Welcome to our **TaXavvy Budget Edition** which brings you the key tax proposals of Budget 2021

TaXavvy

Budget 2021 Edition (Part 2)

16 November 2020

This TaXavvy edition is prepared based on the Finance Bill 2020.

This edition is a continuation of our Budget 2021 Edition (Part 1) and highlights the key tax proposals based on the Finance Bill 2020 which were not covered in Budget 2021 Edition (Part 1).

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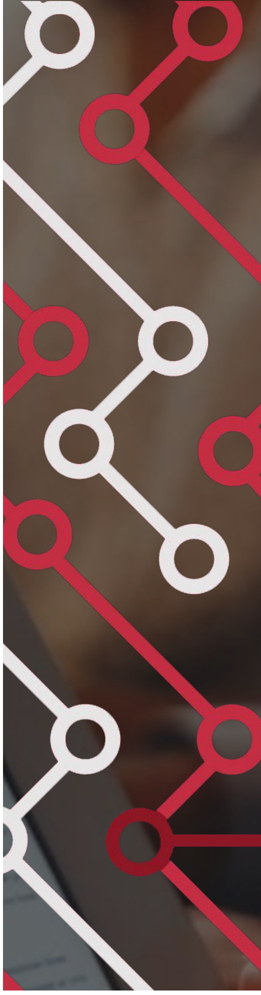
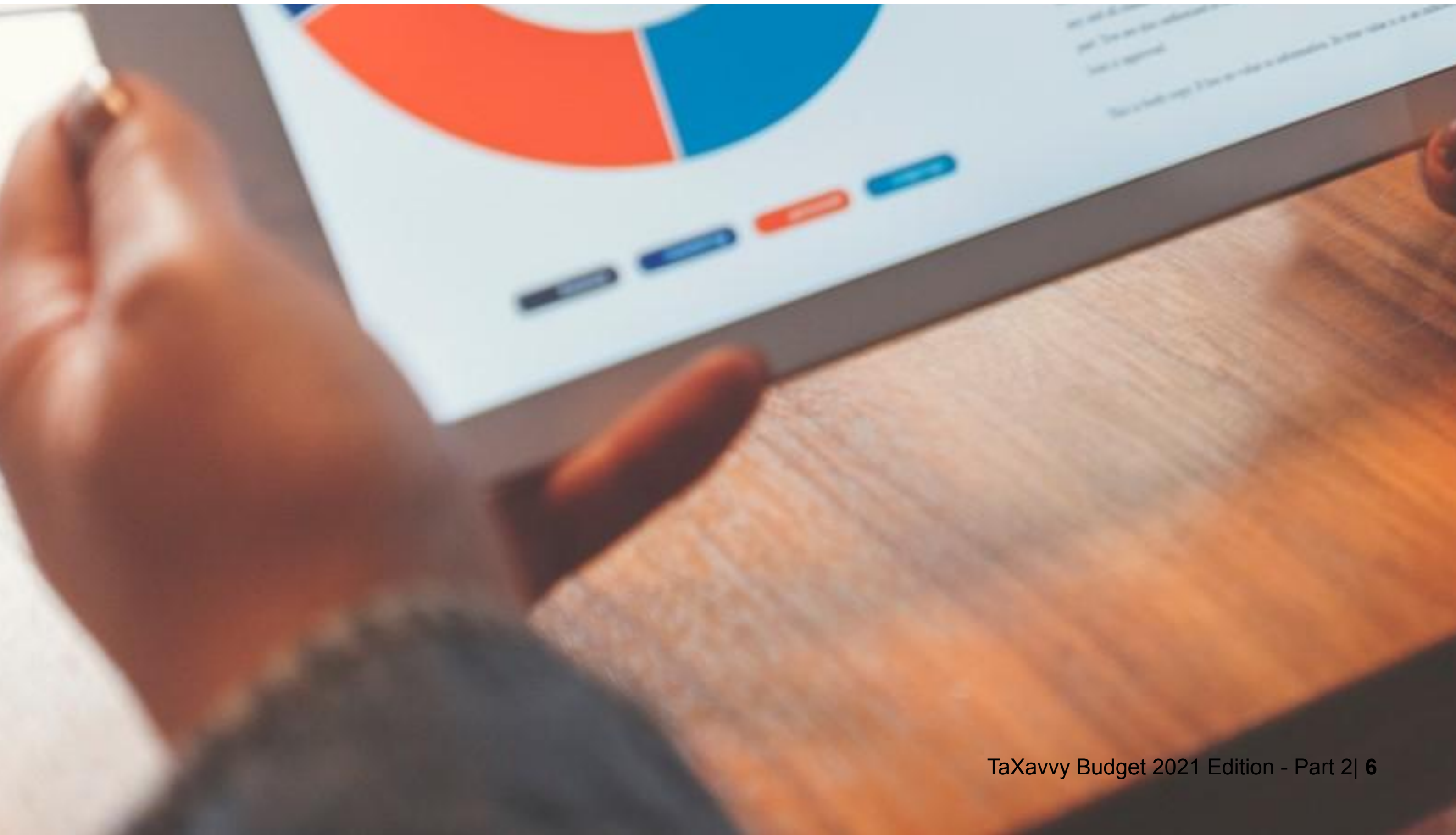


1 Corporate tax



Tax treatments for Approved Incentive Schemes (AIS)

Provisions for Incentive Schemes approved by the Minister of Finance (i.e. AIS) are to be introduced into the Income Tax Act 1967 (ITA 1967). AIS is defined to include:

- any high technology activity in manufacturing and services sector; and
- any other activities which would benefit the economy of Malaysia.

Under the AIS, a qualifying person will be granted a concessionary tax rate to be prescribed by the Minister of Finance of no more than 20% of chargeable income. A new Section 65B of ITA 1967 is to be introduced to provide tax treatments for AIS. The key tax treatments are as follows:

Item	Tax treatment
Qualifying activities under AIS	Treated as a separate and distinct business and source.
Chargeable income	Equals to statutory income less any brought forward unabsorbed losses arising from the same qualifying activity.
Business losses from AIS activity	Not deductible against income from non-AIS activity during the AIS tax relief period.
Business losses from non-AIS activity	Not deductible against income from AIS activity during the AIS tax relief period.
Maximum period to carry forward unabsorbed business losses from AIS activity	7 years of assessment (YA) after the end of the AIS period. Any unabsorbed amount after the end of the 7 YAs will be disregarded.

(Effective from YA 2021)

Comment: The Inland Revenue Board (IRB) has indicated that the AIS provisions are applicable to the following incentives announced in the Budget 2021 speech and under PENJANA:

- *Principal Hub*
- *Global Trading Centre*
- *Companies relocating to Malaysia*
- *Companies manufacturing pharmaceutical products*

Income tax rebate for new SMEs and Limited Liability Partnerships (LLPs)

It was announced under PENJANA that new SMEs are eligible for income tax rebate. Under the Finance Bill, the tax rebate is also extended to LLPs. The conditions of the tax rebate based on the Finance Bill are as follows:

- The company/LLP is resident and incorporated/registered in Malaysia.
- The company/LLP has commenced operations on or after 1 July 2020 but not later than 31 December 2021.
- The company/LLP has a paid-up capital/capital contribution of not more than RM2.5 million at the beginning of the basis period for a YA and has gross income from business not exceeding RM50 million for that YA.
- The tax rebate is equivalent to the capital or operating expenditure incurred in each YA, subject to a maximum amount of RM20,000 for each YA, for a period of 3 consecutive years from the YA of commencement of operations.
- Any unutilised tax rebate in a YA cannot be refunded or carried forward and shall be disregarded permanently.
- Where the qualifying conditions are not fulfilled in a YA, the entitlement for the rebate for that YA and subsequent YA(s) shall cease. However, it shall not affect the rebate that was claimed in prior years (when the qualifying conditions were met). This is illustrated as follows:

	Qualify to claim tax rebate		
	1st YA	**2nd YA**	**3rd YA**
Qualifying conditions not met in 1st YA	No	No	No
Qualifying conditions met in 1st YA but not met in 2nd YA	Yes	No	No
Qualifying conditions met in 1st and 2nd YAs but not met in 3rd YA	Yes	Yes	No
Qualifying conditions met in 1st and 3rd YAs but not met in 2nd YA	Yes	No	No

- The MoF may issue a statutory order to impose other conditions.

Comment: Under PENJANA, it was announced that the claimant has to use separate plant, equipment and facilities which are not transferred from an existing company or related company. This condition is not currently spelt out in the Finance Bill.

(Effective from YA 2021)

Special Reinvestment Allowance (RA)

PENJANA announcement

- It was announced that a special RA for manufacturing and selected agriculture projects will be given for 3 YAs from YA 2020 to YA 2022.
- The objective of this incentive is to encourage reinvestment by existing companies which have exhausted its existing 15-year RA period and special RA granted for YA 2016 to YA 2018.
- The special RA is at a rate of 60% on qualifying expenditure (QE) which is incurred for the purposes of a qualifying manufacturing and agriculture project as currently defined under Schedule 7A of ITA 1967.

Additional information from the Finance Bill

The proposed law is consistent with the incentive announced under PENJANA.

Restriction on tax deduction in respect of payments made to a Labuan company

Effective from 1 January 2019, residents are subject to the following restriction on the the amount of tax deduction in respect of payments made to a "Labuan company" as follows:

	Percentage of payment not deductible	
Types of payment	**Income Tax (Deductions Not Allowed for Payment Made to Labuan Company by Resident) Rules 2018 ("2018 Rules")**	**Revised percentages (pending amendment to the 2018 Rules)***
Interest	33%	25%
Lease rental	33%	25%
Other payments	97%	97%

** Based on the Labuan Financial Services Authority's circular on revision to non-deductibility rules dated 23 December 2019.*

A Labuan company is currently defined as a Labuan entity which has met the prescribed number of full time employees in Labuan and annual operating expenditure in Labuan ("substantial activities requirements"). Where the substantial activities requirements are not met, the relevant entity does not meet the definition of a Labuan company. Therefore, a resident who makes payment to a Labuan entity which does not meet the substantial activities requirements is not subject to the restriction on its tax deduction under the 2018 Rules.

It is proposed that the restriction on the amount of tax deduction is to be extended to cover payments made to Labuan entities which do not meet the substantial activities requirements.

(Effective from 1 January 2021)

Deductions for Research and Development (R&D) expenditure

The conditions in relation to the deductions for R&D expenditure under Sections 34A, 34B and 34(7) are to be reviewed as follows:

1	Approved R&D under Section 34A of ITA 1967	
	Existing A person is eligible to claim a double deduction against its business income on expenditure (not being capital expenditure) incurred on R&D activity approved by the Minister of Finance (MoF).	**Proposed additional conditions** The claimant must be a Malaysian tax resident. Where a portion of the qualifying R&D expenditure in a YA is incurred outside of Malaysia, the amount of deduction is to be determined as follows: ● Not more than 30% of R&D expenditure is incurred outside of Malaysia - Double deduction ● More than 30% of R&D expenditure is incurred outside of Malaysia - Single deduction (Effective from the coming into operation of the Finance Act)
2	**Contribution / payment to approved research institutes /companies under Section 34B of ITA 1967**	
	Existing A person is eligible to claim a double deduction against its business income on the following: ● Contribution in cash to an approved research institute ● Payment for the use of the services of an approved research institute or an approved research company ● Payment for the use of the services of a R&D company or a contract R&D company	**Proposed additional condition** The claimant must be a Malaysian tax resident. (Effective from the coming into operation of the Finance Act)
3	**R&D expenditure under Section 34(7) of ITA 1967**	
	Existing A person is eligible to claim a single deduction against its business income on qualifying expenditure incurred on R&D related to the business.	**Proposed additional condition** The claimant must be a Malaysian tax resident. (Effective from the coming into operation of the Finance Act)

Definition of plant for capital allowance (CA) purposes

Taxpayers deriving business income are eligible to claim CA on capital expenditure incurred on the provision of machinery or plant used for the purposes of business. The term 'plant' is currently not defined under the ITA 1967 and its meaning is derived from a body of case laws which generally describe 'plant' as apparatus (tool) used by a business man for carrying on his business, not his stock-in-trade which he buys or makes for sale; but all goods and chattels, fixed or moveable, live or dead, which he keeps for permanent employment in his business.

It is proposed that a definition of 'plant' be inserted into the ITA 1967 as "an apparatus used by a person for carrying on his business, but **does not include a building, an intangible asset or any asset used and that functions as a place within which a business is carried on**" **(emphasis).**

(Effective from YA 2021)

Comment: The body of case laws include judicial pronouncements made in favour of taxpayers where intangibles and buildings were held to be 'plant'. The proposed definition will have the effect of setting aside these judicial precedents and thereby limiting the scope of CA claims.

Group Relief

Currently, a company resident and incorporated in Malaysia (i.e. "Surrendering Company") may, subject to conditions, surrender up to 70% of its current year business loss for 3 consecutive YAs from the commencement of operations to a related company which is resident and incorporated in Malaysia (i.e. Claimant Company"). Key conditions in determining whether a Surrendering Company is related to a Claimant Company are as follows:

Scenario	Shareholding conditions
1. Claimant Company owns the Surrendering Company	70% or more of the paid-up capital in respect of ordinary shares of the Surrendering Company is directly or indirectly (through the medium of other companies resident and incorporated in Malaysia) owned by the Claimant Company
2. Surrendering Company owns Claimant Company	70% or more of the paid-up capital in respect of ordinary shares of the Claimant Company is directly or indirectly (through the medium of other companies resident and incorporated in Malaysia) owned by the Surrendering Company
3. Claimant Company and Surrendering Company are commonly owned by **a third company**	70% or more of the paid-up capital in respect of ordinary shares of the Surrendering Company and Claimant Company are directly or indirectly owned **by a third company** resident and incorporated in Malaysia

Currently, in the case of Scenario 3, where the third company's ownership in the paid-up capital in respect of ordinary shares in the Claimant Company and/or Surrendering Company is held through the **medium of other companies**, there is no requirement for the other companies to also be resident and incorporated in Malaysia.

It is proposed that the other companies holding the shares in the Claimant Company and/or Surrendering Company are also required to be resident and incorporated in Malaysia in order for the shareholding condition to be met in situations falling under Scenario 3.

(Effective from YA 2022)

Power to disregard structures adopted

Currently, there is a specific provision empowering the Director General of Inland Revenue (DG) to disregard and make adjustment to any structure adopted by a person for transfer pricing (TP) purposes. This power is currently found under the Income Tax (Transfer Pricing) Rules 2012.

A new Section 140A(3A) is proposed to be introduced to empower the DG to disregard any structure adopted by a person if:

- the economic substance of that transaction differs from its form; or
- the form and substance of that transaction are the same but the arrangement made in relation to the transaction, viewed in totality, differs from those which would have been adopted in an arm's length situation.

The DG shall make adjustments to the structure of that transaction as he thinks fit to reflect the structure that would have been adopted by an independent person dealing at arm's length having regard to the economic and commercial reality.

(Effective from 1 January 2021)

New surcharge on TP adjustments and structures disregarded by DG

Currently, where TP adjustments are made by the DG, the taxpayer is only subject to a penalty if the TP adjustments result in additional tax payable. Where the TP adjustments do not result in additional tax payable, no penalty is imposed.

It is proposed that a "surcharge" of up to 5% of the total TP adjustments be imposed whether or not the adjustment results in additional tax payable. The surcharge shall be treated as tax payable for the purposes of tax payment and recovery of the tax payment by civil suit. The DG is given the discretion to remit the surcharge. The proposed surcharge is also applicable to adjustments made in relation to structures disregarded by the DG under the proposed new Section 140A(3A).

(Effective from 1 January 2021)

Penalty for failure to furnish contemporaneous TP documentation

Currently, taxpayers which enter into controlled transactions are required to prepare contemporaneous TP documentation under the Income Tax (Transfer Pricing) Rules 2012. The TP documentation is required to be furnished to the IRB upon the IRB's request. Taxpayers which fail to furnish the TP documentation are not subject to a specific penalty.

It is proposed that failure to furnish contemporaneous TP documentation is subject to penalty as follows:

Scenario	Penalty
1. Prosecuted in Court	• Fine between RM20,000 to RM100,000 or imprisonment of up to 6 months, or both; and • Court may order for the TP documentation to be submitted within 30 days or any other period deemed fit by the Court.
2. In lieu of prosecution	• Penalty between RM20,000 to RM100,000.

Affected taxpayers may appeal to the Special Commissioners of Income Tax to waive/reduce the penalties.

(Effective from 1 January 2021)

Withholding tax (WHT) on distribution from a Real Estate Investment Trust / Property Trust Fund (collectively “REIT”) as a final tax

Currently, where a REIT has been exempted from tax*, distribution made by the REIT out of the income which has been exempted to its unit holders (except for resident companies) is subject to WHT as follows:

Unit holder	WHT rate
Non-resident companies	24%
Foreign institutional investors	10%
Resident individuals, non-resident individuals, and others* **excluding resident companies, non-resident companies and foreign institutional investors.*	10%

**on the basis that at least 90% of its total income is distributed to its unit holders.*

The IRB has via its Public Ruling No. 9/2018 - Taxation of Unit Holders of Real Estate Investment Trust / Property Trust Funds provided that the above WHT is to be treated as final tax, i.e. the unit holders are not required to include the gross distribution in computing their chargeable income upon filing of tax returns.

It is proposed that enabling provisions be inserted to the ITA 1967 to give effect to the IRB’s practice of treating the WHT as a final tax and that Section 110 set-off in respect of underlying tax paid by the REIT is not applicable.

(Effective from YA 2021)

Alignment to the no-par value regime of shares under the Companies Act 2016

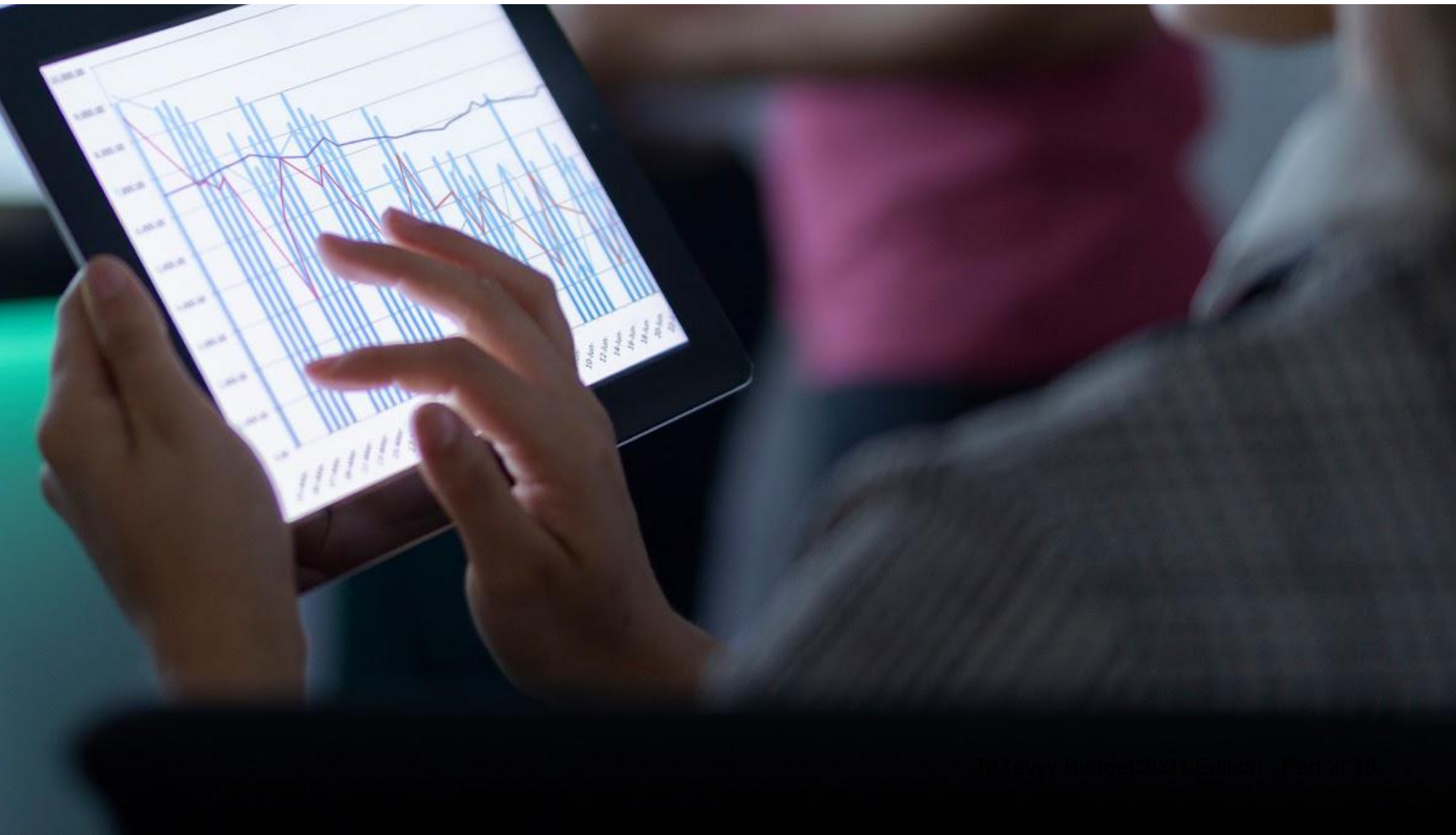
Currently, companies are allowed to carry forward unabsorbed business losses and CA for 7 consecutive YAs. In the case of dormant companies, this eligibility to carry forward business losses is subject to a substantial shareholders continuity test. Key details of the test are as follows:

Condition	Details
Shareholders to remain substantially the same	The shareholders of the company at any date shall be substantially the same as the shareholders at any other date if on both those dates: ● more than 50% of the paid-up capital in respect of the ordinary share of the company is held by or on behalf of the same persons; and ● more than 50% of the **nominal** value of the allotted shares in respect of ordinary share in the company is held by or on behalf of the same persons. Ordinary share means any share other than a share which carries only a right to any dividend which is of: ● a fixed amount or at a fixed rate per cent of the **nominal** value of the shares; or ● a fixed rate per cent of the profits of the company.

It is proposed that the word “nominal” is to be deleted in view of the abolishment of the par value regime under the Companies Act 2016.

(Effective from 1 January 2021)

2 Personal tax



Special personal income tax reliefs

Purchase of mobile phone, notebook & tablet

PENJANA announcement
A special personal income tax relief of up to RM2,500 will be given to resident individuals for the purchase of mobile phones, notebooks and tablets made from 1 June 2020 to 31 December 2020. This special personal income tax relief will be given in addition to the current lifestyle relief for YA 2020.

Finance Bill
The proposed law is consistent with the incentive announced under PENJANA.

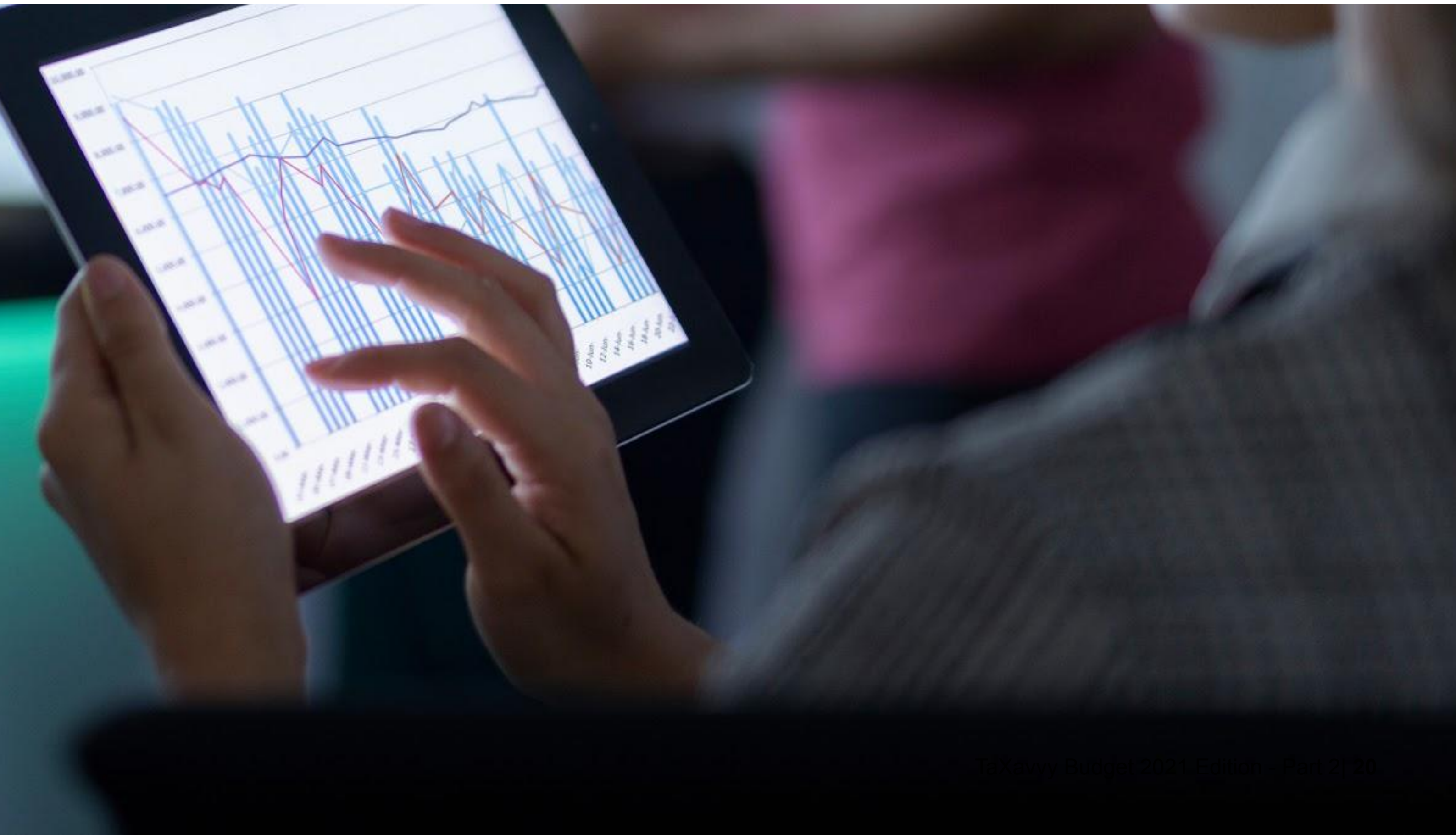
Domestic travelling expenses

PENJANA announcement
It was announced that a special personal income tax relief of up to RM1,000 be given to resident individuals for domestic traveling expenses incurred between 1 March 2020 to 31 December 2021. The expenses eligible for tax relief (effective for YAs 2020 and 2021) are as follows:

1. Accommodation fees on tourist accommodation premises registered with the Ministry of Tourism, Arts and Culture Malaysia
2. Entrance fees to tourist attractions

Finance Bill
The proposed law is consistent with the incentive announced under PENJANA.

3 Petroleum income tax



Petroleum income tax

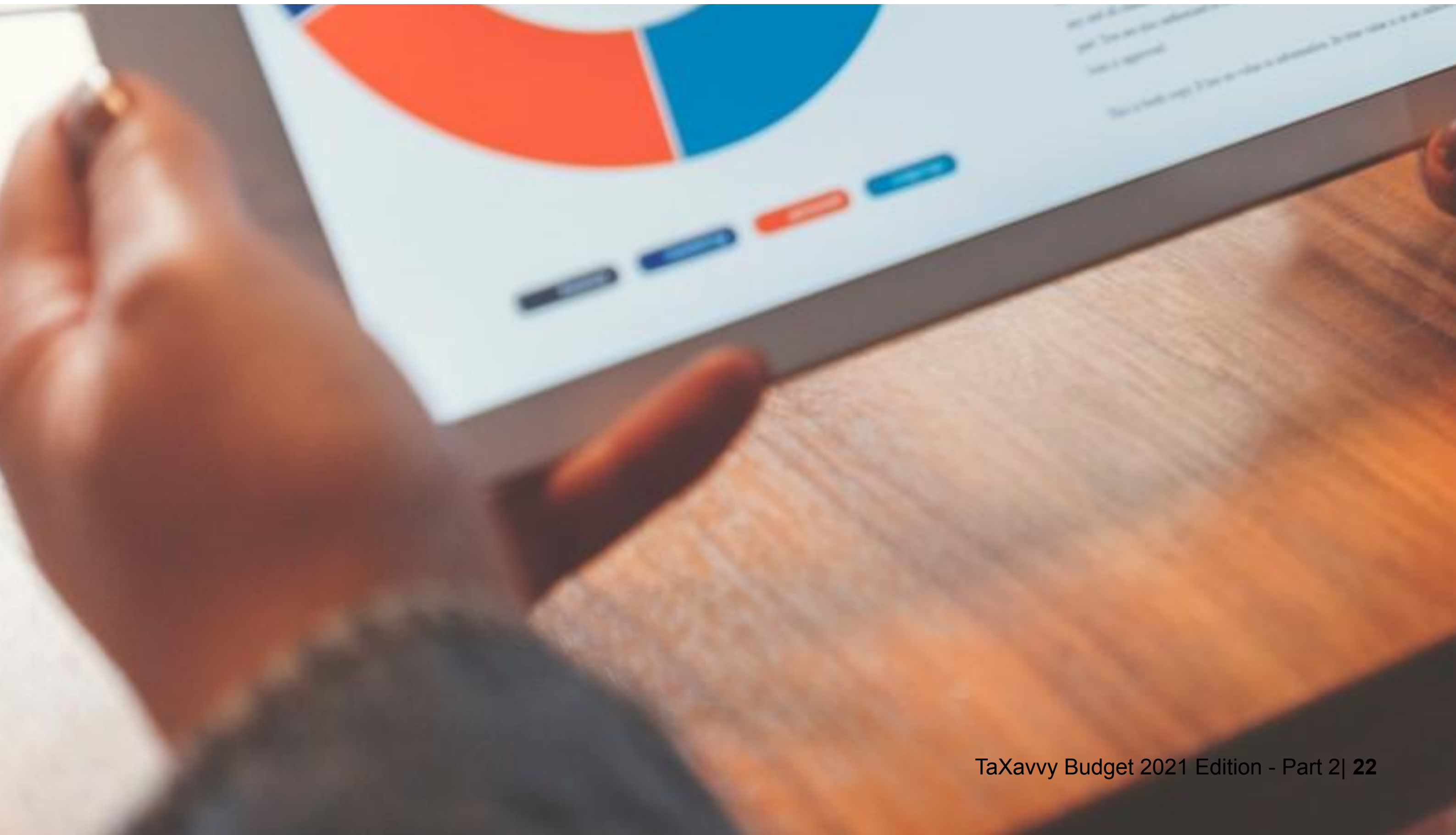
Public rulings for petroleum income tax

Currently, there is no provision in the Petroleum (Income Tax) Act 1967 (PITA) to empower the DG to issue public rulings for PITA matters.

It is proposed that a provision be inserted into PITA to empower the DG to issue public rulings for PITA matters.

(Effective from 1 January 2021)

4 Real property gains tax



Review of rate of retention sum by an acquirer

Currently, an acquirer of a real property is required to retain the whole of the money or a sum not exceeding 3% of the total value of the consideration whichever is the less (“retention sum”). In the case where the disposer is a non-citizen, a non-permanent resident or a company incorporated outside of Malaysia, the amount to be retained is the whole of the money or a sum not exceeding 7% of the total value of the consideration, whichever is the less. The retention sum shall be remitted to the DG within 60 days after the date of acquisition.

It is proposed that the 7% rate that is currently applicable when the disposer is a non-citizen, a non-permanent resident or a company incorporated outside of Malaysia, be extended to cases where the disposer is an executor of the estate of a deceased person who is not a citizen and not a permanent resident.

(Effective from 1 January 2021)

Power for DG to remit sum imposed on a disposer for giving incorrect notification of non-chargeability to an acquirer

An acquirer of a real property is not required to retain and remit the retention sum to the DG if the disposer furnishes a notification of non-chargeability to the acquirer stating that the disposer is not subject to real property gains tax (RPGT) or exempt from the payment of RPGT in respect of the real property disposed to the acquirer.

Where such notification is incorrectly or wrongly given by the disposer to the acquirer resulting in the acquirer not remitting the retention sum to the DG, the RPGT assessment made to the disposer shall include a ‘sum‘ as follows:

- Original assessment - a sum equal to 10% of the RPGT payable
- Additional assessment - a sum equal to 10% of the additional RPGT payable

There is no specific provision in the Real Property Gains Tax Act 1976 (RPGTA) which grants the DG a power to remit the sum imposed.

It is proposed that a specific provision be inserted to the RPGTA to empower the DG to remit wholly or partly of the sum imposed.

(Effective from 1 January 2021)

Electronic submission of RPGT returns on behalf of taxpayers

Currently, there is no specific provision in the RPGTA which provides for electronic submission of RPGT returns on behalf of a taxpayer by a tax agent and an advocate and solicitor (“e-filing by agents”).

It is proposed that specific provisions be inserted into the RPGTA to provide for e-filing by agents.

(Effective from 1 January 2021)

Review of RPGT rates for societies registered under the Societies Act 1966

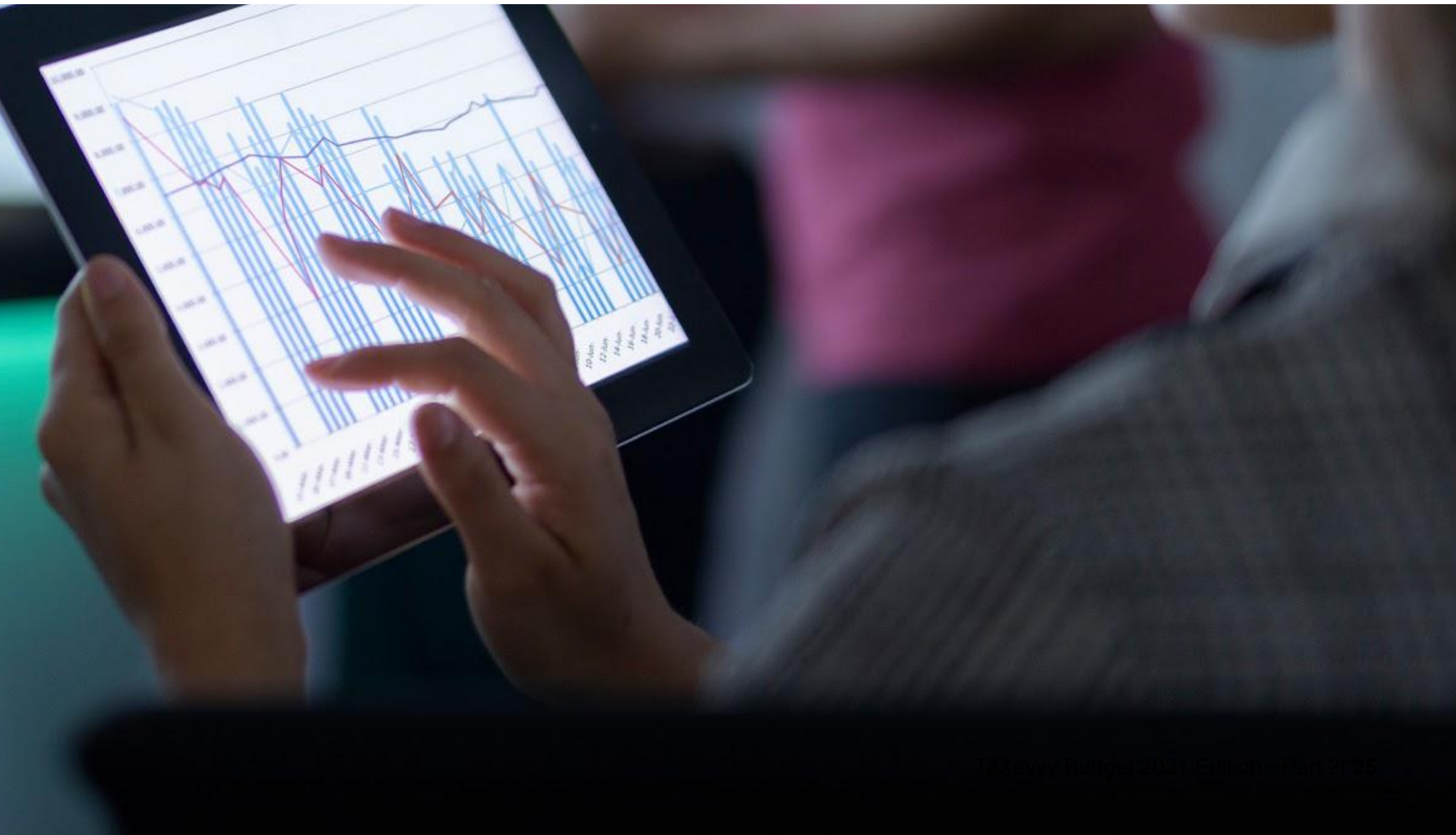
The current RPGT rates are as follows:

Disposal	**RPGT rates**		
	Category I Individual [citizen and permanent residents (PR)], and a disposer not falling under Category II or Category III including a society registered under the Societies Act 1966 **(%)**	**Category II** Company incorporated in Malaysia or a trustee of a trust **(%)**	**Category III** Individual (non-citizen and non-PR) and executors of a deceased person who is a non-citizen and non-PR **(%)**
Within 3 years after acquisition	30	30	30
In the 4th year after acquisition	20	20	30
In the 5th year after acquisition	15	15	30
In the 6th and subsequent years after acquisition	5	10	10

It is proposed that societies registered under the Societies Act 1966 which currently fall under Category I above be moved to Category II.

(Effective from 1 January 2021)

5 Labuan



Definition of chargeable profits

With effect from YA 2020, Labuan entities which do not meet the prescribed substantial activities requirements are subject to tax at 24% on its chargeable profits under the Labuan Business Activity Tax Act 1990 (LBATA). A specific definition of chargeable profits for this purpose was however not provided.

It is proposed that the ‘chargeable profits’ for Labuan Entities which are subject to tax at 24% under LBATA is defined as “net profits as reflected in the audited accounts in respect of such Labuan business activity of the Labuan entity for the basis period for that year of assessment”. This definition is similar to the existing definition of chargeable profits that is applicable for Labuan Entities which are subject to tax at 3% on chargeable profits in respect of labuan trading activities.

(Effective from YA 2020)

Control and management requirement in relation to Labuan non-trading activity

Currently, a Labuan entity which qualifies for the preferential treatment* under LBATA is defined as a Labuan entity which meets the substantial activities requirement. The substantial activities requirement consists of prescribed number of full time employees in Labuan and annual operating expenditure in Labuan.

It is proposed that for a Labuan non-trading activity to continue to enjoy the preferential treatment (non-chargeability under LBATA), it has to fulfill an additional requirement, i.e. compliance with prescribed conditions in relation to control and management in Labuan.

** 3% on chargeable profits in respect of Labuan trading activity and non-chargeability in respect of Labuan non-trading activity).*

(Effective from 1 January 2021)

Right to appeal against additional assessment under LBATA

Currently, a Labuan entity which is aggrieved by an assessment raised by the DG based on tax returns submitted can appeal against the assessment to the Special Commissioners of Income Tax (SCIT). No specific provision for right of appeal is provided in LBATA for appeals against additional assessment raised by the DG.

It is proposed that the right to appeal be extended to cover additional assessment raised by the DG.

(Effective from YA 2020)

DG's power to grant extension of time (EOT) for election to be taxed under ITA 1967

A Labuan entity is given an option to make an irrevocable election to subject its profits to tax under ITA 1967 instead of under LBATA. The election is to be submitted to the DG within 3 months after the beginning of the basis period for a YA. Currently, there is no provision under the LBATA which gives the DG the power to grant EOT for the submission of the election.

It is proposed that a provision be inserted into LBATA to empower the DG to grant EOT for the submission of the election.

(Effective from coming into operation of the Finance Act)

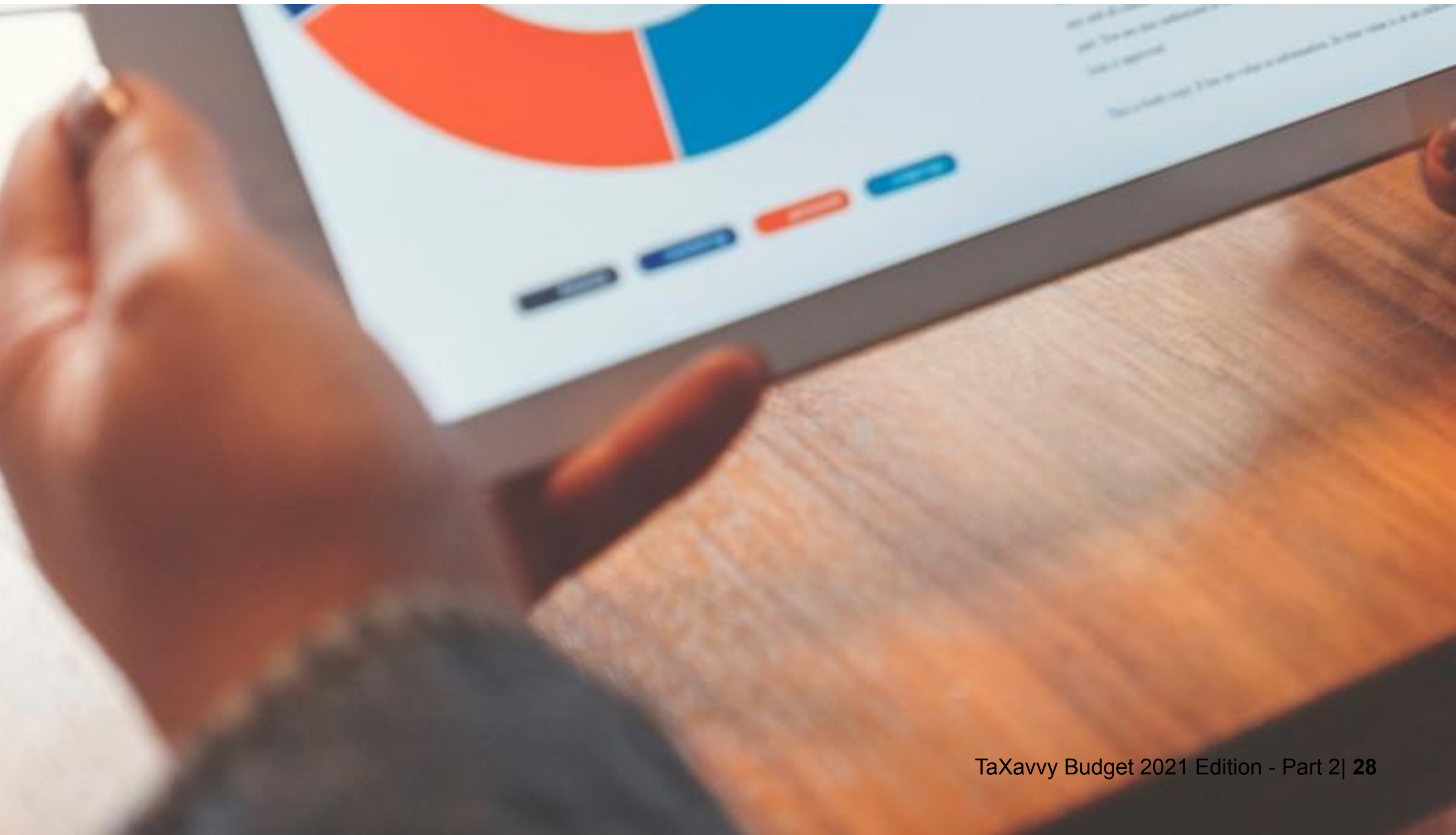
Penalties for offences under LBATA

The penalties for certain offences under LBATA will be reviewed as follows:

Offence	Current penalty	Proposed penalty
Breach of duty to maintain confidentiality on return of profits, statutory declaration or information made or received for the purposes of LBATA	Upon conviction, a fine not exceeding RM1 million or to imprisonment for a term not exceeding 2 years or to both.	The current penalty will be enhanced by introducing a minimum fine of RM20,000 upon conviction.

(Effective from 1 January 2021)

6 Tax administration



Duty to pay taxes notwithstanding proceedings against the Government or DG

Currently, taxpayers aggrieved by assessments raised by the DG in respect of income tax, petroleum income tax, tax under LBATA and RPGT may appeal against the assessment to the SCIT. Taxes arising from the assessments are due and payable notwithstanding any appeal to the SCIT. In addition to appeal to the SCIT, taxpayers may also under certain circumstances apply to the Courts for a Judicial Review upon which the Courts may grant a stay order over the payment of taxes.

It is proposed that any proceedings against the Government or DG by a taxpayer under any other written law shall not relieve the taxpayer from the payment of any income tax, petroleum income tax, tax under LBATA and RPGT.

(Effective from 1 January 2021)

Remission of increased sum under Self Amended Returns

Currently, a taxpayer may within a period of 6 months from the submission of its tax return, submit an amended tax return (“Self-Amended Return”) to make good any additional tax which was not included in its original tax return. Any additional tax payable will be increased by a sum of 10% (“increased sum”). Currently, the DG may at his discretion for any good cause shown, remit the whole or any part of the increased sum.

It is proposed that the DG shall no longer be given the discretion to remit the increased sum.

(Effective from 1 January 2020)

Electronic filing (e-Filing) of tax returns of LLPs

Currently, LLPs are allowed to file their tax returns either manually or via e-Filing. It is proposed that LLPs are to file their tax returns only via e-Filing.

(Effective from YA 2021)

Notifications from employers on the death of employees

Currently, employers are required to give written notification to the IRB in relation to its employees including the following:

Event to notify via IRB's forms (non-prescribed forms)	Deadline
New employee (Form CP22)	1 month after commencement of employment
Cessation of employment (Form CP22A / CP22B)	1 month before cessation of employment
Departure from the country of an employee (Form CP21)	1 month before expected date of departure

It is proposed that:

- the above notification to the IRB shall be made via prescribed forms;
- employers are also required to give written notification to inform the IRB on the death of an employee; and
- the existing deadlines of 1 month from or before the respective events are to be revised to 30 days.

These proposals are summarised as follows:

Event to notify via prescribed forms	Deadline
New employee	**30 days** after commencement of employment
Cessation of employment	**30 days** before cessation of employment
Departure from the country of an employee	**30 days** before expected date of departure
Death of employee	30 days after being informed of the death

(Effective from 1 January 2021)

Stoppage order to prevent persons from leaving Malaysia

Currently, the DG may issue a certificate to the Commissioner of Police or Director of Immigration containing particulars of outstanding income tax, RPGT and/or stamp duty with a request for a stoppage order for that person to be prevented from leaving Malaysia.

It is proposed that:

- the certificate may be issued on an electronic medium or by way of electronic transmission; and
- for consistency with income tax cases, a person prevented from leaving Malaysia for RPGT cases shall include a director of a company, who is defined as any person who:
    - is occupying the position of director (by whatever name called), including any person who is concerned in the management of the company's business; and
    - is, either on his own or with one or more associates, the owner of, or able directly or through the medium of other companies or by any other indirect means to control, not less than 20% of the ordinary share capital of the company.

(Effective from 1 January 2021)

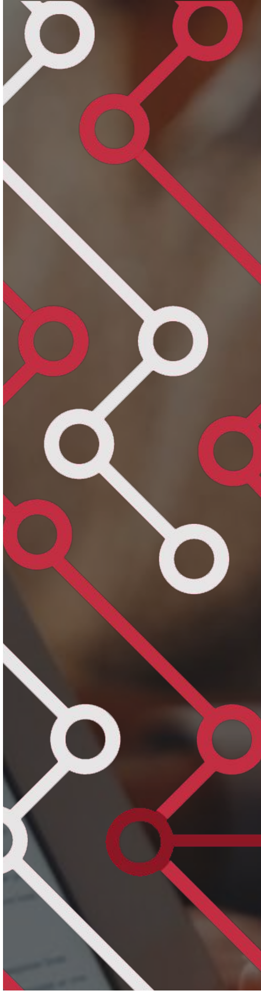
Civil recovery of penalty for non-compliance with tax instalment scheme under PITA

Currently, under ITA 1967 and PITA, the DG may allow the taxes arising from an assessment to be paid by instalments in such amounts and on such dates as he may determine. A taxpayer who fails to comply with the instalment scheme shall be subject to an increased sum of 10% of the outstanding taxes.

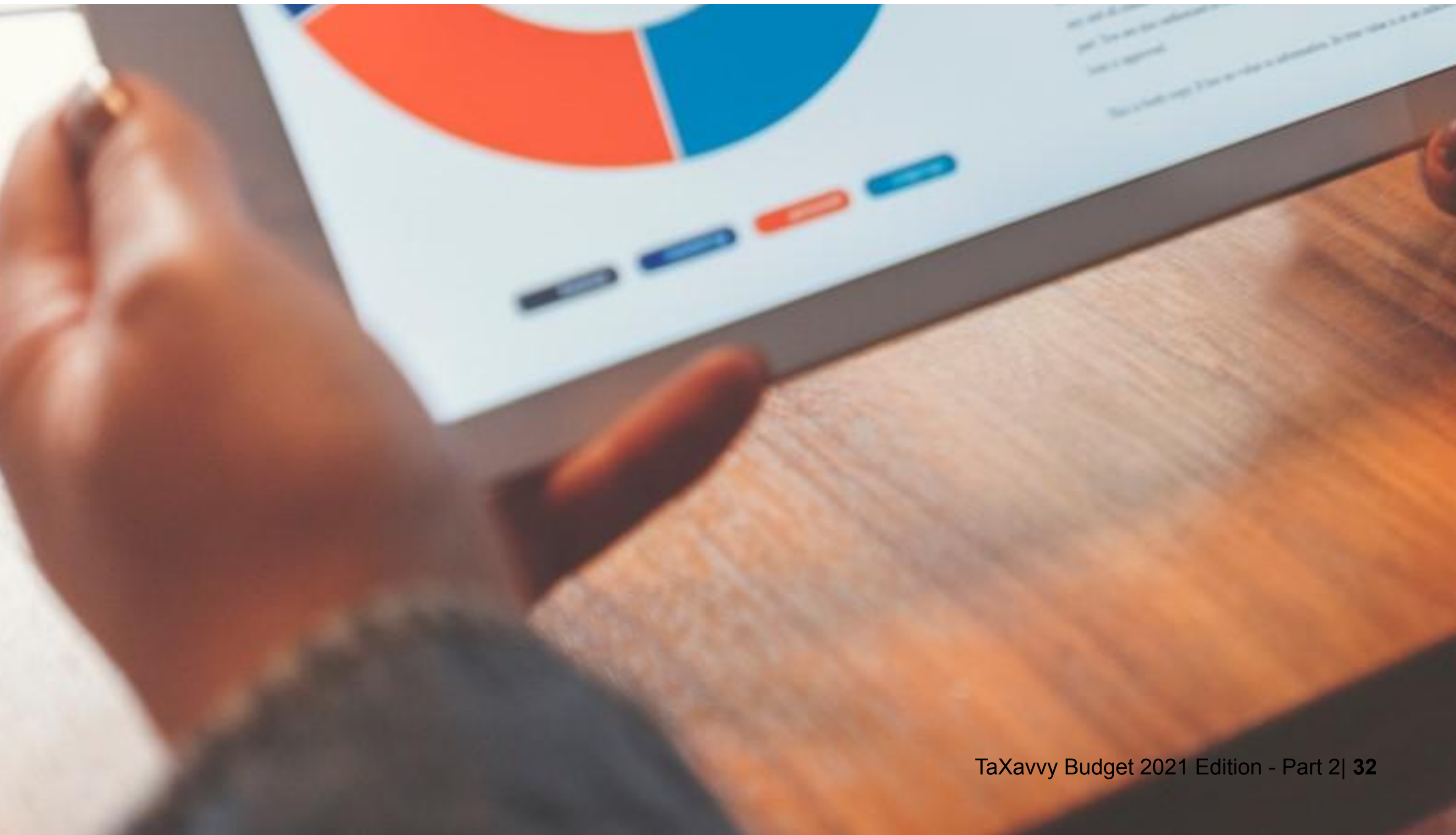
The Government is empowered to recover outstanding taxes from the taxpayer by instituting civil proceedings at the Courts. In cases falling under the ITA 1967, it has been specifically spelt out under the ITA 1967 that the increased sum is recoverable via civil proceedings notwithstanding that the increased sum is under appeal or protest.

It is proposed that a similar provision be inserted to PITA to spell out that an increased sum under PITA is similarly recoverable by the Government via civil proceedings notwithstanding that the increased sum in under appeal or protest.

(Effective from 1 January 2021)



7 Stamp duty



Ministerial exemption of stamp duty

Currently, MoF may grant special exemption of stamp duty on instruments **in relation to any 'scheme'**.

It is proposed that MoF may grant special exemption **on any instruments.** The proposed provision does not include the requirement for the instruments to be related to any scheme.

(Effective from 1 January 2021)

IRB to be empowered to grant remission of stamp duty

Currently, only MoF may grant special exemption, reduction and remission of stamp duty.

It is proposed that, the IRB is to be empowered to grant special remission (wholly or partly) of stamp duty on grounds of poverty and to refund any duty which has been paid in respect of such special remission.

(Effective from 1 January 2021)

Digital stamping

Currently, a dutiable instrument is generally considered to be duly stamped and paid (including any penalty) when:

- the instrument bears an adhesive or impressed stamp; or
- a stamp certificate or official receipt is attached or affixed to the instrument.

It is proposed that a dutiable instrument is also considered to be duly stamped and paid (including any penalty) by way of a digital stamping. The form of digital stamping is to be prescribed under Rules to be issued by the MoF.

(Effective from 1 January 2021)

Review of civil recovery procedure

Outstanding stamp duties are treated as debts due to the Government and shall be recoverable by any of the ways and means in force for the time being for the recovery of debts due to the Government. The Government is currently the party to institute civil proceedings at the Courts to recover the outstanding stamp duties.

To align with the recovery procedures under the ITA 1967, it is proposed that the IRB shall be the party to the civil recovery action by providing that the DG and all authorised officers of the IRB are public officers authorized by the Minister under section 25(1) of the Government Proceedings Act 1956 in respect of the recovery proceedings. A certificate signed by the DG giving details of the name and address of the taxpayer and outstanding stamp duty shall be sufficient authority for the court to give judgement.

(Effective from 1 January 2021)

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