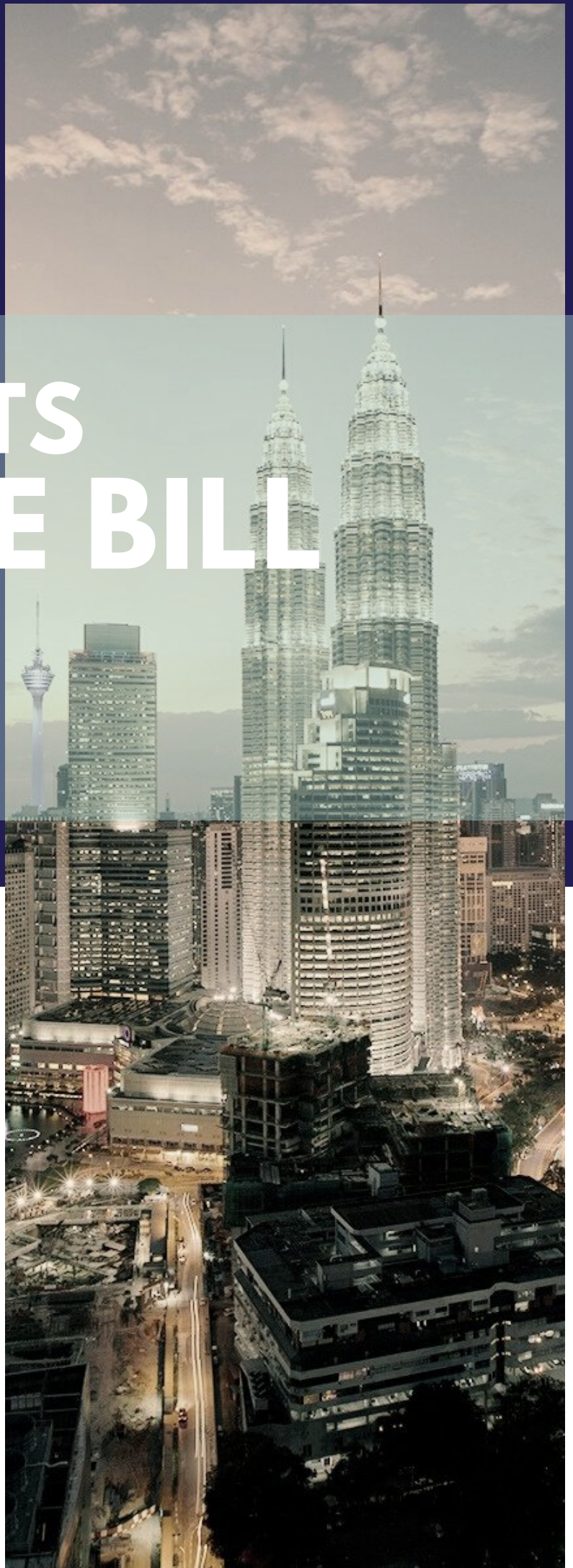


HIGHLIGHTS FINANCE BILL 2021

Following the Malaysian Budget 2022, the first reading of the Finance Bill 2021 was tabled in Parliament on November 9, 2021.

The highlights on the further updates covered here are intended to provide a general overview of the key proposed measures encompassing corporate tax, individual tax, real property gains tax, stamp duty and Labuan business activity tax.



CORPORATE TAX

TAX MEASURES	UPDATES ON TAX MEASURES
Tax on Income Received from Outside Malaysia	Malaysian tax residents will be taxed at the rate of 3% on gross income (active and passive income) derived from foreign sources and received in Malaysia with effect from 1 January 2022 to 30 June 2022. Beginning 1 July 2022, foreign-sourced income received in Malaysia by Malaysian tax residents will be taxed at the prevailing tax rates.
Withholding Tax (WT) on Payments Made to Agents, Dealers and Distributors	With effect from 1 January 2022, a rate of 2% withholding tax (WT) will be subjected to payments made to agents, dealers or distributors, pursuant to new Section 107D of the ITA. The WT rate is applicable when payments are made to resident individual agents, dealers or distributors who receive more than RM100,000 either in monetary form or otherwise from the same company in the immediately preceding Year of Assessment (YA). The WT should be remitted to the Director-General of Inland Revenue (DGIR) within 30 days after paying or crediting such payments. A penalty of 10% could be imposed for non-compliance with the WT requirements. A company that pays over RM5,000 per year in cash or non-monetary incentives to agents, distributors, or dealers must prepare Form CP58 for them.
Extension of the Special Reinvestment Allowance (RA) Incentive	Extension of the special reinvestment allowance incentive for an additional 2 years until YA 2024, with effect from YA 2022 and subsequent years of assessment. Any unabsorbed RA pursuant to this will be given for 7 consecutive years of assessment in the period immediately following YA 2024. Any unabsorbed RA at the end of YA 2031 will be lost.
Tax Identification Number (TIN)	With effect from 1 January 2022, all Malaysians above the age of 18 and corporate entities will be assigned a Tax Identification Number (TIN).
Failure to Furnish Tax Estimates	A penalty of 10% of the tax payable for a YA will be imposed on LLPs for failure to submit the tax estimates.

CORPORATE TAX

TAX MEASURES	UPDATES ON TAX MEASURES
Submission of Return Based on Financial Statements	LLPs, trust bodies and co-operative societies will be required to furnish their income tax return based on financial statements made in accordance with the requirement of the law governing the entity.
Extension of Tax Rebate for Establishment of New Companies/Limited Liability Partnership (LLPs)	Income tax rebate of up to RM20,000 per YA, for the first three (3) YAs will be extended for new MSMEs established and commenced operation by 31 December 2022.
Power to Acquire Bank Account Information for the Purpose of Garnishee Order Application	With effect from 1 January 2022, DGIR will have the authority to request taxpayers' bank account information from the financial institutions for the purpose of garnishee order application. A penalty will be imposed on the financial institution for failure to comply with DGIR's request in a timely manner or disclosure of such request made to other persons; Fine of RM200 – RM20,000; or Imprisonment for a term of six (6) months; or Both of the above.
Tax Treatment on Distribution to Unit Trust Holders	With effect 1 January 2022, the income of non-individual unit trust holders of retail money market fund (RMMF) will be taxable.
Withholding Tax on Distribution of Income of Unit Trust to Unit Holders Other than Individuals	Unit holders except for individuals, receiving income from RMMF will be subject to a withholding tax of 24% with effect from 1 January 2022.
Definition of Special Purpose Vehicle (SPV)	SPV is now defined under Paragraph 37 of Schedule 6 of the Malaysian Income Tax Act, 1967 (MITA).
Non-Application of Exemption on Interest from Sukuk and Debentures	Non-resident companies will be taxed in respect of interest paid or credited by SPV from sukuk or debentures structured under an asset-backed securities (ABS) arrangement where the originator and the non-resident company are from the same group.

CORPORATE TAX

TAX MEASURES	UPDATES ON TAX MEASURES
Non-Application of Exemption on Interest from Sukuk Issued in Foreign Currency	A person will be taxed in respect of interest paid or credited by an SPV from sukuk issued in foreign currency structured under an ABS arrangement where the originator and the non-resident company are from the same group.
Review of Tax Incentive for Contract Research and Development (R&D) Companies or R&D Companies	With effect from 1 January 2022, companies in the business of providing R&D services and contract R&D services must obtain approval from MITI as an R&D status company to be eligible for tax incentives in this category.

INDIVIDUAL TAX

TAX MEASURES	UPDATES ON TAX MEASURES
Tax Relief on Expenses on Electric Vehicle charging facilities and equipment	Special tax relief of up to RM2,500 on the cost incurred for installation, rental, purchase including hire purchase or subscription fee for EV charging facilities and equipment, effective for YA 2022 and 2023.
Expansion of Tax Relief on Medical Examination Expenses	Tax relief of up to RM1,000 on medical examination expenses for self, spouse and child will be expanded to include examination costs and consultation services related to mental health with effect for YA 2022 and COVID-19 detection tests with effect for YA 2021.
Extension of Tax Relief for Domestic Tourism Expenses	Special tax relief of up to RM1,000 on expenses incurred for domestic tourism and tour packages purchased, until 31 December 2022.
Extension of Tax Relief for Self Education / Upskilling Fees	The limit of tax relief increased to RM2,000 for attending upskilling and self-enhancement courses recognized by the Human Resource Development Resources (HRDF), effective for YA 2022 and YA 2023.

REAL PROPERTY GAINS TAX

TAX MEASURES	UPDATES ON TAX MEASURES
Real Property Gains Tax Rates	With effect from January 1, 2022, the tax rate for the disposal in the 6th year of 5% is to be reduced to 0% for individual citizens and permanent residents.
Increase of Retention Sum to be Retained	Retention sum will be increased to 5% from the current 3% for disposal of real properties or shares in real property companies within a period of three (3) years from the date of acquisition by a company or a trustee of a trust or a body of persons registered under any written law in Malaysia.
Penalty for Non-Payment of RPGT for Person Leaving Malaysia	The scope of offence for leaving Malaysia without payment of tax under RPGTA will be expanded to include failure to pay a sum or debt payable. The penalty amount will be increased to a maximum of RM20,000.
Use of TIN in RPGT Transactions	With effect from 1 January 2022, taxpayers will be required to use TIN assigned by the DGIR in all RPGT transactions.
Expansion of Scope for No Gain No Loss Transactions	No gain no loss transactions will be expanded to include the transfer of assets owned by a nominee or a trustee of an individual, the wife of the individual or both to a controlled company.
Expansion of Losses Disallowed for Deduction	A loss arising from the disposal of chargeable assets under RPGTA (transfer of shares to a controlled company) will not be allowed for deduction.
Revision of Chargeable Persons Under Part II of Schedule 5 of the RPGTA	With effect from 1 January 2022, Part II of Schedule 5 of the RPGTA will be revised to replace 'Society registered under the Societies Act 1966' with body of persons registered under any written law in Malaysia.
Computation of Exemption for Part Disposal of Shares	A formula will be used to determine the amount of exemption to be given if shares are partly disposed of.

STAMP DUTY

TAX MEASURES	UPDATES ON TAX MEASURES
Stamp Duty Rate Contract Note	With effect from 1 January 2022, the stamp duty rate will be amended to RM1.50 for every RM1000 (i.e 0.15%) or any fraction thereof based on the transaction value of the sales of any shares and stock. Marketable securities remain at RM1.00 for every RM1,000.
Processing Fee for Endorsement of Exempt Instruments	With effect from 1 January 2022, a processing fee of RM10 will be imposed on instruments/documents which are exempted from stamp duty and brought to the IRB for endorsement.
Refund of Stamp Duty	Excess amount of duty refund will only be made when the assessment has become final and conclusive.
Application for Appeal and Refund	With effect from 1 January 2022, the following application for appeal and refund can be done through an electronic medium: <ul style="list-style-type: none">i. Appeal against an assessment or an additional assessment;ii. Relief in respect of spoiled or misused stamps;iii. Remittance of stamp duty by DGIR on grounds of poverty;iv. Refund in respect of contract or agreement rescinded or annulled, or for any other reason not substantially performed or carried into effect;v. Refund of excess duty in respect or erroneous assessment or additional assessment; andvi. Exemption, reduction, or remittance of duty granted by the MOF.
Application of Relief for Spoiled and Misused Stamps	With effect from 1 January 2022, an application for relief for spoiled and misused stamps will be allowed within 24 months from the date of instrument or date of execution.
Use of TIN in Stamp Duty Transactions	With effect from 1 January 2022, duty payers will be required to use TIN assigned by the DGIR in stamp duty transactions.

LABUAN BUSINESS ACTIVITY TAX

TAX MEASURES

UPDATES ON TAX MEASURES

Filing of Return of Profits of Labuan Non-Trading Activity

With effect from YA 2022, Section 10 of the LBATA will be amended whereby a Labuan entity carrying on a Labuan non-trading activity will be required to file a return of profits in the prescribed form (Form LE1) together with the statutory declaration (Form LE5) to the DGIR within three (3) months from the commencement of a year of assessment.

With effect from 1 January 2022, Paragraph 23(b) of the LBATA will be amended whereby a Labuan entity carrying on a Labuan non-trading activity that fails to file its return of profits shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding RM1 million; or imprisonment not exceeding ten (10) years; or both.

Labuan Entity's Director's Liability

With effect from 1 January 2022, Section 16A of the LBATA will be introduced whereby a director of a Labuan entity that is a resident shall be jointly and severally liable to the Labuan entity's tax that is due and payable.

Payment of Tax by Labuan Entity

With effect from YA 2022, the existing section 11 of LBATA will be expanded to include Labuan entities carrying on Labuan non-trading activities and which do not comply with SAR, to be liable to tax at the rate of 24%.

The Highlights on the Finance Bill 2021 produced herein are intended as a general guideline only. Kindly consult us or your Tax Advisers for further details.

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The logo for MustaphaRaj Chartered Accountants features the letters 'MR' in a large, stylized, gold-colored font. To the right of 'MR', the word 'MUSTAPHA' is written in a smaller, gold-colored, sans-serif font. Below 'MUSTAPHA', the word 'RAJ' is written in a larger, blue, sans-serif font. To the right of 'RAJ', the words 'CHARTERED' and 'ACCOUNTANTS' are stacked vertically in a small, gold-colored, sans-serif font.