

**IRELAND ASIA DIVISION**  
**2013 BUDGET HIGHLIGHTS**  
**28th September 2012**

## **Executive Summary**

- Business trusts are subject to income tax in the same manner as a company. At the initial stage of establishment, business trusts are given a stamp duty exemption on instruments of transfer of assets while persons disposing real properties or shares in a real property company to a business trust are given real property gains tax exemptions.
- 100% income tax exemption is given to Liquefied Natural Gas trading companies under the Global Investment For Trading (GIFT) programme and 100% investment tax allowance for 10 years is given on qualifying expenditure incurred on investments in activities related to the refining of petroleum products.
- Limited liability partnerships are subject to income tax in a manner similar to a company.
- Interest income is to be treated as non-business sourced income unless that interest is received in the course of carrying on a money lending business.
- Income received by certain approved annuity funds is now tax exempt.
- The adjusted loss from the business of a family fund of a Takaful operator for a Year of Assessment (YA) is not allowed to be set off against income from other sources and vice versa.
- 100% income tax exemption and industrial building allowance at an annual rate of 10% are accorded to operators of pre-schools.
- 100% accelerated capital allowance on security control and surveillance equipment installed in factory premises or buildings used for a business is extended to YA 2015. This also covers companies installing security control and surveillance equipment in residential areas.
- Double deduction is given on expenses incurred for the issuance of Agro-Sukuk approved by the Securities Commission (SC) or Labuan Financial Services Authority (LFSA) and on expenses incurred for the issuance of retail sukuk and retail bonds.
- Resident individual tax rates for chargeable income in the bands of RM2,501 to RM50,000 are reduced by 1% in each band.
- An Angel Investor is allowed a tax deduction of the total value of its investment in a Venture Company against all income of the Angel Investor.
- Expenditure incurred on the provision of treasury shares to employees is allowed a tax deduction.
- Subject to limited exceptions, withdrawal of contributions made to a private retirement scheme by an individual before the age of 55 is subject to a 8% final withholding tax.
- Real property gains tax is revised to 15% for disposals within 2 years and 10% for disposals after 2 years and up to 5 years.

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- 50% stamp duty exemption is accorded on instruments of transfer and loan agreements executed by Malaysians for the purchase of their first residential property valued up to RM400,000.
- Except for cases related to investigation, false declaration, willful late payment and negligence, the time bar for raising tax assessments or additional assessments is reduced from 6 years to 5 years.

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<b>SUBJECT</b>	<b>BUDGET PROPOSALS</b>
<b>CORPORATE TAX</b>	
<b><i>Business Trust</i></b>	<p>The Capital Markets and Services Act, 2007 has been amended to provide businesses with an option to operate using a business trust structure.</p> <p>To promote the development and investment in business trusts, it is proposed that:</p> <ol style="list-style-type: none"> <li>i. a business trust be treated in the same manner as a company in the areas of income tax, stamp duty and real property gains tax;</li> <li>ii. at the initial stage of the establishment of a business trust, the business trust will be given a one off stamp duty exemption on instruments of transfer of businesses, assets or real properties acquired; and</li> <li>iii. at the initial stage of the establishment of a business trust, persons disposing real properties or shares in a real property company to a business trust will be given real property gains tax exemption on any gains derived from the disposal.</li> </ol> <p>The proposal is effective as follows:</p> <ol style="list-style-type: none"> <li>i. with regards to item i, from YA 2013;</li> <li>ii. with regards to item ii, for instruments executed from 1st January 2013; and</li> <li>iii. with regards to item iii, for disposals made from 1st January 2013.</li> </ol>
<b><i>Limited Liability Partnerships</i></b>	<p>A limited liability partnership as set up under the Limited Liability Partnerships Act, 2012 is proposed to be treated as follows:</p> <ol style="list-style-type: none"> <li>i. a limited liability partnership is subject to income tax at a rate of 25%. Where the limited liability partnership is tax resident in Malaysia and has a total contribution of capital (whether in cash or in kind) of RM2.5 million and less at the beginning of the basis period for a YA and is not more than 50% related to a company with an ordinary paid up share capital of more than RM2.5 million at the beginning of a basis period for a YA, such limited liability partnership shall be subject to tax at: <ol style="list-style-type: none"> <li>a. 20% on its first RM500,000 of chargeable income;</li> <li>b. 25% on the chargeable income exceeding RM500,000;</li> </ol> </li> <li>ii. profits paid, credited or distributed by a limited liability partnership</li> </ol>

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	<p>to its partners are tax exempt;</p> <ul style="list-style-type: none"> <li>iii. remuneration or similar payments to a partner of a limited liability partnership where such remuneration or payment is not specified or provided for in the limited liability partnership agreement made in accordance with Section 9 of the Limited Liability Partnerships Act, 2012, is not tax deductible;</li> <li>iv. where a partnership or a company is converted into a limited liability partnership in accordance with the Limited Liability Partnerships Act, 2012: <ul style="list-style-type: none"> <li>a. the unutilised tax losses of that partnership or company can be utilised by the limited liability partnership for a YA following the relevant year;</li> <li>b. the unutilised capital allowance of that partnership or company can be utilised by the limited liability partnership for the following YA.</li> </ul> </li> <li>v. a limited liability partnership is required to submit its tax return within 7 months from the close of its accounting period.</li> </ul> <p>The proposal is effective from the coming into operation of the Limited Liability Partnerships Act, 2012.</p>
<p><b><i>Non Business Income</i></b></p>	<p>It is proposed that interest income would no longer be considered as a business source of income unless:-</p> <ul style="list-style-type: none"> <li>i. the interest income is derived from a source that forms part of the stock in trade of a business of that person; or</li> <li>ii. the interest is receivable by a person from the business of lending money and that business is licensed under any written law.</li> </ul> <p>Where, but for the above proposal, a person has treated its interest income to be a business source, any unabsorbed business losses and unutilised capital allowances up to YA 2012 from that interest source can be utilised against the aggregate statutory income from any other business source in YA 2013.</p> <p>In the case where that person has no business source for YA 2013, the unabsorbed business losses and unutilised capital allowances will be deducted against any other source of income of that person until the amounts are fully deducted.</p> <p>The proposal is effective from YA 2013.</p>

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<p><b><i>Takaful Operators - Losses</i></b></p>	<p>It is proposed that the adjusted loss from the business of a family fund of a Takaful operator for a YA is not allowed to be deducted against the aggregate of the statutory income from sources other than the family fund for the relevant YA. Conversely any unabsorbed business loss from sources other than the family fund for the relevant YA are not allowed to be deducted against the statutory income of the family fund of that Takaful operator.</p> <p>The proposal is effective from YA 2012.</p>
<p><b><i>Capital Allowances</i></b></p>	<p>It is proposed that the several provisions be amended in Schedule 3 (capital allowances) of the Act as follows:-</p> <p>i. a grant or other payment from the Federal or State Government or from a statutory authority received by a person carrying on an agricultural business shall no longer give rise to an agriculture charge.</p> <p>This proposal is effective on the coming into operation of the Finance Act.</p> <p>ii. an agriculture charge is made on a company where a farm asset on which agricultural allowances had been claimed is disposed of within five years (at present, six years).</p> <p>The proposal is effective from 1st January 2014.</p> <p>iii. the controlled transfer provisions would now also apply to transfers involving limited liability partnerships and business trusts. The term “control” in connection with the above entities means:-</p> <p>a. the right to a share of more than one-half of the capital contribution whether in cash or in kind of the limited liability partnership. The proposal is effective from the date of coming into operation of the Limited Liability Partnerships Act 2012; and</p> <p>b. the right to not less than fifty percent of residual profits of the business trust available for distribution, or not less than fifty percent of any residual assets of the business trust available for distribution on a winding up. The proposal is effective on the coming into operation of the Capital Markets and Services (Amendment) Act 2012.</p> <p>iv. A special provision is proposed to provide broadly for a deemed disposal of an asset for which capital expenditure has been incurred if the asset is classified as being held for sale in</p>

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	<p>accordance with generally accepted accounting principles. The disposal value shall be deemed to be the market value of the asset or the net proceeds from the sale, whichever is greater. The proposal is effective from YA 2013.</p>
<b>CAPITAL MARKETS</b>	
<p><b><i>Tax Exemption on Income of the Annuity Fund</i></b></p>	<p>As an alternative or additional investment for retirement, life insurance and family takaful companies offer annuity products. At present, premiums paid by annuity scheme investors are consolidated in the life fund or family fund and investment income from both funds are subject to income tax at the rate of 8%.</p> <p>To encourage individuals to invest in annuity schemes to provide savings for retirement, it is proposed that the tax treatment on annuity scheme funds be streamlined with other retirement scheme funds whereby tax exemption is given on income received by annuity funds.</p> <p>The annuity funds must be approved by Bank Negara Malaysia and maintained in accounts separate from life funds or takaful family funds.</p> <p>The proposal is effective from YA 2012.</p>
<p><b><i>Angel Investor</i></b></p>	<p>Currently, an investor (an individual or a company) who invests in a venture capital company in respect of seed capital financing, start-up financing and early stage financing is eligible to claim a deduction on the total value of investment. However, the deduction is available only against the business income of the investor.</p> <p>To attract more individuals (angel investors) to provide funding to venture companies, it is proposed that the total value of investment be allowed as a deduction against all income of the Angel investor. The qualifying criteria for the incentive includes:-</p> <ol style="list-style-type: none"> <li>i. the Angel investor is an individual who is not associated with the venture company prior to investing;</li> <li>ii. the Angel investor is a tax resident with an annual income of not less than RM180,000;</li> <li>iii. the Angel investor pays for the shares in cash and holds at least 30% of the shares in the venture company for a period of at least 2 years;</li> <li>iv. 51% of the shares in the venture company is owned by Malaysians;</li> <li>v. the venture company is carrying out qualifying activities that are approved by the Minister of Finance (MOF); and</li> <li>vi. the venture company's accumulated profit is not more than RM5</li> </ol>

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	<p>million and has a track record of less than 3 years.</p> <p>The proposal is effective for applications received by the MOF from 1st January 2013 until 31st December 2017.</p>
<p><b><i>Withdrawal of Contribution to a Private Retirement Scheme</i></b></p>	<p>The withdrawal of contributions made to a private retirement scheme by an individual before reaching the age of fifty-five (other than on death or permanently leaving Malaysia) would be subject to a final withholding tax of 8%.</p> <p>It is the payer's responsibility to remit the tax withheld to the Inland Revenue Board (IRB) within one month after paying the individual. Failure to do so will result in the imposition of a 10% penalty on the tax which should have been withheld.</p> <p>The "payer" refers to a private retirement scheme provider as approved under Section 139Q of the Capital Markets and Services Act 2007. The proposal is effective from 1st January 2013.</p>
<p><b><i>Special Deduction for Expenditure on Treasury Shares</i></b></p>	<p>There are currently no specific provisions under the Act to address the deductibility of expenditure on treasury shares. Thus, a new section will be introduced to allow a special deduction on expenses incurred in acquiring treasury shares.</p> <p>The following has been proposed:</p> <ol style="list-style-type: none"> <li>i. where a company offers treasury shares to its employees, a deduction on the net amount (cost of acquiring the treasury shares less the amount payable by employee) shall be given to the company in the basis period when the employee exercises his/her rights to acquire such treasury shares.</li> <li>ii. where a holding company transfers treasury shares to an employee of its subsidiary company who has the right to acquire such shares, a deduction shall be given to the subsidiary company, instead of the holding company, on the date of transfer of the treasury shares or date of payment to the holding company for the treasury shares, whichever is later. The deduction for the subsidiary company would be for the amount paid to the holding company or the net amount (cost of acquiring the treasury shares less amount payable by employee) incurred by the holding company in acquiring the treasury shares, whichever is lower.</li> <li>iii. the cost of acquiring these treasury shares which are transferred shall be determined on the basis that the treasury shares acquired at an earlier point in time are deemed to be transferred first (first-in first-out basis). The proposals are effective from YA 2013.</li> </ol>

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<b>SUBJECT</b>	<b>BUDGET PROPOSALS</b>
<b>TAX INCENTIVES</b>	
<p><b><i>Tax Incentives for Childcare Centres</i></b></p>	<p>At present, employers who provide childcare centres to their employees are given the following tax incentives:</p> <ul style="list-style-type: none"> <li>i. deduction on expenditure incurred for the provision and maintenance of childcare centres;</li> <li>ii. deduction on childcare allowance given to employees; and</li> <li>iii. industrial building allowance at an annual rate of 10% for buildings used as childcare centres.</li> </ul> <p>Operators of private childcare centres are not given tax incentives.</p> <p>To encourage more employers and the private sector to provide childcare centres, the following are proposed:</p> <ul style="list-style-type: none"> <li>i. tax incentives for employers be enhanced as follows: <ul style="list-style-type: none"> <li>a. double deduction on expenditure incurred for the provision and maintenance of childcare centres; and</li> <li>b. double deduction on childcare allowance given to employees.</li> </ul> </li> <li>ii. tax incentives for operators of new and existing private childcare centres as follows: <ul style="list-style-type: none"> <li>a. tax exemption at the statutory level on all income for a period of 5 years; and</li> <li>b. industrial building allowance at an annual rate of 10% for buildings used as childcare centres.</li> </ul> </li> </ul> <p>New and existing private childcare centres must be registered with the Social Welfare Department.</p> <p>The proposals are effective from YA 2013.</p>



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<p><b><i>Tax Incentives for Pre-School Education</i></b></p>	<p>At present, operators running private pre-schools that are integrated with private primary schools are given the following tax incentives:</p> <ul style="list-style-type: none"> <li>i. income tax exemption of 70% on statutory income for 5 years; or income tax exemption equivalent to 100% of capital expenditure incurred within a period of 5 years which is allowed to be set off against 70% of statutory income for each YA (this incentive is for applications received by Malaysian Investment Development Authority (MIDA) from 8th October 2011 until 31st December 2015); and</li> <li>ii. industrial building allowance with an annual allowance rate of 10% for school building.</li> </ul> <p>To reduce the operational costs of maintenance and to enhance the quality of new and existing private pre-schools, it is proposed that the following tax incentives be given:</p> <ul style="list-style-type: none"> <li>i. tax exemption at the statutory level on all income for a period of 5 years; and</li> <li>ii. industrial building allowance with an annual rate of 10% on pre-school buildings.</li> </ul> <p>New and existing private pre-schools must be registered with the State Education Department.</p> <p>The proposal is effective from YA 2013.</p>
<p><b><i>Commercialisation of Research and Development ("R&amp;D")</i></b></p>	<p>Currently, the following tax incentive package is given to companies which are engaged in the commercialisation of the resource-based R&amp;D findings of public research institutions or public institutes of higher learning in Malaysia:-</p> <ul style="list-style-type: none"> <li>i. A company that invests in a related company engaged in the commercialisation of resource-based R&amp;D findings is given a tax deduction equivalent to the value of investment made in the related company; and</li> <li>ii. The related company that undertakes the commercialisation of the resource-based R&amp;D findings is given an income tax exemption of 100% of its statutory income for 10 years.</li> </ul> <p>The above incentive package is subject to the following conditions:</p> <ul style="list-style-type: none"> <li>i. The application for approval for the commercialisation project shall be submitted to MIDA;</li> <li>ii. The company is incorporated in Malaysia under the Companies Act 1965;</li> </ul>

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	<ul style="list-style-type: none"> <li>iii. The project of commercialisation shall commence within one year from the date of approval;</li> <li>iv. At least 70% of the company is owned by Malaysians; and</li> <li>v. The company which invests should own at least 70% of the equity of the company that commercialises the R&amp;D findings.</li> </ul> <p>To encourage greater commercialisation of R&amp;D findings, it is proposed that the above tax incentive package be extended to the commercialisation of non-resource based R&amp;D findings.</p> <p>The non-resource based activities / products are subject to the list of promoted activities / products under the Promotion of Investments Act 1986.</p> <p>The proposal is effective for applications received from 29th September 2012 until 31st December 2017.</p>
<p><b><i>Revival of Abandoned Housing Projects</i></b></p>	<p>To encourage the involvement of the private sector in reviving abandoned housing projects, it is proposed that the following tax incentives be given:-</p> <ul style="list-style-type: none"> <li>i. Banking and Financial Institutions <ul style="list-style-type: none"> <li>a. tax exemption on interest income received from the rescuing contractor;</li> </ul> </li> <li>ii. Rescuing Contractor <ul style="list-style-type: none"> <li>a. double deduction on interest expense and all direct costs incurred in obtaining loans to revive the abandoned project; and</li> <li>b. stamp duty exemption on all instruments executed for the purpose of transfer of land or houses and loan agreements to finance the cost of revival of the abandoned project;</li> </ul> </li> <li>iii. Original House Purchaser in the Abandoned Project <ul style="list-style-type: none"> <li>a. stamp duty exemption on all instruments executed for the purpose of transfer of the house and loan agreements for additional financing.</li> </ul> </li> </ul> <p>Abandoned housing projects eligible for the above tax incentives must be certified by the Ministry of Housing and Local Government.</p> <p>With respect to item i, the proposal is effective for loans approved between 1st January 2013 to 31st December 2015 and the tax exemption would be applicable for 3 consecutive YAs from the year the loans are approved.</p> <p>With respect to item ii(a), the proposal is effective for loans approved between 1st January 2013 to 31st December 2015 and the double deduction</p>

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	<p>would be applicable for 3 consecutive YAs from the year the loans are approved.</p> <p>With respect to items ii(b) and iii, the proposal is effective for sale and purchase agreements executed between 1st January 2013 to 31st December 2015.</p>
<p><b><i>Review of Tax Incentives for Tour Operators</i></b></p>	<p>From YA 2007 to YA 2011, tour operators enjoyed a 100% income tax exemption on their statutory income derived from the business of operating domestic tour packages participated in by at least 500 inbound tourists per year or 1,200 local tourists per year.</p> <p>To continue promoting Malaysia as an attractive tourist destination, it is proposed that tour operators be given a 100% income tax exemption on their statutory income derived from the business of operating domestic tour packages participated by at least 750 inbound tourists per year or 1,500 local tourists per year.</p> <p>The proposal is effective from YA 2013 to YA 2015.</p>
<p><b><i>Tax Incentives for Security Equipment</i></b></p>	<p>To support companies and businesses in enhancing their security, it is proposed that the 100% Accelerated Capital Allowance (“ACA”) given on security control and surveillance equipment installed in factory premises (for companies) and buildings used for a business (for individuals) currently given until YA 2012 be extended until YA 2015. The ACAs are also proposed to be extended to companies that install security control and surveillance equipment in residential areas.</p> <p>The list of equipment entitled to such ACA is proposed to be extended to include safety mirrors and panic buttons.</p> <p>The proposal is effective from YA 2013 to YA 2015.</p>
<p><b><i>Tax Incentives for the Refining, Storage and Trading of Petroleum Products</i></b></p>	<p>To encourage and support the development of activities related to the refining, storage and trading of petroleum products, it is proposed that:</p> <ul style="list-style-type: none"> <li>i. for investment in activities related to the refining of petroleum products, Investment Tax Allowance of 100% be given on the qualifying capital expenditure incurred within a period of 10 years; and</li> <li>ii. for Liquefied Natural Gas trading companies, the GIFT programme to be enhanced with a 100% income tax exemption on statutory income for the first 3 years of operations. This is in addition to the current tax incentives under the GIFT programme, which includes a flat corporate income tax rate of 3% of chargeable income.</li> </ul> <p>Currently, details of the proposed incentives and their proposed effective dates have not been released.</p>

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<p><b><i>Tax Incentives for Issuance of Agro-Sukuk, Retail Sukuk and Retail Bonds</i></b></p>	<p>Currently, a company that issues sukuk including retail sukuk structured under various Syariah principles, is given a tax deduction on expenses incurred in the issuance of sukuk. The same incentive, however, is not given to a company that issues bonds including retail bonds.</p> <p>The issuance of retail sukuk and retail bonds involves additional costs such as rating fees, underwriting and placement fees, facility agency fees, advertising costs and costs of printing prospectus.</p> <p>In order to promote the issuance of sukuk primarily by the agriculture sector, it is proposed that a double deduction be given for the expenses incurred in the issuance of Agro-Sukuk approved by the SC or the LFSA.</p> <p>The above proposal is effective from YA 2013 to YA 2015.</p> <p>In addition, the Government has also made the following proposals to reduce the cost of the issuance of retail sukuk and retail bonds and to encourage more individual investors to participate in the capital market.</p> <ul style="list-style-type: none"> <li>i. double deduction be given on additional expenses for the issuance of retail sukuk and retail bonds; and</li> <li>ii. stamp duty exemption be given on instruments relating to the subscription for retail sukuk and retail bonds executed by individual investors.</li> </ul> <p>Proposal (i) is effective from YA 2012 to YA 2015.</p> <p>Proposal (ii) is effective for instruments executed from 1st October 2012 to 31st December 2015.</p>
<p><b><i>Extension of Commodity Trading Approved under the GIFT Programme</i></b></p>	<p>The GIFT programme, which was launched in 2011, is currently available to qualifying petroleum and petroleum-related trading companies.</p> <p>It is proposed that commodity trading approved under the GIFT programme be extended to include other commodities such as agriculture, refined raw materials, base materials and chemicals.</p> <p>Currently, details of the proposed extension of the GIFT programme and the proposed effective date have not been released.</p>

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<b><i>Reduction in Tax Rates</i></b>	<p>It is proposed that for resident individuals, the tax rate be reduced by 1% for chargeable income bands from RM2,501 to RM50,000.</p> <p>The comparison between the current and proposed individual income tax rates are as set out below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Chargeable Income Brackets</th> <th colspan="2">YA 2010 to YA 2012</th> <th colspan="2">YA 2013 onwards</th> <th rowspan="2">Savings</th> </tr> <tr> <th>Tax Rate</th> <th>Tax Payable*</th> <th>Tax Rate</th> <th>Tax Payable *</th> </tr> <tr> <th>RM</th> <th>%</th> <th>RM</th> <th>%</th> <th>RM</th> <th>RM</th> </tr> </thead> <tbody> <tr> <td>1 – 2,500</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>2,501 – 5,000</td> <td>1</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>5,001 – 20,000</td> <td>3</td> <td>75</td> <td><u>2</u></td> <td>0</td> <td>75</td> </tr> <tr> <td>20,001 – 35,000</td> <td>7</td> <td>1,125</td> <td><u>6</u></td> <td>800</td> <td>325</td> </tr> <tr> <td>35,001 – 50,000</td> <td>12</td> <td>3,325</td> <td><u>11</u></td> <td>2,850</td> <td>475</td> </tr> <tr> <td>50,001 – 70,000</td> <td>19</td> <td>7,125</td> <td><u>19</u></td> <td>6,650</td> <td>475</td> </tr> <tr> <td>70,001 – 100,000</td> <td>24</td> <td>14,325</td> <td><u>24</u></td> <td>13,850</td> <td>475</td> </tr> <tr> <td>&gt; 100,000</td> <td>26</td> <td></td> <td><u>26</u></td> <td></td> <td></td> </tr> </tbody> </table> <p>* after personal tax rebate of RM400 for chargeable income up to RM35,000</p> <p>The proposal is effective from YA 2013</p>					Chargeable Income Brackets	YA 2010 to YA 2012		YA 2013 onwards		Savings	Tax Rate	Tax Payable*	Tax Rate	Tax Payable *	RM	%	RM	%	RM	RM	1 – 2,500	0	0	0	0	0	2,501 – 5,000	1	0	0	0	0	5,001 – 20,000	3	75	<u>2</u>	0	75	20,001 – 35,000	7	1,125	<u>6</u>	800	325	35,001 – 50,000	12	3,325	<u>11</u>	2,850	475	50,001 – 70,000	19	7,125	<u>19</u>	6,650	475	70,001 – 100,000	24	14,325	<u>24</u>	13,850	475	> 100,000	26		<u>26</u>		
Chargeable Income Brackets	YA 2010 to YA 2012		YA 2013 onwards		Savings																																																																
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<b><i>Tax Relief on Children's Higher Education</i></b>	<p>Currently, an individual is entitled to a relief of RM4,000 for an unmarried child over 18 years old receiving full time education at a recognised university, college or other establishment ( similar to a university or college ) of higher education, or who is serving under articles or indentures with a view to qualify in a trade or profession.</p> <p>To ease the financial burden of parents, it is proposed that the existing relief be increased to RM6,000 per child.</p> <p>The proposal is effective from YA 2013.</p>																																																																				

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<p><b><i>Tax Relief On Contributions To The National Education Savings Scheme</i></b></p>	<p>Currently, a relief of up to RM3,000 is given for amounts deposited into the Skim Simpanan Pendidikan Nasional established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997 for the education of a child. The allowable deduction is limited to the net amount deposited in that basis year.</p> <p>To encourage the savings habit for education, it is proposed that the relief be increased up to RM6,000.</p> <p>The proposal is effective from YA 2012 – 2017.</p>
<b>PETROLEUM INCOME TAX</b>	
<p><b><i>Introduction of Arm's Length Provision under PITA</i></b></p>	<p>There are currently no specific provisions under the Petroleum Income Tax Act 1967 ("PITA") to address transfer pricing and thin capitalisation issues. These issues are generally dealt with by applying the general anti-avoidance provision in the PITA.</p> <p>To ensure consistency in the application and enforcement of a similar provision relating to transfer pricing and thin capitalization under the Act, it is proposed that specific provisions be introduced to empower the Director General of Inland Revenue (DGIR) to make adjustments to transactions involving goods, services or financial assistance carried out between related companies based on the arm's length principle.</p> <p>The proposal is effective on the coming into operation of the Finance Act.</p>
<p><b><i>Withholding Tax</i></b></p>	<p>It is proposed that where a payer fails to deduct and remit withholding tax under Sections 107A, 109 or 109B of the Act but claims a deduction for the payment in its petroleum income tax return, the DGIR may impose a penalty under Section 52(2) of the PITA.</p> <p>Section 52(2) allows the DGIR to impose a penalty of up to 100% on the tax undercharged where no prosecution is instituted. This is regardless of the fact that the withholding tax together with the penalty for failure to withhold is subsequently paid to the DGIR.</p> <p>The proposal is effective on the coming into operation of the Finance Act.</p>
<b>MISCELLANEOUS</b>	
<p><b><i>Review of RPGT Rates</i></b></p>	<p>To curb speculative activities in the real property market, it is proposed that the effective RPGT rates on gains arising from the disposal of real properties and shares in real property companies be reviewed as follows:</p> <ol style="list-style-type: none"> <li>i. 15% tax where the property has been held for up to 2 years;</li> <li>ii. 10% tax where the property has been held for more than 2 years and up to 5 years; and</li> </ol>

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<b>SUBJECT</b>	<b>BUDGET PROPOSALS</b>
	<p>iii. 0% tax where the property has been held for more than 5 years.</p> <p>The proposal is effective for disposals from 1st January 2013 onwards.</p>
<b><i>RPGT – Director’s Liability</i></b>	<p>It is proposed that directors are to be made jointly and severally liable for the tax under the RPGT Act which is liable to be paid during the tenure of their appointment. The above liability only applies where the director either on his own, or with his associates, is the owner of or is able to control, directly or indirectly, more than 50% of the ordinary share capital of the company.</p> <p>It should also be noted that a director is widely defined and includes any person who is concerned in the management of the company’s business.</p> <p>The proposal is effective on the coming into operation of the Finance Act.</p>
<b><i>RPGT – Compliance Officer’s Liability</i></b>	<p>The RPGT Act is proposed to be amended to make the compliance officer of a limited liability partnership jointly and severally liable for the tax payable by the limited liability partnership under this Act.</p> <p>A compliance officer is a person who is appointed amongst the partners of the limited liability partnership and if no compliance officer is appointed, then any of the partners would be liable as mentioned above.</p> <p>The proposal is effective on the coming into operation of the Limited Liability Partnerships Act 2012.</p>
<b><i>RPGT - Returns</i></b>	<p>It is proposed that upon disposal of a chargeable asset, a person may furnish to the DGIR together with the real property gains tax return, a notification in the prescribed form that such disposal is not liable to RPGT or is exempted from the payment of tax under the RPGT Act.</p> <p>Such notification should also be served on the acquirer within 60 days from the date of the disposal.</p> <p>Where the acquirer fails to withhold and remit the amount required under the RPGT Act and the reason for the failure is due to an incorrect or wrong notification furnished to him, a penalty of 10% of the tax payable would be imposed on the disposer who furnished such notification.</p> <p>The proposal is effective on the coming into operation of the Finance Act.</p>
<b><i>Review of Malaysia’s Taxation System</i></b>	<p>The Government will continue to review the taxation system to ensure that it reflects the financial position of the rakyat. There is a need to transition the current income based taxation system to a more comprehensive and fairer taxation system which will benefit the rakyat.</p> <p>This appears to be a message that the implementation of a broad based consumption tax (i.e. the Goods and Service Tax) is inevitable.</p>

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SUBJECT	BUDGET PROPOSALS																																																								
<p><b><i>Stamp Duty Exemption for the Purchase of First Residential Property</i></b></p>	<p>At present, instruments of transfer and loan agreements executed by Malaysians for the purchase of their first residential property not exceeding RM350,000 are given a 50% stamp duty exemption. The exemption can only be claimed once.</p> <p>To reduce further the cost of owning the first residential property and taking into consideration the increase in price of residential property, it is proposed that the abovementioned stamp duty exemption be extended to 31st December 2014. In addition, the ceiling price of the property is increased to RM400,000.</p> <p>This proposal is effective for sale and purchase agreements executed from 1st January 2013 to 31st December 2014.</p>																																																								
<p><b><i>Review of Time Bar for Tax Assessments</i></b></p>	<p>Currently, the Act empowers the DGIR to raise assessments and additional assessments within 6 years.</p> <p>To provide certainty to taxpayers, it is proposed that the time bar for raising back years assessments be reduced from 6 years to 5 years. This 5 year limitation does not apply to investigations, fraud, willful default or negligence. The proposal will not change the requirement to keep records for 7 years under the Act.</p> <p>A similar proposal applies for RPGT as well as under PITA. The proposal is effective from 1st January 2014.</p>																																																								
<p><b><i>Reduction in Co-operative Income Tax Rates</i></b></p>	<p>It is proposed that for co-operatives, the income tax rates be reduced as set out below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="3">Chargeable Income Brackets</th> <th colspan="2">YA 2010 to YA 2012</th> <th colspan="2">YA 2013 onwards</th> <th rowspan="3">Savings</th> </tr> <tr> <th>Tax Rate</th> <th>Tax Payable</th> <th>Tax Rate</th> <th>Tax Payable</th> </tr> <tr> <th>RM</th> <th>%</th> <th>RM</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>1 – 20,000</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>20,001 – 30,000</td> <td>2</td> <td>200</td> <td><u>0</u></td> <td>0</td> <td>200</td> </tr> <tr> <td>30,001 – 40,000</td> <td>6</td> <td>600</td> <td><u>5</u></td> <td>500</td> <td>300</td> </tr> <tr> <td>40,001 – 50,000</td> <td>9</td> <td>900</td> <td><u>5</u></td> <td>500</td> <td>700</td> </tr> <tr> <td>50,001 – 60,000</td> <td>12</td> <td>1,200</td> <td><u>5</u></td> <td>500</td> <td>1,400</td> </tr> <tr> <td>60,001 – 75,000</td> <td>12</td> <td>1,800</td> <td><u>10</u></td> <td>1,500</td> <td>1,700</td> </tr> <tr> <td>75,001 – 100,000</td> <td>16</td> <td>4,000</td> <td><u>10</u></td> <td>2,500</td> <td>3,200</td> </tr> </tbody> </table>	Chargeable Income Brackets	YA 2010 to YA 2012		YA 2013 onwards		Savings	Tax Rate	Tax Payable	Tax Rate	Tax Payable	RM	%	RM	%	1 – 20,000	0	0	0	0	0	20,001 – 30,000	2	200	<u>0</u>	0	200	30,001 – 40,000	6	600	<u>5</u>	500	300	40,001 – 50,000	9	900	<u>5</u>	500	700	50,001 – 60,000	12	1,200	<u>5</u>	500	1,400	60,001 – 75,000	12	1,800	<u>10</u>	1,500	1,700	75,001 – 100,000	16	4,000	<u>10</u>	2,500	3,200
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SUBJECT		BUDGET PROPOSALS				
	100,001 – 150,000	20	10,000	<u>15</u>	7,500	5,700
	150,001 – 250,000	23	23,000	<u>20</u>	20,000	8,700
	250,001 – 500,000	26	65,000	<u>22</u>	55,000	18,700
	500,001 – 750,000	26	65,000	<u>24</u>	60,000	23,700
	➤ 750,000	26		<u>25</u>		
The proposal is effective from YA 2013.						

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