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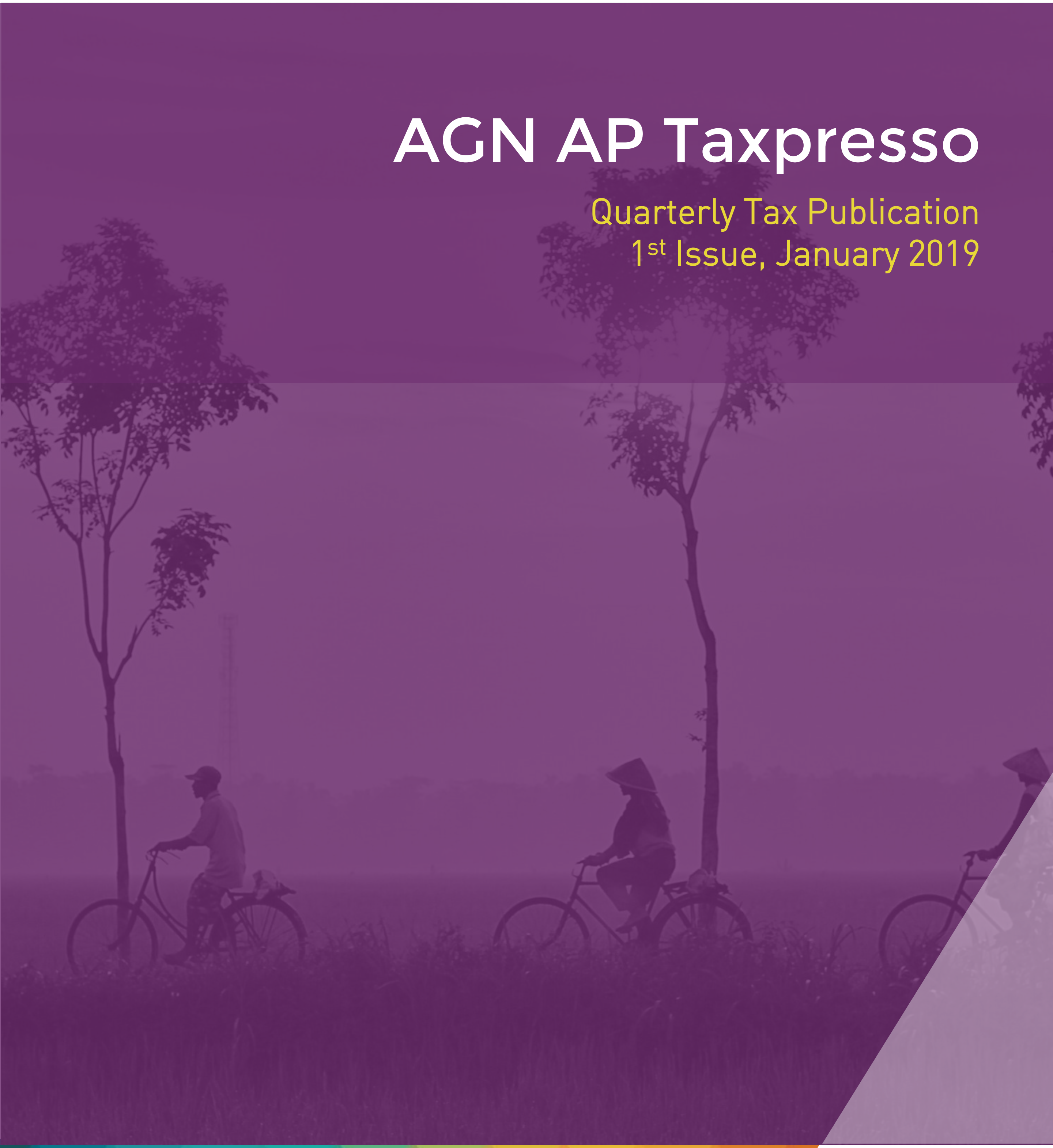

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NEW YEAR MESSAGE

Dear Members and Readers,

Wishing all of you a Happy and Fruitful 2019 ahead.

We are now into our second year of our AGN AP Taxpresso publication. We had a very successful 2018 with articles written by our members include: Simon Eccles, David Martin, Richard Ashby and Foong Kok Keong from Australia, New Zealand, Malaysia as well as Singapore. Thank you for your great contributions.

We will have many more interesting articles written on the current key fiscal, economic and tax issues encountered by our Asia Pacific region going forward.

Please keep reading and let us know your feedback and comments so that we can make Taxpresso beneficial for everyone who needs nuggets of news and information that are useful for your clients and your better understanding of this region. Please also let us know if you have specific topics of interest that you require more information on.

You can send your comments to me or our secretariat at asia-pacific@agn.org

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AUSTRALIA

Timing of Company Tax Rates Accelerated

Australian small business have been given an extra boost by the Government and Opposition with the already announced changes to tax cuts being accelerated by 5 years.

Currently we have two corporate tax rates being

- the "standard corporate tax rate" of 30% (which is not changing); and
- a lower rate of 27.5% which applies to corporate tax entities known as "base rate entities", that is a company
  - with an aggregated turnover of less than $50 million; and
  - which receives less than that 80% of their assessable income from passive sources (also known as Base Rate Entity Passive Income or BREPI). This BREPI test removes a previous requirement that companies must be "carrying on a business".

As the Federal opposition has confirmed that it will not change the rules for base rate entities if elected, a rate of 27.5% is now locked in for base rate entities until 2019-20.

These changes will bring forward the tax cuts for small and medium sized incorporated businesses by five years, who will now pay a corporate tax rate of 26% for 2020-21 and 25% for 2021-22 and following financial years.

Accessing the lower tax rate is straightforward for a company carrying on what may be termed a trading business. However, it can unfortunately become more complicated where the activities of a company partly consist of receiving returns from investments i.e. "passive income" such as rent, interest and dividends. As it was never the intent for these lower tax rates to benefit companies receiving passive income, these changes ensure that this does not occur.

A corporate tax entity that carries on a business will only qualify for the lower 27.5% rate, and the 26% and 25% in later years, if its passive income is less than 80% of its assessable income (and aggregated turnover is less than $50m). Companies that receive more than 80% of their income in passive forms will pay tax at the standard corporate tax rate, regardless of turnover.

Any passive income is termed "base rate entity passive income" in the amending legislation, and includes dividends (and the associated franking credits), interest (not if the entity is a financier), royalties and rent. Also of note is that net capital gains also qualify as passive income. This could possibly put access to the lower rate at risk in any given year.

An amount that flows through a trust to a company retains its character for the purposes of determining whether the amount is base rate entity. For example, if an amount derived by a trust is trading income which passes directly from the trust to a corporate beneficiary, that amount is not base rate entity passive income of the beneficiary – because the trust distribution is directly referable to the trading income of the trust.

The implications of the new corporate tax rate rules might cause confusion for clients, especially around "imputation" (the passing on

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of corporate tax credits to shareholders to avoid double taxation). In determining a company's maximum franking rate, you now use the aggregated turnover, BREPI and assessable income from the previous income year. As a result, a company's tax rate for an income year may be different to the rate it can frank dividends in that year.

It will be important to look closely at this issue each financial year as there are some strategies that can potentially be applied to prevent franking credits being trapped in the company and minimise the occurrence of double taxation. Understanding the timing and planning for tax will undoubtedly put clients in a better position.

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MALAYSIA

Malaysia Finance Minister YB Lim Guan Eng Delivered the Budget 2019 on 02 November 2018.

Below are some of the budget highlights:

Review of Personal Tax Reliefs
- Income tax relief on EPF is up to RM4,000
- Income tax relief on Takaful contributions or payments for life insurance premiums up to RM3,000
- Public servant under the pension scheme would be eligible for income tax relief of up to RM7,000 on Takaful contributions or payments for life insurance
- Income tax relief on National Education Savings Scheme (SSPN) to be increased to RM8,000

Review of Corporate Income Tax Rate
- Tax rate for Small and Medium Enterprise (SME) to be reduced by 1% to 17% for the first RM500,000 of chargeable income from YA 2019.

Review of Group Relief Provision
- Surrendering companies can only surrendering its adjusted losses after 12 months period from date of commencement, limited to 3 consecutive years of assessment.
- Claimant companies with unutilized investment tax allowance or unabsorbed pioneer losses will not be eligible for group relief.

Review of Tax Treatment on Unabsorbed Losses and Unutilized Capital Allowances
- The unutilized capital allowances, unutilized business losses, unutilized reinvestment allowances, unutilized investment tax allowances, and unutilized pioneer losses be allowed to carry forward for a maximum of 7 consecutive years of assessment.

Special Voluntary Disclosure Programme (SVDP)
- Lower penalty rate of 10% and 15% for voluntary disclosure of unreported income under the Special Voluntary Disclosure Programme.
- For disclosure made after the validity period (after 30.06.2019), penalty rate of 80% to 300% would apply.

Review of Labuan Tax Treatment
- Abolish the fixed rate of tax , which is RM20,000.
- Transaction in Ringgit Malaysia (RM) and with Malaysian resident to be allowed.
- Income from intellectual property assets held by Labuan entity is subject to tax under Income Tax Act, 1967.
- Resident who transacts with Labuan entity is entitled for tax deduction on expenditures incurred (limited to 3% of allowable expenditures).

Tax Incentive for Industry4WRD
- Tax deduction on readiness assessment expenses of up to RM27,000 paid to the Malaysian Productivity Corporation.
- Double deduction on qualifying expenses incurred in implementing the Industry 4WD Vendor Development Program. This claim is limited to RM1 million per year and for 3 YAs.
- Single and double deductions on human capital development expenses incurred in line with Industry 4.0 requirement.

Review of the RPGT
- Real Property Gain Tax (RPGT) on chargeable gains for disposal in the 6th year and subsequent years to be increased from:

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i) 5% to 10% (for company);
ii) 0% to 5% (for citizens and permanent resident individuals);
iii) 5% to 10% (for non-citizens and non-permanent resident individuals).

• RPGT exemption is given to Malaysian citizens for the disposal of low cost, medium cost and affordable residential homes at the price of RM200,000 and below in the sixth and subsequent years.

Increase in the Stamp Duty Rate
• Stamp duty rate to be increased from 3% to 4% for transfer of real property in excess of RM1 million.

Stamp Duty Exemption
• 100% stamp duty exemption on instruments of transfer and loan agreement for value of 1st residential home costing up to RM300,000.
• 100% stamp duty exemption on instruments of transfer for value of 1st residential home costing RM300,001 to RM1,000,000.
• 100% stamp duty exemption limited to first RM300,000 of home price for instruments of transfer and loan agreement for value of 1st residential home costing RM300,001 to RM500,000.

Treatment of Service Tax on Imported Services
• Service tax will be imposed on imported services by businesses from 01 January 2019. Exemption will be given to any company in Malaysia who acquires taxable services of Group G, item (a), (b), (c), (d), (e), (f), (g), (h) and (i) of the Service Tax Act 2018 from any company within the same group of companies outside Malaysia.
• Service tax will be imposed on online services imported by consumers from 01 January 2020.

Introduction of Credit System For Sales Tax Deduction
• A credit system for sales tax will be implemented to facilitate small registered manufacturers acquiring raw materials and components from small traders and importers who are not themselves registered for sales tax.

Tax Incentive for Employers
• Double tax deduction will be given for remuneration paid for employees who are senior citizens or ex-convicts (limited to RM4,000).
• Tax deduction for repayments of PTPTN loans on behalf of employees.

Excise Duty on Sugar Sweetened
• Imposition of excise duty on sugar sweetened beverages at RM0.40 per litre based on the sugar content.

Import Duty on Bicycles
• Import duty on bicycles under the tariff code of 8712.00.30 00 (i.e. bicycle other than racing bicycles and bicycles designed to be ridden by children) to be reduced from 25% to 15%.

Duty Free Zone
• It was declared that Pulau Pangkor as a duty free island.
• The duty free island status of Pulau Langkawai has been enhanced and will be further expanded.

Levy and Other Duties
• A levy will be imposed on all outbound travelers by air, at the proposed rates of RM20 for outbound travelers to ASEAN countries, and RM40 to countries other than ASEAN.

Compiled by Foong Kok Keong on 11 January 2019
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