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Wish list for the Budget and the cost of doing business

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MANY are keen to see Prime Minister Datuk Seri Dr Mahathir Mohamad's last stroke of the pen to lift the country's economy out of the remnants of any economic uncertainty tomorrow.

Local and foreign investors would certainly like to see a reduction in the corporate tax rate. A proposal to reduce, on a progressive basis, to say 26 per cent in 2004 and a further 2 per cent in 2006 would no doubt be a boon to companies in general, putting more monies at the disposal of companies and businesses with a hope of stimulating growth to all sectors of the economy.

A reduction will reduce operating costs, thus enabling products or services to be priced competitively in the international market and allows for reinvestment of profits for expansion.

The issue is whether the Government can really afford further tax cuts as it has an immediate effect on its coffers.

Although based on past experiences, direct tax revenue need not necessarily drop with a reduction in tax rates (indeed has actually increased in certain years where there were tax rate cuts due to a higher level of compliance), considering that indirect taxes such as Customs duties have been dropping steadily in the run-up to fulfilling Asean Free Trade Area (Afta) obligations, such an option may not be timely, not until an alternative revenue generating source such as a value-added tax is introduced.

Introduction of new taxes this time around, other than a possible increase in "sin" taxes, is not timely either, given the precarious state of recovery that is taking place now. After tirelessly finding ways to keep the economy prodding along over the last few years successfully, the authorities are not likely to want to risk stifling business growth with a new tax now.

Rather, growth in direct tax revenue is likely going to come from greater enforcement of tax compliance with more punitive tax laws and regulations for non compliance and by carrying out field audits on taxpayers regularly.

The results in revenue collections in recent years speak volumes for this and it is expected that the authorities would want to further implement more effective and efficient mechanism to collect taxes. If any new taxes are to be introduced, we feel it might take the form of

imposing

excise duties on imported goods to counteract losses in import duties.

On incentives, the Government has over the years introduced a host of incentives that are often based on pre-set criteria for a particular activity. Potential investors are not attracted to invest in a country based on selective tax breaks but will review a prospective place of investment based on tax incentives that will benefit the entire group operations to be relocated, i.e., not only the manufacturing activity, but

also the marketing and distribution activities of the entire group.

In many instances, potential investors are unable to enjoy the tax benefits provided that they are able to "fit in" the investment into one of the pre-set criteria for such incentives. Any other activity outside the pre-set criteria will be rejected, regardless of whether the activity

concerned is part and parcel of a huge group investment into the country.

The introduction of group reliefs could be an option. Although group relief for tax losses is already available for approved food production projects in the agricultural sector, it should be extended to more sectors, particularly those sectors with growth potentials.

Without group relief for tax losses, on a consolidated basis, the effective tax rate of groups of companies may well exceed the 28 per cent

rate, in many instances reaching as high as 50 per cent, primarily due to

losses of some companies not being available for offset against the profits of other companies for tax filing purposes.

The ability to "surrender" the losses of loss-making companies to the profitable ones within the group removes the necessity to undertake tax planning exercises to mitigate the effects of a high effective tax rate. It would further encourage business to venture into new and perhaps more risky areas.

The Government should also consider setting up of a one-stop centre which is able to grant tax incentives on a holistic approach after taking

into account the magnitude of the entire investment. The single authority

should be able to grant tax incentives to all companies which are part of

a conglomerate investing in Malaysia without having to segregate each activity. This would enable global conglomerates to consider Malaysia as an attractive place of business for its entire operations as opposed to attract piece-meal investments based on a particular activity.

Withholding tax on out-of-pocket expenses (OPE) such as travelling, accommodation, air fares, etc, should also be looked into. The Inland Revenue Board (IRB) has taken the position that OPE forms part of the technical services provided by non-residents and the payer is obligated to

deduct withholding tax at the applicable rate (10 per cent in the case of

technical fees). Clearly, this position taken by the IRB is due to ambiguity in the legislation resulting in adverse situations faced by taxpayers.

Another issue is service tax on OPE charged by service providers to their customers. Customs has taken the position that OPE is subject to service tax on the basis that it forms part of the professional fees of service providers. Lee is of the view the above issues should be addressed

in the upcoming Budget and would like other legislative changes introduced

to be clear, leaving minimal room for interpretation.

On taxes affecting individuals, over the years, the Government has taken

cognisance of high living costs and has accordingly reduced personal tax rates and increased personal reliefs to taxpayers to alleviate the hardships of the lower- and middle-income groups. The personal relief for

the individual was increased from RM5,000 to RM8,000 in the Budget 2000.

However, a deduction in respect of Employees Provident Fund (EPF) contributions and life insurance premium for the individual and his wife is restricted to RM5,000 for the individual. It would be timely to provide

a separate relief of RM5,000 each for EPF contributions and life insurance

premiums respectively to take into account the high premiums on life policies that are taken for retirement planning purposes which the Government is encouraging.

The current relief of RM500 for the purchase of textbooks and magazines

be increased to RM1,000 considering the high costs of purchasing textbooks

to an individual especially those with more than one school-going child.

The current rebate of RM400 (given as a deduction against tax payable) for individuals once every five years for the purchase of personal computer should be made available once every two years, taking into account the rapid obsolescence of computers.

In addition, the rebate should be extended to the upgrading of the software and the rebate increased to RM1,000, thus enabling an individual

with a marginal tax rate of 20 per cent to purchase a computer, including

upgrades, costing about RM5,000.

On tax laws that have the effect of hindering business development efforts, the rules restricting the claim of legitimate expenses viewed as

"entertainment expenses" should be revisited. Business organisations incur

significant entertainment expenses to promote sales of its products and services.

However, entertainment expenses are generally non-deductible except, entertainment provided for its employees and those relating to the provision of promotional samples of products of the business that bears a

conspicuous logo of the business.

On Service Tax payable where the whole or part of the payment for the taxable service provided is not received by the service provider within

months from the date of the invoice, this is hurting certain businesses that are already suffering with severe cash flow difficulties. A service provider is obliged to pay the service tax within 12 months from the date

of the invoice, regardless of whether the payment has been received.

Considering that a service provider is merely an agent of the Government

to collect service tax from the consumers, it is inequitable to require the service provider to pay the service tax. The service provider himself

is already encountering difficulties by having to absorb the total cost in

providing the service to the client and is further burdened by having to pay the 5 per cent service tax even as the fee is still outstanding.

No doubt if the service provider has written off the debt, the service provider can seek a refund of the service tax paid. This, however, is onerous, time consuming and places additional burden and administrative work for both the service provider and the Customs.

Finally, the tax legislation, in certain instances, is sometimes either

vague or ambiguous, resulting in the need for interpretation that is often

detrimental to taxpayers.

In line with the self-assessment regime that took effect from 2001 for companies, the IRB has issued many public rulings that interpret the law and its application.

It would be timely for the other government departments such as the Customs Department to issue guidelines to provide greater clarity and transparency in the application of the legislation thus avoiding any potential difficulties by both law enforcers and taxpayers.

The above are some of the changes that many of us would like to see in the in the upcoming Budget.

The corporate tax reduction, group relief for tax losses, one-stop centre for group activities and greater clarity in tax legislation should

promote Malaysia as a destination for foreign direct investments while the

other changes should provide a more conducive environment for conducting businesses while improving the welfare and livelihood of the general public.

Undoubtedly, the Government will continue to introduce measures to stimulate economic growth and insulate the economy from the effects of the global slowdown.

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