

D.R. 19/2004

RANG UNDANG-UNDANG KEWANGAN 2004

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RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Cukai Pendapatan 1967, Akta Petroleum (Cukai Pendapatan) 1967, Akta Cukai Keuntungan Harta Tanah 1976 dan Akta Setem 1949.

DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

BAB I

PERMULAAN

Tajuk ringkas

1. Akta ini bolehlah dinamakan Akta Kewangan 2004.

Pindaan Akta

2. Akta Cukai Pendapatan 1967 [*Akta 55*], Akta Petroleum {Cukai Pendapatan} 1967 [*Akta 543*], Akta Cukai Keuntungan Harta Tanah 1976 [*Akta 169*] dan Akta Setem 1949 [*Akta 378*] dipinda mengikut cara yang dinyatakan masing-masing dalam Bab II, III, IV dan V.

BAB II

PINDAAN KEPADA AKTA CUKAI PENDAPATAN 1967

Permulaan kuat kuasa pindaan kepada Akta Cukai Pendapatan 1967

3. (1) Seksyen 4, 5, 6, dan subperenggan *l(b)(Y)* dan seksyen 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 27, 28, 29, 30, 31 dan 32 berkuatkuasa bagi tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

(2) Perenggan *l(a)* berkuatkuasa bagi tahun taksiran 2001 dan tahun-tahun taksiran yang berikutnya.

(3) Subperenggan 7(fa)(i) dan seksyen 20, 21 dan 22 berkuat kuasa bagi tahun taksiran 2004 dan tahun-tahun taksiran yang berikutnya.

(4) Seksyen 24, 25 dan 26 mula berkuatkuasa pada 1 Januari 2005.

(5) Perenggan 33(a) berkuatkuasa bagi tahun taksiran 2003 dan tahun-tahun taksiran yang berikutnya.

(6) Perenggan 33(6) disifatkan telah mula berkuatkuasa pada 11 September 2004.

Pindaan seksyen 2

4. Akta Cukai Pendapatan 1967, yang disebut "Akta ibu" dalam Bab ini, dipinda dalam seksyen 2—

(a) dalam subseksyen (1)—

(i) dengan memasukkan selepas takrif "business" takrif yang berikut:

"Central Bank" means the Central Bank of Malaysia established under section 3 of the Central Bank of Malaysia Act 1958 [Act 519]; dan

- (ii) dengan memasukkan selepas takrif "royalty" takrif yang berikut:

"Securities Commission" means the Securities Commission established under section 3 of the Securities Commission Act 1993 [Act 498]; dan

- (b) dalam subseksyen (H), dengan menggantikan perkataan "in accordance with the principles of Syariah" dengan perkataan "approved by the Central Bank or the Securities Commission, as a scheme which is in accordance with the principles of Syariah. where such disposal is strictly required for the purpose of complying with those principles but which will not be required in any other schemes of financing".

Pindaan seksyen 6

5. Subseksyen 6(1) Akta ibu dipinda —

- (a) dalam perenggan (h), dengan menggantikan noktah di hujung perenggan itu dengan koma bernoktah; dan
- (b) dengan memasukkan selcpas perenggan (h) perenggan yang berikut:

"(l) subject to the provisions of section 109D but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a non-resident unit holder which consists of income distributed by the unit trust referred to in section 61A at the appropriate rate as specified under Part X of Schedule 1."

Pindaan seksyen 6A

6. Subseksyen 6A{3A) Akta ibu dipinda dengan menggantikan perkataan "four hundred" dengan perkataan "five hundred".

Pindaan seksyen 34

7. Seksyen 34 Akta ibu dipinda—

- (a) dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

"(3A) The reference to the debt which is partly irrecoverable under paragraph (2)(b), shall be deemed, in the case of a bank, to include all interest in respect of a loan or credit facility accrued from the date that such loan or facility is classified as non-performing loan in accordance the relevant guidelines issued by the Central Bank.

(3B) For the purpose of subsection (3A), "bank" means a bank or a finance company or a banking and finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372] or Islamic Banking Act 1983 [Act 276], or an institution prescribed under the Development Financial Institutions Act 2002 [Act 618]:'; dan

- (b) dalam subseksyen (6) —

- (i) dengan menggantikan perenggan (m) dengan perenggan yang berikut:

"(m) an amount equal to the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining accreditation for a laboratory or as a certification body, as evidenced by a certificate issued by the Department of Standards Malaysia:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;" dan

- (ii) dengan memasukkan selepas perenggan (m) sebagaimana yang dipinda perenggan yang berikut:

"(ma) an amount twice the amount of the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining certification for recognized quality systems and standards, and *halal* certification, evidence by a certificate issued by a certification body as determined by the Minister:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;"

Pindaan seksyen 44

8. Seksyen 44 Akta ibu dipinda—

- (a) dalam perenggan (l)(d), dengan menggantikan perkataan "or (11)" dengan perkataan ", (11) or (11A)"; dan
- (b) dengan memasukkan selepas subseksyen (11) subseksyen yang berikut:

"(11A) There shall be deducted pursuant to this subsection from the aggregate income of a company for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to the payment of *zakat perniagaan* which is paid in the basis period for that relevant year to an appropriate religious authority established under any written law or any person authorized by such religious authority:

Provided that—

- (a) the amount to be deducted pursuant to this subsection shall not exceed one-fortieth of the aggregate income of the company in the relevant year; and
- (b) the company is not an offshore company."

Pindaan seksyen 45A

9. Seksyen 45A Akta ibu dipinda dengan menggantikan perkataan "two" dengan perkataan "three".

Pindaan seksyen 46

10. Subseksyen 46(1) Akta ibu dipinda—

- (a) dalam perenggan (e), dengan menggantikan perkataan "five" dengan perkataan "six"; dan
- (b) dalam perenggan (i), dengan menggantikan perkataan "five" dengan perkataan "seven".

Pindaan seksyen 47

11. Perenggan 41(l)(b) Akta ibu dipinda dengan menggantikan perkataan "two" dengan perkataan "three".

Pindaan seksyen 49

12. Seksyen 49 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan menggantikan perkataan "five" dengan perkataan "six"; dan
- (b) dalam subseksyen (1A), dengan menggantikan perkataan "five" dengan perkataan "six".

Pindaan seksyen 61

13. Seksyen 61 Akta ibu dipinda—

- (a) dalam proviso kepada subseksyen (1A), dengan menggantikan perkataan "exempt income" dengan perkataan "income exempt from tax, other than income exempt under section 61A,"; dan
- (b) dengan memasukkan selepas subseksyen (1A) subseksyen yang berikut;
 - "(1B) Any income which is distributed by a unit trust to a unit holder under subsection (1A) shall be deemed to be derived from Malaysia."

Seksyen baru 61A

14. Akta ibu dipinda dengan memasukkan selepas seksyen 61 seksyen yang berikut:

"Exemption of Real Estate Investment Trust or Property Trust Fund

61A. (1) The total income of a unit trust for a year of assessment which is equivalent to the amount of income distributed to the unit holder in the basis period for that year of assessment which is ascertained by reference to the unit holder's share of that income shall be exempt from tax.

(2) In this section, "unit trust" means a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund."

Pindaan seksyen 63A

15. Seksyen 63A Akta ibu dipinda dengan memasukkan selepas subseksyen (5) subseksyen yang berikut:

"(6) This section shall not apply to a unit trust referred to in subsection 61A(2)."

Pindaan seksyen 63B

16. Seksyen 63B Akta ibu dipinda dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(3) This section shall not apply to a unit trust referred to in subsection 61A(2)."

Seksyen baru 63c

17. Akta ibu dipinda dengan memasukkan selepas seksyen 63B seksyen yang berikut:

"Special treatment on rent from the letting of real property of a Real Estate Investment Trust or Property Trust Fund

63c. (1) The provisions of this section shall apply notwithstanding any other provisions of this Act.

(2) Where in the year of assessment, income of a unit trust consists of a rent from the letting of real property, the amount of the rent shall be treated as gross income of a unit trust from a source or sources consisting of a business for that year of assessment.

(3) In ascertaining, for a year of assessment, the adjusted income of a unit trust from a source referred to in subsection (2) any outgoings and expenses incurred by that unit trust in the basis period for that year of assessment in respect of that source shall only be allowed as a deduction under section 33 against the gross income from that source but—

- (a) where the amount of the deduction exceeds the gross income from that source for that year of assessment, the excess shall be disregarded for the purposes of this Act; and
- (b) where that source does not produce any income, the deduction from the gross income of that unit trust from that source and other sources of income shall not be allowed.

(4) In ascertaining, for a year of assessment, the statutory income of a unit trust from a source referred to in subsection (2), any allowances for that year of assessment under Schedule 3 in respect of that source shall only be available against the adjusted income of that source and if by reason of an absence or insufficiency of adjusted income from that source for the basis period for that year of assessment, effect cannot be given or be given in full to any allowance for that year of assessment in relation to that source, that allowance which has not been so made shall not be made to the unit trust for any subsequent years of assessment.

(5) For the purposes of this section, "unit trust" has the same meaning assigned to it under subsection 61A(2)."

Peruntukan khas berhubung dengan seksyen 63c

18. Waiiau apa pun peruntukan seksyen 63c Akta ibu sebagaimana yang dimasukkan oleh seksyen 17 Akta ini, peruntukan seksyen 43 dan 44 Akta ibu hendaklah terpakai bagi unit amanah yang diperkatakan dalam seksyen 63c Akta ibu berkenaan dengan kerugian larasannya (jika ada) atau suatu elaun yang disifatkan telah dibuat ke atas unit amanah itu di bawah perenggan 75 Jadual 3 kepada Akta ibu, yang kerugian larasan atau elaun unit amanah itu telah ditentukan sebelum seksyen 17 Akta ini mula berkuat kuasa.

Seksyen baru 63D

19. Akta ibu dipinda dengan memasukkan selepas seksyen 63c seksyen yang berikut:

"Income of a unit trust from the letting of real property is not income from a business

63D. Subject to the provisions of section 63c but notwithstanding any other provisions of this Act, income of a unit trust which consist of rent from the letting of real property shall not be treated as income from a source consisting of a business.¹.

Findaan seksyen 77

20. Seksyen 77 Akta ibu dipinda—

(a) dengan menggantikan subseksyen (1) kecuali proviso kepada subseksyen itu, dengan subseksyen yang berikut:

"(1) Every person, other than a company, trust body or co-operative society to which section 77A applies, shall for each year of assessment furnish to the Director General a return in the prescribed form—

- (a) in the case of that person who is carrying on a business, not later than 30 June in **the** year following that year of assessment; or
- (b) in any other case than the case in paragraph (a), not later than 30 April in the year following the year of assessment:"; dan

(b) dengan memasukkan selepas subseksyen (1) sebagaimana yang telah dipinda melalui Akta ini, subseksyen yang berikut:

"(1A) Where subsection 45(2) applies, a reference to a person under paragraph \<a) includes a reference to an individual where his wife or her husband who elects, as the case may be, is carrying on a business."

Pindaan seksyen 86

21. Subseksyen 86(1) Akta ibu dipinda dengan menggantikan perkataan "April" dengan perkataan "June".

Pindaan seksyen 103

22. Subseksyen 103(12) Akta ibu dipinda—

(a) dalam perenggan (a), dengan memotong perkataan "and" yang terdapat di hujung perenggan itu;

(b) dengan menggantikan perenggan (b) dengan perenggan yang berikut:

"(b) in the case of a person referred to under paragraph 77(1)(a), 30 June in the year following the year of assessment; and"; dan

(c) dengan memasukkan selepas perenggan (b) perenggan yang berikut:

"(c) in any other case other than the cases referred to in paragraphs fa) and (b), 30 April in the year following the year of assessment."

Seksyen baru 109D

23. Akta ibu dipinda dengan memasukkan selepas seksyen 109c seksyen yang berikut:

"Deduction of tax on the distribution of income of a unit trust

109D. (1) This section shall only apply to income of a unit trust which is exempt under section 61A.

(2) Where a unit trust (in this section referred to as the payer) distributes income to a non-resident unit holder which is deemed to be derived from Malaysia, the payer shall upon distributing the income, deduct there from tax at the rate applicable to such income and shall within one month after distributing such income, render an account and pay the amount of that tax to the Director General:

Provided that the Director General may—

- (a) give notice in writing to the payer requiring him to deduct and pay tax at any other rates or to distribute the income without deduction of tax; or
- (b) under special circumstances, allow extension of time for the amount of tax deducted to be paid over.

(3) Where the payer fails to pay any amount due from him under subsection (2), that amount which he fails to pay shall be increased by an amount equal to ten per cent of the income liable to deduction of tax under that subsection and the total sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(4) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer-

- (a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the unit holder to whom the payer distributes income to which that amount relates; and
- (b) if the payer has not deducted that amount in distributing the income under subsection (2) with respect to which that amount relates, he may recover that amount from that unit holder as a debt due to the payer.

(5) The provision of section 110 shall apply *mutatis mutandis* to tax deducted under this section."

Seksyen baru 111B

24. Akta ibu dipinda dengan memasukkan selepas Bahagian VII Bahagian yang berikut;

"PART VIIA FUND FOR
TAX REFUND

Establishment of Fund for Tax Refund

111B. (1) There is hereby established a fund, to be known as the Fund for Tax Refund (in this section referred to as "the Fund") which shall be specified in and incorporated into the Second Schedule to the Financial Procedure Act 1957 [Act 61].

(2) There shall be paid from time to time into the Fund such amount of tax collected under this Act as may be authorized by the Minister.

(3) The moneys of the Fund shall be applied for the making of a refund of an amount of tax paid in excess of the amount payable as ascertained in section 111.

(4) The Fund shall be administered by the Accountant General of Malaysia.

(5) Notwithstanding the provisions of subsection (2) and the Financial Procedure Act 1957, the Minister may from time to time authorize the payment into the Consolidated Revenue Account in the Federal Consolidated Fund of all or any part of the moneys of the Fund."

Seksyen baru 111c

25. Akta ibu dipinda dengan memasukkan selepas seksyen 111B seksyen yang berikut:

"Non applicability of section 14A of the Financial Procedure Act 1957

111c. Section 14A of the Financial Procedure Act 1957 shall not apply to any refund in excess of the amount payable as ascertained in section **111.**"

Pindaan seksyen 151

26. Akta ibu dipinda dengan menggantikan seksyen 151 dengan seksyen yang berikut:

"Procedure for making refunds and repayments

151. Where the Director General is authorized or required by this Act to make any refund or repayment, he shall certify the amount of the sum to be refunded or repaid and cause the refund or repayment to be made forthwith."

Pindaan Jadual 1

27. Jadual 1 Akta ibu dipinda dengan memasukkan selepas Bahagian IX Bahagian yang berikut:

"PART X

Notwithstanding Part I, income tax shall be charged on the income of a non-resident unit holder consisting of income distributed to that unit holder referred to in section 109D which is derived from Malaysia at the rate of 28% of gross."

Pindaan Jadual 3

28. Jadual 3 Akta ibu dipinda—

(a) dalam perenggan 3 —

- (i) dengan menomborkan semula perenggan itu sebagai subperenggan 3(1);
- (ii) dalam subperenggan 3(1) sebagaimana yang dinomborkan semula, dengan menggantikan perkataan "paragraphs 3A to" dengan perkataan "paragraph"; dan
- (iii) dengan memasukkan selepas subperenggan 3(1) subperenggan yang berikut:

"(2) For the purpose of this Schedule, the qualifying building expenditure in the case of purchase of a building shall be the amount of the purchase price of that building."

(b) dengan memotong perenggan 3A, 4 dan 5;

(c) dalam perenggan 35 —

(i) dengan menggantikan noktah bertindih di hujung perenggan dengan noktah; dan

(ii) dengan memotong proviso kepada perenggan itu.

Peruntukan khas berhubung dengan perenggan 3 Jadual 3

29. Walau apa pun peruntukan perenggan 3 Jadual 3 Akta ibu sebagaimana yang dipinda dalam perenggan 2S(a) Akta ini, jika suatu belanja bangunan yang layak telah ditentukan mengikut perenggan 3, 3A, 4 atau 5 Akta ibu sebelum berkuat kuasa pindaan perenggan-perenggan itu di bawah seksyen 28 Akta ini, amauan belanja bangunan yang layak itu hendaklah terpakai bagi maksud Jadual itu.

Peruntukan khas berhubung dengan perenggan 35 Jadual 3

30. Walau apa pun peruntukan perenggan 35 Jadual 3 Akta ibu, jika sebelum berkuat kuasa pindaan kepada perenggan itu di bawah perenggan 2%(c) Akta ini, seseorang yang telah melakukan perbelanjaan modal bagi pembinaan atau pembelian bangunan yang digunakan sebagai bangunan industri, tiada kenaan (jika ada) dibuat ke atas orang itu di bawah perenggan 35 Jadual 3 Akta ibu sebagaimana yang dipinda sekiranya bangunan itu dilupuskan selepas tempoh asas bagi tahun taksiran yang merupakan tahun taksiran yang kelima puluh selepas tahun taksiran dalam tahun asas bangunan itu dibina.

Pindaan Jadual 4A

31. Jadual 4A Akta ibu dipinda dengan memasukkan selepas perenggan 8 perenggan yang berikut:

"9. The Minister may prescribe any capital expenditure incurred by a person in his business as qualifying farm expenditure and the amount of deduction in respect of that qualifying farm expenditure which would otherwise fall to be made to him under paragraph 4."

Pindaan J a dim I 4c

32. Jadual 4c Akta ibu dipinda dalam perenggan 2(a) dengan menggantikan perkataan "2005" dengan perkataan "2010".

Pindaan Jadual 6

33. Jadual 6 Akta ibu dipinda—

(a) dalam subperenggan 25(1)—

- (i) dalam subsubperenggan (a), dengan memotong perkataan "or" di hujung subsubperenggan itu;
- (ii) dalam subsubperenggan (b), dengan menggantikan noktah di hujung subsubperenggan itu dengan perkataan "; or"; dan
- (iii) dengan memasukkan selepas subsubperenggan (b) subsubperenggan yang berikut:

"(c) if the retirement takes place on reaching the compulsory age of retirement pursuant to a contract of employment or collective agreement at the age of 50 but before 55 and that employment has lasted for ten years with the same employer or with companies in the same group:

Provided that the sum shall not exceed an amount ascertained by mulliplying the sum of six thousand ringgit by the number of completed years of service in that employment."; dan

(b) dengan memasukkan selepas perenggan 33 perenggan yang berikut:

"33A. Interest paid or credited to any company not resident in Malaysia-fa) in respect of securities issued by the Government; or

(b) in respect of Islamic securities or debenture issued in Ringgit Malaysia, other than convertible loan stock, approved by the Securities Commission.".

BAB III

PINDAAN KEPADA AKTA PETROLEUM (CUKAI PENDAPATAN) 1967

Permulaan kuatkuasa pindaan kepada Akta Petroleum (Cukai Pendapatan) 1967

34. (1) Seksyen 35 berkuatkuasa bagi tahun taksiran 2003 dan tahun-tahun taksiran yang berikutnya.

(2) Seksyen 36 berkuat kuasa bagi tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

(3) Seksyen 37, 38 dan 39 berkuat kuasa bagi tahun taksiran 2006 dan tahun-tahun taksiran yang berikutnya.

Pindaan seksyen 2

35. Akta Petroleum (Cukai Pendapatan) 1967, yang disebut "Akta ibu" dalam Bab ini, dipinda dalam seksyen 2 dengan menggantikan takrif "petroleum operations" dengan takrif yang berikut:

' "petroleum operations" means —

(a) searching for and winning or obtaining of petroleum in Malaysia by or on behalf of any person for his own account or on a joint account with any other person by any drilling, mining, extracting or other like operations or process, in the course of a business carried on by that person engaged in such operations, and all operations incidental thereto, and any sale or disposal by or on behalf of that person of petroleum so won or obtained, and includes the transportation within Malaysia by or on behalf of that person of petroleum so won or obtained to any point of sale or delivery or export, but does not include—

(i) any transportation of petroleum outside Malaysia;

(ii) any process of refining or liquefying of petroleum;

(iii) any dealings with products so refined or liquefied;
or

(iv) service involving the supply and use of rigs, derricks, ocean tankers and barges; and

- (b) any sale or disposal by Petroleum Nasional Berhad within Malaysia of petroleum obtained from outside of Malaysia and includes the transportation within Malaysia by, or on behalf of, Petroleum Nasional Berhad of such, petroleum to any point of sale or delivery within Malaysia;".

Pindaan seksyen 18

36. Perenggan **18(1)(tJ)** Akta ibu dipinda—

- (a) dengan menggantikan koma bernoktah di hujung perenggan itu dengan noktah bertindih; dan
- (b) dengan memasukkan proviso kepada perenggan itu seperti yang berikut:

"Provided that this paragraph shall not apply if the payer has paid the amount of deduction of tax and the increased amount which is equal to ten per cent of that deduction which are due and payable under the provisions of that law;".

Pindaan Jadual Kedua

37. Jadual Kedua Akta ibu dipinda—

- (a) dalam perenggan 3—
- (i) dengan menomborkan semula perenggan itu sebagai subperenggan 3(1);
- (ii) dalam subperenggan 3(1) sebagaimana yang dinomborkan semula, dengan menggantikan perkataan "paragraphs 3A to" dengan perkataan "paragraph"; dan
- (iii) dengan memasukkan selepas subperenggan 3(1) subperenggan yang berikut:

"(2) For the purpose of this Schedule, the qualifying building expenditure in the case of purchase of a building shall be the purchase price of that building.";

(b) dengan memotong perenggan 3A, 4 dan 5;

(c) dalam perenggan 18 —

(i) dengan menggantikan noktah bertindih dihujung perenggan itu dengan noktah; dan

(ii) dengan memotong proviso kepada perenggan itu.

Peruntukan khas berhubung dengan perenggan 3 Jadual Kedua

38. Walau apa pun peruntukan perenggan 3 Jadual Kedua Akta ibu sebagaimana yang dipinda dalam perenggan 31(a) Akta ini, jika suatu belanja bangunan yang layak telah ditentukan mengikut perenggan 3, 3A, 4 atau 5 Akta ibu sebelum berkuat kuasa pindaan perenggan-perenggan itu di bawah seksyen 37 Akta ini, amauan belanja bangunan yang layak itu hendaklah terus terpakai bagi maksud Jadual itu.

Peruntukan khas berhubung dengan perenggan 18 Jadual Kedua

39. Walau apa pun peruntukan perenggan 18 Jadual Kedua Akta ibu, jika sebelum berkuat kuasa pindaan kepada perenggan itu di bawah paragraph 37(c) Akta ini, seseorang yang telah melakukan perbelanjaan modal bagi pembinaan atau pembelian bangunan yang digunakan sebagai bangunan industri, tiada kenaan (jika ada) dibuat ke atas orang itu di bawah perenggan 18 Jadual Kedua Akta ibu sebagaimana yang dipinda jika bangunan itu dilupuskan selepas tempoh asas bagi tahun taksiran yang merupakan tahun taksiran yang kelima puluh selepas tahun taksiran dalam tahun asas yang mana bangunan itu dibina.

BAB IV

PINDAAN KEPADA AKTA CUKAI KEUNTUNGAN HARTA TANAH 1976

Permulaan kuat kuasa pindaan kepada Akta Cukai Keuntungan Harta Tanah 1976

40. Bab ini disifatkan telah mula berkuat kuasa pada 11 September 2004.

16. *Fasal 21 dan 22* bertujuan untuk meminda seksyen 86 dan 103 Akta 53 supaya selaras dengan pindaan kepada seksyen 77 Akta 53.

Pindaan ini berkuatkuasa mulai tahun taksiran 2004 dan tahun-tahun taksiran yang berikutnya.

17. *Fasal 24* bertujuan untuk memasukkan seksyen baru 111B ke dalam Akta 53. Pindaan yang dicadangkan ini bertujuan untuk menubuhkan suatu tabung yang dikenali sebagai Tabung Bayaran Balik Cukai. Tujuan Tabung ini adalah untuk mempercepatkan pembayaran balik cukai yang terlebih dibayar.

Fasal 25 selanjutnya bertujuan untuk memasukkan seksyen baru 111c ke dalam Akta 53 berbangkit dari kemasukan seksyen baru 111B. Dengan pindaan ini, apa-apa pembayaran balik yang dikehendaki supaya dibuat di bawah Akta 53 tidak akan dipertanggungjawabkan terhadap Kumpulan Wang Yang Disatukan.

Fasal 26 selanjutnya bertujuan untuk meminda seksyen 151 Akta 53 supaya selaras dengan peruntukan seksyen baru 111B dan 111c.

Pindaan ini mula berkuat kuasa pada 1 Januari 2005.

18. *Fasal 27* bertujuan untuk memasukkan Bahagian baru X ke dalam Jadual 1 Akta 53 untuk memperuntukkan kadar cukai 28 peratus untuk pendapatan yang diagihkan kepada pemegang unit yang bukan pemastautin.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

19. *Fasal 28* bertujuan untuk meminda perenggan 3 Jadual 3 Akta 53. Dengan cadangan pindaan ini, belanja bangunan layak dalam hal pembelian bangunan adalah harga belian bangunan itu.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

20. *Fasal 29* bertujuan untuk memasukkan suatu peruntukan khas berhubung dengan perenggan 3 Jadual 3 Akta 53. Peruntukan itu memperuntukkan bahawa apa-apa belanja bangunan layak yang telah ditentukan sebelum perenggan itu dipinda hendaklah terus terpakai bagi semua maksud Jadual itu.

Fasal 30 selanjutnya bertujuan untuk memasukkan suatu peruntukan khas berhubung dengan perenggan 35 Jadual 3 Akta 53. Pindaan yang dicadangkan memperuntukkan bahawa kenaikan imbalan tidak boleh dikenakan bagi pelupusan suatu bangunan industri jika pelupusan itu dibuat selepas 50 tahun dari tarikh bangunan itu dibina. Walau bagaimanapun, peruntukan khas ini hanya terpakai bagi seseorang yang telah melakukan belanja bangunan layak sebelum proviso kepada perenggan itu dipotong.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

21. *Fasal 31* bertujuan untuk memasukkan perenggan baru 8A Jadual 4A ke dalam Akta 53 untuk memberi kuasa kepada Menteri untuk menetapkan perbelanjaan modal yang dilakukan oleh seseorang dalam perniagaannya sebagai perbelanjaan pertanian layak dan amaun potongan yang boleh diberikan berkenaan dengan perbelanjaan itu.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

22. *Fasal 32* bertujuan untuk meminda perenggan 26 Jadual 4c Akta 53 untuk memanjangkan tarikh akhir untuk menyerahkan permohonan di bawah Jadual itu ke 31 Disember 2010.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

23. *Fasal 33* bertujuan untuk meminda perenggan 25 Jadual 6 Akta 53. Dengan pindaan ini, suatu jumlah yang diterima dalam bentuk gratuiti oleh seorang pekerja yang bersara wajib pada umur 50 tetapi sebelum 55 mengikut suatu kontrak penggajian atau perjanjian bersama adalah layak untuk mendapatkan pengecualian di bawah Akta 53. Walau bagaimanapun, amaun yang dikecualikan terhad kepada enam ribu ringgit bagi setiap tahun genap berkhidmat dengan majikan itu.

Pindaan ini berkuat kuasa bagi tahun taksiran 2003 dan tahun-tahun taksiran yang berikutnya.

24. *Fasal 33* bertujuan untuk memasukkan perenggan baru 33A ke dalam Jadual 6 Akta 53 bagi mengecualikan bunga yang dibayar atau dikreditkan kepada syarikat yang bukan pemastautin di Malaysia berkenaan dengan sekuriti yang dinyatakan dalam perenggan yang dicadangkan itu.

Pindaan ini disifatkan telah berkuat kuasa pada 11 September 2004.

PINDAAN KEPADA AKTA PETROLEUM (CUKAI PENDAPATAN) 1967

Bab **III** Rang Undang-Undang ini bertujuan untuk meminda Akta Petroleum (Cukai Pendapatan) 1967.

25. *Fasal 35* bertujuan untuk meminda seksyen 2 Akta 543 untuk memperluas takrif "petroleum operations" sebagai termasuk apa-apa penjualan atau pelupusan oleh Petroleum Nasional Berhad dalam Malaysia yang diperolehi dari luar Malaysia yang termasuk pengangkutan dalam Malaysia oleh mana-mana orang berkenaan petroleum berkenaan ke mana-mana point penjualan atau penyerahan.

Pindaan ini berkuat kuasa bagi tahun taksiran 2003 dan tahun-tahun taksiran yang berikutnya.

26. *Fasal 36* bertujuan untuk meminda perenggan 18(1)(7i) Akta 543 untuk memasukkan proviso baru ke dalam perenggan itu. Sebelum pindaan ini, potongan tidak dibenarkan jika pembayar tidak memotong bagi cukai apabila membuat bayaran yang diperuntukkan di bawah perenggan itu kepada seorang bukan pemastautin. Dengan pindaan ini, suatu potongan dibenarkan jika pembayar telah membayar amaun cukai dan amaun tambahan bersamaan sepuluh kali potongan tersebut.

Pindaan ini berkuatkuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

27. *Fasal 37* berlujuan untuk meminda perenggan 3 Jadual Kedua Akta 543 supaya selaras dengan pindaan kepada perenggan 3 Jadual 3 Akta 53.

Fasal 38 bertujuan untuk memasukkan suatu peruntukan khas berhubung dengan perenggan 3 Jadual Kedua Akta 543. Peruntukan itu memperuntukkan bahawa apa-apa belanja bangunan layak yang telah ditentukan sebelum perenggan itu dipinda hendaklah terus terpakai bagi semua maksud Jadual tersebut.

Fasal 39 bertujuan untuk memasukkan suatu peruntukan khas berhubung perenggan 18 Jadual Kedua Akta 543. Pindaan yang dicadangkan, 'Tril' memperuntukkan bahawa kenaikan imbalan tidak boleh dikenakan bagi pelupusan suatu bangunan industri jika pelupusan itu dibuat selepas 50 tahun dari tarikh bangunan itu dibina. Walau bagaimanapun, peruntukan khas ini hanya terpakai bagi seseorang yang telah melakukan belanja bangunan yang layak sebelum proviso kepada perenggan itu dipotong.

Pindaan ini berkuat kuasa mulai tahun taksiran 2006 dan tahun-tahun taksiran yang berikutnya.

PINDAAN KEPADA AKTA CUKAI KEUNTUNGAN HARTA TANAH 1976

Bab IV Rang Undang-Undang ini bertujuan untuk meminda Akta Cukai Keuntungan Harta Tanah 1976.

28. *Fasal 41* bertujuan untuk meminda subperenggan 3(g) Jadual 2 Akta 169 untuk memperuntukkan bahawa harga pelupusan dari transaksi menurut suatu skim pembiayaan mengikut prinsip Syariah adalah disifatkan bersamaan dengan harga pemerolehan.

Pindaan ini disifatkan mula berkuat kuasa pada 11 September 2004.

PINDAAN KEPADA AKTA SETEM 1949 Bab V Rang Undang-Undang ini bertujuan untuk meminda Akta Setem 1949.

29. *Fasal 43* bertujuan untuk meminda Jadual Pertama Akta 378 bagi mengadakan peruntukkan pengecualian ke atas surat cara tambahan yang dimeterai bagi maksud mematuhi prinsip-prinsip Syariah.

Pindaan ini disifatkan mula berkuat kuasa pada 11 September 2004.

AM

30. Pindaan lain yang tidak diperkatakan secara khusus dalam Huraian ini adalah pindaan yang kecil dan berbangkit.

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan.

[PN(U²)2315]

Pindaan Jadual 2

41. Akta Cukai Keuntungan Harta Tanah 1976 dipinda dalam Jadual 2 dalam subperenggan 3(g), dengan menggantikan subperenggan itu dengan subperenggan yang berikut:

"(g) the disposal of any chargeable asset pursuant to a scheme of financing approved by the Central Bank or the Securities Commission as a scheme which is accordance with the principles of Syariah, where such disposal is strictly required for the purpose of compliance with those principles but which will not be required for any other schemes of financing."

BAB V PINDAAN KEPADA AKTA**SETEM 1949****Permulaan kuat kuasa pindaan kepada Akta Setem 1949**

42. Bab ini disifatkan telah mula berkuat kuasa pada 11 September 2004.

Pindaan Jadual Pertama

43. Akta Setem 1949, dipinda dalam Jadual Pertama di bawah tajuk "*GENERAL EXEMPTIONS*", dengan memasukkan selepas perenggan 5 perenggan yang berikut:

"6. An instrument executed pursuant to a scheme of financing, approved by the Central Bank or the Securities Commission as a scheme which is in accordance with the principles of Syariah, where such instrument is an additional instrument strictly required for the purpose of compliance with those principles but which will not be required for any other schemes of financing."

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akia Cukai Pendapatan 1967 ("Akta 53"), Akta Petroleum (Cukai Pendapatan) 1967 ("Akta 543"), Akta Cukai Keuntungan Harta Tanah 1976 ("Akta 169") dan Akta Setem 1949 ("Akta 378").

PINDAAN KEPADA AKTA CUKAI PENDAPATAN 1967

Bab II Rang Undang-Undang ini bertujuan untuk meminda Akta Cukai Pendapatan 1967.

2. *Fasal 4* bertujuan untuk meminda subseksyen 2(8) Akta 53 untuk mengadakan peruntukan tentang skim pembiayaan yang disebut dalam subseksyen itu yang hendaklah diluluskan oleh Bank Negara Malaysia atau Suruhanjaya Sekuriti sebagai menepati prinsip-prinsip Syariah.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

3. *Fasal 5* bertujuan untuk meminda seksyen 6 Akta 53. Dengan pindaan ini, pendapatan yang diagihkan kepada pemegang unit amanah yang bukan pemastautin adalah tertakluk kepada cukai pada kadar 28 peratus sebagaimana yang dinyatakan dalam Bahagian X Jadual 1.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

4. *Fasal 6* bertujuan untuk meminda subseksyen 6A(3A) Akta 53 untuk mengadakan peruntukan tentang kenaikan amaun rebat bagi pembelian komputer peribadi dari empat ratus ringgit kepada tujuh ratus ringgit.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran berikutnya.

5. *Fasal 7* bertujuan untuk meminda seksyen 34 Akta 53. Dengan pindaan ini, bunga yang terakru dari tarikh suatu pinjaman atau kemudahan kredit diklasifikasi sebagai pinjaman tidak berbayar oleh Bank Negara Malaysia akan diberikan potongan di bawah Akta 53. Pindaan yang dicadangkan ini terpakai bagi bank atau syarikat kewangan atau syarikat perbankan dan kewangan yang dilesenkan di bawah Akta Bank dan Institusi Kewangan 1989 [*Akta 372*] atau Akta Bank Islam 1983 [*Akta 276*] atau institusi kewangan yang ditetapkan di bawah Akta Institusi Kewangan Pembangunan 2002 [*Akta 618*].

Pindaan ini berkuat kuasa bagi tahun taksiran 2001 dan tahun-tahun taksiran yang berikutnya.

6. *Fasal 7* bertujuan untuk meminda perenggan 34(6)(m) Akta 53 bagi mengadakan peruntukan tentang amaun potongan berkenaan permohonan untuk mendapatkan sijil untuk sistem dan standard yang diiktiraf dan sijil halal, yang adalah dua kali amaun perbelanjaan yang dilakukan mengenainya.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

7. *Fasal 8* bertujuan untuk meminda seksyen 44 Akta 53. Dengan pindaan ini, suatu syarikat layak untuk membuat potongan daripada pendapatan agregat syarikat itu yang bersamaan dengan amaun zakat perniagaan yang dibayar kepada pihak berkuasa agama yang berhak yang ditubuhkan di bawah mana-

mana undang-undang bertulis. Walau bagaimanapun, potongan itu terhad kepada satu perempat puluh dari pendapatan agregat syarikat itu dan pindaan yang dicadangkan ini tidak terpakai bagi suatu syarikat luar pesisir.

Pindaan ini berkual kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

8. *Fasal 9* bertujuan untuk meminda seksyen 45A Akta 53. Dengan pindaan ini, dalam hal taksiran bersama jika suami atau isteri ialah seorang orang kurang upaya, potongannya dinaikkan dari dua ribu lima ratus ringgit kepada tiga ribu lima ratus ringgit.

Pindaan kepada perenggan 47(l)(b) Akta 53 dalam *fasal 11* berbangkit dari pindaan kepada seksyen 45A Akta 53.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

9. *Fasal 10* bertujuan untuk meminda perenggan 46(1)(e) Akta 53 untuk mengadakan peruntukan tentang kenaikan potongan bagi individu jika beliau ialah seorang orang kurang upaya dari lima ribu ringgit kepada enam ribu ringgit.

Fasal 10 bertujuan untuk meminda perenggan 46(1)(f) Akta 53 untuk mengadakan peruntukan tentang kenaikan potongan bagi pembelian buku, jurnal, majalah dan penerbitan lain yang seumpamanya dari lima ratus ringgit kepada tujuh ratus ringgit.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

10. *Fasal 12* bertujuan untuk meminda seksyen 49 Akta 53. Subseksyen 49(i) dipinda untuk menaikkan potongan bagi bayaran atau sumbangan yang dibuat di bawah subseksyen tersebut daripada lima ribu ringgit kepada enam ribu ringgit.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

11. *Fasal 13* bertujuan untuk meminda seksyen 61 Akta 53 berbangkit daripada kemasukan seksyen baru 61A ke dalam Akta 53. Sebelum pindaan, jika unit amanah mengagihkan pendapatannya dari pendapatan yang dikecualikan, tiada cukai dikenakan ke atas pemegang unit amanah itu berkenaan dengan pendapatan tersebut. Walau bagaimanapun, di bawah pindaan yang dicadangkan, seorang pemegang unit amanah akan dikenakan cukai ke atas pendapatan yang diagihkan kepadanya daripada pendapatan yang dikecualikan di bawah seksyen 61A Akta 53.

Fasal 13 selanjutnya bertujuan untuk memasukkan subseksyen baru (1B) ke dalam seksyen 61 Akta 53 untuk memperuntukkan bahawa apa-apa pendapatan yang diagihkan oleh unit amanah kepada pemegang unit amanah hendaklah disifatkan telah diperoleh di Malaysia.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

12. *Fasal 14* bertujuan untuk memasukkan seksyen baru 61A ke dalam Akta 53. Dengan pindaan ini, jumlah pendapatan unit amanah yang bersamaan dengan amaun pendapatan yang diagihkan kepada pemegang unit amanah, yang amaun itu ditentukan dengan mengambil kira bahagian pemegang unit amanah itu dari jumlah pendapatan unit amanah itu, hendaklah dikecualikan dari cukai. Unit amanah yang dikecualikan dari cukai ialah unit amanah yang diluluskan oleh Suruhanjaya Sekuriti sebagai Amanah Pelaburan Hartanah atau Amanah Saham Hartanah.

Fasal 23 selanjutnya bertujuan untuk memasukkan seksyen baru I09D ke dalam Akta 53 berbangkit daripada kemasukan seksyen baru 61 A ke dalam Akta 53. Pindaan yang dicadangkan ini menghendaki supaya unit amanah itu memotong daripada amaun pendapatan yang diagihkan dari pendapatan yang dikecualikan di bawah seksyen 61A Akta 53 kepada pemegang unit amanah yang bukan pemastautin cukai pada kadar yang terpakai bagi pendapatan itu.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

13. *Fasal 15* dan *16* bertujuan untuk meminda seksyen 63A dan 63B Akta 53 berbangkit dari kemasukan seksyen baru 63c ke dalam Akta 53. Pindaan yang dicadangkan bertujuan untuk mengecualikan pemakaian seksyen 63c bagi seksyen-seksyen tersebut.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

14. *Fasal 17* bertujuan untuk memasukkan seksyen baru 63c ke dalam Akta 53. Pindaan yang dicadangkan ini memperuntukkan bahawa pendapatan Amanah Pelaburan Hartanah atau Amanah Saham Hartanah daripada penyewaan hartanah hendaklah dikira sebagai pendapatan kasar dari punca atau punca-punca pendapatan perniagaan. Pindaan ini selanjutnya mengadakan peruntukan tentang layanan khas terhadap pendapatan tersebut, khususnya, apa-apa lebihan dari perbelanjaan yang dilakukati dan baki elaun di bawah Jadual 3 Akta 53 tidak dikira bagi maksud Akta 53.

Fasal 19 bertujuan untuk memasukkan seksyen baru 63D ke dalam Akta 53. Dengan kemasukan seksyen baru ini, pendapatan unit amanah, selain unit amanah di bawah seksyen 63c, dari penyewaan hartanah tidak dikira sebagai pendapatan dari punca perniagaan.

Pindaan ini berkuat kuasa mulai tahun taksiran 2005 dan tahun-tahun taksiran yang berikutnya.

15. *Fasal 20* bertujuan untuk meminda seksyen 77 Akta 53 untuk memperuntukkan 30 Jun sebagai tarikh memfailkan penyata bagi orang yang menjalankan perniagaan selain syarikat, badan amanah dan pertubuhan koperasi.

Pindaan ini berkuat kuasa mulai tahun taksiran 2004 dan tahun-tahun taksiran yang berikutnya.

A BILL

i n t i t u l e d

An Act to amend the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Real Property Gains Tax Act 1976 and the Stamp Act 1949.

ENACTED by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance Act 2004.

Amendments of Acts

2. The Income Tax Act 1967 [*Act 53*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Real Property Gains Tax Act 1976 [*Act 169*] and the Stamp Act [*Act 378*] are amended in the manner specified in Chapters II, **III**, IV and V respectively.

CHAPTER II AMENDMENTS TO
THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Sections 4, 5, 6, and subparagraph 7(b)(n) and sections 8, 9, 10, **11**, 12, 13, 14, 15, 16, 17, 18, 19, 23, 27, 28, 29, 30, 31 and 32 have effect for the year of assessment 2005 and subsequent years of assessment.

(2) Paragraph 1(a) has effect for the year of assessment 2001 and subsequent years of assessment.

(3) Subparagraph 7(b)(i) and sections 20, 21 and 22 have effect for the year of assessment 2004 and subsequent years of assessment.

(4) Sections 24, 25 and 26 shall come into operation on 1 January 2005.

(5) Paragraph 33(a) has effect for the year of assessment 2003 and subsequent years of assessment.

(6) Paragraph 33(b) is deemed to have come into operation on 11 September 2004.

Amendment of section 2

4. The Income Tax Act 1967, which is referred to as the "principal Act" in this Chapter, is amended in section 2—

(a) in subsection (1) —

(i) by inserting after the definition of "business" the following definition:

"Central Bank" means the Central Bank of Malaysia established under section 3 of the Central Bank of Malaysia Act 1958 [Act 519];
and

- (ii) by inserting after the definition of "royalty" the following definition:

"Securities Commission" means the Securities Commission established under section 3 of the Securities Commission Act 1993 [Act 498]; and

- (b) in subsection (8), by substituting for the words "in accordance with the principles of Syariah" the words "approved by the Central Bank or the Securities Commission, as a scheme which is in accordance with the principles of Syariah. where such disposal is strictly required for the purpose of complying with those principles but which will not be required in any other schemes of financing".

Amendment of section 6

5. Subsection 6(1) of the principal Act is amended —

- (a) in paragraph (h), by substituting for the full stop at the end of that paragraph a semicolon; and
- (b) by inserting after paragraph (h) the following paragraph:

"(i) subject to the provisions of section 109D but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a non-resident unit holder which consists of income distributed by the unit trust referred to in section 61A at the appropriate rate as specified under Part X of Schedule 1".

Amendment of section 6A

6. Subsection 6A(3A) of the principal Act is amended by substituting for the words "four hundred" the words "five hundred".

Amendment of section 34**7. Section 34 of the principal Act is amended—**

(a) by inserting after subsection (3) the following subsection:

"(3A) The reference to the debt which is partly irrecoverable under paragraph (2)(b), shall be deemed, in the case of a bank, to include all interest in respect of a loan or credit facility accrued from the date that such loan or facility is classified as non-performing loan in accordance the relevant guidelines issued by the Central Bank.

(3B) For the purpose of subsection (3A), "bank" means a bank or a finance company or a banking and finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372] or Islamic Banking Act 1983 [Act 276], or an institutions prescribed under the Development Financial Institutions Act 2002 [Act 618]."; and

(b) in subsection (6)—

(i) by substituting for paragraph (m) the following paragraph:

"(m) an amount equal to the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining accreditation for a laboratory or as a certification body, as evidenced by a certificate issued by the Department of Standards Malaysia:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;" and

FINANCE BILL 2004

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

Clause

1. Short title
2. Amendments of Acts

CHAPTER II AMENDMENTS

TO THE INCOME TAX ACT 1967

3. Commencement of amendments to the Income Tax Act 1967
4. Amendment of section 2
5. Amendment of section 6
6. Amendment of section 6A
7. Amendment of section 34
8. Amendment of section 44
9. Amendment of section 45A
10. Amendment of section 46
11. Amendment of section 47
12. Amendment of section 49
13. Amendment of section 61
14. New section 61A
15. Amendment of section 63A
16. Amendment of section 63B
17. New section 63c
18. Special provision relating to section 63c
19. New section 63D
20. Amendment of section 77

• *Bill*

Clause

21. Amendment of section 86
22. Amendment of section 103
23. New section 109D
24. New section 111s
25. New section 111c
26. Amendment of section 151
27. Amendment of Schedule 1
28. Amendment of Schedule 3
29. Special provision relating to paragraph 3 of Schedule 3
30. Special provision relating to paragraph 35 of Schedule 3
31. Amendment of Schedule 4A
32. Amendment of Schedule 4c
33. Amendment of Schedule 6

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42. Commencement of amendments to the Stamp Act 1949
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(ii) by inserting after paragraph (m) as amended the following paragraph:

"(ma) an amount twice the amount of the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining certification for recognized quality systems and standards, and *halal* certification, evidence by a certificate issued by a certification body as determined by the Minister:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;".

Amendment of section 44

8. Section 44 of the principal Act is amended—

(a) in paragraph (l)(d), by substituting for the words "or (11)" the words ", (11) or (1U)"; and

(b) by inserting after subsection (11) the following subsection:

"(11A) There shall be deducted pursuant to this subsection from the aggregate income of a company for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to the payment of *zakat perniagaan* which is paid in the basis period for that relevant year to an appropriate religious authority established under any written law or any person authorized by such religious authority:

Provided that—

(a) the amount to be deducted pursuant to this subsection shall not exceed one-fortieth of the aggregate income of the company in the relevant year; and

(b) the company is not an offshore company;".

Amendment of section 45A

9. Section 45A of the principal Act is amended by substituting for the word "two" the word "three".

Amendment of section 46

10. Subsection 46(1) of the principal Act is amended—

- (a) in paragraph (e), by substituting for the word "five" the word "six"; and
- (b) in paragraph (i), by substituting for the word "five" the word "seven".

Amendment of section 47

11. Paragraph 47(l)(b) of the principal Act is amended by substituting for the word "two" the word "three".

Amendment of section 49

12. Section 49 of the principal Act is amended—

- (a) in subsection (1), by substituting for the word "five" the word "six"; and
- (b) in paragraph (1A), by substituting for the word "five" the word "six".

Amendment of section 61

13. Section 61 of the principal Act is amended —

- (a) in the proviso to subsection (1A), by substituting for the words "exempt income" the words "income exempt from tax, other than income exempt under section 61A,"; and
- (b) by inserting after subsection (1A) the following subsection:

"(1B) Any income which is distributed by a unit trust to a unit holder under subsection (1A) shall be deemed to be derived from Malaysia."

New section 61A

14. The principal Act is amended by inserting after section 61 the following section:

"Exemption of Real Estate Investment Trust or Property Trust Fund

61A. (1) The total income of a unit trust for a year of assessment which is equivalent to the amount of income distributed to the unit holder in the basis period for that year of assessment which is ascertained by reference to the unit holder's share of that income shall be exempt from tax.

(2) In this section, "unit trust" means a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund."

Amendment of section 63A

15. Section 63A of the principal Act is amended by inserting after subsection (5) the following subsection:

"(6) This section shall not apply to a unit trust referred to in subsection 61A(2)."

Amendment of section 63B

16. Section 63B of the principal Act is amended by inserting after subsection (2) the following subsection:

"(3) This section shall not apply to a unit trust referred to in subsection 61A(2)."

New section 63c

17. The principal Act is amended by inserting after section 63B the following section:

"Special treatment on rent from the letting of real property of a Real Estate Investment Trust or Property Trust Fund

63c. (1) The provisions of this section shall apply notwithstanding any other provisions of this Act.

(2) Where in the year of assessment, income of a unit trust consists of a rent from the letting of real property, the amount of the rent shall be treated as gross income of a unit trust from a source or sources consisting of a business for that year of assessment.

(3) In ascertaining, for a year of assessment, the adjusted income of a unit trust from a source referred to in subsection (2) any outgoings and expenses incurred by that unit trust in the basis period for that year of assessment in respect of that source shall only be allowed as a deduction under section 33 against the gross income from that source but

fo) where the amount of the deduction exceeds the gross income from that source for that year of assessment, the excess shall be disregarded for the purposes of this Act; and

(b) where that source does not produce any income, the deduction from the gross income of that unit trust from that source and other sources of income shall not be allowed.

(4) In ascertaining, for a year of assessment, the statutory income of a unit trust from a source referred to in subsection (2), any allowances for that year of assessment under Schedule 3 in respect of that source shall only be available against the adjusted income of that source and if by reason of an absence or insufficiency of adjusted income from that source for the basis period for that year of assessment, effect cannot be given or be given in full to any allowance for that year of assessment in relation to that source, that allowance which has not been so made shall not be made to the unit trust for any subsequent years of assessment.

(5) For the purposes of this section, "unit trust" has the same meaning assigned to it under subsection 61A(2)."

Special provision relating to section 63c

18. Notwithstanding the provisions of section 63c of the principal Act as introduced by section 17 of this Act, the provisions of sections 43 and 44 of the principal Act shall apply to a unit trust

dealt with in section 63c of the principal Act in respect of its adjusted loss (if any) or an allowance which is deemed to be made to that unit trust under paragraph 75 of Schedule 3 of the principal Act, which adjusted loss or allowance of the unit trust is ascertained prior to the coming into operation of section 17 of this Act.

New section 63D

19. The principal Act is amended by inserting after section 63c the following section:

"Income of a unit trust from the letting of real property is not income from a business

63D. Subject to the provisions of section 63c but notwithstanding any other provisions of this Act, income of a unit trust which consist of rent from the letting of real property shall not be treated as income from a source consisting of a business."

Amendment of section 77

20. Section 77 of the principal Act is amended—

(a) by substituting for subsection (1) excluding the proviso to that subsection, with the following subsection:

"(1) Every person, other than a company, trust body or co-operative society to which section 77A applies, shall for each year of assessment furnish to the Director General a return in the prescribed form—

(a) in the case of that person who is carrying on a business, not later than 30 June in the year following that year of assessment; or

(b) in any other case than the case in paragraph (a), not later than 30 April in the year following the year of assessment:"; and

(b) by inserting after subsection (1) as amended by this Act, the following subsection:

"(1A) Where subsection 45(2) applies, a reference to a person under paragraph (a) includes a reference to an individual where his wife or her husband who elects, as the case may be, is carrying on a business."

Amendment of section 86

21. Subsection 86(1) of the principal Act is amended by substituting for the word "April" the word "June".

Amendment of section 103

22. Subsection 103(12) of the principal Act is amended—

(a) in paragraph (a), by deleting the word "and" at the end of the paragraph;

(b) by substituting for paragraph (b) the following paragraph:

"(b) in the case of a person referred to under paragraph (a), 30 June in the year following the year of assessment; and"; and

(c) by inserting after paragraph (b) the following paragraph:

"(c) in any other case other than the cases referred to in paragraphs (a) and (b), 30 April in the year following the year of assessment."

New section 109D

23. The principal Act is amended by inserting after section 109c the following section:

"Deduction of tax on the distribution of income of a unit trust

109D. (1) This section shall only apply to income of a unit trust which is exempt under section 61A.

(2) Where a unit trust (in this section referred to as the payer) distributes income to a non-resident unit holder which is deemed to be derived from Malaysia, the payer shall upon distributing the income, deduct therefrom tax at the rate applicable to such income and shall within one month after distributing such income, render an account and pay the amount of that tax to the Director General:

Provided that the Director General may—

- (a) give notice in writing to the payer requiring him to deduct and pay tax at any other rates or to distribute the income without deduction of tax; or
- (b) under special circumstances, allow extension of time for the amount of tax deducted to be paid over.

(3) Where the payer fails to pay any amount due from him under subsection (2), that amount which he fails to pay shall be increased by an amount equal to ten per cent of the income liable to deduction of tax under that subsection and the total sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(4) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

- (a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the unit holder to whom the payer distributes income to which that amount relates; and
- (b) if the payer has not deducted that amount in distributing the income under subsection (2) with respect to which that amount relates, he may recover that amount from that unit holder as a debt due to the payer.

(5) The provision of section 110 shall apply *mutatis mutandis* to tax deducted under this section."

New section 111B

24. The principal Act is amended by inserting after Part VII the following Part:

"PART VIIA FUND FOR
TAX REFUND

Establishment of Fund for Tax Refund

111B. (1) There is hereby established a fund, to be known as the Fund for Tax Refund (in this section referred to as "the Fund") which shall be specified in and incorporated into the Second Schedule to the Financial Procedure Act 1957 [Act 61].

(2) There shall be paid from time to time into the Fund such amount of tax collected under this Act as may be authorized by the Minister.

(3) The moneys of the Fund shall be applied for the making of a refund of an amount of tax paid in excess at the amount payable as ascertained in section 111 of this Act.

(4) The Fund shall be administered by the Accountant General of Malaysia.

(5) Notwithstanding the provisions of subsection (2) and the Financial Procedure Act 1957, the Minister may from time to time authorize the payment into the Consolidated Revenue Account in the Federal Consolidated Fund of all or any part of the moneys of the Fund."

New section 111c

25. The principal Act is amended by inserting after section 111B the following section:

"Non applicability of section 14A of the Financial Procedure Act 1957

111c. Section 14A of the Financial Procedure Act 1957 shall not apply to any refund in excess of the amount payable as ascertained in section 111."

Amendment of section 151

26. The principal Act is amended by substituting for section 151 the following section:

"Procedure for making refunds and repayments

151. Where the Director General is authorized or required by this Act to make any refund or repayment, he shall certify the amount of the sum to be refunded or repaid and cause the refund or repayment to be made forthwith."

Amendment of Schedule 1

27. Schedule 1 of the principal Act is amended by inserting after Part IX the following Part:

"PART X

Notwithstanding Part I, income tax shall be charged on the income of a non-resident unit holder consisting of income distributed to that unit holder referred to in section 109D which is derived from Malaysia at the rate of 28% of gross."

Amendment of Schedule 3

28. Schedule 3 of the principal Act is amended—

(a) in paragraph 3 —

- (i) by renumbering that paragraph as subparagraph 3(1);
- (ii) in subparagraph 3(1) as renumbered, by substituting for the words "paragraphs 3A to" the word "paragraph"; and
- (iii) by inserting after subparagraph 3(1) the following subparagraph:

" (2) For the purpose of this Schedule, the qualifying building expenditure in the case of purchase of a building shall be the amount of the purchase price of that building. ";

(b) by deleting paragraphs 3A, 4 and 5;

(c) in paragraph 35 —

(i) by substituting for the colon at the end of the paragraph a full stop; and

(ii) by deleting the proviso to the paragraph.

Special provision relating to paragraph 3 of Schedule 3

29. Notwithstanding the provision of paragraph 3 of Schedule 3 to the principal Act as amended under paragraph 2S(a) of this Act, where the amount of qualifying building expenditure has been determined pursuant to paragraph 3, 3A, 4 or 5 of the principal Act before the coming into operation of the amendment to those paragraphs under section 28 of this Act, that amount of qualifying building expenditure shall continue to apply for the purposes of that Schedule.

Special provision relating to paragraph 35 of Schedule 3

30. Notwithstanding the provision of paragraph 35 of Schedule 3 to the principal Act, where prior to the coming into operation of the amendment to that paragraph under paragraph 28(c) of this Act, a person has incurred capital expenditure on the construction or the purchase of a building which is used as an industrial building, no charge (if any) shall be made on that person under paragraph 35 Schedule 3 to the principal Act as amended if the building is disposed off after the basis period for a year of assessment which is the fiftieth year of assessment after the year of assessment in the basis year in which that building was constructed.

Amendment of Schedule 4A

31. Schedule 4A of the principal Act is amended by inserting after paragraph 8 the following paragraph:

"9. The Minister may prescribe any capital expenditure incurred by a person in his business as qualifying farm expenditure and the amount of deduction in respect of that qualifying farm expenditure which would otherwise fall to be made to him under paragraph 4."

Amendment of Schedule 4c

32. Schedule 4c of the principal Act is amended in paragraph 2(a) by substituting for the word "2005" the word "2010".

Amendment of Schedule 6

33. Schedule 6 of the principal Act is amended—

(a) in subparagraph 25(1)—

(i) in subparagraph (a), by deleting the word "or" at the end of that subparagraph;

(ii) in subparagraph (b), by substituting for the full stop at the end of that subparagraph the words "; or "; and

(iii) by inserting after subparagraph (b) the following subparagraph:

"(c) if the retirement takes place on reaching the compulsory age of retirement pursuant to a contract of employment or collective agreement at the age of 50 but before 55 and that employment has lasted for ten years with the same employer or with companies in the same group:

Provided that the sum shall not exceed an amount ascertained by multiplying the sum of six thousand ringgit by the number of completed years of service in that employment."; and

(b) by inserting after paragraph 33 the following paragraph:

"33A. Interest paid or credited to any company not resident in Malaysia-fa) in respect of securities issued by the Government; or

(b) in respect of Islamic securities or debenture issued in Ringgit Malaysia, other than convertible loan stock, approved by the Securities Commission."

CHAPTER III

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Commencement of amendments to the Petroleum (Income Tax) Act 1967

34. (1) Section 35 has effect for the year of assessment 2003 and subsequent years of assessment.

(2) Section 36 has effect for the year of assessment 2005 and subsequent years of assessment.

(3) Sections 37,38 and 39 have effect for the year of assessment 2006 and subsequent years of assessment.

Amendment of section 2

35. The Petroleum (Income Tax) Act 1967, which is referred to as the "principal Act" in this Chapter, is amended in section 2 by substituting for the definition of "petroleum operations" the following definition:

¹ "petroleum operations" means—

(a) searching for and winning or obtaining of petroleum in Malaysia by or on behalf of any person for his own account or on a joint account with any other person by any drilling, mining, extracting or other like operations or process, in the course of a business carried on by that person engaged in such operations, and all operations incidental thereto, and any sale or disposal by or on behalf of that person of petroleum so won or obtained, and includes the transportation within Malaysia by or on behalf of that person of petroleum so won or obtained to any point of sale or delivery or export, but does not include—

(i) any transportation of petroleum outside Malaysia;

(ii) any process of refining or liquefying of petroleum;

(iii) any dealings with products so refined or liquefied;
or

(iv) service involving the supply and use of rigs, derricks, ocean tankers and barges; and

- (b) any sale or disposal by Petroleum Nasional Berhad within Malaysia of petroleum obtained from outside of Malaysia and includes the transportation within Malaysia by, or on behalf of, Petroleum Nasional Berhad of such, petroleum to any point of sale or delivery within Malaysia;".

Amendment of section 18

36. Paragraph 18(h) of the principal Act is amended—

- (a) by substituting for the semicolon at the end of the paragraph a colon; and
- (b) by inserting the proviso to that paragraph as follows:

"Provided that this paragraph shall not apply if the payer has paid the amount of deduction of tax and the increased amount which is equal to ten per cent of that deduction which are due and payable under the provisions of that law;".

Amendment of Second Schedule

37. The Second Schedule of the principal Act is amended—

- (a) in paragraph 3 —
- (i) by renumbering that paragraph as subparagraph 3(1);
- (ii) in subparagraph 3(1) as renumbered, by substituting for the words "paragraph 3A to" the word "paragraph"; and
- (iii) by inserting after subparagraph 3(1) the following subparagraph:

"(2) For the purpose of this Schedule, the qualifying building expenditure in the case of purchase of a building shall be the purchase price of that building.";

- (b) by deleting paragraphs 3A, 4 and 5;
- (c) in paragraph 18 —
- (i) by substituting for the colon at the end of that paragraph full stop; and
- (ii) by deleting the proviso to that paragraph.

Special provision relating to paragraph 3 of Second Schedule

38. Notwithstanding the provision of paragraph 3 of Second Schedule to the principal Act as amended under paragraph 37(a) of this Act, where the amount of qualifying building expenditure has been determined pursuant to paragraph 3, 3A, 4 or 5 of the principal Act prior to the coming into operation of the amendment to those paragraphs under section 37 of this Act, that amount of qualifying building expenditure shall continue to apply for the purposes of that Schedule.

Special provision relating to paragraph 18 of Second Schedule

39. Notwithstanding the provision of paragraph 18 of Second Schedule to the principal Act, where prior to the coming into operation of the amendment under paragraph 37(c) of this Act, a person has incurred capital expenditure on the construction or the purchase of a building which is used as an industrial building, no charge (if any) shall be made on that person under paragraph 18 of Second Schedule to the principal Act as amended if the building is disposed off after the basis period for a year of assessment which is the fiftieth year of assessment after the year of assessment in the basis year in which that building was constructed.

CHAPTER IV

AMENDMENT TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendment to the Real Property Gains Tax Act 1976

40. This Chapter is deemed to have come into operation on 11 September 2004.

Amendment of Schedule 2

41. The Real Property Gains Tax Act 1976 is amended in Schedule 2 in subparagraph 3fgj, by substituting for that subparagraph the following subparagraph:

"(g) the disposal of any chargeable asset pursuant to a scheme of financing approved by the Central Bank or the Securities Commission as a scheme which is in accordance with the principles of Syariah, where such disposal is strictly required for the purpose of compliance with those principles but which will not be required for any other schemes of financing."

CHAPTER V

AMENDMENT TO THE STAMP ACT 1949

Commencement of amendment to the Stamp Act 1949

42. This Chapter is deemed to have come into operation on 11 September 2004.

Amendment of First Schedule

43. The Stamp Act 1949 is amended in the First Schedule under the heading "*GENERAL EXEMPTIONS*", by inserting after paragraph 5 the following paragraph:

- '6. An instrument executed pursuant to a scheme of financing approved by the Central Bank or the Securities Commission as a scheme which is in accordance with the principles of Syariah, where such instrument is an additional instrument strictly required for the purpose of compliance with those principles but which will not be required for any other schemes of financing."

EXPLANATORY STATEMENT

This Bill seeks to amend the Income Tax Act 1967 ("Act 53"), the Petroleum (Income Tax) Act 1967 ("Act 543"), the Real Property Gains Tax Act 1976 ("Act 169") and the Stamp Act ("Act 378").

AMENDMENTS TO THE INCOME TAX ACT 1967 Chapter II of

this Bill seeks to amend the Income Tax Act 1967 ("Act 53").

2. *Clause 4* seeks to amend subsection 2(8) of Act 53 to provide that the scheme of financing referred to in that subsection must be approved by the Central Bank or the Securities Commission, as in accordance with the principles of Syariah.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

3. *Clause 5* seeks to amend section 6 of Act 53. With the amendment, income which is distributed to a non-resident unit holder will be subject to tax at the rate of 28 per cent as specified in Part X of Schedule 1.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

4. *Clause 6* seeks to amend subsection 6A(3A) of Act 53 to provide for the increase of amount of rebate as regards to the purchase of personal computer from four hundred ringgit to seven hundred ringgit.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

5. *Clause 7* seeks to amend section 34 of Act 53. With the amendment, interest accrued from the date a loan or credit facility is classified as non performing by the Central Bank of Malaysia will be allowed as a deduction under Act 53. The proposed amendment applies to a bank or a finance company or a banking and finance company licensed under the Banking and Financial Institutions Act 1989, Islamic Banking Act 1983 or to an institution prescribed under the Development Financial Institutions Act 2002.

This amendment will have effect for the year of assessment 2001 and subsequent years of assessment.

6. *Clause 7* seeks to introduce subsection (6A) into section 34 of Act 53 to provide that the amount of deduction with regard to obtaining certification for recognized systems and standards and *halal* certification, shall be double the amount of the expenditure incurred.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

7. *Clause 8* seeks to amend section 44 of Act 53. With the amendment, a company is entitled to deduct from its aggregate income an amount equal to the *zakat perniagaan* paid to the appropriate religious authority established under any written law. However, such deduction is limited only to one-fortieth of the company aggregate income and the proposed amendment will not apply to an offshore company.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

8. *Clause 9* seeks to amend section 45A of Act 53. With the amendment, in the case of a combined assessment where the spouse is a disabled person, the deduction of two thousand five hundred ringgit is increased to three thousand five hundred ringgit.

Clause 11 further seeks to amend paragraph 47(1) of Act 53 as a consequence of the amendment to section 45A of that Act.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

9. *Clause 10* seeks to amend paragraph 46(i)(fe) of Act 53 to provide for an increase in additional personal deduction for an individual if he is a disabled person from five thousand ringgit to six thousand ringgit.

Clause 10 further seeks to amend paragraph 46(1)(f) of Act 53 to provide that the deduction of five hundred ringgit for the purchase of books, journals, magazines and other similar publications is to be increased to seven hundred ringgit.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

10. *Clause 12* seeks to amend section 49 of Act 53. Subsection 49(1) is amended to provide for an increase of deduction for the payments or contributions made under that subsection from five thousand ringgit to six thousand ringgit.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

11. *Clause 13* seeks to amend section 61 of Act 53 as a consequence of the insertion of a new section 61A into Act 53. Prior to the amendment, if the unit trust distribute its income out of its exempt income, there will be no tax charged on the unit holder in respect of that income. However, under the proposed amendment a unit holder will be taxed on income which is distributed to him out of income that is exempt under section 61A of Act 53.

Clause 13 further seeks to insert a new subsection (1B) into section 61 of Act 53 to provide that any income distributed by a unit trust to a unit holder is deemed to be derived from Malaysia.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

12. *Clause 14* seeks to insert a new section 61A into Act 53. With the amendment, the total income of a unit trust which is equivalent to the amount of income distributed to the unit holder which amount is determined by reference to the unit holder share of that total income shall be exempt from tax. The unit trust which is exempt from tax is a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund.

Clause 23 further seeks to insert a new section 109D into Act 53 as a consequence of the insertion of section 61A into Act 53. The proposed amendment requires the unit trust to deduct from the amount of income distributed out of income exempt under section 61A of Act 53 to a non-resident unit holder a tax at the rate applicable to such income.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

13. *Clauses 15 and 16* seek to amend sections 63A and 63B of Act 53 as a consequence of the insertion of the new section 63c into Act 53. The proposed amendments seek to exclude the application of section 63c to those sections.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

14. *Clause 17* seeks to insert a new section 63c into Act 53. The proposed amendment seeks to provide that the income of a Real Estate Investment Fund or Property Trust Fund from the letting of real property be treated as gross income from a source or sources consisting of a business. The amendment further provides a special treatment on such income, in particular, any excess of the expenses incurred and the balance of allowances under Schedule 3 of Act 53 are disregarded for the purposes of that Act.

Clause 19 seeks to insert a new section 63D into Act 53. With the insertion of the new section, income of a unit trust, other than a unit trust under section 63c, from the rental of real property shall not be treated as income from a source consisting of a business.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

15. *Clause 20* seeks to amend section 77 of Act 53 to provide 30 June as the date of filing of return for a person carrying on a business other than a company, trust body and co-operative society.

This amendment will have effect for the year of assessment 2004 and subsequent years of assessment.

16. *Clauses 21* and *22* seek to amend sections 86 and 103 of Act 53 respectively in order to be consistent with the amendment of section 77 of Act 53.

These amendments will have effect for the year of assessment 2004 and subsequent years of assessment.

17. *Clause 24* seeks to insert a new section 111B into Act 53. The proposed amendment seeks to set up a fund which is known as the Fund for Tax Refund. The purpose of the Fund is to expedite the making of refund of the excess tax paid.

Clause 25 further seeks to insert a new section 111c into Act 53 as a consequence of the insertion of the new section 111B. With the amendment any refund that is required to be made under Act 53 will not be charged to the Consolidated Fund.

Clause 26 further seeks to amend section 151 of Act 53 to be consistent with the insertion of the new sections 111B and 111c.

These amendments will come into operation on 1 January 2005.

18. *Clause 27* seeks to insert a new Part X into Schedule 1 to Act 53 to provide for tax at the rate of 28% on the income distributed to a unit holder who is a non-resident.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

19. *Clause 28* seeks to amend paragraph 3 of Schedule 3 to Act 53. With the proposed amendment, qualifying building expenditure in the case of purchase of a building shall be the purchase price of that building.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

20. *Clause 29* seeks to introduce a special provision relating to paragraph 3 of Schedule 3 to Act 53. The provision provides that any qualifying building expenditure which has been determined prior to the amendment of that paragraph shall continue to apply for all the purposes of the Schedule.

Clause 30 further seeks to introduce a special provision relating to paragraph 35 of Schedule 3 to Act 53. The proposed amendment provides that no balancing charge will be imposed on a disposal of an industrial building if the disposal takes place after 50 years from the date the building was constructed. However, the special provision only applies to a person that has incurred qualifying building expenditure prior to the deletion of the proviso to that paragraph.

These amendments will have effect for the year of assessment 2005 and subsequent years of assessment.

21. *Clause 31* seeks to insert a new paragraph 8A of Schedule 4A into Act 53 to empower the Minister to prescribe any capital expenditure incurred by a person in his business as a qualifying farm expenditure and the amount of deduction that will be given in respect of that expenditure.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

22. *Clause 32* seeks to amend paragraph 26 of Schedule 4c to Act 53 to extend the last date for submission of an application under that Schedule to 31 December 2010.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

23. *Clause 33* seeks to amend paragraph 25 of Schedule 6 to Act 53. With the amendment, a sum received by way of gratuity by an employee who retires on compulsory retirement at the age of 50 but before 55 pursuant to a contract of employment or collective agreement shall be eligible for an exemption under Act 53. However, the amount that will be exempted must not exceed an amount ascertained by multiplying the sum of six thousand ringgit by the number of completed years of service in the employment.

This amendment will have effect for the year of assessment 2003 and subsequent years of assessment

24. *Clause 33* further seeks to insert a new paragraph 33A Schedule 6 into Act 53 to exempt interest paid or credited to a company which is not resident in Malaysia in respect of securities stated in the proposed paragraph.

This amendment is deemed to have come into operation on 11 September 2004.

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Chapter III of this Bill seeks to amend the Petroleum (Income Tax) Act 1967.

25. *Clause 35* seeks to amend section 2 of Act 543 to extend the meaning of "petroleum operations" to include any sale or disposal by Petroleum National Berhad within Malaysia of petroleum obtained from outside of Malaysia and also includes the transportation within Malaysia by any person of such petroleum to any point of sale or delivery.

This amendment will have effect for the year of assessment 2003 and subsequent years of assessment.

26. *Clause 36* seeks to amend paragraph 18(l)f/i) of Act 543 to insert a new proviso into that paragraph. Prior to the amendment, no deduction is allowed if a payer fails to deduct for tax when making such payment as stipulated under that paragraph to a non-resident. With the amendment, a deduction is allowed if that payer has paid the amount of tax and the increased amount which is equal to ten percent of that deduction.

This amendment will have effect for the year of assessment 2005 and subsequent years of assessment.

27. *Clause 37* seeks to amend paragraph 3 of Second Schedule to Act 543 to be consistent with the amendment to paragraph 3 of Schedule 3 to Act 53.

Clause 38 seeks to introduce a special provision relating to paragraph 3 of Second Schedule to Act 543. The provision provides that any qualifying building expenditure which has been determined prior to the amendment of that paragraph shall continue to apply for all the purposes of the Schedule.

Clause 39 further seeks to introduce a special provision relating to paragraph 18 of Second Schedule to Act 543. The proposed amendment provides that no balancing charge will be imposed on the disposal of an industrial building if the disposal takes place after 50 years from the date the building was constructed. However, the special provision only applies to a person who has incurred qualifying building expenditure prior to the deletion of the proviso to that paragraph.

These amendments will have effect for the year of assessment 2006 and subsequent years of assessment.

AMENDMENT TO THE REAL PROPERTY GAINS TAX ACT 1976 Chapter

IV of this Bill seeks to amend the Real Property Gains Tax Act 1976.

28. *Clause 41* seeks to amend sub paragraph 3fg) of Schedule 2 of Act 169 to provide that the disposal price from a transaction pursuant to a scheme of financing in accordance with the principles of Syariah shall be deemed equal to acquisition price.

This amendment is deemed to have come into operation on 11 September 2004.

AMENDMENT TO THE STAMP ACT 1949

Chapter V of this Bill seeks to amend the Stamp Act 1949.

29. *Clause 43* seeks to amend the First Schedule of Act 378 to provide for the exemption on any additional instrument executed for the purpose of complying with the Syariah principles.

This amendment is deemed to have come into operation on 11 September 2004.

GENERAL

30. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U²)2315]