

Malaysia enacts 2019 Budget proposals

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Executive summary

On 27 December 2018, Malaysia enacted the legislation (the Legislation) which incorporates the proposals in the 2019 budget¹ (the Budget). The proposals had previously been passed by the *Dewan Rakyat* (the lower House) on 10 December 2018, with certain amendments. No further amendments were made when the Legislation was enacted.

This Alert summarizes the key amendments in the Legislation.

Detailed discussion

Limitation to the loss and allowance carryforward period

The Budget proposed a seven-year carryforward period on tax losses and utilized allowances. However, the proposed seven-year carryforward limitation for capital allowances (similar to tax depreciation) and investment tax allowances has been removed. Consequently, the seven-year carryforward limitation period only applies to tax losses, reinvestment allowances² and investment allowances.³

Labuan tax regime

- ▶ The Budget proposed that Malaysian residents will only be allowed a 3% deduction on any payment made to Labuan entities; however, the final legislation rejected this proposal by disallowing a tax deduction of all payments made by Malaysian residents to Labuan companies, subject to any rules that may be specified by the Minister of Finance. These rules were issued on 31 December 2018 and a separate Alert will be issued on these.
- ▶ The Legislation clarifies Labuan companies undertaking Labuan activities must maintain substance in Labuan.

Other tax amendments

- ▶ The Legislation clarifies that withholding tax would be applicable for both technical and non-technical advice, assistance and services.⁴
- ▶ The Legislation has introduced the provision to deem the market value as of 1 January 2000 as the acquisition price of property acquired prior to 1 January 2000, for real property gains tax purposes. However, this does not apply to corporations and non-citizen and non-permanent resident individuals.

Endnotes

1. See EY Global Tax Alert, [Malaysia releases 2019 Budget](#), dated 4 December 2018.
2. Reinvestment allowances are additional depreciation on qualifying fixed assets incurred on qualifying projects.
3. Investment allowances are additional depreciation on the qualifying fixed assets incurred for an approved service project.
4. This amendment was originally proposed in the Budget.

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