Chapter 1

Introduction to Malaysian Taxation

Ibrahim Sameer (MBA - Specialized in Finance, B.Com – Specialized in Accounting & Marketing)
Definition of Tax?

“A compulsory exaction of money by a public authority for public purposes enforceable by law.”
Definition of Tax?

“A contribution levied on persons, property or business for the support of government.”
Characteristics of Taxations

- Compulsory payment
- Money raised for government purposes
- The exactions are not arbitrary
- Not constitute payment for service rendered by the government
- Not Penalties

The exactions should not be incontestable
Characteristics of Taxations

- **A Compulsory Payment**

Tax is not compulsory to everybody. There are a number of requirements need to be fulfil before any persons are required to pay tax. Tax payments are only compulsory for this group of so called “taxable persons”.
Characteristics of Taxations

Money Raised for Government Purposes

The money from taxpayers is channelled towards fulfilling the needs of the government to serve the public. It is the responsibility of the government to use the money in any sector or any region in the best interest of the public.
Characteristics of Taxations

- **It Does Not Constitute Payment for Service Rendered by the Government**

- Taxation is not payment in exchange of services served by the government. In other words, it is not similar to a business transaction where one seller provides services and the buyer has to pay for enjoying that services.
Characteristics of Taxations

- **Not Penalties**

- Taxation also should not be viewed as penalties. Thus, we cannot claim that we are good citizens and the government should not impose tax on us.
Characteristics of Taxations

- **The Exactions are Not Arbitrary**
- The determination of tax payable is not by chance or random. It is determined using specific procedures by the Inland Revenue Board (IRB).
Characteristics of Taxations

- **The Exactions Should Not be Incontestable**
- One should understand that the amount of taxes imposed on him/her could be challenged. However, this must be done in a proper channel and if the responsible government bodies satisfy with the explanation and proof by the taxpayer, the amount of taxes would be reduced.
Historical Background of Taxation in Malaysia

- Income Tax Ordinance 1947. The provisions of the Ordinance were based substantially on the Model Colonial Territories Income Tax Ordinance 1922, which was designed for the British colonies at that time.
- You should note that the Income Tax Ordinance 1947 was subsequently revoked by the Income Tax Act 1967, which came into effect on 1 January 1968.
Principles of Taxation

- Equity & Fairness
- Efficiency / Neutrality
- Simplicity
- Certainty
- Flexibility
- Suitability
- Fiscal Adequacy
Principles of Taxation

- **Equity and Fairness**

- Taxes levied should equally burden all taxpayers in a similar economic situation.
Principles of Taxation

- **Efficiency and Neutrality**

  The costs of determination and collection of taxation should be the lowest possible. Neutrality means taxes should not favour any taxpayer or group of taxpayer over another.
Principles of Taxation

- **Simplicity**

- Tax assessment and computation should be able to understand by an average taxpayer.
Principles of Taxation

- Certainty

The amount of tax that each taxpayer needs to pay is not arbitrary (choice) but is certain.
Principles of Taxation

- Flexibility

Tax system should be flexible and taxes should be enforced in a manner that facilitates voluntary compliance as much as possible.
Principles of Taxation

- **Suitability**
- Taxes should be coordinated to ensure that neutrality and overall objective of good governance are achieved.
Principles of Taxation

- **Fiscal Adequacy**
- Taxes imposed should be just enough to generate revenue in order to provide the necessary public services to the community.
Objectives of Taxation

Collection of Revenue

Macroeconomic Control

Efficiency

Redistribution of Income

Fairness and Equity
Objectives of Taxation

- **Collection of Revenue**
- Tax is the main source of revenue to finance governance expenditure especially on the provision of public goods such as maintenance of law and order and national defence.
Objectives of Taxation

- **Efficiency**

  Tax policy will ensure that taxes are collected effectively and at minimum cost to both the government and taxpayers.
Objectives of Taxation

- **Macroeconomic Control**

Tax policy is also used to regulate the private sector of the economy to maintain the desired level of employment and increase economic development/growth.
Objectives of Taxation

- **Redistribution of Income**
- Regulate the distribution of income and wealth between different types and classes of citizens.
Objectives of Taxation

- **Fairness and Equity**
- Ensure fairness and equity, i.e. the burden of tax is spread fairly and equitably among taxpayers.
Taxation in Malaysia

- There are two main types of taxes in Malaysia.

Direct Tax

Indirect Tax
Definition of Direct Tax

- Direct tax is a tax exacted directly from the taxpayer. Thus, direct taxes mean taxes, which are paid directly by those on whom they are levied.
Types of Direct Tax

- Income Tax
- Real Property Gain Tax
- Stamp Duty
- Petroleum Tax
Income Tax

Income Tax Act 1967 is the main act which governs all income tax in Malaysia. Income tax is levied on the income of any persons.

There are two main sources of revenue under this kind of tax, namely, personal income tax and company tax.
Real Property Gain Tax (RPGT)

- Real Property Gain Tax (RPGT) is a tax imposed on capital gains arising from the disposal of any interest, option or other right in or over land situated in Malaysia.
- RPGT tax rates applicable for the disposal of real properties assets are as follows.
## Real Property Gain Tax (RPGT)

<table>
<thead>
<tr>
<th>Disposition Period</th>
<th>Company</th>
<th>Individual/Permanent Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposed within 2 years after the acquisition date</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>Disposed in the 3rd year after the acquisition date</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Disposed in the 4th year after the acquisition date</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Disposed in the 5th year after the acquisition date or thereafter</td>
<td>5%</td>
<td>5%</td>
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Stamp Duty

- A tax collected by requiring a stamp to be purchased and attached (usually on documents or publications).
Stamp Duty

- Stamp duty is levied on instruments listed in the first schedule of the Stamp Act 1949. There are two types of duties, namely a “fixed duties” and “ad valorem” duties. Fixed duties are imposed without any relation to the amount expressed in the instrument while ad valorem duties levied based on the amount stated in the instrument.
Petroleum Tax

- PETRONAS was incorporated on 17 August 1974 as the national oil company of Malaysia, vested with the entire ownership and control of the petroleum resources in the country.
Petroleum Tax

- The basis of Petroleum Income Tax is very similar to the Income Tax Act (ITA) 1967. It is levied on the income from petroleum operations under the Petroleum (Income Tax) Act 1967. This is the only tax imposed on income from petroleum operations.
- There are two things you need understand in Petroleum (Income Tax) Act 1967.
Petroleum Tax

- Firstly, income derived from the sale of crude oil and natural gas extracted from Malaysia under a petroleum agreement entered into with either PETRONAS or the MTJA (Malaysian Thailand Joint Authority) would be subjected to petroleum income tax.

- Secondly, the income and dividends paid out from such income are not subject to other income taxes.
Definition of Indirect Tax

- Indirect tax is a tax, that is levied on goods or services rather than individuals and is ultimately paid by consumers in the form of higher prices. Eg: Sales tax, Value added tax.
Indirect Tax

- Indirect taxes are under the responsibility of the Royal Customs Department (previously known as Royal Custom and Excise Department).
Types of Indirect Tax

- Sales Tax
- Service Tax
- Customs Duties
- Excise Duty
Sales Tax

In Malaysia Sales tax is governed by Sales Tax Act 1972 & sales tax shall be charged and levied on all taxable goods as the following:
Sales Tax

(i) Goods manufactured in Malaysia, by a taxable person and sold, used or disposed off by him, otherwise than by sale or disposal to a licensed manufacturer authorised by the Director General to acquire such goods without payment of tax; and

(ii) Goods imported into Malaysia from outside Malaysia by any person for home consumption.
Sales Tax

- Every person carrying on business as a manufacturer of taxable goods (i.e. goods chargeable to sales tax) in Malaysia is required to obtain a license for sales tax purposes. Manufacturer with a turnover below RM100,000 is exempted.
Sales Tax

Sales tax only applies if the taxable goods are consumed in Malaysia. It is not applicable on exported goods, sale of goods in free zone, licensed warehouse, licensed manufacturing warehouse and the Joint Development Area of Thailand-Malaysia.
Service Tax

Service tax is a consumption tax levied and charged on any taxable service provided by any taxable person. The Service Tax Act 1975 applies throughout Malaysia excluding Langkawi, Labuan, Tioman and the Joint Development Authority (JDA).
Service Tax

- Service tax is charged and levied on customers who consume food or services in places such as restaurants, hotels, health centres or engaged in professional services such as legal, auditing and tax firms.
- Service tax rate is fixed at 6% of the price of the services or goods. Prior to year of assessment 2011, the rate was 5%.
Customs Duties

- Custom duties are levied on any goods imported or exported from Malaysia under the Customs Act 1967.
- Export duties are imposed on goods exported from Malaysia.
- Import duties on the other hand are imposed on goods imported to Malaysia.
Customs Duties

- Certain types of goods are exempt from customs duties under specific exemption orders, for instance telephone answering machines, educational equipments and photographic papers.
Excise Duties

- Excise duty is a form of tax levied on locally manufactured goods (such as tobacco, rubber, motor vehicle & toys etc). The rates for excise duty are either specific or ad valorem.
Sources of Tax Revenue Law

- In Malaysia, revenue law is based on three important sources:
Statute Law

The formal sources of revenue law in Malaysia is a statute law are enacted by the Parliament. Our statutes mostly are based on the UK statutes but with amendments to suit our local environment. The examples of statute law in Malaysia are Income Tax Act 1967, Petroleum (Income Tax) 1967, Real Property Gains Tax 1976, etc.
Case Law

- When the act cannot solve any conflict between taxpayer and tax authority, the second source is judgment made in courts, called “case law”.

- Any disputes that cannot be solved by statute are required to refer back to any similar cases earlier, including cases from the UK and other Commonwealth countries like India and Australia.
Guidelines / Rulings by the IRB

- For informal sources of law, the IRB will issue their own rulings and guidelines which will usually be approved by the Ministry of Finance.
Q & A