INTRODUCTION

PowerTalk by Institute of Corporate Directors Malaysia (ICDM)
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This Post-Budget PowerTalk aims to provide some insights and thoughts on the recently announced 2021 Budget and go through the highlights that are crucial for boards and directors to take note of, as well as the key personal tax issues that could have an impact on Board members in their individual capacity.

The 2021 Budget is the largest in the history of Malaysia thus far, and it is very much centred on the people's well-being whilst investing in key pillars to stimulate economic activity, creating and safeguarding existing jobs, and caring for the underserved communities. For companies, it is a critical time to balance the financial and social obligations to ensure the sustainability of business. It is also an opportunity for companies to complement the Government's efforts in supporting the economic recovery as well as the rakyat's well-being. Boards and directors in particular, are expected to rise to the occasion, to help companies improve financial strength and stability by focusing on growth opportunities or capital that will enable growth – such as human capital talent, technology, capacity building, brand building, infrastructure and new product lines.

This executive summary captures the salient points presented by each speaker at the PowerTalk.

KEY INSIGHTS & DISCUSSIONS

1 The government is expected to collect an additional RM5 billion of corporate income tax in 2020. This is quite ambitious considering the current economic climate. Companies are to pay more attention to compliance with tax laws as this could mean more stringent monitoring is expected from the Inland Revenue Board (IRB).

2 GST may be re-introduced in the near future, replacing SST as it is deemed to be more efficient in collecting indirect taxes and in exposing the black economy.

3 Higher scrutiny on transfer pricing (TP) from 1 January 2021, with several new measures introduced:

- Penalties of up to RM100,000 or a jail term for failure to furnish contemporaneous TP documentation
- Surcharge of not more than 5% on any TP adjustments
- The Director General of IRB has the power to disregard structures in a controlled transaction

4 Tax payable under an assessment. Any proceedings against the Government or IRB by the taxpayer under any other written law shall not relieve the taxpayer from the liability to pay any tax, debt or other sum. This is effective from 1 January 2021.

5 To consider the impact of companies with both trading and services streams of income: Split into two separate companies or redesign operating model to take advantage of the extension and revision of Principal Hub (PH), and the new, enhanced and simplified tax incentive of Global Trading Centre (GTC) for trading activities previously covered under PH, which was subjected to higher eligibility criteria. While a service model under PH is relatively quicker and easier to implement, it may have lower profitability, based on cost plus remuneration. The buy-sell model under GTC is relatively more complex but has much higher potential to capture profits as a full-value trading hub.

6 Take advantage of the extension to the special tax incentive under the National Economic Recovery Plan (PENJANA) for establishing new operations or relocating to Malaysia. This tax incentive now include companies adopting Industrial Revolution 4.0 and digitalisation that contribute to significant multiplier effects in technology solutions, infrastructure, and technology for cloud computing, R&D activities, medical devices, and any other services or manufacturing-related services.

7 Individual tax proposals include among others: special tax rate for non-Malaysian individuals in C-suite positions in companies relocating their operation to Malaysia; extension of tax incentive for Returning Expert Program by TalentCorp; expansion of tax relief on technical education fees to include fees for attending upskilling and self-enhancement courses in any field of studies recognised by the Department of Skills Development, Ministry of Human Resources; enhancement of lifestyle tax reliefs and medical expenses; exemption on compensation for loss of employment and for investments made in equity crowdfunding by individual investors; extension of tax relief for Private Retirement Scheme (PRS) contributions and net annual savings in Skim Simpanan Pendidikan Nasional (SSPN); and tax deduction for Amanah Saham Nasional Berhad (ASNB) unit trust holders.

ACTIONABLE OUTCOMES MOVING FORWARD

1. Ensure compliance with tax laws and regulations, be prepared for the tax audit assessment and proper documentation to mitigate any penalty risk.

2. Proactive management of transfer pricing risks and compliance lifecycle with robust preparation of documentation on a contemporaneous basis and strategies to address any gaps in practices.

3. Be creative to diversify and look for opportunities to generate more revenue and new lines of business.

4. Embrace automation and digitalisation to increase efficiency and reduce labour intensity and over-reliance on foreign workers.

5. Relocate foreign manufacturing facilities to Malaysia for new business segments to enjoy investment tax allowance.

6. Invest in the upskilling and reskilling of workforce to ensure that the organisation has the right skills to adapt to the digital economy.

7. Explore Sustainable and Responsible Investments (SRI) projects and the issuance of SRI sukuk and bonds. SRI grant received will be tax-exempt.

> “Among other things, companies should incorporate a greater focus on e-commerce and people policies which focus on the well-being of human capital asset. From adoption of technology, building more resilient supply chains, transitioning or adapting hybrid business models, incorporating greater focus on e-commerce, to people policies, we hope to see a future with stronger, more resilient and socially-conscious companies that are driven by creating a positive impact.”
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> Michele Kythe Lim, President/CEO of ICDM