

A BILL

i n t i t u l e d

An Act to amend the Income Tax Act 1967.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Income Tax (Amendment) Act 2018.

(2) Sections 3, 4 and 5 have effect for the year of assessment 2019 and subsequent years of assessment.

(3) Sections 2, 6, 7, 8, 9 and 10 come into operation on the coming into operation of this Act.

Amendment of section 75B

2. The Income Tax Act 1967 [*Act 53*], which is referred to as the “principal Act” in this Act, is amended in subparagraph 75B(1)(a)(i) by inserting after the word “partnership” the words “or persons qualified to act as secretaries under the Companies Act 2016 who is a citizen or permanent resident of Malaysia and ordinarily resides in Malaysia;”.

Amendment of section 77A

3. Section 77A of the principal Act is amended by substituting for subsection (4) the following subsection:

“(4) The return furnished by a company under this section shall be based on financial statements made in accordance with the requirements of the Companies Act 2016.”.

Amendment of section 82

4. Subsection 82(5) of the principal Act is amended by substituting for the words “accounts audited by a professional accountant, together with a report made by that accountant which shall contain, in so far as they are relevant, the matters set out in subsections 174(1) and (2) of the Companies Act 1965” the words “financial statements made in accordance with the requirements of the Companies Act 2016.”.

Amendment of section 99

5. Section 99 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “A person” the words “Subject to subsection (1A), a person”; and
- (b) by inserting after subsection (1) the following subsection:

“(1A) A person who has failed to furnish a return for a basis period for a year of assessment in accordance with subsection 77A(1) may appeal against the assessment made by the Director General under subsection 90(3) by furnishing a return for that basis period for that year of assessment together with the written notice of appeal referred to in subsection (1) within the time stipulated for giving of the notice.”.

Amendment of section 117

6. Section 117 of the principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) Any person who receives any classified material, knowing or having reasonable ground to believe at the time when he receives it that such classified material is communicated or disclosed to him in contravention of this Act, shall not use the classified material, or produce or disclose the classified material to any other person.

(1B) Any person who contravenes subsection (1A), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding one year or to both.”.

Amendment of section 132

7. Section 132 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) For the purposes of this section, arrangements made with a view to affording relief from double taxation include any arrangements which modify the effect of arrangements so made.”.

Amendment of section 132B

8. Section 132B of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Where any arrangements have effect by virtue of this section, section 138 shall not prevent the disclosure to a duly authorized servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements.”.

New section 132c

9. The principal Act is amended by inserting after section 132B the following section:

“International obligations

132c. (1) Notwithstanding section 132, 132A or 132B, if the Minister by statutory order declares that—

- (a) arrangements specified in the order have been made by the Government to give effect to Malaysia’s international obligations in relation to tax under this Act or other taxes of every kind under any written law; and
- (b) it is expedient that those arrangements should have effect,

then, so long as the order remains in force, notwithstanding anything in any written law, those arrangements shall have effect in relation to tax under this Act or other taxes of every kind under written law.

(2) Where any arrangements have effect by virtue of this section, section 138 shall not prevent the disclosure to a duly authorized servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements.

(3) Any order made under this section shall be laid before the Dewan Rakyat.”.

Amendment of section 154

10. Paragraph 154(1)(c) of the principal Act is amended by substituting for the words “or 132B” the words “, 132B or 132c;”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Income Tax Act 1967 (“Act 53”).

2. *Clause 1* contains the short title and the commencement of the proposed Act.

3. *Clause 2* seeks to amend section 75B of Act 53 to extend the application of section 75B to allow a company secretary who is a citizen or permanent resident of Malaysia and ordinarily resides in Malaysia to be responsible for doing all acts and things required to be done under the Act on behalf of a limited liability partnership.

This amendment comes into operation on the coming into operation of this Act.

4. *Clause 3* seeks to amend subsection 77A(4) of Act 53 to provide that every company, limited liability partnership, trust body or co-operative society is required to furnish its return to the Director General based on financial statements made in accordance with the Companies Act 2016 [*Act 777*].

This amendment has effect for the year of assessment 2019 and subsequent years of assessment.

5. *Clause 4* seeks to amend subsection 82(5) of Act 53 to provide that the Director General is empowered to issue a notice requiring a person to produce financial statements made in accordance with the Companies Act 2016.

This amendment has effect for the year of assessment 2019 and subsequent years of assessment.

6. *Clause 5* seeks to amend section 99 of Act 53 to provide that any person who intends to appeal against an assessment which had been raised by the Director General under subsection 90(3) of Act 53 is required to submit a notice of appeal as prescribed under Act 53 together with the return which is required to be furnished under section 77A of Act 53.

This amendment has effect for the year of assessment 2019 and subsequent years of assessment.

7. *Clause 6* seeks to amend section 117 of Act 53 to make it an offence for any person who uses, produces or discloses any classified material which is communicated or disclosed to him in contravention of Act 53.

This amendment comes into operation on the coming into operation of this Act.

8. *Clause 7* seeks to amend section 132 of Act 53 to include the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting or any other arrangements which modify any present arrangement between the Government of Malaysia with the government of any territory outside Malaysia.

This amendment comes into operation on the coming into operation of this Act.

9. *Clause 8* seeks to amend section 132B of Act 53 to clarify that any arrangement between the Government of Malaysia with the government of any territory outside Malaysia in respect of mutual administrative assistance shall not prevent the disclosure of classified information under section 138 of Act 53 to a duly authorized servant or agent of the government with which the arrangements have been made.

This amendment comes into operation on the coming into operation of this Act.

10. *Clause 9* seeks to introduce a new section 132c into Act 53 to provide a new avenue for any bilateral or multilateral arrangement made by the Government of Malaysia with a view to give effect to Malaysia's international obligations in relation to tax under the Act or any other written law.

This amendment comes into operation on the coming into operation of this Act.

11. *Clause 10* seeks to empower the Minister to make rules for the purpose of implementing or facilitating the operation of an arrangement under the new section 132c.

This amendment comes into operation on the coming into operation of this Act.

FINANCIAL IMPLICATIONS

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

[PN(U2)3138]