

## Malaysia releases 2020 Budget

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### Executive summary

Malaysia announced its 2020 budget (the Budget) on 11 October 2019. The Budget seeks to encourage private sector and foreign investment through targeted incentives. No new taxes were introduced.

This Alert summarizes the key Budget proposals.

### Detailed discussion

#### Tax incentive proposals<sup>1</sup>

- **Fortune 500 companies and global unicorns:**<sup>2</sup> RM1 billion (US\$239 million) per year for a period of five years will be allocated for customized incentive packages<sup>3</sup> to attract Fortune 500 companies and global unicorns in the high technology, manufacturing, creative and new economic sectors. To qualify, companies must invest at least RM5 billion (USD\$1.2 billion) each to generate additional economic activities that will support Malaysia's small and medium enterprises. It is expected that this initiative will create 150,000 high-quality jobs<sup>4</sup> over the next five years and strengthen Malaysia's manufacturing and services economies.

- ▶ **Export market:** RM1 billion per year for a period of five years will be allocated to provide customized incentive packages<sup>5</sup> to Malaysian businesses that can demonstrate their ability to grow and export their products and services globally.
- ▶ **Electrical and electronic (E&E) sector:** An income tax exemption for a period of up to 10 years will be given to E&E companies investing in selected high value-added knowledge-based services.<sup>6</sup> In addition, E&E companies<sup>7</sup> may be eligible to apply for a Special Investment Tax Allowance (ITA) of 50% of qualifying capital expenditure incurred within a five-year period that can be used against 50% of statutory income.<sup>8</sup> Applications for the ITA may be submitted to the Malaysian Investment Development Authority (MIDA) from 1 January 2020 to 31 December 2021.
- ▶ **Intellectual property:** Qualifying income derived from the development of patents and copyright software will be tax exempt for a period of up to 10 years. Exempt income will be determined in accordance with the OECD's<sup>9</sup> BEPS<sup>10</sup> Action 5 Modified Nexus Approach. Applications may be submitted to MIDA between 1 January 2020 and 31 December 2022.
- ▶ **Automation:** Manufacturers undertaking qualifying projects are currently entitled to an accelerated capital allowance (ACA) on the first RM2 million (USD\$477,500) or RM4 million (US\$955,000)<sup>11</sup> of qualifying capital expenditure incurred on automation equipment and an income tax exemption equivalent to the ACA. These incentives will be extended for three additional years of assessment<sup>12</sup> (YA) to YA2023 and broadened to include service companies in certain cases.
- ▶ **Green technology:** The current 100% income tax exemption for income from qualifying green service activities is proposed to be revised to a 70% income exemption. Both the revised 70% income tax exemption and the 100% ITA on capital expenditure incurred on green technology assets will be extended for three additional YAs to YA2023. MIDA will continue to accept applications for these incentives until 31 December 2023.<sup>13</sup> A new incentive will be introduced for solar leasing activities, providing a 70% income tax exemption of statutory income for a period of up to 10 years.

## Other key tax proposals

- ▶ **7% withholding on real property transactions:** Any person acquiring real property (real estate) or shares in a real property company<sup>14</sup> from a nonresident company for consideration comprised wholly or partly of cash will be required to withhold the lower of the cash payment or 7%<sup>15</sup> of the purchase consideration and remit it to the Malaysian tax authorities within 60 days of acquisition. The new rule will become effective when *Finance Act 2019* is enacted.
- ▶ **Sales tax exemption program for export activities:** Effective 1 July 2020, the Approved Major Exporter Scheme will be introduced. Under this program, a sales tax exemption is provided to approved export-oriented traders and manufacturers<sup>16</sup> of sales tax-exempt goods on their imports and purchases of goods, raw materials, components and packaging materials.
- ▶ **Service tax intragroup exemption:** Effective 1 January 2020, the criteria for the existing intragroup service tax exemption will be relaxed. Companies will be permitted to provide services to third parties and still qualify for the intragroup exemption, provided that the value of the third-party services does not exceed 5% of the total value of services provided by the company within a 12-month period.
- ▶ **Stamp duty on foreign currency loans:** Beginning on or after 1 January 2020, the 0.5% ad-valorem stamp duty on loan agreements denominated in non-Ringgit Malaysia currency will be capped at RM2,000 (US\$480), an increase from the current cap of RM500 (US\$120).

## Endnotes

1. Incentive guidelines and additional details are expected to be released shortly.
2. Definitions of key terms are yet to be released.
3. Discretionary incentive packages that include, among others, income tax exemptions or additional tax allowances on capital expenditure (investment tax allowances) and cash grants.
4. Definitions of key terms are yet to be released.
5. Discretionary incentive packages that include, among others, income tax exemptions or additional tax allowances on capital expenditure (investment tax allowances) and cash grants.
6. Additional details are yet to be released.
7. This refers to E&E companies whose Reinvestment Allowance or Special Reinvestment Allowance periods have expired. See Global Tax Alert, [Malaysia enacts 2016 budget proposals](#), dated 7 January 2016.
8. Tax adjusted business income after tax depreciation.
9. Organisation for Economic Co-operation and Development.
10. Base Erosion and Profit Shifting.
11. The amount of the benefit depends on the nature of the business.
12. Generally, a company's year of assessment corresponds with its financial reporting period.
13. See Global Tax Alert, [Malaysia releases 2019 Budget](#), dated 4 December 2018 for an outline of these incentives.
14. The definitions of real property and real property company are complex and, for the purposes of this Alert, are intentionally left out. Indirect transfers of shares in a Malaysian company that owns real property may attract RPGT, depending on the fact pattern.
15. Increased from the current 3% rate.
16. Traders and manufacturers that export at least 80% of their annual sales.

For additional information with respect to this Alert, please contact the following:

## Ernst &amp; Young Tax Consultants Sdn Bhd, Kuala Lumpur

- ▶ Amarjeet Singh                      amarjeet.singh@my.ey.com
- ▶ Sockalingam Murugesan            sockalingam.murugesan@my.ey.com
- ▶ Anil Kumar Puri                    anil-kumar.puri@my.ey.com
- ▶ Asaithamby Perumal               asaithamby.perumal@my.ey.com

**Ernst & Young LLP (United States), Malaysia Tax Desk, New York**

- Andrew Loh      andrew.loh1@ey.com

## Ernst &amp; Young LLP (United States), Asia Pacific Bussiness Group, New York

- ▶ Chris Finnerty [chris.finnerty1@ey.com](mailto:chris.finnerty1@ey.com)
- ▶ Kaz Parsch [kazuyo.parsch@ey.com](mailto:kazuyo.parsch@ey.com)
- ▶ Bee Khun Yap [bee-khun.yap@ey.com](mailto:bee-khun.yap@ey.com)

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