A3 INCOME TAX – CHANGES AFFECTING COMPANIES AND UNINCORPORATED BUSINESSES

A3.1 INTRODUCTION OF GROUP RELIEF AS TAX TREATMENT

Existing Legislation

Presently, only companies that invest in approved food production, forest plantations, biotechnology, nanotechnology, optics and photonics are given group relief on losses incurred by their subsidiary companies which undertake such projects. With the group relief incentive, these companies are allowed to set off their income against 100% of the losses incurred by their subsidiaries. However, other companies are not eligible for group relief.

Proposed Legislation

It is proposed that group relief be provided to all locally incorporated resident companies under the Income Tax Act 1967. The group relief is limited to 50% of current year adjusted loss to be set-off against the total income of another company within the same group (including new companies undertaking activities in approved food production, forest plantation, biotechnology, nanotechnology, optics and photonics) subject to the following conditions:

1. the claimant and the surrendering companies each has a paid-up capital of ordinary shares exceeding RM2.5 million;
2. both the claimant and the surrendering companies must have the same accounting period;
3. the shareholding, whether direct or indirect of the claimant and surrendering companies in the group must not be less than 70%; and

   (in addition, the first mentioned company must be beneficially entitled to at least 70% of any residual profits of the other company and any residual assets of the other company in the event of a winding up, which is available for distribution to the other company's equity holders)
4. the 70% shareholding must be on a continuous basis during the preceding year and the relevant year.

Group relief would not be applicable for a company that:

(a) is a pioneer company or has been granted approval for investment tax allowance under the Promotion of Investments Act 1986;

(b) is exempt from tax on its income under Section 54A, Paragraph 127(3)(b) or Subsection 127(3A);

(c) has made a claim for a reinvestment allowance under Schedule 7A;

(d) has made a claim for deduction in respect of an approved food production project under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2001;

(e) has made a claim for deduction under the Income Tax (Deduction for Cost of Proprietary Rights) Rules 2002;

(f) has been granted a deduction under the Income Tax (Deduction for Cost of Acquisition of a Foreign Owned Company) Rules 2003; or

(g) has made a claim for deduction under any rules made under Section 154, and those rules provide that this section shall not apply to that company.

With the introduction of this incentive, the existing group relief incentive for approved food production, forest plantation, biotechnology, nanotechnology, optics and photonics will be discontinued. However, companies which have been granted group relief incentive for the above activities shall continue to set off their income against 100% of the losses incurred by their subsidiaries.

Reference

Schedule 4C of the Income Tax Act 1967 will be deleted and a new Section 44A of the Income Tax Act 1967 is to be introduced

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

This proposal is in line with the Government's continued efforts to reduce the cost of doing business and to promote additional investments in an effort to further boost the economy. With the group relief, corporate groups would be less hesitant to venture into high-risk projects which require a large capital outlay as the excess operational costs arising from these risky ventures can be used to offset against the profits of another entity.

As an increasing number of countries including Australia, Netherlands, Singapore and Britain have adopted a system of group relief for tax losses, Malaysia's broadening of the group tax relief regime is timely and is a further step towards enhancing its international competitiveness.

However, it would appear that this incentive would mainly benefit large companies. It should also be noted that there is a set of conditions which must be satisfied before a company can be eligible for the group relief. Further, where a surrendering company furnishes an incorrect amount of adjusted loss surrendered, the surrendering company may be liable to a penalty equal to the amount of tax which had or would have been undercharged by the claimant company.

Further, the condition of making this incentive mutually exclusive to those listed above, the overall benefit of this incentive may not be very attractive as the benefit forgone may be higher.

The following examples illustrate the possible applications of the group relief incentive:

Example 1:
50% of current year adjusted loss is surrendered to one claimant company

Surrendering Company A			**Claimant Company B**	
	RM	**RM**		**RM**
Business loss b/f		100,000	Total income	500,000
Add:			*Less:*	
Current year	400,000		Losses surrendered by	-200,000

adjusted loss			Company A	
Less:				300,000
Amount surrendered to claimant Company B	-200,000*			
		200,000		
Business loss c/f		300,000		

* limited to 50% of the current year adjusted loss

Example 2:
50% of current year adjusted loss is surrendered to more than one claimant company

Surrendering Company A			Claimant Company B		Claimant Company C	
	RM	RM		RM		RM
Current year adjusted loss		1,000,000	Total income	300,000	Total income	300,000
Less: Amount surrendered to			*Less:* Losses surrendered by Company A	-300,000	*Less:* Losses surrendered by Company A	-200,000
– claimant Company B	-300,000					
– claimant Company C	-200,000					
		-500,000*		0		100,000
Business loss c/f		500,000				

* limited to 50% of the current year adjusted loss

Example 3:
50% of current year adjusted loss claimed by a claimant company from more than one surrendering company

Surrendering Company A		Surrendering Company B		Claimant Company C	
	RM		RM		RM
Current year adjusted loss	1,000,000	Current year adjusted loss	600,000	Aggregate income	1,000,000

A3.1 INTRODUCTION OF GROUP RELIEF AS TAX TREATMENT (CONT'D)

Less:		*Less:*		*Less:*	
Amount surrendered to – claimant		Amount surrendered to – claimant		Losses surrendered by	
Company C	-500,000*	Company C	-300,000	– Company A	-500,000
				– Company B	-300,000
Business loss c/f	500,000	Business loss c/f	300,000		200,000

* limited to 50% of the current year adjusted loss

A3.2 REVIEW OF ESTIMATED TAX PAYABLE FOR COMPANIES

Existing Legislation

Presently, under the Self Assessment System (SAS), companies are required to provide estimates of tax payable for a year of assessment and these estimates should not be less than the estimates or the revised estimates of the preceding year. Companies are allowed to revise their estimates in the 6th and the 9th month of their financial year.

Proposed Legislation

It is proposed that companies be allowed to furnish estimates of tax payable for a year of assessment of not less than 85% of the revised estimate of tax payable for the immediately preceding year of assessment or if no revised estimate is furnished, shall not be less than 85% of the estimate of tax payable for the immediately preceding year of assessment.

Reference

Section 107C(3) of the Income Tax Act 1967

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

The proposal will enable companies to take into account changes in the economic situation that may adversely affect their financial performance.

A3.3 REVIEW OF TAX TREATMENT ON BONDS

Existing Legislation

Presently, the tax treatment on the issuance of bonds by financial institutions (FI) and non-financial institutions (NFI) is as follows:-

	FI – tax treatment	NFI – tax treatment
Discounts/Premiums income	Taxed annually until the date of maturity of the bond (i.e. based on the accrual principle)	Taxed on the date of maturity of the bond (i.e. upon realisation)
Discounts/Premiums expenses	Allowed annual deductions until the date of maturity of the bond (i.e. based on the accrual principle)	Allowed deduction only on date of maturity of the bond (i.e. upon realisation)

It has been noted by the Government that this disparity in tax treatment has discouraged NFI from issuing bonds as an alternate source of funding.

Proposed Legislation

It is proposed that similar tax treatment be accorded to FI and NFI in respect of the issuance of bonds, i.e. dividend/premium expenses incurred by NFI be given a tax deduction on an annual basis and dividend/premium income earned be taxed on an annual basis, based on the accrual principle, until the date of maturity of the bond.

Reference

It is presently unclear how the law will be amended to effect this Budget proposal

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

The proposal is meant to be in line with the Government's effort to further promote the corporate bond market, expand the domestic bond market and to provide the NFI issuer with an alternative source of funding. However, the bond investors (lenders) are likely to lose out as they will be taxed on an annual basis even though the discount/premium income will only be received on the maturity date.

It is also unclear how the income and expenses will be apportioned to each year of assessment for tax purposes. Further, the tax impact of this proposal on an NFI would be very much dependent on the terms of the bonds issued.

A3.4 REVIEW OF TAX TREATMENT ON INCOME OF INVESTMENT HOLDING COMPANY

Existing Legislation

Presently, an investment holding company (IHC) is a company engaged wholly (100%) in the holding of investments where its income is normally derived from dividends, rental and interest. In addition, income of an IHC is deemed as passive income. An IHC is also allowed deduction of up to a maximum of 25% of permitted expenses only. The amount of deduction is limited to 5% of the gross income consisting of dividend, interest and rental.

Proposed Legislation

It is proposed that the meaning of IHC be redefined as a company whose activities consist mainly of the holding of investments and not less than 80% of its gross income (whether exempt or not) is derived therefrom. Income from the holding of investments is not to be treated as business income whilst income other than income from the holding of investments is to be treated as other non-business gains or profits under Section 4(f) of the Income Tax Act 1967.

It is also proposed that the income of IHCs listed on Bursa Malaysia from the holding of investments be treated as business income and the expenses be given full deduction for the purpose of income tax. The meaning of the IHC is as redefined above. However, unutilised tax losses and unabsorbed capital allowances are not allowed to be carried forward to future years.

Reference

Section 60F and new Section 60FA of the Income Tax Act 1967

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

This proposal aims to enhance investments by IHCs listed on Bursa Malaysia by no longer restricting their expenses for tax purposes. This is in line with the Government's aim to increase and improve incentives to enhance the nation's competitiveness.

A3.5 TAX TREATMENT ON ESTIMATED LOSSES OF LOW COST HOUSING PROJECTS

Existing Legislation

Presently, estimated losses are not eligible for deduction in the computation of the chargeable income of a property development company as it is contingent in nature. This treatment is not in line with the accounting practice based on the Financial Reporting Standards for property developers whereby the provisions for foreseeable losses are recognised immediately in the current year.

A3.5 TAX TREATMENT ON ESTIMATED LOSSES OF LOW COST HOUSING PROJECTS (CONT'D)

Proposed Legislation

It is proposed that the estimated losses of low cost housing projects be allowed to be set-off against estimated profits of other property development projects in the preparation of estimates of tax payable for the current year.

Reference

To be gazetted by way of statutory order

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

The proposal is in line with the Government's aim of providing a business-friendly environment by reducing the cost of doing business in Malaysia as well as standardising the treatment between the accounting standards and existing tax law.

A3.6 TAX DEDUCTIONS ON CERTAIN START-UP EXPENSES INCURRED ON THE ESTABLISHMENT OF REAL ESTATE INVESTMENT TRUSTS

Existing Legislation

Presently, fees for consultancy, legal and valuation services incurred in the course of establishing a Real Estate Investment Trust (REIT) or Property Trust Fund (PTF) are not allowed as tax deductible expenses under Section 33(1) of the Income Tax Act 1967 as these expenses are considered to be capital in nature.

Proposed Legislation

It is proposed that a tax deduction be allowed on consultancy, legal and valuation fees incurred in the establishment of a REIT or PTF.

Reference

To be gazetted by way of a statutory order

Effective Date

Year of assessment 2006

A3.6 *TAX DEDUCTIONS ON CERTAIN START-UP EXPENSES INCURRED ON THE ESTABLISHMENT OF REAL ESTATE INVESTMENT TRUSTS (CONT'D)*

Likely Tax Effects and Implications

Even though the issuance of REITs is a mechanism that will enhance the liquidity of real estate companies and allows investors to achieve greater diversity in their investment portfolios, to date, there is only one REIT in Malaysia approved by the Securities Commission. The legislative amendments proposed in the 2006 Budget are intended to provide REITs and PTFs with additional tax deductions, which in turn will ostensibly allow the REITs and PTFs to recognise higher after-tax profits to be distributed to unit holders.

Hence, the 2006 Budget proposal is in line with the Malaysian Government's recent policy of encouraging the establishment of REITs and PTFs, as the potential higher returns will encourage the Malaysian public to invest in REITs and PTFs.

A3.7 *INDUSTRIAL BUILDING ALLOWANCE ON BUILDINGS LOCATED AT CYBERJAYA OCCUPIED BY MSC COMPANIES*

Existing Legislation

Presently, only specific buildings qualify for Industrial Building Allowance (IBA). These include but are not limited to buildings used as factory, dock, wharf, jetty, warehouse used for hire of storage space to the public and others pursuant to Schedule 3, Paragraph 63 of the Income Tax Act 1967.

Currently, buildings occupied by Multimedia Super Corridor (MSC)-status companies located in the area of Cyberjaya are not eligible for IBA.

Proposed Legislation

It is proposed that IBA be granted for a period of 10 years (10%) to owners of new buildings occupied by MSC-status companies in Cyberjaya. These buildings would include completed buildings but yet to be occupied by the MSC-status companies.

Reference

To be gazetted by way of statutory order

Effective Date

Year of Assessment 2006

Likely Tax Effects and Implications

The proposal aims to encourage the construction of buildings which will be occupied by MSC-status companies in the Cyberjaya area. It also aims to promote the overall development of Cyberjaya.

A3.8 TAX TREATMENT ON EXPENSES INCURRED FOR NEW COURSES BY PRIVATE HIGHER EDUCATION INSTITUTIONS

Existing Legislation

Presently, it is unclear whether expenses incurred by private higher education institutions (PHEIs) to develop and comply with regulations to introduce new courses are eligible for any tax deductions.

Proposed Legislation

It is proposed that tax deductions on the following expenses incurred by PHEIs be allowed over a period of 3 years:

(i) development of new courses; and

(ii) compliance with regulatory requirements for introducing new courses.

The commencement of the deduction for the development of new courses will be allowed from the year of completion of the process of developing the course i.e. after the date of receipt by the Ministry of Higher Education for the purpose of regulatory compliance. For regulatory compliance, the deductions will be allowed from the year of completion of the exercise.

Reference

To be gazetted by way of statutory order

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

The proposal aims to encourage PHEIs to increase the number of new courses to be offered. This in turn, will promote Malaysia as a regional educational hub and provides an increased variety of courses for local and foreign students.

A3.9 EXTENDING THE SCOPE OF FUND FOR TAX REFUND

Existing Legislation

Presently, the Fund for Tax Refund which was established under Section 111B of the Income Tax Act 1967 is to be utilised for refunds of excess payments of income tax only. This Fund was introduced with effect from 1 January 2005. However, refunds of excess payments of direct taxes, other than income tax cannot be made out of this Fund.

Proposed Legislation

It is proposed that to expedite the refunds of excess payments of other direct taxes, the scope of the Fund be extended to include refunds for excess payments of petroleum income tax, real property gains tax and stamp duty.

A3.9	*EXTENDING THE SCOPE OF FUND FOR TAX REFUND (CONT'D)*

Reference

Section 111B of the Income Tax Act 1967

Effective Date

1 January 2006

Likely Tax Effects and Implications

The proposal aims to expedite the refunds of excess payments of petroleum income tax, real property gains tax and stamp duty.

A3.10	*REVIEW OF TAX TREATMENT ON LOSSES AND UNABSORBED CAPITAL ALLOWANCES*

Existing Legislation

Presently, companies are allowed to carry forward their unabsorbed tax losses and unabsorbed capital allowances indefinitely to be set-off against their future business income. Furthermore, companies that ceased operations for several years may still utilise accumulated tax losses to be set off against new business income or by new shareholders with an objective to reduce their taxable income. In addition, unabsorbed capital allowances of such companies can be utilised to be set off against new business income from the same source.

Proposed Legislation

It is proposed that:

(i) the amount of business losses and capital allowances ascertained for a year of assessment shall not be available for deduction in subsequent years of assessment if the shareholders of that company on the last day of the basis period for that year of assessment were not substantially the same as the shareholders of the company on the first day of the basis period for the year of assessment in which such amount would otherwise be deductible or given to that company; and

(ii) the amount of unabsorbed business loss and unabsorbed capital allowances in respect of a company for any year of assessment prior to the year of assessment 2006 shall not be allowed to be carried forward to subsequent years of assessment if the shareholders of the company on the last day of the basis period for the year of assessment 2005 were not substantially the same as the shareholders of the company on the first day of the basis period for the year of assessment in which such amount would otherwise be deductible or given to that company.

The shareholders of the company at any date shall be substantially the same as the shareholders of the company at any other date if on both those dates:

(a) more than 50% of the paid-up capital in respect of the ordinary shares of the company is held by or on behalf of the same persons; and

A3.10 *REVIEW OF TAX TREATMENT ON LOSSES AND UNABSORBED CAPITAL ALLOWANCES (CONT'D)*

(b) more than 50% of the nominal value of the allotted shares in respect of the ordinary shares in the company is held by or on behalf of the same persons.

The above may be illustrated as follows:-

	Brought forward tax losses/capital allowances RM	Current year tax losses/capital allowances RM	Carry forward tax losses/capital allowances RM
Year of Assessment 2005 End of basis period: Shareholder A (100%)	100	50	150
Year of Assessment 2006 Beginning of basis period: Shareholder A (100%) End of basis period: Shareholder A (100%)	150	50	200
Year of Assessment 2007 Beginning of basis period: Shareholder A (100%) End of basis period: Shareholder B (100%)	200*	75	75
Year of Assessment 2008 Beginning of basis period: Shareholder B (100%) End of basis period: Shareholder B (100%)	75	25	100

* The tax losses/capital allowances of RM150 brought forward from the year of assessment 2005 is not allowed to be carried forward to year of assessment 2008 as the shareholders as at the end of the basis period for year of assessment 2005 were not substantially the same as the shareholders at the beginning of the basis period for year of assessment 2008. Similarly, the tax losses/capital allowances of RM50 ascertained in the year of assessment 2006 is not allowed to be carried forward to year of assessment 2008 as the shareholders as at the end of the basis period for year of assessment 2006 were not substantially the same as the shareholders at the beginning of the basis period for the year of assessment 2008.

A3.10 REVIEW OF TAX TREATMENT ON LOSSES AND UNABSORBED CAPITAL ALLOWANCES (CONT'D)

For the purpose of this legislation where the basis period of a company ends on or after 1st October 2005, the last day of the basis period for year of assessment 2005 is deemed to be 30th September 2005.

A company may under special circumstances apply to the Minister to be exempted from the restriction imposed under (i) and (ii) above.

Reference

Section 44(5A), Section 44(10) and Schedule 3, Paragraphs 75A and 75B of the Income Tax Act 1967

Effective Date

From year of assessment 2006

Likely Tax Effects and Implications

The proposed legislation aims to curb tax planning by companies seeking to shift profits from profitable entities to companies with unabsorbed business losses and unabsorbed capital allowances by way of acquisition.

This stance would impact negatively on genuine acquisitions of business interests by investors. This stance is in direct contrast with the government's stand to reinvigorate the mergers and acquisition market as potential utilisation of tax benefits i.e. the unabsorbed business losses and unabsorbed capital allowances are amongst the criteria that investors judge their purchases on.

With the proposed changes, the unabsorbed tax losses and capital allowances of an existing company brought forward from the year of assessment 2005 would be disregarded if there is a substantial change in the shareholding of the company in the subsequent years of assessment.

A3.11 TAX DEDUCTION FOR AUDIT FEES

Existing Legislation

Presently, a claim for deduction of audit fee for income tax purposes is made based on the concession given by the Inland Revenue Board.

Proposed Legislation

It is proposed that audit fees incurred by companies be deemed as allowable expenses for deduction in the computation of income tax.

Reference

To be gazetted by way of statutory order

A3.11 *TAX DEDUCTION FOR AUDIT FEES (CONT'D)*

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

The objective of this proposed change is to reduce the cost of doing business and encourage corporate compliance.

It is unclear as to the types of audit fees eligible for deduction e.g. statutory audit fees, special audit fees, internal audit fees, etc.

A3.12 *REVIEW OF TAX TREATMENT OF SMALL VALUE ASSETS*

Existing Legislation

Presently, qualifying expenditure on assets is given deduction in the form of capital allowances (CA) over a period of time.

Proposed Legislation

To simplify the computation of CA for small value assets, it is proposed that CA on qualifying expenditure on such assets be given 100% allowance for assets of value not exceeding RM1,000 each. However, the total value of such assets for each year of assessment is capped at RM10,000.

Reference

Schedule 3, Paragraph 19(A) of the Income Tax Act 1967

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

This proposal aims to simplify the computation of CA for small value assets and to eliminate the need to keep track of the tax written-down value of each small value asset which is generally cumbersome and time consuming.

Presently, expenditure on assets with a life span of less than two years is to be dealt with on a replacement basis based on the guidelines in Public Ruling No. 2/2001. With the above proposal, taxpayers who incur capital expenditure on assets with a life span of less than two years and costing less than RM1,000 may opt to claim CA under Schedule 3, Paragraph 19(A) of the Income Tax Act 1967.

A3.13 *TAX TREATMENT ON INTEREST EXPENSE FOR LEASING ACTIVITY*

Existing Legislation

Presently, leasing and non-leasing income are treated as separate sources of business income for the purpose of income tax computation of a leasing company. There is no specific provision under the Income Tax Act 1967 on the apportionment of interest expense and other common expenses between leasing and non-leasing businesses.

Proposed Legislation

It is proposed that interest expense be apportioned between leasing and non-leasing activities based on the respective amount of funding used.

Reference

To be gazetted by way of statutory order

Effective Date

Year of Assessment 2006

Likely Tax Effects and Implications

The apportionment of interest and other common expenses between leasing and non-leasing businesses based on gross income currently adopted by the Inland Revenue Board (IRB) does not benefit taxpayers who are carrying on leasing and non-leasing activities as it may not reflect a fair allocation of interest expense and other common expenses. The proposed change in the basis of apportionment from gross income to the amount of funding used will ensure a fair basis of apportionment of interest expense between leasing and non-leasing activities.

Following this proposal, it appears that the apportionment of other common expenses between leasing and non-leasing businesses is to follow the basis of apportionment adopted by the IRB in the Daya Leasing case i.e based on gross income. For leasing business, gross income consists of principal plus interest and other incidental business income whereas for non-leasing business gross income consists of interest and other incidental business income.

A3.14 *PROVISION TO ALLOW TAX ASSESSMENTS AFTER SIX YEARS*

Existing Legislation

Currently, the IRB is only allowed to make assessments on income tax, petroleum income tax and real property gains tax within a period of 6 years except in cases of fraud, willful default or negligence of the taxpayer.

Proposed Legislation

It is proposed that to enhance tax administration and to prevent revenue loss, the IRB be empowered to make assessments on income tax, petroleum income tax and real property gains tax

A3.14 PROVISION TO ALLOW TAX ASSESSMENTS AFTER SIX YEARS (CONT'D)

after a period of 6 years in cases where the assessment is determined by the court or withdrawal, revocation or cancellation of any exemption, relief, remission or allowance.

Reference

Section 91(4) of the Income Tax Act 1967

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

This proposal is to enable the IRB to raise assessments on the taxpayer after the period of 6 years for cases which are under court appeal or review. It also includes cases whereby there is withdrawal, revocation or cancellation of any exemption, relief, remission or allowance granted to the taxpayer.

A3.15 DIRECTOR'S LIABILITIES

Existing Legislation

Presently, where any income tax is due and payable by a company, any person who is a director of the company during the time to which the tax relates shall be jointly and severally liable for such tax in his/her personal capacity.

Proposed Legislation

It is proposed that the law be amended such that the director's liability is expanded to include any tax due and payable by the company in relation to employees' emoluments and pensions.

Reference

Section 75A of the Income Tax Act, 1967

Effective Date

Unspecified

Likely Tax Effects and Implications

With the proposed amendment to Section 75A of the Income Tax Act 1967, the Government's intention is to increase directors' liability in relation to companies' tax affairs and ensure that taxes deducted from employees' are responsibly remitted to the government. Further, this is to deter employers from causing loss of revenue to the government by using taxes deducted from employees for other purposes.

A3.16 *TAX EXEMPTION ON DISCOUNT RECEIVED BY ANY INDIVIDUAL, UNIT TRUST AND LISTED CLOSED-END-FUND*

Existing Legislation

Presently, there is no tax exemption granted for discount income received by any individual, unit trust or listed closed-end-fund.

An individual, unit trust and listed closed-end-fund is given tax exemption on interest income derived from investment in the following securities and debentures:

(i) securities or bonds issued or guaranteed by the Government;

(ii) debentures other than convertible loan stocks approved by the Securities Commission; and

(iii) Malaysian savings bonds issued by Bank Negara Malaysia.

Proposed Legislation

It is proposed that tax exemption be extended to discount income received on the above mentioned securities and debentures.

Reference

Schedule 6, Paragraph 35 of the Income Tax Act 1967

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

Given the increasing sophistication of financing instruments, there is confusion surrounding the term "interest" and "discount", which are used interchangeably. The above proposal aims to ensure consistency in tax treatment as discount is akin to interest.

A3.17 *TREATMENT OF REINVESTMENT ALLOWANCE IN OVERLAPPING PERIODS*

Existing Legislation

Under the existing legislation, there is no provision for the treatment of reinvestment allowance in the case of a business of a person where the basis periods for two years of assessment overlap.

Proposed Legislation

It is proposed that where in the case of a business of a person, the basis periods for 2 years of assessment overlap, the period common to those periods shall be deemed for the purposes of Schedule 7A to fall into the earlier of those periods and not into the later of those periods.

A3.17 *TREATMENT OF REINVESTMENT ALLOWANCE IN OVERLAPPING PERIODS (CONT'D)*

Reference

Schedule 7A, Paragraph 6A of the Income Tax Act 1967

Effective Date

Year of assessment 2006

Likely Tax Effects and Implications

This proposal aims to rationalise the treatment of reinvestment allowance in overlapping periods.

3.18 *ENHANCING THE COMPETENCY OF TAX AGENTS*

Existing Legislation

Presently, a tax agent is a person who has been approved by the Minister of Finance who essentially possesses a degree and has at least 5 years experience in tax. In addition, a licensed auditor can automatically become a tax agent. In view of globalisation, the magnitude and complexity of corporate business transactions have intensified, thus increasing the need for a higher level of professionalism, knowledge and skills to enable sound and effective practice in tax matters.

Proposed Legislation

To enhance the competency of tax agents it is proposed that a person who wishes to perform tasks relating to taxation be required to obtain a tax agent license. The proposal includes licensed auditors. However, a licensed auditor who has acquired an audit license prior to 1 January 2006 shall be allowed to continue to be a tax agent. Consequently, guidelines relating to the granting of audit licenses will be streamlined.

Reference

Section 153 of the ITA 1967

Effective Date

The proposal is effective from 1 January 2006

Likely Tax Effects and Implications

In view of the stringent requirements, it will be more difficult for any person to become a tax agent as licensing is now required. In addition, a licensed auditor must now apply for a tax agent license as they can no longer automatically become a tax agent effective from 1 January 2006. The proposal aims to have more competent tax agents in the profession in the light of more onerous obligations under the Self Assessment System.

A3.19 DELETION OF SCHEDULE 4A – CAPITAL EXPENDITURE ON APPROVED AGRICULTURAL PROJECTS

Existing Legislation

Presently, Schedule 4A of the Income Tax Act 1967 governs claims for tax deductions on capital expenditure incurred on approved agricultural projects.

Proposed Legislation

It has been proposed that Schedule 4A be deleted from the Income Tax Act 1967.

Reference

Schedule 4A of the Income Tax Act 1967

Effective Date

Year of assessment 2006