevant company which is an RPC prior to the introduction of CGT

    - With effect from 1 January 2024, gains on the disposal of RPC ('real property company') shares by a company, LLP, trust body or co-operative society is no longer subject to real property gains tax ("RPGT") under the Real Property Gains Tax Act 1976 ("RPGTA").

    - RPC shares which were 'defined' under the provisions of the RPGTA prior to 1 January 2024, shall be regarded as Section 15C shares under the ITA. Gains arising from the disposal of Section 15C shares of a relevant company by a company, LLP, trust body or co-operative society will be subject to CGT.

    - New subsections under Section 15C is introduced to provide clarity on the date of acquisition and acquisition price of the relevant company (an RPC prior to 1 January 2024) which shall be aligned with the date of acquisition and acquisition price of RPC shares under the provisions of the RPGTA.

There are also other amendments made to Section 15C of the ITA not specifically mentioned above. Do consult with us on the CGT and RPGT impact prior to future disposal of shares to avoid any unwarranted chargeability in your organization's corporate plans.

Effective Date : From 1 January 2025

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Amendments to the ITA *(cont'd)*

Special deduction for contribution made to a charity or community project; and for expenditure incurred on the provision of infrastructure in relation to its business and available for public use

- The above special deductions are covered under Sections 34(6)(h) and 34(6)(ha) of the ITA respectively. Where the above special deductions are to be made, the following new conditions have been proposed --

  - if the amount of contribution/expenditure incurred is not more than RM300,000, the contribution/expenditure incurred, and the project shall need to be verified and approved by the relevant Government authority.

  - if the amount of contribution/expenditure incurred is more RM300,000, the contribution/expenditure incurred shall need to be verified by the relevant Government authority and the project shall be approved by the Minister of Finance (Ministry of Finance ("MOF")).

With the above new conditions proposed, taxpayers, whether in the circumstances of their CSR initiatives or otherwise, who would like to benefit from the said Section 34 special deductions (which allows for an outright revenue deduction for such costs) must ensure that the expenditure incurred is verified and approved by the relevant Government authority, or where applicable, approved by the MOF.

We hope that an announcement will be made in the near future as to identify who the relevant Government authority is in these situations and the processes involved in the abovementioned verification and approvals.

Effective Date : From 1 April 2025

e-Invoicing and Tax Identification Number ("TIN")

It is proposed that new subsections be introduced under Section 66A to make TIN accessible to any person. The TIN shall not be construed as classified material as defined under the relevant Section of the ITA.

The TIN is one of the required fields for the purposes of generating an e-Invoice. By making the TIN accessible to any person, it facilitates the issuance of an e-Invoice as it constitutes a mandatory field in the e-Invoice.

Any person who misuses the TIN of another person, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding RM4,000 or to imprisonment not exceeding 1 year or to both.

Effective Date : From 1 January 2025

Contact Our Experts

Mr Anand Chelliah
Managing Partner
Tax Services
E: anand.chelliah@bakertilly.my

Mr Yohan Francis Xavier
Executive Director,
International Tax & Transfer Pricing Services
E: yohan.xavier@bakertilly.my

Mr Marcus Tan
Executive Director
Tax Advisory Services
E: marcus.tan@bakertilly.my

Mr Murugan Anbanantham
Director
Technical & Tax Compliance
E: murugan.anbanantham@bakertilly.my

Ms Tay Siew Chu
Director
Tax Compliance
E: siewchu.tay@bakertilly.my

Ms Wong Ngar Ting
Associate Director, Tax Services
Tax Compliance
E: ngartheng.wong@bakertilly.my

Our Experts - Regional

Mr Huang Shze Jiun
Managing Partner
Johor Bahru
E: sj.huang@bakertilly.my

Ms Joanne Khor
Tax Director
Penang
E: joanne.khor@bakertilly.my

Mr Ni Chen Chuen
Tax Director
Sabah
E: chenchuen.ni@bakertilly.my

Ms Khoo Shaw Cbyn
Senior Managing Consultant,
Tax Services, Batu Pahat
E: shawcbyn.khoo@bakertilly.my

Ms Wong Poh Ling
Senior Managing Consultant
Tax Services, Seremban
E: pohling.wong@bakertilly.my

Our Offices

Kuala Lumpur Head Office
Baker Tilly Tower
Level 10 Tower 1 Avenue 5
Bangsar South City
59200 Kuala Lumpur

T: +603 2297 1000
F: +603 2282 9980

www.bakertilly.my

Penang
9-2, 9th Floor, Wisma Penang Garden 42,
Jalan Sultan Ahmad Shah
10050 Georgetown

T: +604 227 9258
F: +604 227 5258

Johor Bahru
38-2, Jalan Sri Pelangi 4
Taman Pelangi
80400 Johor Bahru

T: +607 332 6925 / 6926
F: +607 332 6988

Kota Kinabalu
1-3-1A, 3rd Floor
Block B, Kolam Centre Phase II
Jalan Lintas, Luyang
88300 Kota Kinabalu

T: +60 88 233 791
F: +60 88 249 691

Maleka
2, Ground Floor, Jalan PS 3
Plaza Semabok
Semabok
75050 Melaka

T: +606 282 6422
F: +606 283 7280

Batu Pahat
33, Jalan Penjaja 3,
Ground Floor
Kim's Park Business Centre
83000 Batu Pahat

T: +607 431 5403
F: +607 431 4840

Seremban
Level 2, Wisma Sim Du
37, Jalan Dato' Bandar Tunggal
70000 Seremban

T: +606 762 2518 / 763 8936
F: +606 763 6950

Segamat
125, Jalan Susur Pemuda 2
85000 Segamat

T: +607 932 1125
F: +607 931 1125

Labuan
1st Floor, U0509
Lazenda Commercial Centre Phase 11,
Jalan Tun Mustapha
87000 Labuan

T: +608 744 0800

Phnom Penh (Cambodia)
No. 87, Street 294
Sangkat Boueng Keng Kang I
Khan Chamkarmon
Phnom Penh, Cambodia

T: +855 2398 7100
F: +855 2398 7388