

D.R. 14/2010

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Akta Setem 1949.

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DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Setem (Pindaan) 2010.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*.

Pindaan seksyen 2

2. Akta Setem 1949 [*Akta 378*], yang disebut “Akta ibu” dalam Akta ini, dipinda dalam seksyen 2 dengan menggantikan takrif “duly stamped” dengan takrif yang berikut:

“duly stamped”, as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount or the amount of initial duty or the amount of advance duty paid under subsection 37(1) and that such stamp has been affixed or used in accordance with the law for the time being in force:

Provided that a stamp certificate or official receipt for the proper amount or amount of initial duty or amount of advance duty may be attached or affixed to any instrument in lieu of the stamp, and the instrument shall be deemed to be duly stamped;’.

Seksyen baru 36AA

3. Akta ibu dipinda dengan memasukkan selepas seksyen 36A seksyen yang berikut:

“Advance duty

36AA. (1) Notwithstanding sections 36 and 36A, the Collector may, on an application made by any person assess the advance duty for an instrument for the transfer of an immovable property where the consideration consists wholly of money.

(2) For the purposes of subsection (1), the Collector shall, prior to the market value of the immovable property being ascertained by a valuer employed by the Government for the purpose of subsection 36B(1A), ascertain the market value in advance for which the instrument referred to in that subsection is chargeable in accordance with the following formula:

$$A \quad x \quad \frac{100}{83.333}$$

where A is the money value of the consideration in respect of an instrument for the transfer of an immovable property as submitted by the person.

(3) The Collector shall assess the duty chargeable on the instrument referred to in subsection (1) based on the market value as ascertained in advance under subsection (2).”.

Pindaan seksyen 36B

4. Seksyen 36B Akta ibu dipinda—

- (a) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) Where section 36AA applies and it appears to the Collector that based on the market value of the immovable property as ascertained by the valuer employed by the Government, the proper amount of duty chargeable on the instrument is higher than the advance duty paid, he may make an additional assessment on the person liable to pay such duty in the additional amount of duty chargeable.”;

- (b) dalam subseksyen (2), dengan memasukkan selepas perkataan “subsection (1)” perkataan “or (1A)”;

- (c) dalam perenggan (3)(a), dengan memasukkan selepas perkataan “initial duty” perkataan “or advance duty”;

- (d) dalam subseksyen (5), dengan menggantikan perkataan “duty” perkataan “initial duty”;

- (e) dengan memasukkan selepas subseksyen (6) subseksyen yang berikut:

“(6A) Where advance duty due and payable under subsection (4) has not been paid within thirty days after the service of the notice of additional assessment, so much of the duty remaining unpaid upon the expiration of that date shall without any further notice being served, be increased by a sum equal to ten per cent of the duty so unpaid.”; dan

- (f) dalam subseksyen (7), dengan memasukkan selepas perkataan “subsection (6)” perkataan “or (6A)”.

Seksyen baru 36c

5. Akta ibu dipinda dengan memasukkan selepas seksyen 36B seksyen yang berikut:

“Where duty chargeable is equal or lower than advance duty paid and refund of advance duty paid in excess

36c. (1) Notwithstanding section 36B(1A), where section 36AA applies and it appears to the Collector that based on the market value of the immovable property as ascertained by the valuer employed by the Government, the proper amount of duty chargeable on the instrument is equal to or lower than the advance duty paid, he may notify the person in writing of the valuation on the proper amount of duty and such notification shall be deemed to be an assessment for the purposes of this Act.

(2) Where it is proved to the satisfaction of the Collector that the person has paid the advance duty chargeable under section 36AA in excess of the proper amount of duty referred to in subsection (1), the excess shall be refunded by the Collector.”.

Pindaan seksyen 37

6. Seksyen 37 Akta ibu dipinda dalam subseksyen (1)—

- (a) dengan menggantikan perkataan “section 36 or 36A” perkataan “section 36, 36A, 36AA or 36B”;
- (b) dengan memasukkan selepas koma bernoktah di hujung perenggan (a) perkataan “or”;
- (c) dalam perenggan (b)—
 - (i) dengan menggantikan perkataan “section” perkataan “sections, as the case may be”; dan
 - (ii) dengan menggantikan perkataan “; or” suatu koma;
- (d) dengan memotong perenggan (c); dan
- (e) dengan menggantikan perkataan “or initial duty” perkataan “initial duty, advance duty or additional duty, as the case may be”.

Pindaan seksyen 38

7. Seksyen 38 Akta ibu dipinda—

- (a) dalam nota bahu, dengan memasukkan selepas perkataan “sections 36” perkataan “36A, 36AA, 36B, 36C”; dan
- (b) dengan memasukkan selepas perkataan “sections 36A” perkataan “, 36AA, 36B, 36C”.

Pindaan seksyen 38A

- 8.** Akta ibu dipinda dalam subseksyen 38A(1) dengan menggantikan perkataan “section 36 or 36A” perkataan “this Part”.

Seksyen baru 74A dan 74B

- 9.** Akta ibu dipinda dengan memasukkan selepas seksyen 74 seksyen yang berikut:

“Recovery from persons leaving Malaysia

74A. (1) The Collector, where he is of the opinion that any person is about or likely to leave Malaysia without paying any duties, penalties or other sums required to be paid under this Act, may issue to any Commissioner of Police or Director of Immigration a certificate containing particulars of those duties, penalties or sums so payable with a request for that person to be prevented from leaving Malaysia unless and until he pays all the duties, penalties or sums so payable or furnishes security to the satisfaction of the Collector for their payment.

(2) Subject to any order issued or made under any written law relating to banishment or immigration, any Commissioner of Police or Director of Immigration who receives a request under subsection (1) in respect of any person shall take or cause to be taken all such measures as may be necessary to give effect to it.

(3) The Collector shall cause notice of the issue of the certificate under subsection (1) to be served personally or

by registered post on the person to whom the certificate relates:

Provided that the non-receipt of the notice by that person shall not invalidate anything done under this section.

(4) Where a person in respect of whom a certificate has been issued under subsection (1)—

(a) produces a written statement signed on or after the date of the certificate by the Collector to the effect that all the duties, penalties or sums specified in the certificate have been paid or that security has been furnished for the payment; or

(b) pays all the duties, penalties or sums specified in the certificate to the officer in charge of a police station or to an immigration officer,

the statement or the payment, as the case may be, shall be sufficient authority for allowing that person to leave Malaysia.

(5) No legal proceedings shall be instituted or maintained against the Government, a State Government, a police officer or any other public officer in respect of anything lawfully done under subsection 74B(2).

(6) In this section—

“Commissioner of Police” includes a Chief Police Officer;

“Director of Immigration” means the Director of Immigration in West Malaysia, Sabah or Sarawak;

“immigration officer” means a public officer having official duties in connection with the control of immigration into Malaysia or any part of Malaysia.

Leaving Malaysia without payment of duties, etc.

74B. (1) Any person, to whom a certificate has been issued in respect of him under section 74A, voluntarily leaves or attempts to leave Malaysia without paying all the duties, penalties or sums specified in the certificate or without furnishing security to the satisfaction of the Collector for the payment thereof shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

(2) A police officer or immigration officer may arrest without warrant any person whom he reasonably suspects to be committing or is about to commit an offence under this section.

(3) In this section, “immigration officer” has the same meaning as in section 74A.”.

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akta Setem 1949 (“Akta 378”).

2. *Fasal 1* mengandungi tajuk ringkas dan peruntukan tentang permulaan kuat kuasa Akta yang dicadangkan.

3. *Fasal 2* bertujuan untuk meminda seksyen 2 Akta 378. Pindaan yang dicadangkan bertujuan untuk meminda takrif “duly stamped” yang berbangkit daripada duti awal yang baru dimasukkan.

4. *Fasal 3* bertujuan untuk memasukkan seksyen baru 36AA ke dalam Akta 378. Pindaan yang dicadangkan bertujuan untuk memasukkan suatu mekanisma baru untuk membayar duti bagi surat cara pindahmilik harta tidak alih yang membolehkan pembayar duti memohon kepada Pemungut untuk membayar duti lebih awal berdasarkan kepada formula yang diperuntukkan dalam seksyen baru ini.

5. *Fasal 4* bertujuan untuk meminda seksyen 36B Akta 378. Pindaan yang dicadangkan bertujuan untuk memberi kuasa kepada Pemungut untuk membuat taksiran tambahan jika amaun sebenar duti adalah lebih tinggi daripada duti awal yang telah dibayar.

6. *Fasal 5* bertujuan untuk memasukkan seksyen baru 36c ke dalam Akta 378. Di bawah seksyen baru ini, jika amaun duti sebenar adalah sama atau kurang daripada duti awal yang telah dibayar, Pemungut hendaklah memaklumkan kepada pembayar duti berkenaan amaun sebenar duti dan memulangkan duti yang terlebih dibayar.

7. *Fasal 6* bertujuan untuk meminda seksyen 37 Akta 378 untuk menghendaki Pemungut membuat suatu endorsan ke atas apa-apa surat cara yang berkenaan dengannya apa-apa duti awal telah dibayar bagi membolehkan surat cara itu dianggap telah disetamkan dengan sewajarnya bagi maksud Akta 378.

8. *Fasal 7* bertujuan untuk meminda seksyen 38 Akta 378 bagi memperuntukkan bahawa tiada apa-apa jua dalam seksyen 36AA, 36B dan 36C boleh meliputi apa-apa surat cara yang boleh dikenakan duti *ad valorem* dan dijadikan jaminan bagi wang atau saham tanpa had.

9. Pindaan seksyen 38A Akta 378 dalam *fasal 8* merupakan suatu pindaan berbangkit.

10. *Fasal 9* bertujuan untuk memasukkan seksyen baru 74A dan 74B ke dalam Akta 378 untuk memberi kuasa kepada Pemungut untuk mengeluarkan perakuan bagi menghalang seseorang dari meninggalkan Malaysia tanpa membayar apa-apa duti, penalti atau wang yang dikehendaki supaya dibayar di bawah Akta dan kesan meninggalkan Malaysia tanpa membayar duti, penalti atau wang yang dikehendaki itu.

IMPLIKASI KEWANGAN

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

[PN(U²)2741]