LAWS OF MALAYSIA

Act 851

FINANCE (NO. 2) ACT 2023

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LAWS OF MALAYSIA

Act 851

FINANCE (NO. 2) ACT 2023

An Act to amend the Income Tax Act 1967, the Real Property Gains Tax Act 1976, the Stamp Act 1949, the Petroleum (Income Tax) Act 1967, the Labuan Business Activity Tax Act 1990, the Entertainments Duty Act 1953, the Customs Act 1967, the Excise Act 1976, the Goods Vehicle Levy Act 1983, the Windfall Profit Levy Act 1998, the Tourism Tax Act 2017, the Sales Tax Act 2018, the Service Tax Act 2018 and the Departure Levy Act 2019.

[ ]

ENACTED by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance (No. 2) Act 2023.

Amendment of Acts

2. The Income Tax Act 1967 [*Act 53*], the Real Property Gains Tax Act 1976 [*Act 169*], the Stamp Act 1949 [*Act 378*], the Petroleum (Income Tax) Act 1967 [*Act 543*], the Labuan Business Activity Tax

Act 1990 [*Act 445*], the Entertainments Duty Act 1953 [*Act 103*], the Customs Act 1967 [*Act 235*], the Excise Act 1976 [*Act 176*], the Goods Vehicle Levy Act 1983 [*Act 294*], the Windfall Profit Levy Act 1998 [*Act 592*], the Tourism Tax Act 2017 [*Act 791*], the Sales Tax Act 2018 [*Act 806*], the Service Tax Act 2018 [*Act 807*] and the Departure Levy Act 2019 [*Act 813*] are amended in the manner specified in Chapters II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV and XV respectively.

Chapter II

AMENDMENTS TO THE INCOME TAX ACT 1967

Commencement of amendments to the Income Tax Act 1967

3. (1) Paragraphs 4*(a)*, *(b)* and *(d)*, 17*(b)*, 22*(c)*, 24*(b)* and 33*(b)*, and sections 5, 6, 7, 8, 11, 12, 13, 14, 18, 19, 20, 21, 23, 25, 26, 27 and 31 come into operation on 1 January 2024.

(2) Sections 15 and 16, and paragraph 24*(a)* in relation to section 82C of the Income Tax Act 1967 come into operation on 1 January 2024.

(3) Paragraph 17*(c)* in relation to subsections 83(2), (3) and (4) of the Income Tax Act 1967 comes into operation on 1 January 2024.

(4) Paragraphs 4*(c)*, 10*(a)*, *(c)*, *(d)*, and *(e)*, 22*(a)* and *(b)* and 33*(a)*, sections 9, 32 and 34 have effect for the year of assessment 2024 and subsequent years of assessment.

(5) Paragraph 10*(b)* has effect from the year of assessment 2024 until the year of assessment 2026.

(6) Paragraph 10*(f)* has effect from the year of assessment 2024 until the year of assessment 2027.

(7) Paragraphs 17*(a)* and *(c)* in relation to subsection 83(1) of the Income Tax Act 1967 have effect for the year ending 31 December 2023 and subsequent years.

(8) Paragraph 24*(a)* and section 16 in relation to section 82B of the Income Tax Act 1967 have effect for the year of assessment 2025 and subsequent years of assessment.

(9) Section 28 comes into operation on the coming into operation of this Act.

(10) Section 29 comes into operation on 1 January 2025.

(11) Section 30 in relation to—

(a) sections 157 to 197 in new Part XI of the Income Tax Act 1967 have effect for the Financial Year beginning on or after 1 January 2025 and subsequent Financial Years; and

(b) sections 198 to 239 in new Part XI of the Income Tax Act 1967 come into operation on 1 January 2025.

Amendment of section 2

4. The Income Tax Act 1967, which is referred to as the "principal Act" in this Chapter, is amended in subsection 2(1)—

(a) by inserting after the definition of "business trust" the following definition:

‘ "capital asset" means movable or immovable property including any rights or interests thereof;’;

(b) by inserting after the definition of "Director General" the following definition:

‘ "electronic invoice" means an invoice or any document approved by the Director General, issued by a person in respect of goods sold or services performed as provided under section 82C;’;

(c) in the definition of "foreign tax", by inserting after the word "Malaysia" the words "in which the same income arose"; and

(d) by inserting after the definition of "statutory order" the following definition:

' "stock exchange" has the meaning assigned to it in the Capital Markets and Services Act 2007;'.

Amendment of section 4

5. Section 4 of the principal Act is amended by inserting after paragraph *(a)* the following paragraph:

"*(aa)* gains or profits from the disposal of capital asset;".

Amendment of section 4B

6. The principal Act is amended by substituting for section 4B the following section:

"**Non-business income**

4B. For the purposes of section 4, gains or profit from a business shall not include—

(a) any interest that first becomes receivable by a person in the basis period for a year of assessment other than interest where subsection 24(5) applies; and

(b) gains or profits from the disposal of capital asset other than gains or profits where subsection 24(1) applies.".

Amendment of section 6

7. Subsection 6(1) of the principal Act is amended—

(a) in paragraph *(p)*, by substituting for the full stop at the end of the paragraph a semi colon; and

(b) by inserting after paragraph *(p)* the following paragraph:

"*(q)* income tax shall be charged upon the chargeable income of a company, limited liability partnership, trust body or co-operative society from each disposal of capital asset in the basis period for a year of assessment at the appropriate rate as specified under Part XXI of Schedule 1.".

New section 15C

8. The principal Act is amended by inserting after section 15B the following section:

"**Derivation of gains or profits from the disposal of capital assets deriving value from real property in Malaysia**

15C. (1) Subject to subsection (2), gains or profits accruing to a person in a year of assessment on the disposal of capital asset which is a share of a controlled company (hereinafter referred to as the "relevant company") incorporated outside Malaysia shall be deemed to be derived from Malaysia where the relevant company owns real property situated in Malaysia or shares of another controlled company or both.

(2) Subsection (1) shall apply where at the date of acquisition of the shares of the relevant company—

(a) the defined value of the real property situated in Malaysia (including any right or interest thereof) owned by the relevant company is not less than seventy-five per cent of the value of its total tangible asset;

(b) the defined value of shares of another controlled company owned by the relevant company is not less than seventy-five per cent of the value of its total tangible asset:

Provided that the defined value of the real property situated in Malaysia (including any right or interest thereof) owned by another controlled company, is not less than seventy-five per cent of the value of its total tangible asset; or

(c) the defined value of real property situated in Malaysia and shares of another controlled company referred to in paragraphs *(a)* and *(b)* owned by the relevant company is not less than seventy-five per cent of the value of its total tangible asset:

Provided that subsection (1) shall continue to apply notwithstanding that at the time of disposal of shares of the relevant company the defined value referred to in paragraph *(a)*, *(b)* or *(c)* is less than seventy-five per cent of the value of its total tangible asset.

(3) The shares of the relevant company in this section shall be deemed to be acquired—

(a) on the date the defined value of real property or shares or both owned by the relevant company is in accordance with subsection (2); or

(b) on the date of acquisition of the shares of the relevant company.

(4) For the purposes of this section, the acquisition price of shares of the relevant company shall—

(a) where paragraph (3)*(a)* applies, be deemed to be equal to a sum determined in accordance with the formula:

$$\frac{A}{B} \times C$$

where A is the number of shares of the relevant company referred to in subsection (1);

B is the total number of issued shares in the relevant company at the date of acquisition of the shares of the relevant company referred to in subsection (1); and

C is the defined value of the real property or shares or both owned by the relevant company at the date of acquisition of the shares of the relevant company referred to in subsection (1);

(b) where paragraph (3)*(b)* applies, be determined in accordance with paragraph 65E(2)*(b)* or subsection 65E(8).

(5) For the purposes of this section—

"defined value" means the market value of real property or the acquisition price of shares of another controlled company as determined under subsection (2);

"value of its total tangible assets" means the aggregate of the defined value of real property (including any right or interest thereof) or shares of another controlled company or both and the value of other tangible assets.".

Amendment of section 44

9. Subsection 44(7A) of the principal Act is amended by substituting for the words "twenty-five per cent" the words "thirty-five per cent".

Amendment of section 46

10. Subsection 46(1) of the principal Act is amended—

(a) by substituting for paragraph *(c)* the following paragraph:

"*(c)* an amount limited to a maximum of eight thousand ringgit in respect of medical treatment, dental treatment, complete medical examination, special needs or carer expenses expended in that basis year by that individual for his parents and the claim is evidenced by certification of a medical practitioner or dental practitioner that the conditions of the parents require medical treatment, dental treatment, complete medical examination, special needs or carer and—

(i) in the case of medical treatment, dental treatment, complete medical examination or special needs, a receipt on the amount expended; or

(ii) in the case of carer, a written certification or receipt from, or work permit of, the carer:

Provided that for the purposes of this paragraph—

(a) "carer" shall not include that individual, his wife or her husband or the child of the individual;

(b) "parents" shall be individuals resident in Malaysia;

(c) the medical treatment, dental treatment, complete medical examination or care services are provided in Malaysia;

(d) the medical practitioner or dental practitioner is registered with the Malaysian Medical Council or Malaysian Dental Council, respectively; and

(e) the deduction for the complete medical examination shall be subject to a maximum amount of one thousand ringgit;";

(b) in subparagraph *(f)*(iii), by substituting for the words "2022 and 2023" the words "2023, 2024, 2025 and 2026";

(c) in paragraph *(g)*—

(i) in subparagraph (ii), by deleting the word "or" at the end of the subparagraph;

(ii) in subparagraph (iii), by substituting for the colon at the end of the subparagraph the words "; or";

(iii) by inserting after subparagraph (iii) the following subparagraph:

"(iv) on himself, his wife or child for dental examination or treatment, or in the case of a wife on herself, her husband or child for dental examination or treatment, an amount limited to a maximum of one thousand ringgit:"; and

(iv) in the proviso to paragraph *(g)*, by substituting for paragraph *(a)* the following paragraph:

"*(a)* the claim, in respect of—

(i) serious disease treatment provided to that individual, spouse or child, or the fertility treatment provided to that individual or the spouse, is evidenced by a receipt and certification issued by a medical practitioner registered with the Malaysian Medical Council; or

(ii) dental examination or treatment provided to that individual, spouse or child, is evidenced by a receipt and certification issued by a dental practitioner registered with the Malaysian Dental Council;";

(d) in paragraph *(p)*—

(i) by deleting subparagraph (iii);

(ii) in subparagraph (iv), by substituting for the comma at the end of the subparagraph the words "; and"; and

(iii) by inserting after subparagraph (iv) the following subparagraph:

"(v) for the payment of any course of study undertaken other than the course of study falling under subparagraph 46(1)*(f)*(iii) for the purpose of upskilling or self-enhancement,";

(e) by substituting for paragraph *(u)* the following paragraph:

"*(u)* an amount limited to a maximum of one thousand ringgit expended or deemed expended under subsection (3) in that basis year by that individual—

(i) for the purchase of sports equipment for any sports activity as defined under the Sports Development Act 1997 [*Act 576*] (excluding motorized two-wheel bicycles);

(ii) for the payment of rental or entrance fee to any sports facility;

(iii) for the payment of registration fee for any sports competition where the organizer is approved and licensed by the Commissioner of Sports under the Sports Development Act 1997; and

(iv) for the payment of fees for gym membership or sports training for carrying out any sports activity as defined under the Sports Development Act 1997 which is provided by a sports club or societies registered with the Commissioner of Sports or companies incorporated under the Companies Act 2016 [*Act 777*],

for his own use or under his name or for the use of or under the name of his wife or child, or in the case of a wife, for her own use or under her name or for the use of or under the name of her husband or child as evidenced by receipts issued in respect of the purchase or payment, as the case may be; and"; and

(f) in paragraph *(v)*, by substituting for the words "2022 and 2023" the words "2023, 2024, 2025, 2026 and 2027".

Amendment of section 61

11. Paragraph 61(1)*(b)* of the principal Act is amended by substituting for the proviso the following provisos:

"Provided that in the case of a unit trust, gains arising from the realization of investments shall be treated as income of the trust body of the trust under paragraph 4*(aa)*:

Provided further that where such realization of investments relates to real property as defined in the Real Property Gains Tax Act 1976, the gains shall not be treated as income of the trust body of the trust;".

New Chapter 9

12. Part III of the principal Act is amended by inserting after Chapter 8 the following chapter:

"Chapter 9

Gains or profits from the disposal of capital asset

Interpretation of Chapter 9

65C. In this Chapter, unless the context otherwise requires—

"consideration" means consideration in money or money's worth;

"disposal" means to sell, convey, transfer, assign, settle or alienate whether by agreement or by force of law and includes a reduction of share capital and purchase by a company of its own shares;

"shares" means all or any of the following:

(a) stock and shares in a company;

(b) loan stock and debentures issued by a company or any other corporate body incorporated in Malaysia;

(c) a member's interest in a company not limited by shares whether or not it has a share capital;

(d) any option or other right in, over or relating to shares as defined in paragraphs *(a)* to *(c)*.

Application of Chapter 9

65D. (1) This Chapter shall apply for ascertaining the chargeable income of a company, limited liability partnership, trust body or co-operative society which receives gains or profits from the disposal of capital asset on or after 1 January 2024.

(2) In a case where any provision of this Chapter applies, the foregoing Chapters shall also apply but shall be modified in their application to the extent necessary to conform with that provision; and, if in that case there is any inconsistency between that provision and any provision of the foregoing Chapters, that provision of those Chapters shall be void to the extent of the inconsistency.

Gains or profits from the disposal of capital asset

65E. (1) For the purposes of this Act and subject to this section, the gains or profits from the disposal of capital asset in the basis period for a year of assessment shall be—

(a) ascertained by reference to each disposal separately; and

(b) treated as a separate source of gains or profits, from the disposal of capital asset for that year of assessment.

(2) Subject to this section, the adjusted income of a company, limited liability partnership, trust body or co-operative society from a source consisting of gains or profits from the disposal of capital asset, for the basis period for a year of assessment (in this section referred to as "relevant year") shall be ascertained by—

(a) taking the amount or value of the consideration for the disposal of the capital asset at the time of disposal reduced by—

(i) the amount of any expenditure wholly and exclusively incurred on the capital asset at any time after its acquisition by or on behalf of the company, limited liability partnership, trust body or co-operative society making

the disposal for the purpose of enhancing or preserving the value of the capital asset, being expenditure reflected in the state or nature of the capital asset at the time of the disposal;

(ii) the amount of any expenditure wholly and exclusively incurred at any time after the acquisition of the capital asset by the company, limited liability partnership, trust body or co-operative society in establishing, preserving or defending its title to, or to a right over, the capital asset; and

(iii) the incidental costs to the company, limited liability partnership, trust body or co-operative society of making the disposal; and

(b) thereafter, by deducting therefrom the amount or value of the consideration for the acquisition of the capital asset (together with the incidental costs to the company, limited liability partnership, trust body or co-operative society of the acquisition) less—

(i) any sum received by the company, limited liability partnership, trust body or co-operative society by way of compensation for any kind of damage or injury to the asset or for the destruction or dissipation of the asset or for any depreciation or risk of depreciation of the asset;

(ii) any sum received by the company, limited liability partnership, trust body or co-operative society under a policy of insurance for any kind of damage or injury to or the loss, destruction or depreciation of the asset; and

(iii) any sum forfeited to the company, limited liability partnership, trust body or co-operative society as a deposit made in connection with an intended transfer of the capital asset.

(3) Subsection (2) shall not apply in ascertaining the chargeable income of a company, limited liability partnership, trust body or co-operative society from the gains or profits from the disposal of capital assets where the company, limited liability partnership, trust body or co-operative society has elected for tax payable to be charged at the rate of two per cent of gross disposal price from the disposal of the capital asset.

(4) Where—

(a) the amount ascertained under paragraph (2)*(a)* exceeds the amount ascertained under paragraph (2)*(b)*, there is an adjusted income; and

(b) the amount ascertained under paragraph (2)*(a)* is less than the amount ascertained under paragraph (2)*(b)*, there is an adjusted loss.

(5) The amount of adjusted loss of a company, limited liability partnership, trust body or co-operative society as ascertained in accordance with paragraph (4)*(b)* shall be allowed only as a deduction to reduce the adjusted income of a company, limited liability partnership, trust body or co-operative society in the subsequent disposal of capital asset in the same basis period for a year of assessment in which the disposal was made.

(6) Where by reason of an insufficiency or absence of adjusted income in subsequent disposal of capital asset in the same basis period for a year of assessment in which the adjusted loss arose, effect cannot be given or cannot be given in full to subsection (5), the amount of adjusted loss which has not been so allowed (or so much thereof as has not been so allowed for that year) shall be allowed as a deduction to reduce the adjusted income of a company, limited liability partnership, trust body or co-operative society from the disposal of capital asset for a period of ten consecutive years of assessment and that period commences immediately following the relevant year of assessment and any amount or balance of the amount which is not deductible at the end of that period shall be disregarded for the purposes of this Act.

(7) The amount of adjusted income of a company, limited liability partnership, trust body or co-operative society as ascertained in accordance with the foregoing subsections shall be treated as the chargeable income of the company, limited liability partnership, trust body or co-operative society from the source of gains or profits from the disposal of capital asset for a year of assessment.

(8) Notwithstanding subsection (2), the consideration for the acquisition or disposal of a capital asset shall be deemed to be equal to the market value of the capital asset at the time of the disposal—

(a) where a company, limited liability partnership, trust body or co-operative society acquires or disposes of the capital asset otherwise than by way of a bargain made at arm's length and, in particular, where the company, limited liability partnership, trust body or co-operative society acquires or disposes of it by way of gift;

(b) where a company, limited liability partnership, trust body or co-operative society acquires or disposes of the capital asset wholly or partly for a consideration that cannot be valued;

(c) where a company, limited liability partnership, trust body or co-operative society acquires a capital asset as trustee for the creditors of any person in full or part satisfaction of any debt due from that person or where the company, limited liability partnership, trust body or co-operative society transfers a capital asset as trustee for the creditors of any person to the creditors in full or part satisfaction of any debt due to the creditors;

(d) where a company, limited liability partnership, trust body or co-operative society acquires or disposes of a capital asset in a transaction for the transfer of a business for a lump sum consideration; or

(e) where the disposal of the capital asset is a transaction between connected persons.

(9) For the purposes of paragraph (8)*(e)*—

(a) a company is connected with another company—

(i) if the same person has control of both, or a person has control of one and persons connected with him (or he and persons connected with him) have control over the other; or

(ii) if two or more groups of persons have control of each company and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected;

(b) a company is connected with another person if that person has control of it or if that person connected with him together have control of it;

(c) any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(10) Any reference in subsection (9) to a person being connected with another shall be taken as meaning that they are connected persons.

(11) Notwithstanding any other provision of this Act, the market value shall be determined by the Director General in the following circumstances where—

(a) the parties to the disposal of a capital asset are unable to agree on its market value;

(b) there is only one party to the disposal of a capital asset; or

(c) the Director General is of the opinion that the market value of a capital asset as agreed on by the parties to its disposal is incorrect.

(12) Sections 33 and 34 shall not apply to gains or profits from disposal of a capital asset.

(13) For the purposes of subsection (2), the incidental costs of the acquisition or disposal of a capital asset shall consist of expenditure wholly and exclusively incurred by the disposer for the purposes of the acquisition or (as the case may be) the disposal, being—

(a) fees, commission or remuneration paid for the professional services of any valuer, accountant, agent or legal adviser;

(b) costs of transfer (including stamp duty);

(c) in the case of an acquisition, the cost of advertising to find a seller; and

(d) in the case of a disposal, the cost of advertising to find a buyer and costs reasonably incurred for the purposes of this Act in making any valuation or in ascertaining market value.

(14) Where an asset is disposed of by being exchanged for another asset (whether chargeable or not) the market value of the asset received by the disposer shall be taken as the consideration for the disposal:

Provided that, if the asset received by the disposer has no market value, the Director General may take the market value of the asset disposed of as the consideration for the disposal.

Disposal and acquisition of capital asset

65F. (1) Except where this section provides otherwise, a disposal of a capital asset shall be deemed to take place—

(a) where there is a written agreement for the disposal of the capital asset, on the date of such agreement; or

(b) where there is no written agreement, on the date of the completion of the disposal of the capital asset.

(2) Except where this section provides otherwise, where there is a disposal of a capital asset, the date of acquisition of the capital asset by the person which acquires the capital asset (in this section referred to as "acquirer") shall be deemed to coincide with the date of disposal of that capital asset by the person which disposes the capital asset (in this section referred to as "disposer") to the acquirer.

(3) For the purposes of this section—

(a) the date of completion of a disposal means—

(i) the date on which the ownership of the capital asset disposed of is transferred by the person who disposes the capital asset; or

(ii) the date on which the whole of the amount or value of the consideration (in money or money's worth) for the transfer has been received by the person who disposes the capital asset,

whichever is the earlier;

(b) a transfer of ownership of a capital asset is deemed to take place on the date when the last of all such things shall have been done under any written law as are necessary for the transfer of ownership of the capital asset.

(4) Where a contract for the disposal of a capital asset is conditional and the condition is satisfied (by the exercise of a right under an option or otherwise), the acquisition and disposal of the capital asset shall be regarded as taking place at the time the contract was made, unless—

(a) the acquisition or disposal requires the approval by the Government or a State Government, the date of disposal shall be the date of such approval; or

(b) the approval referred to in paragraph *(a)* is conditional, the date of disposal shall be the date when the last of all such conditions is satisfied.

(5) Where a capital asset is acquired by a company, limited liability partnership, trust body or co-operative society (hereinafter referred to as "the acquirer") with a financing facility provided by an Islamic bank in accordance with the Syariah, the acquisition price of the capital asset shall be the amount or value of the consideration given by or on behalf of the acquirer to the person disposing that asset other than such Islamic bank or in the case where the capital asset is owned by such bank, the amount or value of the consideration given to the bank, for the acquisition of the capital asset (together with the incidental costs to him of the acquisition) less the sum of the kind referred to in subparagraph 65E(2)*(b)*(i), (ii) or (iii) received by or forfeited, as the case may be, to that acquirer.

(6) Notwithstanding any other provisions of this Act—

(a) if a capital asset acquired or held by a company, limited liability partnership, trust body or co-operative society is taken into the trading stock of the company, limited liability partnership, trust body or co-operative society, there shall be deemed to be a disposal of the capital asset on the date that capital asset is taken into the trading stock; and

(b) the amount or value of the consideration in money or money's worth of the capital asset shall be equal to the market value on the date the capital asset is taken into the trading stock.

(7) There is a part disposal of a capital asset where, on a person making a disposal, any description of property derived from the capital asset remains undisposed of.

(8) Subject to other provisions of this Act, where at any time the owner of a capital asset disposes of a part of that capital asset, whenever necessary, the amount or value of consideration for acquisition of the capital asset if the capital asset had been disposed of at that time shall each be apportioned between that part of the capital asset and the remainder thereof on whatever basis is most appropriate, and so much of that price and of those amounts as are so apportioned to the part of the capital asset disposed of shall be taken in applying subsection 65E(2) to the acquisition and disposal of that part.".

Amendment of section 77A

13. Section 77A of the principal Act is amended by inserting after subsection (1A) the following subsection:

"(1B) Notwithstanding subsections (1), (3) and (4), every company, limited liability partnership, trust body or co-operative society who disposes of capital asset shall, within sixty days (or such other period the Director General may allow on a written request being made to him) of the date of disposal of that asset, furnish to the Director General a return in the prescribed form on an electronic medium or by way of electronic transmission in accordance with section 152A—

(a) specifying the chargeable income and the amount of tax payable (if any) on that chargeable income;

(b) specifying in respect of the capital asset disposed of the acquisition price, the disposal price and the gain or loss on the disposal;

(c) specifying all information necessary to determine the acquisition price and disposal price of the asset disposed of;

(d) where the market value of the asset is to be taken for the purposes of this Act, containing the market value based on a valuation made by a valuer; and

(e) containing such particulars as may be required by the Director General.".

Amendment of section 77B

14. Section 77B of the principal Act is amended by substituting for the words "subsection 77(1) or 77A(1)" wherever appearing the words "subsection 77(1) or subsection 77A(1) or (1B)".

Amendment of section 82

15. Section 82 of the principal Act is amended by inserting after subsection (2) the following subsections:

"(2A) Where a person issues an electronic invoice in respect of goods sold or services performed under section 82C, the issuance of receipts pursuant to paragraph (1)*(b)* may be dispensed with.

(2B) Notwithstanding paragraph (1)*(b)* and subsection (2A), where a person is required to submit to the Director General a consolidated transaction invoice as provided under subsection 82C(7), that person shall issue a printed receipt for every sum received in that year of assessment in respect of goods sold or services performed.".

New sections 82B and 82C

16. The principal Act is amended by inserting after section 82A the following sections:

"**Duty to provide information and furnish documents for ascertaining chargeable income and tax payable**

82B. (1) Where a person has furnished to the Director General a return in accordance with section 77 or 77A, that person shall provide information and furnish documents as may be determined by the Director General for the purpose of ascertaining his chargeable income and tax payable on an electronic medium or by way of electronic transmission within thirty days after the due date for furnishing of the return.

(2) For the purposes of subsection (1), the provisions under section 152A other than subsection (3A) shall apply accordingly with any necessary modifications.

Duty to issue electronic invoice

82C. (1) Subject to this section, a person shall, in a year of assessment, issue an electronic invoice for each transaction in respect of any goods sold or services performed by the person for that year of assessment.

(2) For the purposes of subsection (1)—

(a) the Minister shall prescribe the persons who shall issue the electronic invoice and the particulars to be included in the electronic invoice; and

(b) the conditions and specifications under which an electronic invoice is to be issued shall be as determined by the Director General under the guidelines issued in accordance with section 134A.

(3) Any electronic invoice issued by a person in respect of goods sold or services performed under subsection (1) shall be transmitted electronically to and validated by the Director General.

(4) Where for any year of assessment a person is required to issue an invoice under any other written law in respect of goods sold or services performed, the electronic invoice issued in accordance with subsection (1) including any other particulars as may be required shall be construed as an invoice issued under that law provided that where the particulars of electronic invoice are inconsistent with the requirements for the issuance of invoice under that law, the electronic invoice shall only be valid and enforceable for the purposes of this Act.

(5) Where for any year of assessment an electronic invoice is issued in accordance with subsection (1), the Director General shall not be liable for any loss or damage suffered by any person due to any error or omission arising, appearing in an electronic invoice provided that the error or omission

was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the issuance of the electronic invoice.

(6) Subject to the conditions as may be determined by the Director General, where for any year of assessment a person acquires any goods sold or enjoys any services performed, the person shall for that year of assessment issue a self-billed invoice in accordance with the conditions as may be imposed by the Director General and the invoice shall be treated as an electronic invoice.

(7) The Director General may for any year of assessment in respect of any goods sold or services performed, determine a person to consolidate the number of transactions in respect of such goods sold or services performed in that year of assessment into a consolidated transaction invoice, and that person shall transmit the consolidated transaction invoice to the Director General within a specified time and in accordance with the conditions as determined by the Director General and such consolidated transaction invoice shall for the purposes of this section constitute an electronic invoice issued by that person.

(8) Where for any year of assessment a person makes an error or mistake in respect of any electronic invoice issued in accordance with this section, the person may for the purpose of rectifying the error or mistake issue a substitute electronic invoice within three days from the date of issuance of the defective electronic invoice.

(9) Where for any year of assessment any goods sold or services performed by a person involves the issuance of credit note or debit note, the person issuing the credit note or debit note shall make adjustments in ascertaining his chargeable income for that year of assessment accordingly.

(10) A person may, in respect of any goods sold or services performed by him in any year of assessment, add any additional particulars to the electronic invoice under this section.

(11) The provisions of the Personal Data Protection Act 2010 [*Act 709*] shall not apply to any personal data processed for electronic invoice issued or transmitted to the Director General under this section and any other related provisions of this Act.".

Amendment of section 83

17. Section 83 of the principal Act is amended—

(a) by deleting subsection (1B);

(b) in the second paragraph of the proviso to subsection (3)—

(i) in paragraph *(b)*, by substituting for the comma at the end of the paragraph a full stop; and

(ii) by deleting the words "and where it is known to him that the individual is not retiring from any employment."; and

(c) by inserting after subsection (4) the following subsection:

"(4A) The return referred to in subsection (1) and the notice referred to in subsections (2), (3) and (4) shall be furnished to the Director General on an electronic medium or by way of electronic transmission in accordance with section 152A.".

Amendment of section 96A

18. Paragraph 96A(1)*(a)* of the principal Act is amended by substituting for the words "subsection 77(1) or 77A(1)" the words "subsection 77(1) or subsection 77A(1) or (1B)".

Amendment of section 97A

19. Section 97A of the principal Act is amended by substituting for the words "subsection 77(1) or 77A(1)" wherever appearing the words "subsection 77(1) or subsection 77A(1) or (1B)".

Amendment of section 99

20. Subsection 99(1A) of the principal Act is amended by substituting for the words "subsection 77A(1)" the words "subsection 77A(1) or (1B)".

Amendment of section 103

21. Subsection 103(12) of the principal Act is amended—

(a) in paragraph *(a)*, by inserting after the words "limited liability partnership" the words "referred to in subsection 77A(1),"; and

(b) by inserting after paragraph *(a)* the following paragraph:

"*(aa)* in the case of a company, limited liability partnership, trust body or co-operative society referred to in subsection 77A(1B), sixty days from the date of disposal of a capital asset;".

Amendment of section 107C

22. Section 107C of the principal Act is amended—

(a) in subsection (4B)—

(i) in paragraph *(b)*, by deleting the word "or" at the end of the paragraph;

(ii) in paragraph *(c)*, by substituting for the full stop at the end of the paragraph the words "; or"; and

(iii) by inserting after paragraph *(c)* the following paragraph:

"*(d)* twenty per cent of the paid-up capital in respect of ordinary shares of the company at the beginning of the basis period for a year of assessment is directly or indirectly owned by one or more companies incorporated outside Malaysia or by one or more individuals who are not citizens of Malaysia.";

(b) in subsection (7), by substituting for the words "the sixth month or the ninth month, or in both months" the words "the sixth month, the ninth month or the eleventh month, or in all three months"; and

(c) by inserting after subsection (11B) the following subsection:

"(11C) This section shall not apply to gains or profits from the disposal of a capital asset.".

Amendment of section 112

23. Section 112 of the principal Act is amended by substituting for the words "subsection 77(1) or 77A(1)" wherever appearing the words "subsection 77(1) or subsection 77A(1) or (1B)".

Amendment of section 120

24. Subsection 120(1) of the principal Act is amended—

(a) by substituting for paragraph *(d)* the following paragraph:

"*(d)* contravenes section 82B or 89, or subsection 82C(1), 82C(6), 82C(7), 84(2), 86(1), 106A(2) or 153(1)"; and

(b) in paragraph *(h)*, by substituting for the words "paragraph 77(4)*(b)* or 77A(3)*(b)*" the words "paragraph 77(4)*(b)* or subsection 77A(1B) or paragraph 77A(3)*(b)*".

Amendment of section 131A

25. Subsection 131A(1) of the principal Act is amended by substituting for the words "subsection 77(1) or 77A(1)" wherever appearing the words "subsection 77(1) or subsection 77A(1) or (1B)".

New section 134A

26. The principal Act is amended by inserting after section 134 the following section:

"**Power of Director General to issue guidelines**

134A. (1) The Director General may issue guidelines as the Director General thinks expedient or necessary to clarify the provisions of this Act or to facilitate the compliance of the law or any other matter relating to this Act.

(2) The Director General may revoke, revise or amend the whole or any part of any guidelines issued under this section.".

Amendment of section 138

27. Section 138 of the principal Act is amended—

(a) in subsection (4), by inserting after paragraph *(a)* the following paragraph:

"*(aa)* the production or disclosure of classified material in relation to electronic invoice to the Director General of Customs and Excise (or to the public officers under his direction and control) or the use of classified material in relation to electronic invoice by the Director General of Customs and Excise, to such an extent as is necessary or expedient for the exercise of his functions;"; and

(b) in subsection (5), in the definition of "classified person"—

(i) in paragraph *(c)*, by deleting the word "or" at the end of the paragraph;

(ii) in paragraph *(d)*, by inserting after the word "Malaysia;" the word "or"; and

(iii) by inserting after paragraph *(d)* the following paragraph:

"*(e)* any person who, for any reason, has by any means access to any information on an electronic invoice under this Act.".

Amendment of section 152A

28. Section 152A of the principal Act is amended by inserting after subsection (3) the following subsection:

"(3A) For the purposes of subsection (1), a person referred to under subsection 75(1) may authorize in writing an employee to furnish on his behalf any form prescribed under this Act in the manner provided for in subsection (1).".

Amendment of section 154

29. Subsection 154(1) of the principal Act is amended by inserting after paragraph *(ed)* the following paragraph:

"*(ee)* implementing and facilitating the operation of Part XI;".

New Part XI

30. The principal Act is amended by inserting after Part X the following part:

"PART XI

IMPLEMENTATION OF DOMESTIC TOP-UP TAX AND MULTINATIONAL TOP-UP TAX

Chapter 1

Preliminary

Interpretation

157. (1) In this Part, unless the context otherwise requires—

"Acceptable Financial Accounting Standard" means International Financial Reporting Standards and the generally accepted accounting principles of Australia, Brazil, Canada, Member States of the European Union, Member States of the European Economic Area, Hong Kong (China), Japan, Malaysia, Mexico, New Zealand, the People's Republic of China, the Republic of India, the Republic of Korea, Russia, Singapore, Switzerland, the United Kingdom, and the United States of America;

"Additional Current Multinational Top-up Tax" means the amount of tax determined in subsections 181(1) to (6) and any amount treated as Additional Current Multinational Top-up Tax determined under subsections 181(1) to (6), such as the amount determined under subsection 169(3) or section 191;

"Adjusted Asset Gain" means, in respect of Aggregate Asset Gain that is subject to an election under subsections 165(16) to (19), an amount equal to the Aggregate Asset Gain in the Election Year, reduced by any amount of such gain that has been applied against the Net Asset Loss in a prior Loss Year under paragraph 165(18)*(b)* or *(c)*;

"Adjusted Covered Taxes" means an amount as determined under section 169;

"Aggregate Asset Gain" means, in respect of an election under subsection 165(16), the net gain in the Election Year from the disposition of Local Tangible Assets by all Constituent Entities located in the jurisdiction excluding the gain or loss on a transfer of assets between Group Members;

"Agreed Administrative Guidance" means the guidance on the interpretation or administration of the Domestic Top-up Tax or Multinational Top-up Tax published by the Organisation for Economic Co-operation and Development/G20 Inclusive Framework on Base Erosion and Profit Shifting;

"Allocable Share of the Multinational Top-up Tax" means an amount determined under subsection 162(1);

"Annual Election" means an election in the prescribed form made by a Filing Constituent Entity and furnished to the Director General and that applies only for the Financial Year for which the election is made;

"Authorised Accounting Body" means a body with legal authority in a jurisdiction to prescribe, establish, or accept accounting standards for financial reporting purposes;

"Authorised Financial Accounting Standard" means, in respect of any Entity, a set of generally acceptable accounting principles permitted by an Authorised Accounting Body in the jurisdiction where that Entity is located;

"Consolidated Financial Statement" means—

(a) the financial statements prepared by an Entity in accordance with an Acceptable Financial Accounting Standard, in which the assets, liabilities, income, expenses and cash flows of that Entity and the Entities in which it has a Controlling Interest are presented as those of a single economic unit;

(b) where an Entity is an entity under paragraph *(b)* of the definition of "Group", the financial statements of the Entity that are prepared in accordance with an Acceptable Financial Accounting Standard;

(c) where the Ultimate Parent Entity has financial statements described in paragraph *(a)* or *(b)* that are not prepared in accordance with an Acceptable Financial Accounting Standard, the financial statements are those that have been prepared subject to adjustments to prevent any Material Competitive Distortions; and

(d) where the Ultimate Parent Entity does not prepare financial statements described in paragraphs *(a)* to *(c)*, the Consolidated Financial Statements of the Ultimate Parent Entity are those that would have been prepared if such Entity were required to prepare such statements in accordance with an Authorised Financial Accounting Standard that is either an Acceptable Financial Accounting Standard or another financial accounting standard that is adjusted to prevent any Material Competitive Distortions;

"Constituent Entity" means—

(a) any Entity that is included in a Group; or

(b) any Permanent Establishment of a Main Entity that is within paragraph *(a)* and which is treated as separate from the Main Entity and any other Permanent Establishment of that Main Entity,

but does not include an Excluded Entity;

"Constituent Entity-owner" means a Constituent Entity that directly or indirectly owns an Ownership Interest in another Constituent Entity of the same Multinational Enterprise Group;

"Controlled Foreign Company Tax Regime" means a set of tax rules other than an Income Inclusion Rule under which a direct or indirect shareholder of a foreign entity being the controlled foreign company is subject to current taxation on its share of part or all of the income earned by the controlled foreign company, irrespective of whether that income is distributed currently to the shareholder;

"Controlling Interest" means an Ownership Interest in an Entity such that the interest holder—

(a) is required to consolidate the assets, liabilities, income, expenses and cash flows of the Entity on a line-by-line basis in accordance with an Acceptable Financial Accounting Standard; or

(b) would have been required to consolidate the assets, liabilities, income, expenses and cash flows of the Entity on a line-by-line basis if the interest holder had prepared Consolidated Financial Statements;

"Covered Taxes" means—

(a) taxes recorded in the financial accounts of a Constituent Entity with respect to its income or profits or its share of the income or profits of a Constituent Entity in which it owns an Ownership Interest;

(b) taxes on distributed profits, deemed profit distributions, and non-business expenses imposed under an Eligible Distribution Tax System;

(c) taxes imposed in lieu of a generally applicable corporate income tax; and

(d) taxes levied by reference to retained earnings and corporate equity, including a Tax on multiple components based on income and equity,

but does not include any amount of—

(a) Multinational Top-up Tax accrued by a Parent Entity under a Qualified Income Inclusion Rule;

(b) Qualified Domestic Top-up Tax accrued by a Constituent Entity;

(c) taxes attributable to an adjustment made by a Constituent Entity as a result of the application of a set of rules equivalent to Articles 2.4 to 2.6 of the GloBE Model Rules (including any provisions of the GloBE Model Rules associated with those articles) that are included in the domestic law of a jurisdiction and that are implemented and administered in a way that is consistent with the outcomes provided for under the GloBE Model Rules provided that such jurisdiction does not provide any benefits that are related to such rules;

(d) a Disqualified Refundable Imputation Tax;

(e) taxes paid by an insurance company in respect of returns to policy holders;

"Designated Filing Entity" means the Constituent Entity, other than the Ultimate Parent Entity, that has been appointed by the Multinational Enterprise Group to file the information return on behalf of the Multinational Enterprise Group;

"Disqualified Refundable Imputation Tax" means any amount of Tax, other than a Qualified Imputation Tax, accrued or paid by a Constituent Entity that is—

(a) refundable to the beneficial owner of a dividend distributed by such Constituent Entity in respect of that dividend or creditable by the beneficial owner against a tax liability other than a tax liability in respect of such dividend; or

(b) refundable to the distributing corporation upon distribution of a dividend;

"Domestic Top-up Tax" means tax as provided under section 159;

"Effective Tax Rate" means, in respect of a Multinational Enterprise Group, the sum of the Adjusted Covered Taxes of each Constituent Entity located in the jurisdiction divided by the Net GloBE Income of the jurisdiction for the Financial Year;

"Election Year" means, in respect of an Annual Election, the year for which the election is made;

"Eligible Distribution Tax System" means a corporate income tax system that—

(a) imposes an income tax on the corporation with the tax generally payable only when the corporation distributes profits to shareholders, is deemed to distribute profits to shareholders, or incurs certain non-business expenses;

(b) imposes tax at a rate equal to or in excess of the Minimum Rate; and

(c) was in force on or before 1 July 2021;

"Eligible Employees" means employees, including part-time employees, of a Constituent Entity that is a member of the Multinational Enterprise Group and independent contractors participating in the ordinary operating activities of the Multinational Enterprise Group under the direction and control of the Multinational Enterprise Group;

"Eligible Payroll Costs" means employee compensation expenditures (including salaries, wages, and other expenditures that provide a direct and separate personal benefit to the employee, such as health insurance and pension contributions), payroll and employment taxes, and employer social security contributions;

"Eligible Tangible Assets" means—

(a) property, plant, and equipment located in that jurisdiction;

(b) natural resources located in that jurisdiction;

(c) a lessee's right of use of tangible assets located in that jurisdiction; and

(d) a licence or similar arrangement from the Government for the use of immovable property or exploitation of natural resources that entails significant investment in tangible assets;

"Entity" means—

(a) any legal person (other than a natural person); or

(b) an arrangement that prepares separate financial accounts, such as a partnership or trust;

"Excess Profit" means the amount computed in accordance with section 176;

"Excluded Dividends" means dividends or other distributions received or accrued in respect of an Ownership Interest, except for—

(a) a Short-term Portfolio Shareholding; and

(b) an Ownership Interest in an Investment Entity that is subject to an election under section 194;

"Excluded Entity" means—

(a) a Governmental Entity;

(b) an International Organisation;

(c) a Non-profit Organisation;

(d) a Pension Fund;

(e) an Investment Fund that is an Ultimate Parent Entity;

(f) a Real Estate Investment Vehicle that is an Ultimate Parent Entity; or

(g) an Entity—

(i) where at least ninety-five per cent of the value of the Entity is owned directly or through a chain of Excluded Entities by one or more Excluded Entities referred above other than a Pension Services Entity and where that Entity—

(A) operates exclusively or almost exclusively to hold assets or invest funds for the benefit of the Excluded Entity or Entities; or

(B) only carries out activities that are ancillary to those carried out by the Excluded Entity or Entities; or

(ii) where at least eighty-five per cent of the value of the Entity is owned directly or through a chain of Excluded Entities, by one or more Excluded Entities referred above other than a Pension Services Entity provided that substantially all of the Entity's income is Excluded Dividends or Excluded Equity Gain or Loss that is excluded from the computation of GloBE Income or Loss in accordance with this Part;

"Excluded Equity Gain or Loss" means the gain, profit or loss included in the Financial Accounting Net Income or Loss of the Constituent Entity arising from—

(a) gains and losses from changes in fair value of an Ownership Interest, except for a Portfolio Shareholding;

(b) profit or loss in respect of an Ownership Interest included under the equity method of accounting; and

(c) gains and losses from disposition of an Ownership Interest, except for a disposition of a Portfolio Shareholding;

"Filing Constituent Entity" means an Entity filing the return in accordance with section 201 or 202;

"Financial Accounting Net Income or Loss" means the net income or loss determined for a Constituent Entity before any consolidation adjustments eliminating intra-group transactions in preparing Consolidated Financial Statements of the Ultimate Parent Entity;

"Financial Year" means an accounting period with respect to which the Ultimate Parent Entity of the Multinational Enterprise Group prepares its Consolidated Financial Statements and in the case of Consolidated Financial Statements as defined in paragraph *(d)* of the definition of "Consolidated Financial Statements", Financial Year means the calendar year;

"Five-Year Election" means an election in the prescribed form made by a Filing Constituent Entity and furnished to the Director General with respect to a Financial Year (hereinafter referred to as the "election year") that cannot be revoked with respect to the election year or the four succeeding Financial Years and if revoked with respect to a Financial Year (hereinafter referred to as the "revocation year"), a new election cannot be made with respect to the four Financial Years succeeding the revocation year;

"General Government" means the central administration, agencies whose operations are under its effective control, state and local governments and their administrations;

"GloBE Implementation Framework" means the procedures to be developed by the Inclusive Framework on Base Erosion and Profit Shifting in order to develop administrative rules, guidance, and procedures that will facilitate the coordinated implementation of this Part;

"GloBE Income of all Constituent Entities" means the sum of the GloBE Income of all Constituent Entities located in the jurisdiction determined in accordance with Chapter 5 of this Part for the Financial Year;

"GloBE Income or Loss" means the Financial Accounting Net Income or Loss determined for the Constituent Entity for the Financial Year adjusted for the items described in sections 165 to 168 of each Constituent Entity;

"GloBE Loss Deferred Tax Asset" means the amount computed in accordance with section 172;

"GloBE Losses of all Constituent Entities" means the sum of the GloBE Losses of all Constituent Entities located in the jurisdiction determined in accordance with Chapter 5 of this Part for the Financial Year;

"GloBE Model Rules" means the model rules published by the Organisation for Economic Co-operation and Development/ G20 Inclusive Framework on Base Erosion and Profit Shifting as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on Base Erosion and Profit Shifting";

"GloBE Reorganisation" means a transformation or transfer of assets and liabilities such as in a merger, demerger, liquidation, or similar transaction where—

(a) the consideration for the transfer is, in whole or in significant part, equity interests issued by the acquiring Constituent Entity or by a person connected with the acquiring Constituent Entity, or, in the case of a liquidation, equity interests of the target or, when no consideration is provided, where the issuance of an equity interest would have no economic significance;

(b) the disposing Constituent Entity's gain or loss on those assets is not subject to tax, in whole or in part; and

(c) the tax laws of the jurisdiction in which the acquiring Constituent Entity is located require the acquiring Constituent Entity to compute taxable income after the disposition or acquisition using the disposing Constituent Entity's tax basis in the assets, adjusted for any Non-qualifying Gain or Loss on the disposition or acquisition;

"GloBE Rules" means—

(a) the GloBE Model Rules;

(b) the GloBE Rules Commentary and any further commentaries published by the Organisation for Economic Co-operation and Development/G20 Inclusive Framework on Base Erosion and Profit Shifting that are relevant to the implementation of the GloBE Rules; and

(c) any Agreed Administrative Guidance or any other guidance published by the Organisation for Economic Co-operation and Development/G20 Inclusive Framework on Base Erosion and Profit Shifting that are relevant to the implementation of the GloBE Rules;

"GloBE Rules Commentary" means—

(a) the commentary on the GloBE Model Rules published by the Organisation for Economic Co-operation and Development/G20 Inclusive Framework on Base Erosion and Profit Shifting as "Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two)"; and

(b) the examples illustrating the application of the GloBE Model Rules published by the Organisation for Economic Co-operation and Development/G20 Inclusive Framework on Base Erosion and Profit Shifting as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two) Examples";

"Governmental Entity" means an Entity that meets all of the following criteria:

(a) it is part of or wholly-owned by a government, (including any political subdivision or local authority thereof);

(b) it does not carry on a trade or business and it has the principal purpose of—

(i) fulfilling a government function; or

(ii) managing or investing that government's or jurisdiction's assets through the making and holding of investments, asset management, and related investment activities for the government's or jurisdiction's assets;

(c) it is accountable to the government on its overall performance, and provides annual information reporting to the government; and

(d) its assets vest in such government upon dissolution and to the extent it distributes net earnings, such net earnings are distributed solely to such government with no portion of its net earnings inuring to the benefit of any private person;

"Group" means—

(a) a collection of Entities that are related through ownership or control such that the assets, liabilities, income, expenses and cash flows of those Entities are—

(i) included in the Consolidated Financial Statements of the Ultimate Parent Entity; or

(ii) excluded from the Consolidated Financial Statements of the Ultimate Parent Entity solely on size or materiality grounds, or on the grounds that the Entity is held for sale; or

(b) an Entity that is located in one jurisdiction and has one or more Permanent Establishments located in other jurisdictions provided that the Entity is not a part of another Group mentioned in paragraph *(a)*;

"Group Entity" means, in respect of any Entity or Group, an Entity that is a member of the same Group;

"High-Tax Counterparty" means a Constituent Entity that is located in a jurisdiction that is not a Low-Tax Jurisdiction or that is located in a jurisdiction that would not be a Low-Tax Jurisdiction if its Effective Tax Rate were determined without regard to any income or expense accrued by that Entity in respect of an Intragroup Financing Arrangement;

"Income Inclusion Rule" means the rules for the allocation of Multinational Top-up Tax as provided in Chapter 4 of this Part;

"information return" means a return in the prescribed form as provided for under section 201;

"Insurance Investment Entity" means an Entity that would meet the definition of an Investment Fund or a Real Estate Investment Vehicle except that it is established in relation to liabilities under an insurance or annuity contract and is wholly-owned by an Entity that is subject to regulation in its location as an insurance company;

"Intermediate Parent Entity" means a Constituent Entity (other than an Ultimate Parent Entity, Partially-Owned Parent Entity, Permanent Establishment, or Investment Entity) which owns (directly or indirectly) an Ownership Interest in another Constituent Entity in the same Multinational Enterprise Group;

"International Organisation" means any intergovernmental organisation (including a supranational organisation) or wholly-owned agency or instrumentality thereof that meets all of the following criteria:

(a) it is comprised primarily of governments;

(b) it has in effect a headquarters or substantially similar agreement such as arrangements that entitle the organisation's offices or establishments in the jurisdiction to privileges and immunities with the jurisdiction in which it is established; and

(c) law or its governing documents prevent its income inuring to the benefit of private persons;

"International Shipping Income" means the net income obtained by a Constituent Entity from the following activities:

(a) the transportation of passengers or cargo by ships that it operates in international traffic, whether the ship is owned, leased or otherwise at the disposal of the Constituent Entity;

(b) the transportation of passengers or cargo by ships operated in international traffic under slot-chartering arrangements;

(c) leasing a ship, to be used for the transportation of passengers or cargo in international traffic, on charter fully equipped, crewed and supplied;

(d) leasing a ship on a bare boat charter basis, for the use of transportation of passengers or cargo in international traffic, to another Constituent Entity;

(e) the participation in a pool, a joint business or an international operating agency for the transportation of passengers or cargo by ships in international traffic;

(f) the sale of a ship used for the transportation of passengers or cargo in international traffic provided that the ship has been held for use by the Constituent Entity for a minimum of one year,

and shall not include net income obtained from the transportation of passengers or cargo by ships via inland waterways within the same jurisdiction;

"Intragroup Financing Arrangement" means any arrangement entered into between two or more members of the Multinational Enterprise Group whereby a High-Tax Counterparty directly or indirectly provides credit or otherwise makes an investment in a Low-Tax Entity;

"Investment Entity" means—

(a) an Investment Fund or a Real Estate Investment Vehicle;

(b) an Entity that is at least ninety-five per cent owned directly by an Entity described in paragraph *(a)* or through a chain of such Entities and that operates exclusively or almost exclusively to hold assets or invest funds for the benefit of such Investment Entities; and

(c) an Entity where at least eighty-five per cent of the value of the Entity is owned by an Entity referred to in paragraph *(a)* provided that substantially all of the Entity's income is Excluded Dividends or Excluded Equity Gain or Loss that is excluded from the computation of GloBE Income or Loss in accordance with paragraph 165(1)*(b)* or *(c)*;

"Investment Fund" means an Entity that meets all of the following criteria:

(a) it is designed to pool assets (which may be financial and non-financial) from a number of investors some of which are not connected;

(b) it invests in accordance with a defined investment policy;

(c) it allows investors to reduce transaction, research, and analytical costs, or to spread risk collectively;

(d) it is primarily designed to generate investment income or gains, or protection against a particular or general event or outcome;

(e) investors have a right to return from the assets of the fund or income earned on those assets, based on the contributions made by those investors;

(f) the Entity or its management is subject to a regulatory regime in the jurisdiction in which it is established or managed (including appropriate anti-money laundering and investor protection regulation); and

(g) it is managed by investment fund management professionals on behalf of the investors;

"Joint Venture" means an Entity whose financial results are reported under the equity method in the Consolidated Financial Statements of the Ultimate Parent Entity provided that the Ultimate Parent Entity holds directly or indirectly at least fifty per cent of its Ownership Interests and does not include—

(a) an Ultimate Parent Entity of a Multinational Enterprise Group that is subject to this Part;

(b) an Excluded Entity mentioned in paragraphs *(a)* to *(f)* of the definition of "Excluded Entity";

(c) an Entity whose Ownership Interest held by the Multinational Enterprise Group are held directly through an Excluded Entity referred in paragraphs *(a)* to *(f)* of the definition of "Excluded Entity" and the Entity—

(i) operates exclusively or almost exclusively to hold assets or invest funds for the benefit of its investors;

(ii) carries out activities that are ancillary to those carried out by the Excluded Entity; or

(iii) substantially all of its income is excluded from the computation of GloBE Income or Loss in accordance with paragraphs 165(1)*(b)* and *(c)*;

(d) an Entity which is held by a Multinational Enterprise Group composed exclusively of Excluded Entities; or

(e) a Joint Venture Subsidiary;

"Joint Venture Group" means a Joint Venture and its Joint Venture Subsidiaries;

"Joint Venture Subsidiary" means an Entity whose assets, liabilities, income, expenses and cash flows are consolidated by a Joint Venture under an Acceptable Financial Accounting Standard (or would have been consolidated had it been required to consolidate such items in accordance with an Acceptable Financial Accounting Standard);

"Local Tangible Asset" means immovable property located in the same jurisdiction as the Constituent Entity;

"Look-back Period" means, in respect of an election under subsections 165(16) to (19), the Election Year and the four prior Financial Years;

"Loss Year" means, in respect of jurisdiction for which the Filing Constituent Entity has made an election under subsections 165(16) to (19), a Financial Year in the Look-back Period for which there is a Net Asset Loss for a Constituent Entity located in that jurisdiction and the total amount of Net Asset Loss of all such Constituent Entities exceeds the total amount of their Net Asset Gain;

"Low-Taxed Constituent Entity" means a Constituent Entity of the Multinational Enterprise Group that is located in a Low-Tax Jurisdiction or a Stateless Constituent Entity that, in respect of a Financial Year, has GloBE Income and is subject to an Effective Tax Rate as determined under Chapter 7 of this Part in that Financial Year that is lower than the Minimum Rate;

"Low-Tax Jurisdiction", in respect of a Multinational Enterprise Group in any Financial Year, means a jurisdiction where the Multinational Enterprise Group has Net GloBE Income and is subject to an Effective Tax Rate as determined under Chapter 7 of this Part in that period that is lower than the Minimum Rate;

"Main Entity" means, in respect of a Permanent Establishment—

(a) the Entity that includes the Financial Accounting Net Income or Loss of the Permanent Establishment in its financial statements; and

(b) is deemed to have the Controlling Interests of its Permanent Establishment;

"Material Competitive Distortion" means, in respect of the application of a specific principle or procedure under a set of generally accepted accounting principles, an application that results in an aggregate variation greater than seventy five million euro in a Financial Year as compared to the amount that would have been determined by applying the corresponding International Financial Reporting Standards principle or procedure and where the application of a specific principle or procedure results in a Material Competitive Distortion, the accounting treatment of any item or transaction subject to that principle or procedure must be adjusted to conform to the treatment required for the item or transaction under International Financial Reporting Standards in accordance with any Agreed Administrative Guidance;

"Minimum Rate" means fifteen per cent;

"Minority-Owned Constituent Entity" means a Constituent Entity where the Ultimate Parent Entity has a direct or indirect Ownership Interest in that Entity of thirty per cent or less;

"Multinational Enterprise Group" means any Group that includes at least one Entity or Permanent Establishment that is not located in the jurisdiction of the Ultimate Parent Entity;

"Multinational Top-up Tax" means tax computed for the jurisdiction or Constituent Entity in accordance with sections 175 to 179;

"Multinational Top-up Tax Percentage" means the percentage computed in accordance with section 175;

"Net Asset Gain" means, in respect of an election under subsections 165(16) to (19), the net gain from the disposition of Local Tangible Assets by a Constituent Entity located in the jurisdiction for which the election was made excluding the gain or loss on a transfer of assets to another Group Member;

"Net Asset Loss" means, in respect of a Constituent Entity and a Financial Year, the net loss from the disposition of Local Tangible Assets by that Constituent Entity in that year excluding the gain or loss on a transfer of assets to another Group Member. The amount of Net Asset Loss shall be reduced by the amount of Net Asset Gain or Adjusted Asset Gain which is set-off against such loss pursuant to the application of paragraph 165(18)*(b)* or *(c)* as a result of a previous election made under subsections 165(16) to (19);

"Net GloBE Income" means the amount as determined in accordance with subsection 174(4);

"Net GloBE Loss" means the amount as determined in accordance with subsection 172(3);

"Non-profit Organisation" means an Entity that meets all of the following criteria:

(a) it is established and operated in its jurisdiction of residence—

(i) exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, or other similar purposes; or

(ii) as a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

(b) substantially all of the income from the activities mentioned in paragraph *(a)* is exempt from income tax in its jurisdiction of residence;

(c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(d) the income or assets of the Entity may not be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than—

(i) pursuant to the conduct of the Entity's charitable activities;

(ii) as payment of reasonable compensation for services rendered or for the use of property or capital; or

(iii) as payment representing the fair market value of property which the Entity has purchased; and

(e) upon termination, liquidation or dissolution of the Entity, all of its assets must be distributed or revert to a Non-profit Organisation or to the government including any Governmental Entity of the Entity's jurisdiction of residence or any political subdivision thereof,

but does not include any Entity carrying on a trade or business which is not directly related to the purposes for which it was established;

"Non-Qualified Refundable Tax Credit" means a tax credit that is not a Qualified Refundable Tax Credit but that is refundable in whole or in part;

"Non-qualifying Gain or Loss" means the lesser of the gain or loss of the disposing Constituent Entity arising in connection with a GloBE Reorganisation that is subject to tax in the disposing Constituent Entity's location and the financial accounting gain or loss arising in connection with the GloBE Reorganisation;

"OECD Model Tax Convention" means the Model Tax Convention on Income and on Capital: Condensed Version 2017 published by the Organisation for Economic Co-operation and Development;

"Other Comprehensive Income" means items of income and expense that are not recognised in profit or loss as required or permitted by the Authorised Financial Accounting Standard used in the Consolidated Financial Statements. Other Comprehensive Income is usually reported as an adjustment to equity in the statement of financial position;

"Ownership Interest" means any equity interest that carries rights to the profits, capital or reserves of an Entity, including the profits, capital or reserves of a Main Entity's Permanent Establishment;

"Parent Entity" means an Ultimate Parent Entity that is not an Excluded Entity, an Intermediate Parent Entity, or a Partially-Owned Parent Entity;

"Partially-Owned Parent Entity" means a Constituent Entity other than an Ultimate Parent Entity, Permanent Establishment, Investment Entity or an Insurance Investment Entity that—

(a) owns directly or indirectly an Ownership Interest in another Constituent Entity of the same Multinational Enterprise Group; and

(b) has more than twenty per cent of the Ownership Interests in its profits held directly or indirectly by persons that are not Constituent Entities of the Multinational Enterprise Group;

"Pension Fund" means—

(a) an Entity that is established and operated in a jurisdiction exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to persons and regulated as such by that jurisdiction or one of its political subdivisions or local authorities or those benefits are secured or otherwise protected by national regulations and funded by a pool of assets held through a fiduciary

arrangement or trustor to secure the fulfilment of the corresponding pension obligations against a case of insolvency of the Multinational Enterprise Group; or

(b) a Pension Services Entity;

"Pension Services Entity" means an Entity that is established and operated exclusively or almost exclusively—

(a) to invest funds for the benefit of Entities referred to in paragraph *(a)* of the definition of "Pension Fund"; or

(b) to carry out activities that are ancillary to those regulated activities carried out by the Entities referred to in paragraph *(a)* of the definition of "Pension Fund" provided that they are members of the same Group;

"Permanent Establishment" means—

(a) a place of business including a deemed place of business situated in a jurisdiction and treated as a permanent establishment in accordance with an applicable Tax Treaty in force provided that such jurisdiction taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD Model Tax Convention;

(b) if there is no applicable Tax Treaty in force, a place of business including a deemed place of business in respect of which a jurisdiction taxes under its domestic law the income attributable to such place of business on a net basis similar to the manner in which it taxes its own tax residents;

(c) if a jurisdiction has no corporate income tax system, a place of business including a deemed place of business situated in that jurisdiction that would be treated as a permanent establishment in accordance

with the OECD Model Tax Convention provided that such jurisdiction would have had the right to tax the income attributable to it in accordance with Article 7 of that model; or

(d) a place of business or a deemed place of business that is not already described in paragraphs *(a)* to *(c)* through which operations are conducted outside the jurisdiction where the Entity is located provided that such jurisdiction exempts the income attributable to such operations;

"Portfolio Shareholding" means Ownership Interests in an Entity that are held by the Multinational Enterprise Group and that carry rights to less than ten per cent of the profits, capital, reserves, or voting rights of that Entity at the date of the distribution or disposition;

"Qualified Ancillary International Shipping Income" means net income obtained by a Constituent Entity from the following activities that are performed primarily in connection with the transportation of passengers or cargo by ships in international traffic:

(a) leasing a ship on a bare boat charter basis to another shipping enterprise that is not a Constituent Entity, provided that the charter does not exceed three years;

(b) sale of tickets issued by other shipping enterprises for the domestic leg of an international voyage;

(c) leasing and short-term storage of containers or detention charges for the late return of containers;

(d) provision of services to other shipping enterprises by engineers, maintenance staff, cargo handlers, catering staff, and customer services personnel;

(e) investment income where the investment that generates the income is made as an integral part of the carrying on the business of operating the ships in international traffic;

"Qualified Domestic Top-up Tax" means a minimum tax that is included in the domestic law of a jurisdiction and that—

(a) determines the Excess Profits of the Constituent Entities located in the jurisdiction in a manner that is equivalent to the GloBE Rules;

(b) operates to increase domestic tax liability with respect to domestic Excess Profits to the Minimum Rate for the jurisdiction and Constituent Entities for a Financial Year;

(c) is implemented and administered in a way that is consistent with the outcomes provided for under the GloBE Model Rules and GloBE Rules Commentary and that jurisdiction does not provide any benefits that are related to such rules; and

(d) may compute domestic Excess Profits based on an Acceptable Financial Accounting Standard permitted by the Authorised Accounting Body or an Authorised Financial Accounting Standard adjusted to prevent any Material Competitive Distortions, rather than the financial accounting standard used in the Consolidated Financial Statements;

"Qualified Imputation Tax" means a Covered Tax accrued or paid by a Constituent Entity that is refundable or creditable to the beneficial owner of a dividend distributed by such Constituent Entity or, in the case of a Covered Tax accrued or paid by a Permanent Establishment, a dividend distributed by the Main Entity, to the extent that the refund is payable, or the credit is provided—

(a) by a jurisdiction other than the jurisdiction which imposed the Covered Taxes under a foreign tax credit regime;

(b) to a beneficial owner of the dividend that is subject to tax at a nominal rate that equals or exceeds the Minimum Rate on the dividend on a current basis under the domestic law of the jurisdiction which imposed the Covered Taxes on the Constituent Entity;

(c) to a person who is the beneficial owner of the dividend and tax resident in the jurisdiction which imposed the Covered Taxes on the Constituent Entity and who is subject to tax on the dividends as ordinary income; or

(d) to a Governmental Entity, an International Organisation, a resident Non-profit Organisation, a resident Pension Fund, a resident Investment Entity that is not a Group Entity, or a resident life insurance company to the extent that the dividends are received in connection with a Pension Fund business and subject to tax in a similar manner as a dividend received by Pension Fund (a Non-Profit Organisation or Pension Fund is resident in a jurisdiction if it is created and managed in that jurisdiction, an Investment Entity is resident in a jurisdiction if it is created and regulated in the jurisdiction and a life insurance company is resident in the jurisdiction in which it is located);

"Qualified Income Inclusion Rule" means a set of rules equivalent to Article 2.1 to Article 2.3 of the GloBE Model Rules including any provisions of the GloBE Model Rules associated with those articles that are included in the domestic law of a jurisdiction and that are implemented and administered in a way that is consistent with the outcomes provided for under the GloBE Model Rules and the GloBE Rules Commentary provided that such jurisdiction does not provide any benefits that are related to such rules;

"Qualified Refundable Tax Credit" means—

(a) a refundable tax credit designed in a way such that it must be paid as cash or available as cash equivalents within four years from when a Constituent Entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit;

(b) a tax credit that is refundable in part to the extent it must be paid as cash or available as cash equivalents within four years from when a Constituent Entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit; and

(c) a refundable tax credit that does not include any amount of tax creditable or refundable pursuant to a Qualified Imputation Tax or a Disqualified Refundable Imputation Tax;

"Real Estate Investment Vehicle" means an Entity the taxation of which achieves a single level of taxation either in its hands or the hands of its interest holders with at most one year of deferral, provided that the person holds predominantly immovable property and is itself widely held;

"Reporting Financial Year" means the Financial Year that is the subject of the information return or the Top-up Tax return;

"Short-term Portfolio Shareholding" means a Portfolio Shareholding that has been economically held by the Constituent Entity that receives or accrues the dividends or other distributions for less than one year at the date of the distribution;

"Stateless Constituent Entity" means a Constituent Entity described in paragraphs 157(10)*(b)* and (11)*(d)*;

"Substance-based Income Exclusion" means the jurisdictional payroll carve-out and the tangible asset carve-out for each Constituent Entity as determined under section 180;

"Tax" means a compulsory unrequited payment to General Government;

"Tax Treaty" means an agreement for the avoidance of double taxation with respect to taxes on income and on capital;

"Top-up Tax return" means a return in the prescribed form as provided under section 202;

"Total Deferred Tax Adjustment Amount" means an amount as determined under subsection 171(1);

"Ultimate Parent Entity" means either—

(a) an Entity that—

(i) owns directly or indirectly a Controlling Interest in any other Entity; and

(ii) is not owned, with a Controlling Interest, directly or indirectly by another Entity; or

(b) the Main Entity of a Group that is located in one jurisdiction and has one or more Permanent Establishments located in other jurisdictions provided that the Entity is not a part of another Group;

"Ultimate Parent Entity Jurisdiction" means the jurisdiction where the Ultimate Parent Entity is located.

(2) An Entity is a Flow-through Entity to the extent it is fiscally transparent with respect to its income, expenditure, profit or loss in the jurisdiction where it was created unless it is tax resident and subject to a Covered Tax on its income or profit in another jurisdiction.

(3) A Flow-through Entity is a Tax Transparent Entity with respect to its income, expenditure, profit or loss to the extent that it is fiscally transparent in the jurisdiction in which its owner is located.

(4) A Flow-through Entity is a Reverse Hybrid Entity with respect to its income, expenditure, profit or loss to the extent that it is not fiscally transparent in the jurisdiction in which the owner is located.

(5) An Entity is treated as fiscally transparent under the laws of a jurisdiction, if that jurisdiction treats the income, expenditure, profit or loss of that Entity as if it were derived or incurred by the direct owner of that Entity in proportion to its interest in that Entity.

(6) An Ownership Interest in an Entity or a Permanent Establishment that is a Constituent Entity shall be treated as held through a Tax Transparent Structure if that Ownership Interest is held indirectly through a chain of Tax Transparent Entities.

(7) A Constituent Entity that is not a tax resident and not subject to a Covered Tax or a Qualified Domestic Top-up Tax based on its place of management, place of creation, or similar criteria shall be treated as a Flow-through Entity and a Tax Transparent Entity in respect of its income, expenditure, profit or loss to the extent that—

(a) its owners are located in a jurisdiction that treats the Entity as fiscally transparent;

(b) it does not have a place of business in the jurisdiction where it was created; and

(c) the income, expenditure, profit or loss is not attributable to a Permanent Establishment.

(8) An Entity that is treated as a separate taxable person for income tax purposes in the jurisdiction where it is located is a Hybrid Entity with respect to its income, expenditure, profit or loss to the extent that it is fiscally transparent in the jurisdiction in which its owner is located.

(9) The location of an Entity that is not a Flow-through Entity is determined in the following manner:

(a) if it is a tax resident in a jurisdiction based on its place of management, place of creation or similar criteria, it is located in that jurisdiction; and

(b) in other cases, it is located in the jurisdiction in which it was created.

(10) The location of an Entity that is a Flow-through Entity is determined in the following manner:

(a) if it is the Ultimate Parent Entity of the Multinational Enterprise Group or it is required to apply an Income Inclusion Rule in accordance with section 161, it is located in the jurisdiction where it was created; and

(b) in other cases, it shall be treated as a stateless Entity.

(11) The location of a Permanent Establishment is determined in the following manner:

(a) if it is described in paragraph (1)*(a)* of the definition of "Permanent Establishment", it is located in the jurisdiction where it is treated as a permanent establishment and is taxed under the applicable Tax Treaty in force;

(b) if it is described in paragraph (1)*(b)* of the definition of "Permanent Establishment", it is located in the jurisdiction where it is subject to net basis taxation based on its business presence;

(c) if it is described in paragraph (1)*(c)* of the definition of "Permanent Establishment", it is located in the jurisdiction where it is situated; and

(d) if it is described in paragraph (1)*(d)* of the definition of "Permanent Establishment", it is considered as a stateless Permanent Establishment.

(12) Where by reason of subsection (9), a Constituent Entity is located in more than one jurisdiction, then its status for the purposes of this Part shall be determined in the following manner:

(a) if it is located in two jurisdictions that have an applicable Tax Treaty in force—

(i) it shall be located in the jurisdiction where it is considered as a deemed resident for the purposes of the Tax Treaty;

(ii) if the Tax Treaty requires the competent authorities to reach a mutual agreement on the deemed residence of the Constituent Entity for the purposes of the Tax Treaty and no agreement exists, then paragraph *(b)* shall apply;

(iii) if the Tax Treaty does not provide relief or exemption from tax because the Constituent Entity is a tax resident of both Contracting Parties, then paragraph *(b)* shall apply;

(b) if no Tax Treaty applies, then its location shall be determined in the following manner:

(i) it shall be located in the jurisdiction where it paid the greater amount of Covered Taxes for the Financial Year, without considering the ones paid in accordance with a Controlled Foreign Company Tax Regime;

(ii) if the amount of Covered Taxes paid in both jurisdictions is the same or zero, it shall be located in the jurisdiction where it has the greater amount of Substance-based Income Exclusion computed on an entity basis in accordance with section 180;

(iii) if the amount of the Substance-based Income Exclusion in both jurisdictions is the same or zero, then it is considered a Stateless Constituent Entity unless it is the Ultimate Parent Entity of the Multinational Enterprise Group in which case it shall be located in the jurisdiction where it was created.

(13) Where, under subsection (12), a Constituent Entity that is located in more than one jurisdiction is a Parent Entity located in a jurisdiction where it is not subject to a Qualified Income Inclusion Rule, then the other jurisdiction can require such Entity to apply its Qualified Income Inclusion Rule unless it is restricted by an applicable Tax Treaty in force.

(14) Where an Entity has changed its location during the Financial Year, it shall be located in the jurisdiction where it was located at the beginning of that year.

Chapter 2

Scope

Scope of application

158. (1) This Part shall apply to Constituent Entities that are members of a Multinational Enterprise Group that has annual revenue of seven hundred and fifty million euro or more as specified in the Consolidated Financial Statements of the Ultimate Parent Entity in at least two of the four consecutive Financial Years immediately preceding the tested Financial Year.

(2) Where one or more of the Financial Years of the Multinational Enterprise Group taken into account for the purposes of subsection (1) is of a period other than twelve months, for each of those Financial Years the seven hundred and fifty million euro annual revenue is adjusted proportionally to correspond with the length of the relevant Financial Year.

(3) Except for subsection (1), this Part shall not apply to Excluded Entities.

(4) A Filing Constituent Entity may elect not to treat an Entity as an Excluded Entity in accordance with paragraph 157(1)*(g)* of the definition of "Excluded Entity" and such election is a Five-Year Election.

Chapter 3

Imposition and General Characteristic of the Tax

Domestic Top-up Tax

159. Notwithstanding section 160 and Chapter 4 of this Part, an income tax to be known as Domestic Top-up Tax shall be charged for each Financial Year on a Low-Taxed Constituent Entity located in Malaysia of a Multinational Enterprise Group in an amount equal to the Multinational Top-up Tax of a Constituent Entity as calculated under Chapter 7 of this Part for a Financial Year and for that purpose the provisions of this Part shall apply accordingly with any necessary modifications to determine liability to and to administer Domestic Top-up Tax.

Multinational Top-up Tax

160. An income tax to be known as Multinational Top-up Tax shall be charged for each Financial Year on a Constituent Entity that is the Ultimate Parent Entity located in Malaysia of a Multinational Enterprise Group equal to the amount as calculated under Chapter 7 of this Part for a Financial Year.

Chapter 4

Income Inclusion Rule

Application of Income Inclusion Rule

161. (1) A Constituent Entity which is the Ultimate Parent Entity located in Malaysia of a Multinational Enterprise Group that owns directly or indirectly an Ownership Interest in a Low-Taxed Constituent Entity at any time during the Financial Year shall pay a Multinational Top-up Tax in an amount equal to its Allocable Share of such tax of that Low-Taxed Constituent Entity for the Financial Year.

(2) An Intermediate Parent Entity located in Malaysia of a Multinational Enterprise Group that owns directly or indirectly an Ownership Interest in a Low-Taxed Constituent Entity at any time during a Financial Year shall pay a Multinational Top-up Tax in an amount equal to its Allocable Share of such tax of that Low-Taxed Constituent Entity for the Financial Year.

(3) Subsection (2) shall not apply if—

(a) the Ultimate Parent Entity of the Multinational Enterprise Group is required to apply a Qualified Income Inclusion Rule for that Financial Year; or

(b) another Intermediate Parent Entity that owns directly or indirectly a Controlling Interest in the Intermediate Parent Entity is required to apply a Qualified Income Inclusion Rule for that Financial Year.

(4) Notwithstanding subsections (1) to (3), a Partially-Owned Parent Entity located in Malaysia that owns directly or indirectly an Ownership Interest in a Low-Taxed Constituent Entity at any time during the Financial Year shall pay a Multinational Top-up Tax in an amount equal to its Allocable Share of such tax of that Low-Taxed Constituent Entity for the Financial Year.

(5) Subsection (4) shall not apply if the Partially-Owned Parent Entity is wholly owned directly or indirectly by another Partially-Owned Parent Entity that is required to apply a Qualified Income Inclusion Rule for that Financial Year.

(6) A Parent Entity located in Malaysia shall apply the provisions of subsections (1) to (5) with respect to a Low-Taxed Constituent Entity that is not located in Malaysia.

Allocation of Multinational Top-up Tax under the Income Inclusion Rule

162. (1) A Parent Entity's Allocable Share of the Multinational Top-up Tax of a Low-Taxed Constituent Entity is an amount equal to the Multinational Top-up Tax of the Low-Taxed Constituent Entity as calculated under Chapter 7 of this Part multiplied by the Parent Entity's Inclusion Ratio for the Low-Taxed Constituent Entity for the Financial Year.

(2) A Parent Entity's Inclusion Ratio for a Low-Taxed Constituent Entity for a Financial Year shall be determined in accordance with the formula:

$$\frac{A - B}{C}$$

where A is the GloBE Income of the Low-Taxed Constituent Entity for the Financial Year;

B is the amount of such income attributable to Ownership Interests held by other owners; and

C is the GloBE Income of the Low-Taxed Constituent Entity for the Financial Year.

(3) The amount of GloBE Income attributable to Ownership Interests in a Low-Taxed Constituent Entity held by other owners is the amount that would have been treated as attributable to such owners under the principles of the Acceptable Financial Accounting Standard used in the Ultimate Parent Entity's Consolidated Financial Statements if the Low-Taxed Constituent Entity's net income were equal to its GloBE Income and—

(a) the Parent Entity had prepared Consolidated Financial Statements in accordance with that accounting standard referred to as the hypothetical Consolidated Financial Statements;

(b) the Parent Entity owned a Controlling Interest in the Low-Taxed Constituent Entity such that all of the income and expenses of the Low-Taxed Constituent Entity were consolidated on a line-by-line basis with those of the Parent Entity in the hypothetical Consolidated Financial Statements;

(c) all of the Low-Taxed Constituent Entity's GloBE Income were attributable to transactions with persons that are not Group Entities; and

(d) all Ownership Interests not directly or indirectly held by the Parent Entity were held by persons other than Group Entities.

(4) In the case of a Flow-through Entity, GloBE Income under subsections (1) to (3) shall not include any income allocated, pursuant to subsection 168(3), to an owner that is not a Group Entity.

Income Inclusion Rule offset mechanism

163. (1) A Parent Entity that owns an Ownership Interest in a Low-Taxed Constituent Entity indirectly through an Intermediate Parent Entity or a Partially-Owned Parent Entity which is not excluded from the Income Inclusion Rule under subsection 161(3) or (5) shall reduce its Allocable Share of a Multinational Top-up Tax of the Low-Taxed Constituent Entity in accordance with subsection (2).

(2) The reduction in subsection (1) will be an amount equal to the portion of the Parent Entity's Allocable Share of the Multinational Top-up Tax which is included in the determination of the Qualified Income Inclusion Rule by the Intermediate Parent Entity or the Partially-Owned Parent Entity.

Chapter 5

Computation of GloBE Income or Loss

Financial Accounts

164. Where it is not reasonably practicable to determine the Financial Accounting Net Income or Loss for a Constituent Entity based on the accounting standard used in the preparation of Consolidated Financial Statements of the Ultimate Parent Entity, the Financial Accounting Net Income or Loss for the Constituent Entity for the Financial Year may be determined using another Acceptable Financial Accounting Standard or an Authorised Financial Accounting Standard if—

(a) the financial accounts of the Constituent Entity are maintained based on that accounting standard;

(b) the information contained in the financial accounts is reliable; and

(c) permanent differences in excess of one million euro that arise from the application of a particular principle or standard to items of income or expense or transactions that differs from the financial standard used in the preparation of the Consolidated Financial Statements of the Ultimate Parent Entity are conformed to the treatment required under the accounting standard used in the Consolidated Financial Statements of the Ultimate Parent Entity.

Adjustments to determine GloBE Income or Loss

165. (1) A Constituent Entity's Financial Accounting Net Income or Loss is adjusted for the following items to arrive at that Entity's GloBE Income or Loss:

(a) Net Taxes Expense;

(b) Excluded Dividends;

(c) Excluded Equity Gain or Loss;

(d) Included Revaluation Method Gain or Loss;

(e) Gain or loss from disposition of assets and liabilities excluded under section 186;

(f) Asymmetric Foreign Currency Gains or Losses;

(g) Policy Disallowed Expenses;

(h) Prior Period Errors and Changes in Accounting Principles; and

(i) Accrued Pension Expense.

(2) At the election of the Filing Constituent Entity, a Constituent Entity may substitute the amount allowed as a deduction in the computation of its taxable income in its location for the amount expensed in its financial accounts for a cost or expense of such Constituent Entity that was paid with stock-based compensation.

(3) If the stock-based compensation expense arises in connection with an option that expires without exercise, the Constituent Entity shall include the total amount previously deducted in the computation of its GloBE Income or Loss for the Financial Year in which the option expires.

(4) The election in subsection (2) is a Five-Year Election and shall be applied consistently to the stock-based compensation of all Constituent Entities located in the same jurisdiction for the year in which the election is made and all subsequent Financial Years.

(5) If the election is made in a Financial Year after some of the stock-based compensation of a transaction has been recorded in the financial accounts, the Constituent Entity shall include in the computation of its GloBE Income or Loss for that Financial Year an amount equal to the excess of the cumulative amount allowed as an expense in the computation of its GloBE Income or Loss in previous Financial Years over the cumulative amount that would have been allowed as an expense if the election had been in place in those Financial Years.

(6) If the election is revoked, the Constituent Entity shall include in the computation of its GloBE Income or Loss for the revocation year the amount deducted pursuant to the election that exceeds financial accounting expense accrued in respect of the stock-based compensation that has not been paid.

(7) Any transaction between Constituent Entities located in different jurisdictions that is not recorded in the same amount in the financial accounts of both Constituent Entities or that is not consistent with the Arm's Length Principle shall be adjusted so as to be in the same amount and consistent with the Arm's Length Principle.

(8) A loss from a sale or other transfer of an asset between two Constituent Entities located in the same jurisdiction that is not recorded consistent with the Arm's Length Principle shall be recomputed based on the Arm's Length Principle if that loss is included in the computation of GloBE Income or Loss.

(9) Rules for allocating income or loss between a Main Entity and its Permanent Establishments are as provided in section 167.

(10) Qualified Refundable Tax Credits shall be treated as income in the computation of GloBE Income or Loss of a Constituent Entity.

(11) Non-Qualified Refundable Tax Credits shall not be treated as income in the computation of GloBE Income or Loss of a Constituent Entity.

(12) With respect to assets and liabilities that are subject to fair value or impairment accounting in the Consolidated Financial Statements, a Filing Constituent Entity may elect to determine gains and losses using the realisation principle for the purpose of computing GloBE Income.

(13) The election in subsection (12) is a Five-Year Election and applies to—

(a) all Constituent Entities located in the jurisdiction to which the election applies; and

(b) all assets and liabilities of such Constituent Entities, unless the Filing Constituent Entity chooses to limit the election to tangible assets of such Constituent Entities or to Constituent Entities that are Investment Entities.

(14) For the purposes of an election under subsection (12)—

(a) all gains or losses attributable to fair value or impairment accounting with respect to an asset or liability shall be excluded from the computation of GloBE Income or Loss;

(b) the carrying value of an asset or liability for the purpose of determining gain or loss shall be its carrying value adjusted for accumulated depreciation at the later of—

(i) the first day of the election year; or

(ii) the date the asset was acquired or liability was incurred.

(15) If the election under subsection (12) is revoked, the GloBE Income or Loss of the Constituent Entities is adjusted by the difference at the beginning of the revocation year between the fair value of the asset or liability and the carrying value of the asset or liability determined pursuant to the election adjusted for accumulated depreciation.

(16) Where there is Aggregate Asset Gain in a jurisdiction in a Financial Year, the Filing Constituent Entity may make, under this subsection, an Annual Election for that jurisdiction to adjust GloBE Income or Loss with respect to each previous Financial Year in the Look-back Period in the manner described in paragraphs (18)*(b)* and *(c)* and shall spread any remaining Adjusted Asset Gain over the Look-back Period in the manner described in paragraphs (18)*(d)* and *(e)*.

(17) For the purposes of subsection (16) the Effective Tax Rate and Multinational Top-up Tax, if any, for any previous Financial Year must be re-calculated under subsection 181(1).

(18) When an election is made under subsection (16)—

(a) Covered Taxes with respect to any Net Asset Gain or Net Asset Loss in the Election Year shall be excluded from the computation of Adjusted Covered Taxes;

(b) the Aggregate Asset Gain in the Election Year shall be carried-back to the earliest Loss Year and set-off rateably against any Net Asset Loss of any Constituent Entity located in that jurisdiction;

(c) if, for any Loss Year, the Adjusted Asset Gain exceeds the total amount of Net Asset Loss of all Constituent Entities located in that jurisdiction, the Adjusted Asset Gain shall be carried forward to the following Loss Year, if any, and applied rateably against any Net Asset Loss of any Constituent Entity located in that jurisdiction;

(d) any Adjusted Asset Gain that remains after the application of paragraphs *(b)* and *(c)* shall be allocated evenly to each Financial Year in the Look-back Period;

(e) the Allocated Asset Gain for the relevant year shall be included in the computation of GloBE Income or Loss for a Constituent Entity located in that jurisdiction in that year in accordance with the following formula:

$$A \times \frac{B}{C}$$

where A is the Allocated Asset Gain for the relevant year;

B is the specified Constituent Entity's Net Asset Gain in the Election Year; and

C is the Net Asset Gain of all specified Constituent Entities in the Election Year.

(19) If there is no specified Constituent Entity for a relevant year the Adjusted Asset Gain allocated to that year will be allocated equally to each Constituent Entity in the jurisdiction in that year.

(20) The computation of a Low-Tax Entity's GloBE Income or Loss shall exclude any expense attributable to an Intragroup Financing Arrangement that can reasonably be anticipated, over the expected duration of the arrangement to increase the amount of expenses taken into account in calculating the GloBE Income or Loss of the Low-Tax Entity without resulting in a commensurate increase in the taxable income of the High-Tax Counterparty.

(21) An Ultimate Parent Entity may elect to apply its consolidated accounting treatment to eliminate income, expense, gains, and losses from transactions between Constituent Entities that are located, and included in a tax consolidation group, in the same jurisdiction for the purpose of computing each such Constituent Entity's Net GloBE Income or Loss.

(22) The election under subsection (21) is a Five-Year Election and upon making or revoking such election, appropriate adjustments shall be made for the purposes of the GloBE Rules such that there shall not be duplications or omissions of items of GloBE Income or Loss as a result of having made or revoked the election.

(23) An insurance company shall—

(a) exclude from the computation of GloBE Income or Loss amounts charged to policy holders for Taxes paid by the insurance company in respect of returns to the policy holders; and

(b) include in the computation of GloBE Income or Loss any returns to policy holders that are not reflected in Financial Accounting Net Income or Loss to the extent the corresponding increase or decrease in liability to the policy holders is reflected in its Financial Accounting Net Income or Loss.

(24) Amounts recognised as—

(a) a decrease to the equity of a Constituent Entity attributable to distributions paid or payable in respect of Additional Tier One Capital or Restricted Tier One Capital issued by the Constituent Entity shall be treated as an expense in the computation of its GloBE Income or Loss; and

(b) an increase to the equity of a Constituent Entity attributable to distributions received or receivable in respect of Additional Tier One Capital or Restricted Tier One Capital held by the Constituent Entity shall be included in the computation of its GloBE Income or Loss.

(25) A Constituent Entity's Financial Accounting Net Income or Loss must be adjusted as necessary to reflect the requirements of the relevant provisions of Chapters 8 and 9 of this Part.

(26) For the purposes of this section—

"accounting functional currency" means the functional currency used to determine the Constituent Entity's Financial Accounting Net Income or Loss;

"Accrued Pension Expense" means the difference between the amount of pension liability expense included in the Financial Accounting Net Income or Loss and the amount contributed to a Pension Fund for the Financial Year;

"Additional Tier One Capital" means an instrument issued by a Constituent Entity pursuant to prudential regulatory requirements applicable to the banking sector that is convertible to equity or written down if a pre-specified trigger event occurs and that has other features which are designed to aid loss absorbency in the event of a financial crisis;

"Allocated Asset Gain" means the Adjusted Asset Gain that is allocated to a Financial Year in the Look-back Period, for the relevant year;

"Arm's Length Principle" means the principle under which transactions between Constituent Entities must be recorded by reference to the conditions that would have been obtained between independent enterprises in comparable transactions and under comparable circumstances;

"Asymmetric Foreign Currency Gains or Losses" means foreign currency gains or losses of an entity whose accounting and tax functional currencies are different and that are—

(a) included in the computation of a Constituent Entity's taxable income or loss and attributable to fluctuations in the exchange rate between its accounting functional currency and its tax functional currency;

(b) included in the computation of a Constituent Entity's Financial Accounting Net Income or Loss and attributable to fluctuations in the exchange rate between its tax functional currency and its accounting functional currency;

(c) included in the computation of a Constituent Entity's Financial Accounting Net Income or Loss and attributable to fluctuations in the exchange rate between a third foreign currency and its accounting functional currency; and

(d) attributable to fluctuations in the exchange rate between a third foreign currency and its tax functional currency, whether or not such foreign currency gain or loss is included in taxable income;

"Included Revaluation Method Gain or Loss" means the net gain or loss, increased or decreased by any associated Covered Taxes, for the Financial Year in respect of all property, plant and equipment that arises under an accounting method or practice that—

(a) periodically adjusts the carrying value of such property to its fair value;

(b) records the changes in value in Other Comprehensive Income; and

(c) does not subsequently report the gains or losses recorded in Other Comprehensive Income through profit and loss;

"Low-Tax Entity" means a Constituent Entity located in a Low-Tax Jurisdiction or a jurisdiction that would be a Low-Tax Jurisdiction if the Effective Tax Rate for the jurisdiction were determined without regard to any income or expense accrued by that Entity in respect of an Intragroup Financing Arrangement;

"Net Taxes Expense" means the net amount of—

(a) any Covered Taxes accrued as an expense and any current and deferred Covered Taxes included in the income tax expense, including Covered Taxes on income that is excluded from the GloBE Income or Loss computation;

(b) any deferred tax asset attributable to a loss for the Financial Year;

(c) any Qualified Domestic Top-up Tax accrued as an expense;

(d) any taxes arising pursuant to this Part accrued as an expense;

(e) any Disqualified Refundable Imputation Tax accrued as an expense; and

(f) taxes accrued by an insurance company in respect of returns to policyholders to the extent that subsection (23) applies in relation to those taxes;

"Policy Disallowed Expenses" means—

(a) expenses accrued by the Constituent Entity for illegal payments, including bribes and kickbacks; and

(b) expenses accrued by the Constituent Entity for fines and penalties that equal or exceed fifty thousand euro or an equivalent in the functional currency in which the Constituent Entity's Financial Accounting Net Income or Loss was calculated;

"Prior Period Errors and Changes in Accounting Principles" means all changes in the opening equity at the beginning of the Financial Year of a Constituent Entity attributable to—

(a) a correction of an error in the determination of Financial Accounting Net Income in a previous Financial Year that affected the income or expenses includible in the computation of GloBE Income or Loss for such Financial Year, except to the extent such error correction resulted in a material decrease to a liability for Covered Taxes subject to section 173; or

(b) a change in accounting principle or policy that affects income or expenses includible in the computation of GloBE Income or Loss;

"Restricted Tier One Capital" means an instrument issued by a Constituent Entity pursuant to prudential regulatory requirements applicable to the insurance sector that is convertible to equity or written down if a pre-specified trigger event occurs and that has other features which are designed to aid loss absorbency in the event of a financial crisis;

"specified Constituent Entity" means a Constituent Entity that has Net Asset Gain in the Election Year and was located in the jurisdiction in the relevant year;

"tax functional currency" means the functional currency used to determine the Constituent Entity's taxable income or loss for a Covered Tax in the jurisdiction in which it is located;

"third foreign currency" means a currency that is not the Constituent Entity's tax functional currency or accounting functional currency.

International Shipping Income exclusion

166. (1) For a Multinational Enterprise Group that has International Shipping Income, each Constituent Entity's International Shipping Income and Qualified Ancillary International Shipping Income shall be excluded from the computation of its GloBE Income or Loss under section 165 for the jurisdiction in which it is located.

(2) Where the computation of a Constituent Entity's International Shipping Income or Qualified Ancillary International Shipping Income results in a loss, the loss shall be excluded from the computation of its GloBE Income or Loss.

(3) The aggregated Qualified Ancillary International Shipping Income of all Constituent Entities located in a jurisdiction shall not exceed fifty per cent of the International Shipping Income of those Constituent Entities.

(4) The costs incurred by a Constituent Entity that are directly attributable to its international shipping activities listed in the definition of "International Shipping Income" and the costs directly attributable to its qualified ancillary activities listed in the definition of "Qualified Ancillary International Shipping Income" shall be deducted from the Constituent Entity's revenues from such activities to compute its International Shipping Income and Qualified Ancillary International Shipping Income.

(5) Other costs incurred by a Constituent Entity that are indirectly attributable to a Constituent Entity's international shipping activities and qualified ancillary activities shall be allocated on the basis of the Constituent Entity's revenues from such activities in proportion to its total revenues.

(6) All direct and indirect costs attributed to a Constituent Entity's International Shipping Income and Qualified Ancillary International Shipping Income shall be excluded from the computation of its GloBE Income or Loss.

(7) In order for a Constituent Entity's International Shipping Income and Qualified Ancillary International Shipping Income to qualify for the exclusion from its GloBE Income or Loss under this section, the Constituent Entity must demonstrate that the strategic or commercial management of all ships concerned is effectively carried on from within the jurisdiction where the Constituent Entity is located.

Allocation of Income or Loss between a Main Entity and a Permanent Establishment

167. (1) The Financial Accounting Net Income or Loss of Constituent Entity that is a Permanent Establishment in accordance with paragraphs 157(1)*(a)* to *(c)* of the definition of "Permanent Establishment" is the net income or loss reflected in the separate financial accounts of the Permanent Establishment.

(2) If the Permanent Establishment does not have separate financial accounts, then the Financial Accounting Net Income or Loss is the amount that would have been reflected in its separate financial accounts if prepared on a stand alone basis and in accordance with the accounting standard used in the preparation of the Consolidated Financial Accounts of the Ultimate Parent Entity.

(3) The Financial Accounting Net Income or Loss of a Permanent Establishment referred to in subsections (1) and (2) shall be adjusted, if necessary—

(a) in the case of a Permanent Establishment as defined in paragraphs 157(1)*(a)* and *(b)* of the definition of "Permanent Establishment", to reflect only the amounts and items of income and expense that are attributable to the Permanent Establishment in accordance with the applicable Tax Treaty or domestic law of the jurisdiction where it is located regardless of the amount of income subject to tax and the amount of deductible expenses in that jurisdiction; or

(b) in the case of a Permanent Establishment as defined in paragraph 157(1)*(c)* of the definition of "Permanent Establishment", to reflect only the amounts and items of income and expense that would have been attributed to it in accordance with Article 7 of the OECD Model Tax Convention.

(4) In the case of a Constituent Entity that is a Permanent Establishment in accordance with paragraph 157(1)*(d)* of the definition of "Permanent Establishment"—

(a) its income used for computing Financial Accounting Net Income or Loss is the income being exempted in the jurisdiction where the Main Entity is located and attributable to the operations conducted outside that jurisdiction; and

(b) its expenses used for computing Financial Accounting Net Income or Loss are those that are not deducted for taxable purposes in the jurisdiction where the Main Entity is located and that are attributable to such operations.

(5) The Financial Accounting Net Income or Loss of a Permanent Establishment is not taken into account in determining the GloBE Income or Loss of the Main Entity, except as provided in subsections (6) and (7).

(6) A GloBE Loss of a Permanent Establishment shall be treated as an expense of the Main Entity and not of the Permanent Establishment for the purpose of computing its GloBE Income or Loss to the extent that the loss of the Permanent Establishment is treated as an expense in the computation of the domestic taxable income of such Main Entity and is not set off against an item of income that is subject to tax under the laws of both the jurisdiction of the Main Entity and the jurisdiction of the Permanent Establishment.

(7) GloBE Income subsequently arising in the Permanent Establishment shall be treated as GloBE Income of the Main Entity and not the Permanent Establishment up to the amount of the GloBE Loss that previously was treated as an expense for the purpose of computing the GloBE Income or Loss of the Main Entity.

Allocation of Income or Loss from a Flow-through Entity

168. (1) The Financial Accounting Net Income or Loss of a Constituent Entity that is a Flow-through Entity is allocated in the following manner:

(a) in the case of a Permanent Establishment through which the business of the Entity is wholly or partly carried out, the Financial Accounting Net Income or Loss of the Entity is allocated to that Permanent Establishment in accordance with section 167;

(b) in the case of a Tax Transparent Entity that is not the Ultimate Parent Entity, any Financial Accounting Net Income or Loss remaining after application of paragraph *(a)* is allocated to its Constituent Entity-owners in accordance with their Ownership Interests; and

(c) in the case of a Tax Transparent Entity that is the Ultimate Parent Entity or a Reverse Hybrid Entity, any Financial Accounting Net Income or Loss remaining after application of paragraph *(a)* is allocated to it.

(2) Subsection (1) shall be applied separately with respect to each Ownership Interest in the Flow-through Entity.

(3) Prior to the application of subsection (1), the Financial Accounting Net Income or Loss of a Flow-through Entity shall be reduced by the amount allocable to its owners that are not Group Entities and that hold their Ownership Interest in the Flow-through Entity directly or through a Tax Transparent Structure.

(4) Subsection (3) does not apply to—

(a) an Ultimate Parent Entity that is a Flow-through Entity; or

(b) any Flow-through Entity owned by such an Ultimate Parent Entity directly or through a Tax Transparent Structure.

(5) The Financial Accounting Net Income or Loss of a Flow-through Entity is reduced by the amount that is allocated to another Constituent Entity.

Chapter 6

Computation of Adjusted Covered Taxes

Adjusted Covered Taxes

169. (1) The Adjusted Covered Taxes of a Constituent Entity for the Financial Year shall be equal to the current tax expense accrued in its Financial Accounting Net Income or Loss with respect to Covered Taxes for the Financial Year adjusted by—

(a) the net amount of its Additions to Covered Taxes for the Financial Year and Reductions to Covered Taxes for the Financial Year;

(b) the Total Deferred Tax Adjustment Amount as determined under section 171; and

(c) any increase or decrease in Covered Taxes recorded in equity or Other Comprehensive Income relating to amounts included in the computation of GloBE Income or Loss that will be subject to tax under local tax rules.

(2) No amount of Covered Taxes may be taken into account more than once.

(3) In a Financial Year in which there is no Net GloBE Income for a jurisdiction, if the Adjusted Covered Taxes for a jurisdiction are less than zero and less than the Expected Adjusted Covered Taxes Amount the Constituent Entities in that jurisdiction shall be treated as having Additional Current Multinational Top-up Tax for the jurisdiction under section 181 arising in the current Financial Year equal to the difference between these amounts.

(4) For the purposes of subsection (3) the Expected Adjusted Covered Taxes Amount is equal to the GloBE Income or Loss for a jurisdiction multiplied by the Minimum Rate.

(5) For the purposes of paragraph 1*(a)*, "Additions to Covered Taxes" means the sum of—

(a) any amount of Covered Taxes of a Constituent Entity for the Financial Year accrued as an expense in the profit before taxation in the financial accounts;

(b) any amount of GloBE Loss Deferred Tax Asset of a Constituent Entity for the Financial Year used under subsection 172(6);

(c) any amount of Covered Taxes of a Constituent Entity for the Financial Year that is paid in the Financial Year and that relates to an uncertain tax position where that amount has been treated for a previous Financial Year as a Reduction to Covered Taxes under paragraph (6)*(d)* of the definition of "Reductions to Covered Taxes"; and

(d) any amount of credit or refund of a Constituent Entity for the Financial Year in respect of a Qualified Refundable Tax Credit that is recorded as a reduction to the current tax expense.

(6) In this section, "Reductions to Covered Taxes" means the sum of—

(a) the amount of current tax expense with respect to income excluded from the computation of GloBE Income or Loss under Chapter 5 of this Part;

(b) any amount of credit or refund in respect of a Non-Qualified Refundable Tax Credit that is not recorded as a reduction to the current tax expense;

(c) any amount of Covered Taxes refunded or credited, except for any Qualified Refundable Tax Credit, to a Constituent Entity that was not treated as an adjustment to current tax expense in the financial accounts;

(d) the amount of current tax expense which relates to an uncertain tax position; and

(e) any amount of current tax expense that is not expected to be paid within three years of the last day of the Financial Year.

Allocation of Covered Taxes from one Constituent Entity to another Constituent Entity

170. (1) The Covered Taxes are allocated from one Constituent Entity to another Constituent Entity in the following manner:

(a) the amount of any Covered Taxes included in the financial accounts of a Constituent Entity with respect to GloBE Income or Loss of a Permanent Establishment is allocated to the Permanent Establishment;

(b) the amount of any Covered Taxes included in the financial accounts of a Tax Transparent Entity with respect to GloBE Income or Loss allocated to a Constituent Entity-owner pursuant to paragraph 168(1)*(b)* is allocated to that Constituent Entity-owner;

(c) in the case of a Constituent Entity whose Constituent Entity-owners are subject to a Controlled Foreign Company Tax Regime, the amount of any Covered Taxes included in the financial accounts of its direct or indirect Constituent Entity-owners under a Controlled Foreign Company Tax Regime on their share of the controlled foreign company's income are allocated to the Constituent Entity;

(d) in the case of a Constituent Entity that is a Hybrid Entity, the amount of any Covered Taxes included in the financial accounts of a Constituent Entity-owner on income of the Hybrid Entity is allocated to the Hybrid Entity; and

(e) the amount of any Covered Taxes accrued in the financial accounts of a Constituent Entity's direct Constituent Entity-owners on distributions from the Constituent Entity during the Financial Year are allocated to the distributing Constituent Entity.

(2) The Covered Taxes allocated to a Constituent Entity pursuant to paragraphs (1)*(c)* and *(d)* in respect of Passive Income are included in such Constituent Entity's Adjusted Covered Taxes in an amount equal to the lesser of—

(a) the Covered Taxes allocated in respect of such Passive Income; or

(b) the Multinational Top-up Tax Percentage for the Constituent Entity's jurisdiction, determined without regard to the Covered Taxes incurred with respect to such Passive Income by the Constituent Entity-owner, multiplied by the amount of the Constituent Entity's Passive Income that can be included under any Controlled Foreign Company Tax Regime or fiscal transparency rule.

(3) Any Covered Taxes of the Constituent Entity-owner incurred with respect to such Passive Income that remain after the application of subsection (2) shall not be allocated under paragraph (1)*(c)* or *(d)*.

(4) Where the GloBE Income of a Permanent Establishment is treated as GloBE Income of the Main Entity pursuant to subsections 167(6) and (7), any Covered Taxes arising in the location of the Permanent Establishment and associated with such income are treated as Covered Taxes of the Main Entity up to an amount not exceeding such income multiplied by the highest corporate tax rate on ordinary income in the jurisdiction where the Main Entity is located.

(5) For the purposes of this section, "Passive Income" means income included in GloBE Income that is—

(a) a dividend or dividend equivalents;

(b) interest or interest equivalent;

(c) rent;

(d) royalty;

(e) annuity; or

(f) net gains from property of a type that produces income described in paragraphs *(a)* to *(e)*,

but only to the extent a Constituent Entity-owner is subject to tax on such income under a Controlled Foreign Company Tax Regime or as a result of an Ownership Interest in a Hybrid Entity.

Mechanism to address temporary differences

171. (1) The Total Deferred Tax Adjustment Amount for a Constituent Entity for the Financial Year is equal to the deferred tax expense accrued in its financial accounts if the applicable tax rate is below the Minimum Rate or, in any

other case, such deferred tax expense recast at the Minimum Rate, with respect to Covered Taxes for the Financial Year subject to the adjustments provided in subsections (2) and (3) and excluding—

(a) the amount of deferred tax expense with respect to items excluded from the computation of GloBE Income or Loss under Chapter 5 of this Part;

(b) the amount of deferred tax expense with respect to Disallowed Accruals and Unclaimed Accruals;

(c) the impact of a valuation adjustment or accounting recognition adjustment with respect to a deferred tax asset;

(d) the amount of deferred tax expense arising from a re-measurement with respect to a change in the applicable domestic tax rate; and

(e) the amount of deferred tax expense with respect to the generation and use of tax credits.

(2) The Total Deferred Tax Adjustment Amount is adjusted by—

(a) increasing it by the amount of any Disallowed Accrual or Unclaimed Accrual paid during the Financial Year;

(b) increasing it by the amount of any Recaptured Deferred Tax Liability determined in a preceding Financial Year which has been paid during the Financial Year; and

(c) reducing it by the amount that would be a reduction to the Total Deferred Tax Adjustment Amount due to recognition of a loss deferred tax asset for a current year tax loss, where a loss deferred tax asset has not been recognised because the recognition criteria are not met.

(3) A deferred tax asset that has been recorded at a rate lower than the Minimum Rate may be recast at the Minimum Rate in the Financial Year such deferred tax asset becomes a GloBE Loss, if the taxpayer can demonstrate that the deferred tax asset is attributable to a GloBE Loss and the Total Deferred Tax Adjustment Amount in subsection (2) is reduced by the amount that a deferred tax asset is increased due to being recast under this subsection.

(4) To the extent a deferred tax liability, that is not a Recapture Exception Accrual, is taken into account under this section and such amount is not paid within the five subsequent Financial Years, the amount must be recaptured pursuant to this section.

(5) The Amount of the Recaptured Deferred Tax Liability determined for the current Financial Year shall be treated as a reduction to Covered Taxes in the fifth preceding Financial Year and the Effective Tax Rate and Multinational Top-up Tax of such Financial Year shall be recalculated under the rules of subsection 181(1).

(6) The Recaptured Deferred Tax Liability for the current Financial Year is the amount of the increase in a category of deferred tax liability that was included in the Total Deferred Tax Adjustment Amount in the fifth preceding Financial Year that has not reversed by the end of the last day of the current Financial Year, unless such amount relates to a Recapture Exception Accrual.

(7) For the purposes of this section—

"Disallowed Accrual" means—

(a) any movement in deferred tax expense accrued in the financial accounts of a Constituent Entity which relates to an uncertain tax position; and

(b) any movement in deferred tax expense accrued in the financial accounts of a Constituent Entity which relates to distributions from a Constituent Entity;

"Recapture Exception Accrual" means the tax expense accrued attributable to changes in associated deferred tax liabilities, in respect of—

(a) cost recovery allowances on tangible assets;

(b) the cost of a licence or similar arrangement from the government for the use of immovable property or exploitation of natural resources that entails significant investment in tangible assets;

(c) research and development expenses;

(d) de-commissioning and remediation expenses;

(e) fair value accounting on unrealised net gains;

(f) foreign currency exchange net gains;

(g) insurance reserves and insurance policy deferred acquisition costs;

(h) gains from the sale of tangible property located in the same jurisdiction as the Constituent Entity that are reinvested in tangible property in the same jurisdiction; and

(i) additional amounts accrued as a result of accounting principle changes with respect to categories under paragraphs *(a)* to *(h)*;

"Unclaimed Accrual" means any increase in a deferred tax liability recorded in the financial accounts of a Constituent Entity for a Financial Year that is not expected to be paid within the time period set forth in subsections (4) to (6) and for which the Filing Constituent Entity makes an Annual Election not to include in Total Deferred Tax Adjustment Amount for such Financial Year.

The GloBE Loss Election

172. (1) A Filing Constituent Entity may make a GloBE Loss Election for a jurisdiction in lieu of applying the rules provided under section 171.

(2) Where a GloBE Loss Election is made for a jurisdiction, a GloBE Loss Deferred Tax Asset is established in each Financial Year in which there is a Net GloBE Loss for the jurisdiction.

(3) The Net GloBE Loss of a jurisdiction is the nil or negative amount, if any, computed in accordance with the following formula:

A - B

where A is the GloBE Income of all Constituent Entities; and

B is the GloBE Losses of all Constituent Entities.

(4) The GloBE Loss Deferred Tax Asset is an amount equal to the Net GloBE Loss in a Financial Year for the jurisdiction multiplied by the Minimum Rate.

(5) The balance of the GloBE Loss Deferred Tax Asset is carried forward to subsequent Financial Years, reduced by the amount of GloBE Loss Deferred Tax Asset used in a Financial Year.

(6) The GloBE Loss Deferred Tax Asset must be used in any subsequent Financial Year in which there is Net GloBE Income for the jurisdiction in an amount equal to the lower of the Net GloBE Income multiplied by the Minimum Rate or the amount of available GloBE Loss Deferred Tax Asset.

(7) Where the GloBE Loss Election is subsequently revoked, any remaining GloBE Loss Deferred Tax Asset is reduced to zero, effective as of the first day of the first Financial Year in which the GloBE Loss Election is no longer applicable and subsequently, the deferred tax assets and liabilities for the jurisdiction, if any, will be taken into account as if they had been calculated under sections 171 and 196 for the prior Financial Year.

(8) The GloBE Loss Election must be filed with the first information return of the Multinational Enterprise Group for the first Financial Year in which the Multinational Enterprise Group has a Constituent Entity located in the jurisdiction for which the election is made.

(9) GloBE Loss Election shall not be made for a jurisdiction with an Eligible Distribution Tax System under section 191.

(10) A Flow-through Entity that is an Ultimate Parent Entity of a Multinational Enterprise Group may make a GloBE Loss Election under this section and when such an election is made, the GloBE Loss Deferred Tax Asset shall be calculated in accordance with subsections (1) to (9).

(11) Notwithstanding subsection (10), the GloBE Loss Deferred Tax Asset shall be calculated with reference to the GloBE Loss of the Flow-through Entity after reduction in accordance with subsection 189(2).

Post-filing Adjustments and Tax Rate Changes

173. (1) An adjustment to a Constituent Entity's liability for Covered Taxes for a previous Financial Year recorded in the financial accounts shall be treated as an adjustment to Covered Taxes in the Financial Year in which the adjustment is made, unless the adjustment relates to a Financial Year in which there is a decrease in Covered Taxes for the jurisdiction.

(2) In the case of a decrease in Covered Taxes included in the Constituent Entity's Adjusted Covered Taxes for a previous Financial Year, the Effective Tax Rate and Multinational Top-up Tax for such Financial Year shall be recalculated under subsection 181(1).

(3) Subject to the recalculations provided under subsection 181(1), the Adjusted Covered Taxes determined for the Financial Year shall be reduced by the amount of the decrease in Covered Taxes and GloBE Income determined for the Financial Year and any intervening Financial Years shall be adjusted as necessary and appropriate.

(4) A Filing Constituent Entity may make an Annual Election to treat an immaterial decrease in Covered Taxes as an adjustment to Covered Taxes in the Financial Year in which the adjustment is made.

(5) An immaterial decrease in Covered Taxes is an aggregate decrease of less than one million euro in the Adjusted Covered Taxes determined for the jurisdiction for a Financial Year.

(6) The amount of deferred tax expense resulting from a reduction to the applicable domestic tax rate shall be treated as an adjustment to a Constituent Entity's liability for Covered Taxes claimed under section 169 for a previous Financial Year when such reduction results in the application of a rate that is less than the Minimum Rate.

(7) The amount of deferred tax expense, when paid, that has resulted from an increase to the applicable domestic tax rate shall be treated as an adjustment under subsections (1) to (5) to a Constituent Entity's liability for Covered Taxes claimed under section 169 for a previous Financial Year when such amount was originally recorded at a rate less than the Minimum Rate.

(8) The adjustment under subsection (7) is limited to an amount that is equal to an increase of deferred tax expense up to such deferred tax expense recast at the Minimum Rate.

(9) Where more than one million euro of the amount accrued by a Constituent Entity as current tax expense and included in Adjusted Covered Taxes for a Financial Year is not paid within three years of the last day of such year, the Effective Tax Rate and Multinational Top-up Tax for the Financial Year in which the unpaid amount was claimed as a Covered Tax must be recalculated in accordance with subsection 181(1) by excluding such unpaid amount from Adjusted Covered Taxes.

Chapter 7

Computation of Effective Tax Rate and Top-up Tax

Determination of Effective Tax Rate

174. (1) The Effective Tax Rate of the Multinational Enterprise Group for a jurisdiction with Net GloBE Income shall be calculated for each Financial Year.

(2) The Effective Tax Rate of the Multinational Enterprise Group for a jurisdiction is an amount determined in accordance with the following formula:

$$\frac{A}{B}$$

where A is the sum of the Adjusted Covered Taxes of each Constituent Entity located in the jurisdiction for the Financial Year; and

B is the Net GloBE Income of the jurisdiction for the Financial Year.

(3) For the purposes of this Chapter, each Stateless Constituent Entity shall be treated as a single Constituent Entity located in a separate jurisdiction.

(4) The Net GloBE Income of a jurisdiction for a Financial Year is the positive amount, if any, computed in accordance with the following formula:

$$A - B$$

where A is the GloBE Income of all Constituent Entities, being the sum of the GloBE Income of all Constituent Entities located in the jurisdiction determined in accordance with Chapter 5 of this Part for the Financial Year; and

B is the GloBE Losses of all Constituent Entities, being the sum of the GloBE Losses of all Constituent Entities located in the jurisdiction determined in accordance with Chapter 5 of this Part for the Financial Year.

(5) The adjusted Covered Taxes and GloBE Income or Loss of Constituent Entities that are Investment Entities and Insurance Investment Entities are excluded from the determination of the Effective Tax Rate in subsections (1) to (3) and the determination of Net GloBE Income in subsection (4).

Multinational Top-up Tax Percentage

175. Multinational Top-up Tax Percentage for a jurisdiction for a Financial Year shall be the positive percentage point difference, if any, computed in accordance with the following formula:

A – B

where A is the Minimum Rate; and

B is the Effective Tax Rate determined in accordance with section 174 for the jurisdiction for the Financial Year.

Excess Profit

176. (1) The Excess Profit for the jurisdiction for the Financial Year is the positive amount, if any, computed in accordance with the following formula:

A – B

where A is the Net GloBE Income as determined under subsection 174(4) for the jurisdiction for the Financial Year; and

B is the Substance-based Income Exclusion as determined under section 180 for the jurisdiction for the Financial Year, if any.

(2) Notwithstanding subsection (1), for the purposes of Domestic Top-up Tax, Excess Profits may be computed based on an Acceptable Financial Accounting Standard permitted by an Authorised Accounting Body or an Authorised Financial Accounting Standard adjusted to prevent any Material Competitive Distortions, rather than the financial accounting standard used in the Consolidated Financial Statements.

Jurisdictional Top-up Tax

177. (1) For the purposes of a Multinational Top-up Tax, the Jurisdictional Top-up Tax for a jurisdiction for a Financial Year is equal to the positive amount, if any, computed in accordance with the following formula:

$$(A \times B) + C - D$$

where A is the Top-up Tax Percentage, being percentage point difference determined in accordance with section 175 for the jurisdiction for the Financial Year;

B is the Excess Profit as determined in accordance with section 176 for the jurisdiction for the Financial Year;

C is the Additional Current Multinational Top-up Tax, being the amount determined, or treated as Additional Current Multinational Top-up Tax, under subsection 169(3) or 181(1) for the jurisdiction for the Financial Year; and

D is the Domestic Top-up Tax, being the amount payable under a Qualified Domestic Top-up Tax of the jurisdiction for the Financial Year.

(2) Notwithstanding subsection (1), for the purposes of Domestic Top-up Tax, the Jurisdictional Top-up Tax for a jurisdiction for a Financial Year is equal to the positive amount, if any, computed in accordance with the following formula:

$$(A \times B) + C$$

where A is the Top-up Tax Percentage, being percentage point difference determined in accordance with section 175 for the jurisdiction for the Financial Year;

B is the Excess Profit as determined in accordance with section 176 for the jurisdiction for the Financial Year; and

C is the Additional Current Multinational Top-up Tax, being the amount determined, or treated as Additional Current Multinational Top-up Tax, under subsections 169(3) to (4) or subsection 181(1) for the jurisdiction for the Financial Year.

Multinational Top-up Tax of a Constituent Entity

178. Except as provided in subsections 181(3) to (5), the Multinational Top-up Tax of a Constituent Entity shall be determined for each Constituent Entity of a jurisdiction that has GloBE Income determined in accordance with Chapter 5 of this Part for the Financial Year included in the computation of Net GloBE Income of that jurisdiction in accordance with the following formula:

$$A \times \frac{B}{C}$$

where A is the jurisdictional Top-up Tax as determined in accordance with subsection 177(1) or (2), as the case may be, for the jurisdiction for the Financial Year;

B is the GloBE Income of the Constituent Entity, being the GloBE Income of the Constituent Entity determined in accordance with section 165 for the jurisdiction for the Financial Year; and

C is the aggregate GloBE Income of all Constituent Entities that have GloBE Income for the Financial Year included in the computation of Net GloBE Income in accordance with subsection 174(4) for the jurisdiction for the Financial Year.

Allocation of tax for jurisdiction with no Net GloBE Income

179. Where the jurisdictional Multinational Top-up Tax is attributable to a recalculation under subsection 181(1) and the jurisdiction does not have Net GloBE Income for the current Financial Year, Multinational Top-up Tax shall be allocated using the formula in section 178 based on the GloBE Income of the Constituent Entities in the Financial Years for which the recalculations under subsection 181(1) were made.

Substance-based Income Exclusion

180. (1) The Net GloBE Income for the jurisdiction shall be reduced by the Substance-based Income Exclusion for the jurisdiction to determine the Excess Profit for the purpose of computing the Multinational Top-up Tax under sections 175 to 179.

(2) A Filing Constituent Entity of a Multinational Enterprise Group may make an Annual Election not to apply the Substance-based Income Exclusion for a jurisdiction by not computing the exclusion or claiming it in the computation of Multinational Top-up Tax for the jurisdiction in the information return filed for the Financial Year.

(3) The Substance-based Income Exclusion amount for a jurisdiction is the sum of the payroll carve-out and the tangible asset carve-out for each Constituent Entity, except for Constituent Entities that are Investment Entities, in that jurisdiction.

(4) The payroll carve-out for a Constituent Entity located in a jurisdiction is equal to five per cent of its Eligible Payroll Costs of Eligible Employees that perform activities for the Multinational Enterprise Group in such jurisdiction, except Eligible Payroll costs that are—

(a) capitalised and included in the carrying value of Eligible Tangible Assets;

(b) attributable to a Constituent Entity's International Shipping Income and Qualified Ancillary International Shipping Income under subsections 166(4) to (6) that is excluded from the computation of GloBE Income or Loss for the Financial Year.

(5) The tangible asset carve-out for a Constituent Entity located in a jurisdiction is equal to five per cent of the carrying value of Eligible Tangible Assets located in such jurisdiction.

(6) For this purpose, the tangible asset carve-out computation shall not include the carrying value of property including land or buildings that is held for sale, lease or investment.

(7) The tangible asset carve-out computation shall not include the carrying value of tangible assets used in the generation of a Constituent Entity's International Shipping Income and Qualified Ancillary International Shipping Income such as ships and other maritime equipment and infrastructure.

(8) The carrying value of tangible assets attributable to a Constituent Entity's excess income over the limit for Qualified Ancillary International Shipping Income under subsection 166(3) shall be included in the tangible asset carve-out computation.

(9) The computation of carrying value of Eligible Tangible Assets for the purposes of subsections (5) to (8) shall be based on the average of the carrying value after deducting any accumulated depreciation, amortisation, or depletion and including any amount attributable to capitalisation of payroll expense at the beginning and ending of the Reporting Financial Year as recorded for the purpose of preparing the Consolidated Financial Statements of the Ultimate Parent Entity.

(10) For the purposes of subsections (4) to (8), the Eligible Payroll Costs and Eligible Tangible Assets of a Constituent Entity that is a Permanent Establishment are those included in its separate financial accounts as determined by subsections 167(1) and (2) and adjusted in accordance with subsection 167(3), provided that the Eligible Employees and Eligible Tangible Assets are located in the jurisdiction where the Permanent Establishment is located.

(11) The Eligible Payroll Costs and Eligible Tangible Assets of a Permanent Establishment are not taken into account for the Eligible Payroll Costs and Eligible Tangible Assets of the Main Entity.

(12) The Eligible Payroll Costs and Eligible Tangible Assets of a Permanent Establishment whose income has been wholly or partly excluded in accordance with subsections 168(3) and 189(4) are excluded from the Substance-based Income Exclusion computations of the Multinational Enterprise Group in the same proportion.

(13) For the purposes of subsections (4) to (8), Eligible Payroll Costs and Eligible Tangible Assets of a Flow-through Entity that are not allocated under subsections (10) to (12) are allocated in the following manner:

(a) if the Financial Accounting Net Income or Loss of the Flow-through Entity has been allocated to the Constituent Entity-owner under paragraph 168(1)*(b)*, then the Entity's Eligible Payroll Costs and Eligible Tangible Assets are allocated in the same proportion to the Constituent Entity-owner provided it is located in the jurisdiction where the Eligible Employees and Eligible Tangible Assets are located;

(b) if the Flow-through Entity is the Ultimate Parent Entity, then Eligible Payroll Costs and Eligible Tangible Assets located in the jurisdiction where the Ultimate Parent Entity is located are allocated to it and reduced in proportion to the income that is excluded under subsection 189(1); and

(c) all other Eligible Payroll Costs and Eligible Tangible Assets of the Flow-through Entity are excluded from the Substance-based Income Exclusion computations of the Multinational Enterprise Group.

Additional Current Multinational Top-up Tax

181. (1) If the Effective Tax Rate and Multinational Top-up Tax for a prior Financial Year is required or permitted to be recalculated pursuant to the Effective Tax Rate Adjustment Provisions—

(a) the Effective Tax Rate and Multinational Top-up Tax for the prior Financial Year shall be recalculated in accordance with the rules of sections 174 to 180 after taking into account the adjustments to Adjusted Covered Taxes and GloBE Income or Loss required by the relevant Effective Tax Rate Adjustment Provisions; and

(b) any amount of incremental Multinational Top-up Tax resulting from such recalculation shall be treated as Additional Current Multinational Top-up Tax under section 177 arising in the current Financial Year.

(2) If there is Additional Current Multinational Top-up Tax attributable to a recalculation under subsection (1) and the jurisdiction does not have Net GloBE Income for the current Financial Year, the GloBE Income of each Constituent Entity located in the jurisdiction for the purposes of subsection 162(2) shall be equal to the result of the Multinational Top-up Tax allocated to such Entity under sections 178 and 179 divided by the Minimum Rate.

(3) If there is Additional Current Multinational Top-up Tax attributable to the operation of subsections 169(3) and (4), the GloBE Income of each Constituent Entity located in the jurisdiction for the purposes of subsection 162(2) shall be equal to the result of the Multinational Top-up Tax allocated to such Entity under this paragraph divided by the Minimum Rate.

(4) The amount of Additional Current Multinational Top-up Tax allocated to each Constituent Entity for the purposes of this section shall be allocated only to Constituent Entities that record an Adjusted Covered Taxes amount that is less than zero and less than the GloBE Income or Loss of such Constituent Entity multiplied by the Minimum Rate.

(5) The allocation shall be made *pro rata* based upon an amount determined for each of those Constituent Entities according to the following formula:

$$(A \times B) - C$$

where A is the GloBE Income or Loss;

B is the Minimum Rate; and

C is the Adjusted Covered Taxes.

(6) If a Constituent Entity is allocated Additional Current Multinational Top-up Tax pursuant to this section and section 178, such Constituent Entity shall be treated as a Low-Taxed Constituent Entity for the purposes of Chapter 4 of this Part.

(7) For the purposes of this section, "Effective Tax Rate Adjustment Provisions" means the adjustment provisions under—

(a) subsections 165(16) to (19);

(b) subsections 171(4) to (6);

(c) subsections 173(1) to (5) and (9); and

(d) section 191.

***De minimis* exclusion**

182. (1) Notwithstanding the requirements provided in this Chapter, at the election of the Filing Constituent Entity, the Multinational Top-up Tax for the Constituent Entities located in a jurisdiction shall be deemed to be zero for a Financial Year if for such Financial Year—

(a) the Average GloBE Revenue of such jurisdiction is less than ten million euro; and

(b) the Average GloBE Income or Loss of such jurisdiction is a loss or is less than one million euro.

(2) The election under subsection (1) is an Annual Election.

(3) If there were no Constituent Entities with GloBE Revenue or GloBE Losses that were located in the jurisdiction in the first or second preceding Financial Year, such year or years shall be excluded from the calculation of the Average GloBE Revenue and the Average GloBE Income or Loss of the relevant jurisdiction.

(4) For the purposes of subsection (3)—

(a) the GloBE Revenue of a jurisdiction for a Financial Year is the sum of the revenue of all Constituent Entities located in the jurisdiction for such Financial Year, taking into account the adjustments calculated in accordance with Chapter 5 of this Part; and

(b) the GloBE Income or Loss of a jurisdiction for a Financial Year is the Net GloBE Income of that jurisdiction, if any, or the Net GloBE Loss of that jurisdiction.

(5) An election under this section shall not apply to a Constituent Entity that is a Stateless Constituent Entity or an Investment Entity and the revenue and GloBE Income or Loss of a Stateless Constituent Entity and of an Investment Entity shall be excluded from the computations in subsection (4).

(6) For the purposes of this section—

"Average GloBE Income or Loss" means an average of the GloBE Income or Loss of a jurisdiction for the current and the two preceding Financial Years;

"Average GloBE Revenue" means the average of the GloBE Revenue of a jurisdiction for the current and the two preceding Financial Years.

Minority-Owned Constituent Entity

183. (1) The computation of the Effective Tax Rate and Multinational Top-up Tax for a jurisdiction in accordance with Chapters 5 to 10 of this Part with respect to members of a Minority-Owned Subgroup shall apply as if they were a separate Multinational Enterprise Group.

(2) The Adjusted Covered Taxes and GloBE Income or Loss of members of a Minority-Owned Subgroup are excluded from the determination of the remainder of the Effective Tax Rate of the Multinational Enterprise Group in subsections 174(1) to (3) and Net GloBE Income in subsection 174(4).

(3) The Effective Tax Rate and Multinational Top-up Tax of a Minority-Owned Constituent Entity that is not a member of a Minority-Owned Subgroup is computed on an entity basis in accordance with Chapters 5 to 10 of this Part.

(4) The Adjusted Covered Taxes and GloBE Income or Loss of the Minority-Owned Constituent Entity are excluded from the determination of the remainder of the Multinational Enterprise Group's Effective Tax Rate in subsections 174(1) to (3) and Net GloBE Income in subsection 174(4).

(5) Subsection (4) does not apply if the Minority-Owned Constituent Entity is an Investment Entity.

(6) A Minority-Owned Constituent Entity whose Controlling Interests are held, directly or indirectly, by a Minority-Owned Parent Entity is a Minority-Owned Subsidiary.

(7) For the purposes of this section—

"Minority-Owned Parent Entity" means a Minority-Owned Constituent Entity that holds, directly or indirectly, the Controlling Interests of another Minority-Owned Constituent Entity, except where the Controlling Interests of the first-mentioned Entity are held, directly or indirectly, by another Minority-Owned Constituent Entity;

"Minority-Owned Subgroup" means a Minority-Owned Parent Entity and its Minority-Owned Subsidiaries.

Chapter 8

Corporate restructurings and holding structures

Application of consolidated revenue threshold to group mergers and demergers

184. (1) For the purposes of section 158—

(a) if two or more Groups merge to form a single Group in any of the four Financial Years prior to the tested Financial Year, then the consolidated revenue threshold of the Multinational Enterprise Group for any Financial Year prior to the merger is deemed to be met for that year if the sum of the revenue included in each of their Consolidated Financial Statements for that year is equal to or greater than seven hundred and fifty million euro;

(b) where an Entity that is not a member of any Group (hereinafter referred to as "acquirer") acquires or merges with an Entity or Group (hereinafter referred to as "target") in the tested Financial Year and the target or acquirer does not have Consolidated Financial Statements in any of the four Financial Years prior to the tested Financial Year because it was not a member of any Group in that year, the consolidated revenue threshold of the Multinational Enterprise Group is deemed to be met for that year if the sum of the revenue included in each of their Financial Statements or Consolidated Financial Statements for that year is equal to or greater than seven hundred and fifty million euro;

(c) where a single Multinational Enterprise Group within the scope of this Part demerges into two or more Groups (hereinafter referred to as "demerged Group"), the consolidated revenue threshold is deemed to be met by a demerged Group—

(i) with respect to the first tested Financial Year ending after the demerger, if the demerged Group has annual revenues of seven hundred and fifty million euro or more in that year;

(ii) with respect to the second to fourth tested Financial Years ending after the demerger, if the demerged Group has annual revenues of seven hundred and fifty million euro or more in at least two of the Financial Years following the year of the demerger.

(2) For the purposes of subsection (1)—

(a) a merger is any arrangement where—

(i) all or substantially all of the Group Entities of two or more separate Groups are brought under common control such that they constitute Group Entities of a combined Group; or

(ii) an Entity that is not a member of any Group is brought under common control with another Entity or Group such that they constitute Group Entities of a combined Group;

(b) a demerger is any arrangement where the Group Entities of a single Group are separated into two or more Groups that are no longer consolidated by the same Ultimate Parent Entity.

Constituent Entities joining and leaving a Multinational Enterprise Group

185. (1) Except to the extent provided in subsection (2), the following provisions apply where an Entity (hereinafter referred to as "the target Entity") becomes or ceases to be a Constituent Entity of a Multinational Enterprise Group as a result of a transfer of direct or indirect Ownership Interests in such Entity during the Financial Year (hereinafter referred to as "the acquisition year"):

(a) where the target Entity joins or leaves a Group or the target Entity becomes the Ultimate Parent Entity of a new Group, the target Entity will be treated as a member of the Group for the purposes of this Part if any portion of its assets, liabilities, income, expenses or cash flows are included on a line-by-line basis in the Consolidated Financial Statements of the Ultimate Parent Entity in the acquisition year;

(b) in the acquisition year, a Multinational Enterprise Group shall take into account only the Financial Accounting Net Income or Loss and Adjusted Covered Taxes of the target Entity that are taken into account in the Consolidated Financial Statements of the Ultimate Parent Entity for the purposes of applying this Part;

(c) in the acquisition year and each succeeding year, the target Entity shall determine its GloBE Income or Loss and Adjusted Covered Taxes using its historical carrying value of the assets and liabilities;

(d) the computation of the Eligible Payroll Costs of the target Entity under subsection 180(4) shall take into account only those costs reflected in the Consolidated Financial Statements of the Ultimate Parent Entity;

(e) the computation of carrying value of the Eligible Tangible Assets of the target entity for the purposes of subsections 180(5) to (8) shall be adjusted proportionally to correspond with the length of the relevant Financial Year that the target Entity was a member of the Multinational Enterprise Group;

(f) with the exception of the GloBE Loss Deferred Tax Asset, the deferred tax assets and deferred tax liabilities of a Constituent Entity that are transferred between Multinational Enterprise Groups shall be taken into account under this Part by the acquiring Multinational Enterprise Group in the same manner and to the same extent as if the acquiring Multinational Enterprise Group controlled the Constituent Entity when such assets and liabilities arose;

(g) deferred tax liabilities of a target Entity that have previously been included in its Total Deferred Tax Adjustment Amount shall be treated as reversed for the purpose of applying subsections 171(4) to (6) by the disposing Multinational Enterprise Group and treated as arising in the acquisition year for the purpose of applying subsections 171(4) to (6) by the acquiring Multinational Enterprise Group, except that in such cases any subsequent reduction to Covered Taxes under subsections 171(4) to (6) shall have effect in the year in which the amount is recaptured; and

(h) if the target Entity is a Parent Entity and it is a Group Entity of two or more Multinational Enterprise Groups during the acquisition year, it shall apply separately the provisions of the Income Inclusion Rule to its Allocable Shares of the Multinational Top-up Tax of Low-Taxed Constituent Entities determined for each Multinational Enterprise Group.

(2) For the purposes of this Part, the acquisition or disposal of a Controlling Interest in a Constituent Entity will be treated as an acquisition or disposal of the assets and liabilities if the jurisdiction in which the target Constituent Entity is located, or in the case of a Tax Transparent Entity, the jurisdiction in which the assets are located, treats the acquisition or disposal of that Controlling Interest in the same or similar manner as an acquisition or disposition of the assets and liabilities and imposes a Covered Tax on the seller based on the difference between their tax basis and the consideration paid in exchange for the Controlling Interest or the fair value of the assets and liabilities.

Transfer of assets and liabilities

186. (1) In the case of a disposition or acquisition of assets and liabilities, a disposing Constituent Entity will include the gain or loss on disposition in the computation of its GloBE Income or Loss and an acquiring Constituent Entity will determine its GloBE Income or Loss using the acquiring Constituent Entity's carrying value of the acquired assets and liabilities determined under the accounting standard used in preparing Consolidated Financial Statements of the Ultimate Parent Entity.

(2) If the disposition or acquisition of assets and liabilities is part of a GloBE Reorganisation, subsection (1) shall not apply and—

(a) a disposing Constituent Entity will exclude any gain or loss on the disposition from the computation of its GloBE Income or Loss; and

(b) an acquiring Constituent Entity will determine its GloBE Income or Loss after the acquisition using the disposing Entity's carrying values of the acquired assets and liabilities upon disposition.

(3) If a disposition or acquisition of assets and liabilities is part of a GloBE Reorganisation in which a disposing Constituent Entity recognises Non-qualifying Gain or Loss, subsections (1) and (2) shall not apply and—

(a) the disposing Constituent Entity will include gain or loss on the disposition in its GloBE Income or Loss computation to the extent of the Non-qualifying Gain or Loss; and

(b) an acquiring Constituent Entity will determine its GloBE Income or Loss after the acquisition using the disposing Entity's carrying value of the acquired assets and liabilities upon disposition adjusted consistent with local tax rules to account for the Non-qualifying Gain or Loss.

(4) At the election of the Filing Constituent Entity, a Constituent Entity of a Multinational Enterprise Group that is required or permitted to adjust the basis of its assets and the amount of its liabilities to fair value for tax purposes in the jurisdiction in which it is located, shall—

(a) include in the computation of its GloBE Income or Loss an amount of gain or loss in respect of each of its assets and liabilities that is equal to the difference between the carrying value for financial accounting purposes of the asset or liability immediately before and the fair value of the asset or liability immediately after the date of the event that triggered the tax adjustment (hereinafter referred to as "the triggering event") and decreased or increased by the Non-qualifying Gain or Loss, if any, arising in connection with the triggering event;

(b) use the fair value for financial accounting purposes of the asset or liability immediately after the triggering event to determine GloBE Income or Loss in Financial Years ending after the triggering event; and

(c) include the net total of the amounts determined in paragraph *(a)* in the Constituent Entity's GloBE Income or Loss in one of the following manner:

(i) the net total of the amounts is included in the Financial Year in which the triggering event occurs; or

(ii) an amount equal to the net total of the amounts divided by five is included in the Financial Year in which the triggering event occurs and in each of the immediate four subsequent Financial Years, unless the Constituent Entity leaves the Multinational Enterprise Group in a Financial Year within this period, in which case the remaining amount will be wholly included in that Financial Year.

Joint Ventures

187. (1) For each Financial Year, this Part shall apply to a Joint Venture and its Joint Venture Subsidiaries in the following manner:

(a) Chapters 5 to 10 of this Part shall apply for the purpose of computing any Multinational Top-up Tax of the Joint Venture and its Joint Venture Subsidiaries as if they were Constituent Entities of a separate Multinational Enterprise Group and as if the Joint Venture was the Ultimate Parent Entity of that Group;

(b) a Parent Entity that holds directly or indirectly Ownership Interests in the Joint Venture or a Joint Venture Subsidiary shall apply the Income Inclusion Rule with respect to its Allocable Share of the Multinational Top-up Tax of a member of the Joint Venture Group in accordance with Chapter 4 of this Part; and

(c) the Joint Venture Group Top-up Tax shall be reduced by each Parent Entity's Allocable Share of the Multinational Top-up Tax of each member of the Joint Venture Group that is brought into charge under a Qualified Income Inclusion Rule under paragraph *(b)*.

(2) A Permanent Establishment whose Main Entity is the Joint Venture or a Joint Venture Subsidiary shall be treated as a separate Joint Venture Subsidiary.

(3) For the purposes of this section, "Joint Venture Group Top-up Tax" means the Ultimate Parent Entity's Allocable Share of the Multinational Top-up Tax of all members of the Joint Venture Group.

Multi-Parented Multinational Enterprise Groups

188. (1) The following provisions shall apply to Multi-Parented Multinational Enterprise Groups:

(a) the Entities and Constituent Entities of each Group are treated as members of a single Multinational Enterprise Group for the purposes of this Part;

(b) an Entity other than an Excluded Entity shall be treated as a Constituent Entity if it is consolidated on a line-by-line basis by the Multi-Parented Multinational Enterprise Group or its Controlling Interests are held by Entities in the Multi-Parented Multinational Enterprise Group;

(c) the Consolidated Financial Statements of the Multi-Parented Multinational Enterprise Group shall be the Consolidated Financial Statements referred to in the definition of Stapled Structure or Dual-listed Arrangement as relevant prepared under an Acceptable Financial Accounting Standard, which is deemed to be the accounting standard of the Ultimate Parent Entity;

(d) the Ultimate Parent Entities of the separate Groups that comprise the Multi-Parented Multinational Enterprise Group shall be the Ultimate Parent Entities of the Multi-Parented Multinational Enterprise Group;

(e) the Parent Entities of the Multi-Parented Multinational Enterprise Group including each Ultimate Parent Entity located in Malaysia shall apply the Income Inclusion Rule in accordance with Chapter 4 of this Part with respect to their Allocable Share of the Top-up Tax of the Low-Taxed Constituent Entity; and

(f) the Ultimate Parent Entities are required to submit the information return in accordance with section 201, unless they appoint a single Designated Filing Entity and that return shall include the information concerning each of the Groups that comprise the Multi-Parented Multinational Enterprise Group.

(2) When applying this Part in respect of a Multi-Parented Multinational Enterprise Group, references to an Ultimate Parent Entity shall apply as if they were references to multiple Ultimate Parent Entities.

(3) For the purposes of this section—

"Dual-listed Arrangement" means an arrangement entered into by two or more Ultimate Parent Entities of separate Groups, under which—

(a) the Ultimate Parent Entities agree to combine their business by contract alone;

(b) pursuant to contractual arrangements the Ultimate Parent Entities will make distributions with respect to dividends and in liquidation to their shareholders based on a fixed ratio;

(c) their activities are managed as a single economic entity under contractual arrangements while retaining their separate legal identities;

(d) the Ownership Interests in the Ultimate Parent Entities comprising the agreement are quoted, traded or transferred independently in different capital markets; and

(e) the Ultimate Parent Entities prepare Consolidated Financial Statements in which the assets, liabilities, income, expenses and cash flows of all the Entities of the Groups are presented together as those of a single economic unit and that are required by a regulatory regime to be externally audited;

"Multi-Parented Multinational Enterprise Group" means two or more Groups where—

(a) the Ultimate Parent Entities of those Groups enter into an arrangement that is a Stapled Structure or a Dual-listed Arrangement; and

(b) at least one Entity or Permanent Establishment of the combined Group is located in a different jurisdiction with respect to the location of the other Entities of the combined Group;

"Stapled Structure" means an arrangement entered into by two or more Ultimate Parent Entities of separate Groups, under which—

(a) fifty per cent or more of the Ownership Interests in the Ultimate Parent Entities of the separate Groups are by reason of form of ownership, restrictions on transfer, or other terms or conditions combined with each other, and cannot be transferred or traded independently and if the combined Ownership Interests are listed, they are quoted at a single price; and

(b) one of those Ultimate Parent Entities prepares Consolidated Financial Statements in which the assets, liabilities, income, expenses and cash flows of all the Entities of the Groups are presented together as those of a single economic unit and that are required by a regulatory regime to be externally audited.

Chapter 9

Tax neutrality and distribution regimes

Ultimate Parent Entity that is a Flow-through Entity

189. (1) The GloBE Income for a Financial Year of a Flow-through Entity that is the Ultimate Parent Entity of a Multinational Enterprise Group shall be reduced by the amount of GloBE Income attributable to each Ownership Interest if—

(a) the holder of the Ownership Interest is subject to tax on such income for a taxable period that ends within twelve months of the end of the Financial Year of the Multinational Enterprise Group and—

(i) the holder of the Ownership Interest is subject to tax on the full amount of such income at a nominal rate that equals or exceeds the Minimum Rate; or

(ii) it can be reasonably expected that the aggregate amount of Covered Taxes paid by the Ultimate Parent Entity and other Entities that are part of the Tax Transparent Structure and Taxes of the holder of the Ownership Interest on such income equals or exceeds the amount that results from multiplying the full amount of such income by the Minimum Rate; or

(b) the holder is a natural person that—

(i) is a tax resident in the Ultimate Parent Entity Jurisdiction; and

(ii) holds Ownership Interests that, in the aggregate, are a right to five per cent or less of the profits and assets of the Ultimate Parent Entity; or

(c) the holder is a Governmental Entity, an International Organisation, a Non-profit Organisation, or a Pension Fund that—

(i) is resident in the Ultimate Parent Entity Jurisdiction; and

(ii) holds Ownership Interests that, in the aggregate, are a right to five per cent or less of the profits and assets of the Ultimate Parent Entity.

(2) In computing its GloBE Loss for a Financial Year, a Flow-through Entity that is the Ultimate Parent Entity of a Multinational Enterprise Group shall reduce its GloBE Loss for such Financial Year by the amount of GloBE Loss attributable to each Ownership Interest, except to the extent that the holders of Ownership Interests are not allowed to use the loss in computing their separate taxable income.

(3) A Flow-through Entity that reduces its GloBE Income pursuant to subsection (1) shall reduce its Covered Taxes proportionally.

(4) Subsections (1) to (3) shall apply to a Permanent Establishment through which—

(a) a Flow-through Entity that is the Ultimate Parent Entity of a Multinational Enterprise Group wholly or partly carries out its business; or

(b) the business of a Tax Transparent Entity is wholly or partly carried out if the Ultimate Parent Entity's Ownership Interest in that Tax Transparent Entity is held directly or through a Tax Transparent Structure.

Ultimate Parent Entity subject to Deductible Dividend Regime

190. (1) For the purpose of computing its GloBE Income or Loss for a Financial Year, an Ultimate Parent Entity that is subject to a Deductible Dividend Regime shall reduce but not below zero its GloBE Income for such Financial Year by the amount that is distributed as a Deductible Dividend within twelve months of the end of the Financial Year if—

(a) the dividend is subject to tax in the hands of the dividend recipient for a taxable period that ends within twelve months of the end of the Ultimate Parent Entity's Financial Year, and—

(i) the dividend recipient is subject to tax on such dividend at a nominal rate that equals or exceeds the Minimum Rate;

(ii) it can be reasonably expected that the aggregate amount of Covered Taxes paid by the Ultimate Parent Entity and Taxes paid by the dividend recipient on the dividend income equals or exceeds the amount that results from multiplying the full amount of such income by the Minimum Rate; or

(iii) the dividend recipient is a natural person and the dividend is a patronage dividend from a supply Cooperative; or

(b) the dividend recipient is a natural person that—

(i) is a tax resident in the Ultimate Parent Entity Jurisdiction; and

(ii) holds Ownership Interests that, in the aggregate, are a right to five per cent or less of the profits and assets of the Ultimate Parent Entity; or

(c) the dividend recipient is resident in the Ultimate Parent Entity Jurisdiction and is—

(i) a Governmental Entity;

(ii) an International Organisation;

(iii) a Non-profit Organisation; or

(iv) a Pension Fund that is not a Pension Services Entity.

(2) An Ultimate Parent Entity that reduces its GloBE Income pursuant to subsection (1) shall reduce its Covered Taxes other than the Taxes for which the dividend deduction was allowed proportionally and shall reduce its GloBE Income by the same amount.

(3) If the Ultimate Parent Entity holds an Ownership Interest in another Constituent Entity subject to the Deductible Dividend Regime directly or through a chain of such Constituent Entities, subsections (1) and (2) shall apply to each other Constituent Entity in the Ultimate Parent Entity Jurisdiction that is subject to the Deductible Dividend Regime to the extent that its GloBE Income is further distributed by the Ultimate Parent Entity to recipients that meet the requirements of subsection (1).

(4) The patronage dividends from a supply Cooperative are subject to tax to the extent they reduce an expense or cost that is deductible in the computation of the taxable income of the recipient.

(5) For the purposes of this section—

"Cooperative" means an Entity that collectively markets or acquires goods or services on behalf of its members and that is subject to a tax regime in the jurisdiction in which it is located that is designed to ensure tax neutrality in respect of members' property or services sold through the Cooperative and property or services acquired by members through the Cooperative;

"Deductible Dividend" means, with respect to a Constituent Entity that is subject to a Deductible Dividend Regime—

(a) a distribution of profits to the holder of an Ownership Interest that is deductible from taxable income of the Constituent Entity under the laws of the jurisdiction in which it is located; or

(b) a patronage dividend to a member of a Cooperative;

"Deductible Dividend Regime" means—

(a) a tax regime designed to yield a single level of taxation on the owners of an Entity through a deduction from the income of the Entity for distributions of profits to the owners (for this purpose, patronage dividends of a Cooperative are treated as distributions to owners); or

(b) a regime applicable to Cooperatives that exempts the Cooperative from taxation.

Eligible Distribution Tax Systems

191. (1) A Filing Constituent Entity may make an Annual Election with respect to a Constituent Entity that is subject to an Eligible Distribution Tax System to add the amount of Deemed Distribution Tax to Adjusted Covered Taxes for the Financial Year.

(2) An election under this section shall apply to all Constituent Entities located in the jurisdiction.

(3) An annual Deemed Distribution Tax Recapture Account is established for each Financial Year in which the election in this section applies.

(4) A Deemed Distribution Tax Recapture Account is increased by the amount of the Deemed Distribution Tax as determined in accordance with the definition of "Deemed Distribution Tax" for the jurisdiction for the Financial Year for which it was established.

(5) At the end of each succeeding Financial Year, the outstanding balances of Deemed Distribution Tax Recapture Accounts established for prior Financial Years are reduced in chronological order and to the extent thereof, but not below zero—

(a) first by Taxes paid by the Constituent Entities during the Financial Year in relation to actual or deemed distributions;

(b) then by the amount of any Net GloBE Loss of the jurisdiction multiplied by the Minimum Rate; and

(c) then by any amount of Recapture Account Loss Carry-forward applied to the current Financial Year pursuant to subsections (6) to (8).

(6) A Recapture Account Loss Carry-forward shall be established for the jurisdiction when the amount described in paragraph (5)*(b)* exceeds the outstanding balance of the Deemed Distribution Tax Recapture Accounts.

(7) The Recapture Account Loss Carry-forward shall be in an amount equal to such excess and shall be taken into account in subsequent Financial Years as a reduction to Deemed Distribution Tax Recapture Accounts in such Financial Years.

(8) When such amount is taken into account in a subsequent Financial Year, the Recapture Account Loss Carry-forward must be reduced by that amount.

(9) If there is an outstanding balance of a Deemed Distribution Tax Recapture Account maintained in accordance with subsections (3) to (5) on the last day of the fourth Financial Year after the Financial Year for which such account was established, the Effective Tax Rate and Multinational Top-up Tax for the Financial Year for which the account was established must be recalculated under subsection 181(1) by treating the balance of the Deemed Distribution Tax Recapture Account as a reduction to the Adjusted Covered Taxes previously determined for such year.

(10) Taxes paid during the Financial Year in relation to actual or deemed distributions are not included in Adjusted Covered Taxes to the extent they reduce a Deemed Distribution Tax Recapture Account under subsections (3) to (5).

(11) In the Financial Year that a Departing Constituent Entity leaves the Multinational Enterprise Group or transfers substantially all of its assets outside the Multinational Enterprise Group or outside the jurisdiction—

(a) the Effective Tax Rate and Multinational Top-up Tax for each preceding year for which a Deemed Distribution Tax Recapture Account is outstanding is re-calculated in accordance with the principles of subsection 181(1) by treating the balance of the Deemed Distribution Tax Recapture Account as a reduction to the Adjusted Covered Taxes previously determined for such year; and

(b) any amount of incremental Multinational Top-up Tax resulting from such recalculation shall be multiplied by the Disposition Recapture Ratio to determine the Additional Current Multinational Top-up Tax for the purposes of subsection 177(1).

(12) The Disposition Recapture Ratio is determined for each Departing Constituent Entity in accordance with the following formula:

$$\frac{A}{B}$$

where A is the GloBE Income of the Constituent Entity, being the sum of GloBE Income of the Departing Constituent Entity determined in accordance with Chapter 5 of this Part for each Financial Year corresponding to the Deemed Distribution Tax Recapture Accounts for the jurisdiction; and

B is the Net Income of the Jurisdiction as determined in accordance with subsection 174(4) for each Financial Year corresponding to the Deemed Distribution Tax Recapture Accounts for the jurisdiction.

(13) For the purposes of this section—

"Deemed Distribution Tax" means the lesser of—

(a) the amount necessary to increase the Effective Tax Rate computed under section 175 for the jurisdiction for the Financial Year to the Minimum Rate; or

(b) the amount of distribution tax that would have been due if the Constituent Entities located in the jurisdiction had distributed all of their income that is subject to the Eligible Distribution Tax Regime during such year;

"Deemed Distribution Tax Recapture Account" means an account maintained in accordance with subsections (3) to (5);

"Departing Constituent Entity" means a Constituent Entity that is subject to an election under subsections 191(1) and (2) and that leaves the Multinational Enterprise Group or transfers substantially all of its assets to a person that is not a Constituent Entity of the same Multinational Enterprise Group located in the same jurisdiction;

"Disposition Recapture Ratio" means a ratio as determined in subsection (12).

Effective Tax Rate Computation for Investment Entities

192. (1) This section shall apply to Constituent Entities that meet the definition of an Investment Entity, except Investment Entities that are Tax Transparent Entities or subject to an election under section 193 or 194.

(2) The Effective Tax Rate for an Investment Entity that is a Constituent Entity shall be calculated separately from the Effective Tax Rate of the jurisdiction in which it is located.

(3) The Effective Tax Rate for each such Investment Entity is equal to the Investment Entity's Adjusted Covered Taxes divided by the Multinational Enterprise Group's Allocable Share of the Investment Entity's GloBE Income determined under Chapter 5 of this Part.

(4) If there is more than one Investment Entity located in the jurisdiction, the Adjusted Covered Taxes and the Multinational Enterprise Group's Allocable Share of each Investment Entity's GloBE Income or Loss determined for each such Investment Entity are combined to compute the Effective Tax Rate of all such Investment Entities.

(5) An Investment Entity's Adjusted Covered Taxes is the sum of the Adjusted Covered Taxes determined for the Investment Entity under section 169 attributable to the Multinational Enterprise Group's Allocable Share of the Investment Entity's GloBE Income and the Covered Taxes allocated to the Investment Entity under section 170.

(6) The Investment Entity's Adjusted Covered Taxes does not include any Covered Taxes accrued by the Investment Entity attributable to income that is not part of the Multinational Enterprise Group's Allocable Share of the Investment Entity's GloBE Income.

(7) The Multinational Enterprise Group's Allocable Share of the Investment Entity's GloBE Income is equal to the Allocable Share of the Investment Entity's GloBE Income or Loss that would be determined for the Ultimate Parent Entity in accordance with the rules of subsection 162(2) taking into account only interests that are not subject to an election under section 193 or 194.

(8) The Multinational Top-up Tax of a Constituent Entity that is an Investment Entity shall be an amount determined in accordance with the following formula:

$$A \times (B - C)$$

where A is the Multinational Top-up Tax Percentage for the Investment Entity;

B is the Investment Entity's GloBE Income; and

C is the Substance-based Income Exclusion for the Investment Entity.

(9) The Multinational Top-up Tax Percentage for an Investment Entity shall be the percentage point excess, if any, determined in accordance with the following formula:

$$(A - B)$$

where A is the Minimum Rate; and

B is the Effective Tax Rate of the Investment Entity.

(10) If there is more than one Investment Entity located in the jurisdiction, the Investment Entity's GloBE Income and the Substance-based Income Exclusion determined for each such Investment Entity are combined to compute the Multinational Top-up Tax Percentage of all such Investment Entities.

(11) Notwithstanding subsection 180(3), the Substance-based Income Exclusion for an Investment Entity shall be determined in accordance with section 180, and by taking into account only Eligible Tangible Assets and Eligible Payroll Costs of Eligible Employees of the Investment Entities.

(12) For the purposes of this section, "Multinational Enterprise Group's Allocable Share of the Investment Entity's GloBE Income" means an amount equal to the Allocable Share of the Investment Entity's GloBE Income or Loss that would be determined for the Ultimate Parent Entity in accordance with the rules of subsection 162(2) taking into account only interests that are not subject to an election under section 193 or 194.

Investment Entity Tax Transparency Election

193. (1) A Filing Constituent Entity may elect to treat a Constituent Entity that is an Investment Entity or an Insurance Investment Entity as a Tax Transparent Entity if the Constituent Entity-owner is subject to tax in its location under a mark-to-market or similar regime based on the annual changes in the fair value of its Ownership Interest in the Entity and the tax rate applicable to the Constituent Entity-owner with respect to such income equals or exceeds the Minimum Rate.

(2) For the purposes of subsection (1), a Constituent Entity that indirectly owns an Ownership Interest in an Investment Entity or Insurance Investment Entity through a direct Ownership Interest in another Investment Entity or Insurance Investment Entity is considered to be subject to tax under a mark-to-market or similar regime with respect to the indirect Ownership Interest in the first-mentioned Entity if it is subject to a mark-to-market or similar regime with respect to the direct Ownership Interest in the second-mentioned Entity.

(3) The election under this section is a Five-Year Election.

(4) If the election is revoked, gain or loss from the disposition of an asset or liability held by the Investment Entity shall be determined based on the fair value of the assets or liabilities on the first day of the revocation year.

Taxable Distribution Method Election

194. (1) At the election of the Filing Constituent Entity, a Constituent Entity-owner that is not an Investment Entity may apply the Taxable Distribution Method with respect to its Ownership Interest in a Constituent Entity that is an Investment Entity if the Constituent Entity-owner can be reasonably expected to be subject to tax on distributions from the Investment Entity at a tax rate that equals or exceeds the Minimum Rate.

(2) Under the Taxable Distribution Method—

(a) distributions and deemed distributions of the Investment Entity's GloBE Income are included in the GloBE Income of the Constituent Entity-owner other than an Investment Entity that received the distribution;

(b) the Local Creditable Tax Gross-up is included in the GloBE Income and Adjusted Covered Taxes of the Constituent Entity-owner other than an Investment Entity that received the distribution;

(c) the Constituent Entity-owner's proportionate share of the Investment Entity's Undistributed Net GloBE Income for the Tested Year is treated as GloBE Income of the Investment Entity for the Reporting Financial Year and the result of multiplying the Minimum Rate by such GloBE Income is treated as Multinational Top-up Tax of a Low-Tax Constituent Entity in the Financial Year for the purposes of Chapter 4 of this Part; and

(d) the Investment Entity's GloBE Income or Loss for the Financial Year and any Adjusted Covered Taxes attributable to such income are excluded from all Effective Tax Rate computations under Chapter 7 of this Part and subsections 192(2) to (10), except as provided in paragraph *(b)*.

(3) The Undistributed Net GloBE Income for the Tested Year cannot be reduced by distributions or deemed distributions to the extent that such distributions were treated as a reduction to Undistributed Net GloBE Income of a previous Tested Year.

(4) For the purpose of computing Undistributed Net GloBE Income, a GloBE Loss is reduced to the extent it reduced Undistributed Net GloBE Income at the end of a previous Financial Year.

(5) If a GloBE Loss for a Financial Year is not reduced to zero before the end of the end of the last Tested Period that includes such Financial Year, the remainder becomes an Investment Loss Carry-forward and is reduced in the same manner as a GloBE Loss in subsequent Financial Years.

(6) For the purposes of this section—

(a) the Tested Year is the third year preceding the Reporting Financial Year;

(b) the Testing Period is the period beginning with the first day of the Tested Year and ending with the last day of the Reporting Financial Year that the Ownership Interest was held by a Group Entity;

(c) a deemed distribution arises when a direct or indirect Ownership Interest in the Investment Entity is transferred to a non-Group Entity and is equal to the proportionate share of the Undistributed Net GloBE Income attributable to such Ownership Interest on the date of such transfer determined without regard to the deemed distribution; and

(d) the Local Creditable Tax Gross-up is the amount of Covered Taxes incurred by the Investment Entity that is allowed as a credit against the tax liability of the owner of the Constituent Entity arising in connection with a distribution from the Investment Entity.

(7) The election under this section is a Five-Year Election.

(8) If the election is revoked, the proportionate share of the owner of the Constituent Entity in the Undistributed Net GloBE Income of the Investment Entity for the Tested Year at the end of the Financial Year preceding the revocation

year is treated as GloBE Income of the Investment Entity for the revocation year and the result of multiplying the Minimum Rate by such GloBE Income is treated as Multinational Top-up Tax of a Low-Tax Constituent Entity in the revocation year for the purposes of Chapter 4 of this Part.

(9) For the purposes of this section, "Undistributed Net GloBE Income" means the amount of the Investment Entity's GloBE Income, if any, for the Tested Year reduced but not below zero by—

(a) any Covered Taxes of the Investment Entity;

(b) distributions and deemed distributions to shareholders other than Constituent Entities that are Investment Entities in the Testing Period;

(c) GloBE Losses arising in the Testing Period; and

(d) Investment Loss Carry-forwards.

Chapter 10

Safe Harbour

GloBE Safe Harbour

195. (1) At the election of the Filing Constituent Entity, and notwithstanding Chapter 7 of this Part, the Multinational Top-up Tax for a jurisdiction (hereinafter referred to as "the safe harbour jurisdiction") shall be deemed to be zero for a Financial Year when the Constituent Entities located in this jurisdiction are eligible for a GloBE Safe Harbour, pursuant to the conditions provided under the GloBE Implementation Framework and applicable for that Financial Year.

(2) An election made for a jurisdiction under subsection (1) shall not apply in circumstances where—

(a) Malaysia could be allocated Multinational Top-up Tax under this Part if the Effective Tax Rate for the safe harbour jurisdiction computed in accordance with Chapter 7 of this Part was below the Minimum Rate;

(b) the Director General notifies the Liable Constituent Entity within thirty-six months after the filing of the information return of specific facts and circumstances that may have materially affected the eligibility of the Constituent Entities located in the safe harbour jurisdiction for the relevant safe harbour and invites the Liable Constituent Entity to clarify within six months the effect of those facts and circumstances on the eligibility of those Constituent Entities for that safe harbour; and

(c) the Liable Constituent Entity fails to demonstrate within the response period that those facts and circumstances did not materially affect the eligibility of the Constituent Entities for the relevant safe harbour.

(3) For the purposes of this section, "Liable Constituent Entity" means one or several Constituent Entities located in Malaysia that could be liable for Multinational Top-up Tax or subject to an adjustment under Chapter 4 of this Part if the GloBE Safe Harbour in subsection (1) did not apply.

Chapter 11

Transition rules

Transitional Tax Attributes

196. (1) When determining the Effective Tax Rate for a jurisdiction in a Transition Year, and for each subsequent year, the Multinational Enterprise Group shall take into account all of the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts of all of the Constituent Entities in a jurisdiction for the Transition Year.

(2) Such deferred tax assets and liabilities must be taken into account at the lower of the Minimum Rate or the applicable domestic tax rate.

(3) A deferred tax asset that has been recorded at a rate lower than the Minimum Rate may be taken into account at the Minimum Rate if the taxpayer can demonstrate that the deferred tax asset is attributable to a GloBE Loss.

(4) For the purposes of this section, the impact of any valuation adjustment, or accounting recognition adjustment with respect to a deferred tax asset shall be disregarded.

(5) The Deferred tax assets arising from items excluded from the computation of GloBE Income or Loss under Chapter 5 of this Part must be excluded from the computation under subsections (1) to (4) when such deferred tax assets are generated in a transaction that takes place after 30 November 2021.

(6) In the case of a transfer of assets between Constituent Entities after 30 November 2021 and before the commencement of a Transition Year, the basis in the acquired assets other than inventory shall be based upon the disposing Entity's carrying value of the transferred assets upon disposition with the deferred tax assets and liabilities brought into GloBE Rules determined on that basis.

(7) For the purposes of this section, "Transition Year" means, for a jurisdiction, the first Financial Year that the Multinational Enterprise Group comes within the scope of this Part in respect of that jurisdiction.

Transitional relief for the Substance-based Income Exclusion

197. (1) For the purpose of applying subsection 180(4), the value of five per cent shall be replaced with the value set out in the table set out below for each Financial Year beginning in each of the following Financial Years:

Financial Year Beginning In	Subsection 180(4) Rate
2025	9.6%
2026	9.4%
2027	9.2%
2028	9.0%
2029	8.2%
2030	7.4%
2031	6.6%
2032	5.8%

(2) For the purpose of applying subsection 180(5), the value of five per cent shall be replaced with the value set out in the table set out below for each Financial Year beginning in each of the following calendar years:

Financial Year Beginning In	Subsection 180(5) Rate
2025	7.6%
2026	7.4%
2027	7.2%
2028	7.0%
2029	6.6%
2030	6.2%
2031	5.8%
2032	5.4%

Chapter 12

Person Chargeable

Personal chargeability: Domestic Top-up Tax or Multinational Top-up Tax

198. Where under this Part a Constituent Entity is assessable and chargeable to Domestic Top-up Tax or Multinational Top-up Tax, that Constituent Entity shall, subject to this Part, be the Constituent Entity assessable and chargeable to that tax.

Responsibilities for doing all acts and things of Constituent Entity

199. (1) For the purposes of this Part, the responsibility for doing all acts and things required to be done by or on behalf of a Constituent Entity for the purposes of this Act shall lie jointly and severally—

(a) in the case of a Constituent Entity that is a company, with—

(i) the manager or other principal officer in Malaysia;

(ii) the directors;

(iii) the secretary; and

(iv) any natural person (however styled) exercising the functions of any of the natural person mentioned in the foregoing paragraphs; and

(b) in the case of a Constituent Entity that is an arrangement that prepares separate financial accounts, such as a partnership or trust, with—

(i) the manager;

(ii) the treasurer;

(iii) the secretary; and

(iv) the members of its controlling authority.

(2) The liquidator of a Constituent Entity that is a company which is being wound up shall not distribute any of the assets of the Constituent Entity to its shareholders unless he has made provision (in so far as he is able to do so out of the assets of the Constituent Entity) for the payment in full of any tax which he knows or might reasonably expect to be payable by the Constituent Entity under this Part.

(3) Any liquidator who fails to comply with subsection (2) shall be liable to pay a penalty equal to the amount of the tax to which the failure relates.

(4) Subsection 235(2) shall apply to a penalty imposed by subsection (3) of this section as it applies to a penalty imposed by subsection 225(5) or 227(2).

Responsibilities for doing all acts and things of limited liability partnership and business trust

200. (1) The responsibility for doing all acts and things required to be done—

(a) by or on behalf of a Constituent Entity that is a limited liability partnership for the purposes of this Part shall lie jointly and severally—

(i) with the compliance officer who is appointed amongst the partners of the limited liability partnership or natural 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; or

(ii) if no compliance officer is appointed as such, any one or all of the partners thereof; and

(b) by or on behalf of a Constituent Entity that is a business trust for the purposes of this Part shall lie jointly and severally with the trustee manager of such business trust.

(2) For the purposes of this section, "compliance officer" has the meaning assigned to it in section 27 of the Limited Liability Partnerships Act 2012.

(3) Where in a Financial Year, a Constituent Entity that is a partnership or a company has converted into a limited liability partnership in accordance with the Limited Liability Partnerships Act 2012—

(a) every partner of the partnership shall continue to be personally assessable and chargeable to tax for that Financial Year and for any previous Financial Year before the conversion; and

(b) the limited liability partnership shall be assessable and chargeable to tax for that Financial Year and for any previous Financial Year before the conversion.

(4) Where the limited liability partnership is so assessable and chargeable under paragraph (3)*(b)*, it shall be assessable and chargeable to tax in like manner and to the like amount as the company would have been assessed and charged to tax prior to the conversion.

Chapter 13

Returns

Information return by Constituent Entity

201. (1) Except as provided in this section, a Constituent Entity of a Multinational Enterprise Group shall for each Reporting Financial Year furnish to the Director General an information return in the prescribed form not later than fifteen months from the last day of the Reporting Financial Year.

(2) A Constituent Entity located in Malaysia of that Multinational Enterprise Group may elect to appoint a Designated Local Entity to furnish to the Director General the information return referred to in subsection (1), on its behalf.

(3) Subsections (1) and (2) shall not apply if the information return in the prescribed form has been filed not later than fifteen months from the last day of the Reporting Financial Year by—

(a) the Ultimate Parent Entity of that Multinational Enterprise Group that is located in a jurisdiction that has a Qualifying Competent Authority Agreement in effect with the Government for the Reporting Financial Year; or

(b) a Designated Filing Entity that is located in a jurisdiction that has a Qualifying Competent Authority Agreement in effect with the Government for the Reporting Financial Year and the Multinational Enterprise Group has elected to appoint that Designated Filing Entity to furnish to the Director General the information return referred to in subsection (1), on its behalf.

(4) The election in subsection (2) or (3) shall be made by a notice in writing in the prescribed form and furnished to the Director General not later than fifteen months from the last day of the Reporting Financial Year by a Constituent Entity or by a Designated Local Entity on behalf of that Constituent Entity.

(5) For the purposes of this section, an information return or a notice in writing shall be furnished to the Director General in a prescribed form on an electronic medium or by way of electronic transmission in accordance with section 152A.

(6) For the purposes of this section—

(a) an information return concerning the Multinational Enterprise Group for a Reporting Financial Year shall contain—

(i) identification of the Constituent Entities, including their tax identification numbers, the jurisdiction in which they are located and their status as a Partially-Owned Parent Entity, Joint Venture, Joint Venture subsidiary, Investment Entity, Flow-through Entity, or Permanent Establishment under this Part;

(ii) information on the overall corporate structure of the Multinational Enterprise Group including the Controlling Interests in the Constituent Entities held by other Constituent Entities;

(iii) the information necessary to compute—

(A) the Effective Tax Rate for each jurisdiction and the Domestic Top-up Tax or Multinational Top-up Tax of each Constituent Entity under Chapter 7 of this Part;

(B) the Domestic Top-up Tax or Multinational Top-up Tax of a member of the Joint Venture Group under Chapter 8 of this Part;

(C) the allocation of Multinational Top-up Tax under the Income Inclusion Rule to each jurisdiction under Chapter 4 of this Part;

(iv) a record of the elections made in accordance with the relevant provisions of this Part;

(v) other information that is agreed as part of the GloBE Implementation Framework and is necessary to carry out the administration of this Part; and

(vi) such particulars as may be required by the Director General;

(b) a notice in writing shall contain such particulars as may be required by the Director General.

(7) In this section—

"Designated Local Entity" means the Constituent Entity of a Multinational Enterprise Group that is located in Malaysia throughout the relevant Reporting Financial Year and that has been appointed by another Constituent Entity located in Malaysia of that Multinational Enterprise Group;

"Qualifying Competent Authority Agreement" means a bilateral or multilateral agreement or arrangement between Competent Authorities that provides for the automatic exchange of annual information returns.

Top-up Tax return by Constituent Entity

202. (1) Every Constituent Entity of a Multinational Enterprise Group shall for each Reporting Financial Year furnish to the Director General a Top-up Tax return in the prescribed form not later than fifteen months from the last day of the Reporting Financial Year.

(2) For the purposes of this section, a Constituent Entity shall furnish to the Director General a Top-up Tax return in the prescribed form on an electronic medium or by way of electronic transmission in accordance with section 152A.

(3) For the purposes of this section, the Top-up Tax return for a Reporting Financial Year shall—

(a) specify the amount of tax payable, if any, for that year; and

(b) contain such particulars as may be required by the Director General.

Amendment of Top-up Tax return

203. (1) Where for a Reporting Financial Year a Constituent Entity has furnished a return in accordance with section 202, that Constituent Entity may make amendment to such return in an amended return as prescribed by the Director General in respect of the amount of tax or additional tax payable by that Constituent Entity or on the amount of tax which has been or would have been wrongly repaid to him.

(2) An amended return under subsection (1) shall only be made after the due date for the furnishing of the return in accordance with section 202, but not later than six months from that date.

(3) For the purposes of this section, the amended return shall—

(a) specify the amount of tax or additional tax payable;

(b) specify the amount of tax payable on the tax which has or would have been wrongly repaid to him;

(c) specify the increased sum ascertained in accordance with subsection (4); or

(d) contain such particulars as may be required by the Director General.

(4) The tax or additional tax payable under subsection (1) shall be increased by a sum equal to ten per cent of the amount of such tax or additional tax.

(5) The amendment under subsection (1) shall only be made once.

(6) Where—

(a) a return for a Reporting Financial Year has been furnished in accordance with section 202; and

(b) the Director General has made an assessment for that Reporting Financial Year under section 212,

no amendment shall be allowed under this section.

Power to call for specific returns and production of books under Part XI

204. For the purpose of obtaining full information for ascertaining whether or not a Constituent Entity is chargeable to tax or for determining his liability under this Part, the Director General may by notice under his hand require that Constituent Entity, any other Constituent Entity or any natural person—

(a) to complete and deliver to the Director General within a time specified in the notice (not being less than thirty days from the date of service of the notice) any return specified in the notice;

(b) to attend personally before the Director General and produce for examination all books, accounts, returns and other documents which the Director General thinks necessary;

(c) to make a return in accordance with paragraph *(a)* and also to attend in accordance with paragraph *(b)*; or

(d) to provide in writing such information or particulars which the Director General thinks necessary.

Power of access to buildings and documents, etc., under Part XI

205. (1) For the purposes of this Part, the Director General shall at all times have full and free access to all lands, buildings and places and to all books, documents, objects, articles, materials and things and may search such lands, buildings and places and may inspect, copy or make extracts from any such books, documents, objects, articles, materials and things without making any payment by way of fee or reward.

(2) Where the Director General exercises his powers under subsection (1), the occupiers of such lands, buildings and places shall provide the Director General or an authorized officer with all reasonable facilities and assistance for the exercise of his powers under this section.

(3) The Director General may take possession of any books, documents, objects, articles, materials and things to which he has access under subsection (1) where in his opinion—

(a) the inspection of them, the copying of them or the making of extracts from them cannot reasonably be undertaken without taking possession of them;

(b) they may be interfered with or destroyed unless he takes possession of them; or

(c) they may be needed as evidence in any legal proceedings instituted under or in connection with this Part.

(4) Where in the opinion of the Director General it is necessary for the purpose of implementing the provisions of this Part to examine any books, accounts or records kept otherwise than in the national language or English, he may by notice under his hand require any Constituent Entity to furnish within a time specified in the notice (not being less than thirty days from the date of service of the notice) a translation in the national language or English of the books, accounts or records in question.

Power to call for information under Part XI

206. (1) For the purposes of this Part, the Director General may require any natural person or Constituent Entity to give orally or may by notice under his hand require any natural person or Constituent Entity to give in writing within a time specified in the notice all such information or particulars as may be demanded of him by the Director General for the purposes of this Part and which may be in the possession or control of that natural person or Constituent Entity.

(2) Where that natural person is a public officer or an officer in the employment of a local authority or statutory authority, he shall not by virtue of this section be obliged to disclose any particulars as to which he is under a statutory obligation to observe secrecy.

Duty of Constituent Entity to keep documents for ascertaining tax payable

207. (1) Subject to this section, every Constituent Entity which is required to furnish a return as required under this Part for a Reporting Financial Year shall keep and retain in safe custody sufficient documents for a period of seven years from the end of that Reporting Financial Year for the purpose of administering and determining liability to Domestic Top-up Tax or Multinational Top-up Tax.

(2) Where a Constituent Entity referred to in subsection (1) has not furnished a return as required under this Part for a Reporting Financial Year, that Constituent Entity shall keep and retain the documents referred to in subsection (1) that relate to that Financial Year for a period of seven years after the end of the year in which the return is furnished.

(3) The Director General may specify by statutory order in respect of any class or description of business (or by notice under his hand in respect of the business of any particular Constituent Entity) the form of records to be kept under subsection (1) and the manner in which they shall be kept and retained.

(4) The Director General may waive all or any of the provisions of subsection (1) in respect of any particulars in an information return or Top-up Tax return furnished by a Constituent Entity.

(5) Any Constituent Entity who is required by this section to keep documents and—

(a) does so electronically shall retain them in an electronically readable form and shall keep the documents in such a manner as to enable the documents to be readily accessible and convertible into writing; or

(b) has originally kept documents in a manual form and subsequently converts those documents into an electronic form shall retain those documents prior to the conversion in their original form.

(6) All documents for the purpose of administering and determining liability to Domestic Top-up Tax and Multinational Top-up Tax in Malaysia shall be kept and retained in Malaysia.

(7) For the purposes of this section, "documents" means—

(a) any documents as are necessary to verify the particulars in an information return or Top-up Tax return furnished by a Constituent Entity; or

(b) any other records as may be specified by the Director General under subsection (3).

Power to call for further return under Part XI

208. The Director General may give notice in writing to any Constituent Entity whenever he thinks fit requiring that Constituent Entity to furnish within a reasonable time (to be specified in the notice) fuller or further returns respecting any matter as to which a return is required by or under this Part.

Returns deemed to be made with due authority under Part XI

209. A return purporting to be made pursuant to this Part by or on behalf of any Constituent Entity shall be presumed to have been made by that Constituent Entity or on its authority, as the case may be, until contrary is proved; and any Constituent Entity signing such a return shall be deemed to be cognizant of its contents.

Change of address of Constituent Entity

210. Every Constituent Entity chargeable to tax who changes his address in Malaysia (being an address furnished by him to the Director General) for another address in Malaysia shall within three months inform the Director General of the change by notice in the prescribed form.

Chapter 14

Assessment

Domestic Top-up Tax or Multinational Top-up Tax assessments

211. (1) Where a Constituent Entity has furnished a Top-up Tax return in accordance with section 202 to the Director General for a Reporting Financial Year, the Director General shall be deemed to have made, on the day on which the Top-up Tax return is furnished, an assessment in respect of that Constituent Entity in the amount of Domestic Top-up Tax or Multinational Top-up Tax being the amounts as specified in the Top-up Tax return.

(2) For the purposes of this Part, where the Director General is deemed to have made an assessment under subsection (1)—

(a) the Top-up Tax return referred to in that subsection shall be deemed to be a notice of assessment; and

(b) the deemed notice of assessment shall be deemed to have been served on the Constituent Entity on the day on which the Director General is deemed to have made the assessment.

(3) Where a Constituent Entity for a Financial Year has not furnished a Top-up Tax return in accordance with section 202, the Director General may according to the best of his judgment determine the amount of the Domestic Top-up Tax or Multinational Top-up Tax, of that Constituent Entity for the Financial Year and make an assessment accordingly.

(4) The making of an assessment in respect of a Constituent Entity under this section shall not affect any liability otherwise incurred by that Constituent Entity by reason of its failure to deliver the Top-up Tax return.

Assessments and additional assessments in certain cases under Part XI

212. (1) Where for any Financial Year it appears to him that no or no sufficient assessment has been made on a Constituent Entity chargeable to tax, the Director General may in that year or within five years after its expiration make an assessment or additional assessment, as the case may be, in respect of that Constituent Entity in the amount of Domestic Top-up Tax or Multinational Top-up Tax in which, according to the best of the Director General's judgment, the assessment with respect to that Constituent Entity ought to have been made for that year.

(2) Where the Director General discovers that the whole or part of any tax repaid to a Constituent Entity (otherwise than in consequence of an agreement come to with respect to an assessment pursuant to subsection 101(2) or in consequence of an assessment having been determined on appeal) has been repaid by mistake whether of fact or law, the Director General may make an assessment in respect of that Constituent Entity in the amount of that tax or that part of that tax, as the case may be.

(3) An assessment under subsection (2) shall not be made—

(a) if the repayment was in fact made on the basis of, or in accordance with, the practice of the Director General generally prevailing at the time when the repayment was made; or

(b) in respect of any tax, more than five years after the tax has been repaid.

(4) Where it appears to the Director General that—

(a) any form of fraud or wilful default has been committed by or on behalf of any Constituent Entity; or

(b) any Constituent Entity has been negligent,

in connection with or in relation to tax, he may at any time make an assessment in respect of that Constituent Entity for any Financial Year for the purpose of making good any loss of tax attributable to the fraud, wilful default or negligence in question.

Deemed assessment on amended return of Constituent Entity

213. (1) Where a Constituent Entity has furnished an amended return in accordance with section 203 for a Financial Year, the Director General shall be deemed to have made, on the day on which the amended return is furnished, an assessment or additional assessment in respect of that Constituent Entity in the amount of Domestic Top-up Tax or Multinational Top-up Tax—

(a) in the amount of tax or additional tax payable; or

(b) in the amount of tax which has been or would have been wrongly repaid,

the tax or additional tax being the amounts as specified in the amended return.

(2) For the purposes of this Act, where the Director General is deemed to have made an assessment or additional assessment under subsection (1)—

(a) the amended return referred to in that subsection shall be deemed to be a notice of assessment or additional assessment; and

(b) the deemed notice of assessment or additional assessment shall be deemed to have been served on the Constituent Entity on the day on which the Director General is deemed to have made the assessment or additional assessment.

Form and making of Domestic Top-up Tax or Multinational Top-up Tax assessments

214. An assessment, other than an assessment under subsection 211(1) and section 213 in respect of a Constituent Entity shall—

(a) be made in the appropriate prescribed form;

(b) indicate, in addition to any other material included therein, the appropriate Financial Year and the amount of tax or additional tax, as the case may be; and

(c) specify in the appropriate space in that form the date on which that form was duly completed,

and, where that form appears to have been duly completed the assessment shall, until the contrary is proved, be presumed to have been made on the date so specified.

Record of Domestic Top-up Tax or Multinational Top-up Tax assessments

215. The Director General shall cause to be maintained in such manner as he thinks fit a record of all assessments made under this Part for each Financial Year.

Notice of Domestic Top-up Tax or Multinational Top-up Tax assessment

216. (1) As soon as may be after an assessment, other than an assessment under subsection 211(1) and section 213, has been made under this Part, the Director General shall cause a notice of assessment to be served on the Constituent Entity in respect of whom the assessment was made.

(2) Where the tax charged under an assessment is increased on appeal to the Special Commissioners or a court, then, so soon as may be after the appeal has been decided there shall be served on the Constituent Entity in respect of whom the assessment was made a notice of increased assessment.

(3) Where section 219 applies as regards an agent and another Constituent Entity, any notice to be served under subsection (1) or (2) shall be served both on the agent and on the other Constituent Entity.

(4) A notice served under subsection (1) or (2) shall be in the prescribed form and shall indicate, in addition to any other material included therein—

(a) in the case of a notice served under subsection (1), the Financial Year, the tax or additional tax, as the case may be;

(b) in the case of a notice served under subsection (2), the Financial Year and the amount of the increase in the tax charged; and

(c) in either case—

(i) the place at which payment is to be made;

(ii) the increase for late payment imposed by subsection 220(5) or (6); and

(iii) any right of appeal which may exist under this Part.

Composite assessment for Domestic Top-up Tax or Multinational Top-up Tax

217. (1) Without prejudice to section 212 where a Constituent Entity—

(a) has defaulted in furnishing a return in accordance with subsection 201(1) or 202(1);

(b) makes an incorrect return by omitting or understating any tax of which he is required by this Part to make a return on behalf of himself or another Constituent Entity; or

(c) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other Constituent Entity,

for any Financial Year or Financial Years (that year or those years being referred to in this section as the relevant year or relevant years), the Director General and that Constituent Entity may come to an agreement in writing as to the payment by that Constituent Entity of a sum of money (in this section referred to as the total amount) being—

(i) the amount of tax which has been undercharged or not charged for that relevant year or those relevant years in consequence of such default in furnishing a return or making an incorrect return or giving any incorrect information; and

(ii) the amount of any penalty or penalties which that Constituent Entity may be required to pay for that relevant year or those relevant years pursuant to subsection 225(5) or 227(2) or both (or where such penalty is abated or remitted under section 234 so much, if any, of the penalty which has not been abated or remitted).

(2) Where the Director General and a Constituent Entity have come to an agreement pursuant to subsection (1), the Director General may make a composite assessment of the Domestic Top-up Tax or Multinational Top-up Tax as the case may be in respect of that Constituent Entity in the total amount.

(3) As soon as may be after a composite assessment of the Domestic Top-up Tax or Multinational Top-up Tax as the case may be has been made, the Director General shall cause a notice of composite assessment to be served on the Constituent Entity in respect of whom the composite assessment was made.

(4) A notice served under subsection (3) shall be in the prescribed form and shall indicate in addition to any other material included therein—

(a) the relevant year or relevant years;

(b) the amount or aggregate amount of tax undercharged or not charged in the relevant year or relevant years;

(c) the amount or aggregate amount of any penalty imposed by virtue of subsection 225(5) or 227(2) or both (or where such penalty is abated or remitted under section 234 so much, if any, of the penalty which has not been abated or remitted); and

(d) the place at which payment of the total amount is to be made.

(5) The total amount shall be collected as if it were part of the tax payable by the Constituent Entity in respect of whom the composite assessment of the Domestic Top-up Tax or Multinational Top-up Tax as the case may be has been made but shall not be treated as tax so payable for the purposes of the provisions of this Part other than sections 220 to 222.

(6) Notwithstanding any other provision of this Act—

(a) a composite assessment of the Domestic Top-up Tax or Multinational Top-up Tax as the case may be made under this section shall be final and conclusive for the purposes of this Act; and

(b) no appeal shall lie against a composite assessment.

Finality of Domestic Top-up Tax or Multinational Top-up Tax assessment

218. (1) Where—

(a) no valid notice of appeal against an assessment of the Domestic Top-up Tax or Multinational Top-up Tax has been given under section 219 within the time specified by that section (or any extension thereof);

(b) an agreement has been reached with respect to an assessment of the Domestic Top-up Tax or Multinational Top-up Tax pursuant to subsection 101(2);

(c) an assessment of the Domestic Top-up Tax or Multinational Top-up Tax has been determined on appeal and there is no right of further appeal; or

(d) a valid notice of appeal against an assessment of the Domestic Top-up Tax or Multinational Top-up Tax has been given but the appellant dies before the hearing of the appeal by the Special Commissioners is commenced or completed and no personal representatives of the estate of the deceased appellant applies to the Special Commissioners within two years after his death to proceed with or complete the hearing,

the assessment as made, agreed to or determined shall be final and conclusive for the purposes of this Act.

(2) Nothing in subsection (1) shall prejudice the exercise of any power conferred on the Director General by section 212 and subsection 143(3).

Chapter 15

Appeal against Domestic Top-up Tax or Multinational Top-up Tax

Right of appeal under Part XI

219. (1) A Constituent Entity aggrieved by an assessment or additional assessment made on him under this Part may appeal to the Special Commissioners against the assessment or additional assessment in the same manner as an appeal against an assessment under any other provisions in this Act, and sections 99, 100, 101 and 102 of this Act, as far as they are applicable and with the necessary modifications, shall apply to an appeal against an assessment or additional assessment made under this Part as if every reference in those sections to income tax or to tax were a reference to Domestic Top-up Tax or Multinational Top-up Tax.

(2) Schedule 5 shall apply with necessary modifications in relation to the procedures of hearing of appeals to the Special Commissioners and to the procedures of hearing of further appeals.

Chapter 16

Collection and Recovery of Domestic Top-up Tax or Multinational Top-up Tax

Payment of Domestic Top-up Tax or Multinational Top-up Tax

220. (1) Except as provided in subsection (2), tax payable under an assessment for a Financial Year shall be due and payable on the due date whether or not that Constituent Entity appeals against the assessment.

(2) Where an assessment or additional assessment has been made under section 213, the tax or additional tax payable under the assessment shall be due and payable on the day the amended return is furnished whether or not that Constituent Entity appeals against the assessment or additional assessment.

(3) Where an assessment is made under subsection 211(3), section 212 or 217, or where an assessment is increased under subsection 101(2), the tax payable under the assessment or increased assessment shall, on the service of the notice of assessment or composite assessment or increased assessment, as the case may be, be due and payable on the Constituent Entity assessed at the place specified in that notice whether or not that Constituent Entity appeals against the assessment or increased assessment.

(4) Where any tax due and payable under subsection (1) has not been paid by the due date, so much of the tax as is unpaid upon the expiration of that date shall without any further notice being served be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Part.

(5) Subject to subsection (7), where any tax due and payable under subsection (3) has not been paid within thirty days after the service of the notice, so much of the tax as is unpaid upon the expiration of that period shall without any further notice being served be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Part.

(6) Where any tax is payable in accordance with subsection (1) or (3), the Director General may allow the tax to be paid by instalments in such amounts and on such dates as he may determine and in the event of default in payment of any one instalment on the date specified for payment the balance of the tax then outstanding shall be due and payable on that date and shall without any further notice being served be increased by a sum equal to ten per cent of that balance, and that sum shall be recoverable as if it were tax due and payable under this Part.

(7) Notwithstanding the foregoing subsections, where tax due and payable is increased by a sum under subsection (4), (5) or (6), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay that amount.

(8) For the purposes of this section, "due date" means the last day of the fifteenth month from the close of the Reporting Financial Year.

Domestic Top-up Tax or Multinational Top-up Tax payable notwithstanding institution of proceedings under any other written law

221. The institution of any proceedings under any other written law against the Government or the Director General shall not relieve any natural person or Constituent Entity from liability under this Part for the payment of any tax, debt or other sum for which he is or may be liable to pay under this Part.

Recovery by suit under Part XI

222. The tax due and payable under this Part may be recovered by the Government by civil proceedings as a debt due to the Government and sections 106, 106A and 142, shall apply accordingly with any necessary modifications.

Refund of over-payments under Part XI

223. (1) Subject to this section, where it is proved to the satisfaction of the Director General that any Constituent Entity has paid tax for any Financial Year in excess of the amount payable under this Part, that Constituent Entity shall be entitled to have the excess refunded by the Government and, where that Constituent Entity is dissatisfied with the amount to be refunded to it, the Constituent Entity may within thirty days of being notified of that amount appeal to the Special Commissioners as if the notification were a notice of assessment, the provisions of this Act relating to appeals applying accordingly with any necessary modifications.

(2) Where a Constituent Entity has furnished a return in accordance with section 202 to the Director General for a Financial Year and that Constituent Entity has paid tax in excess of the amount payable—

(a) that return shall be deemed to be a notification under subsection (1); and

(b) that Constituent Entity is deemed to have been notified of the excess amount on the day that return is furnished.

(3) No claim for repayment under this section shall be valid unless it is made within five Financial Years after the end of the Financial Year to which the claim relates or, where the claim relates to repayment of tax charged by an assessment, within five Financial Years after the end of the Financial Year within which that assessment was made.

(4) Nothing in this section shall operate—

(a) to extend any time limit for appeal, validate any appeal which is otherwise invalid or authorize the revision of any assessment or other matter which has become final and conclusive; or

(b) to compel the Government to refund the excess amount of tax paid (by deduction or otherwise) in respect of an assessment unless the assessment has been finally determined.

(5) Any amount of excess in respect of tax payable for a Financial Year which is to be refunded to a Constituent Entity under subsection (1) may be utilized by the Director General for the payment of any other amount of tax which is due and payable (including any amount of instalments which are due and payable) by that Constituent Entity under this Act.

(6) Where amount of excess in respect of a Constituent Entity is ascertained in accordance with subsection 111(4A) of this Act such excess shall be applied for the payment of tax which is due and payable (including any amount of instalments which are due and payable) by that Constituent Entity under this Part.

(7) For the avoidance of doubt, sections 111B and 111C shall apply accordingly.

Chapter 17

Offences and Penalties

Failure of Constituent Entity to furnish information return

224. (1) Any Constituent Entity who has defaulted in furnishing an information return in accordance with section 201 on behalf of the Constituent Entity or another Constituent Entity, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) In any prosecution under subsection (1), the burden of proving that an information return has been furnished shall be upon the Constituent Entity.

(3) Where a Constituent Entity has been convicted of an offence under subsection (1), the court may make a further order that the Constituent Entity shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court thinks fit, from the date the order is made.

Failure of Constituent Entity to furnish Top-up Tax return

225. (1) Any Constituent Entity who has defaulted in furnishing a Top-up Tax return in accordance with section 202 shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any Constituent Entity who has defaulted in furnishing a Top-up Tax return in accordance with section 202 in respect of any Reporting Financial Year for two years or more shall be guilty of an offence and shall, on conviction, be liable to—

(a) a fine of not less than one thousand ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both; and

(b) a special penalty equal to treble the amount which the Director General may, according to the best of his judgment, determine as the tax charged on that Constituent Entity for those Reporting Financial Years.

(3) In any prosecution under subsection (1) or (2) the burden of proving that a Top-up Tax return has been furnished shall be upon the Constituent Entity.

(4) Where a Constituent Entity has been convicted of an offence under subsection (1) or (2), the court may make a further order that the Constituent Entity shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court thinks fit, from the date the order is made.

(5) Where in relation to a Financial Year a Constituent Entity who has defaulted in furnishing a Top-up Tax return in accordance with section 202 and no prosecution under subsection (1) or (2) has been instituted in relation to that default—

(a) the Director General may require that Constituent Entity to pay a penalty equal to treble the amount of that tax which, before any set-off, repayment or relief under this Act, is payable for that year; and

(b) if that Constituent Entity pays that penalty, or, where the penalty is abated or remitted under section 234, so much, if any, of the penalty as has not been abated or remitted, the Constituent Entity shall not be liable to be charged on the same facts with an offence under subsection (1) or (2).

(6) The Director General may require the Constituent Entity to pay an additional amount of penalty in accordance with subsection (5) in respect of any additional tax which is payable by that Constituent Entity for a Financial Year.

Incorrect information return of Constituent Entity

226. (1) Any Constituent Entity that makes an incorrect information return by omitting the information required to be provided in accordance with section 201 on behalf of itself or another Constituent Entity, or any natural person who makes an incorrect information return by omitting the information required to be provided in accordance with section 201 on behalf of a Constituent Entity shall, be guilty of an offence and shall, on conviction be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any Constituent Entity that gives any incorrect information in relation to any information required to be provided in accordance with section 201 on behalf of itself or another Constituent Entity, or any natural person who gives incorrect information in relation to any information required to be provided in accordance with section 201 on behalf of a Constituent Entity shall, be guilty of an offence and shall, on conviction be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Incorrect Top-up Tax return of Constituent Entity

227. (1) Any—

(a) Constituent Entity that makes an incorrect Top-up Tax return by omitting or understating any tax of which the Constituent Entity is required under section 202 to make a Top-up Tax return on behalf of itself or another Constituent Entity, or any natural person who makes an incorrect Top-up Tax return of a Constituent Entity by omitting or understating any tax of which he is required under section 202 to make a Top-up Tax return on behalf of that Constituent Entity; or

(b) Constituent Entity or any natural person that gives any incorrect information in relation to any matter affecting the chargeability to tax of that Constituent Entity or the chargeability to tax of another Constituent Entity,

shall, be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit and shall pay a special penalty of double the amount of tax which has been undercharged in consequence of the incorrect Top-up Tax return or incorrect information or which would have been undercharged if the return or information had been accepted as correct.

(2) Where any—

(a) Constituent Entity makes an incorrect Top-up Tax return by omitting or understating any tax of which the Constituent Entity is required by this Part to make a Top-up Tax return on behalf of itself or another Constituent Entity, or any natural person makes an incorrect Top-up Tax return of a Constituent Entity by omitting or understating any tax of which he is required by this Part to make a Top-up Tax return on behalf of that Constituent Entity; or

(b) Constituent Entity or any natural person gives any incorrect information in relation to any matter affecting the chargeability to tax of that Constituent Entity or the chargeability to tax of another Constituent Entity,

then, if no prosecution under subsection (1) has been instituted in respect of the incorrect Top-up Tax return or incorrect information, the Director General may require the Constituent Entity or the natural person to pay a penalty equal to the amount of tax which has been undercharged in consequence of the incorrect Top-up Tax return or incorrect information or which would have been undercharged if the return or information had been accepted as correct and, if that Constituent Entity or that natural person pays that penalty (or, where the penalty is abated or remitted under section 234, so much, if any, of the penalty as has not been abated or remitted), the Constituent Entity or the natural person shall not be liable to be charged on the same facts with an offence under subsection (1).

Wilful evasion of Multinational Top-up Tax or Domestic Top-up Tax

228. (1) Any natural person or Constituent Entity who wilfully and with intent to evade or assist any Constituent Entity to evade tax—

(a) omits from a return made under section 201 or 202 any tax which should be included;

(b) makes a false statement or entry in a return made under section 201 or 202;

(c) gives a false answer (orally or in writing) to a question asked or request for information made in pursuance of this Part;

(d) prepares or maintains or authorizes the preparation or maintenance of false books of account or other false records;

(e) falsifies or authorizes the falsification of books of account or other records; or

(f) makes use or authorizes the use of any fraud, art or contrivance,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both, and shall pay a special penalty of treble the amount of tax which has been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected.

(2) Any natural person or Constituent Entity who assists in, or advises with respect to, the preparation of any return under section 201 or 202 where the return results in an understatement of the liability for tax of a Constituent Entity shall, unless he satisfies the court that the assistance or advice was given with reasonable care, be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) Where in any proceedings under this section it is proved that a false statement or false entry (whether by omission or otherwise) has been made in a return furnished under section 201 or 202 by or on behalf of any Constituent Entity or in any books of account or other records maintained by or on behalf of any Constituent Entity, that natural person or Constituent Entity shall be presumed until the contrary is proved to have made that false statement or entry with intent to evade tax.

Obstruction of officers

229. Any natural person who—

(a) obstructs or refuses to permit the entry of the Director General or an authorized officer into any land, building or place in pursuance of section 205;

(b) obstructs the Director General or an authorized officer in the exercise of his functions under this Part;

(c) refuses to produce any book or other document in his custody or under his control on being required to do so by the Director General or an authorized officer for the purposes of this Part;

(d) fails to provide reasonable facilities or assistance or both to the Director General or an authorized officer in the exercise of his powers under this Part; or

(e) refuses to answer any question relating to any of those purposes lawfully asked of him by the Director General or an authorized officer,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Offences by officials under Part XI

230. Any natural person having an official function under this Act who—

(a) otherwise than in good faith, demands from any Constituent Entity an amount in excess of the Domestic Top-up Tax or Multinational Top-up Tax or penalties due under this Part;

(b) withholds for his own use or otherwise any portion of any such Domestic Top-up Tax or Multinational Top-up Tax or penalty collected or received by him;

(c) otherwise than in good faith, makes a false report or return (orally or in writing) of the amount of any such Domestic Top-up Tax or Multinational Top-up Tax or penalty collected or received by him;

(d) defrauds any natural person, embezzles any money or otherwise uses his position to deal wrongfully with the Director General or any other natural person,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Other offences in relation to Domestic Top-up Tax or Multinational Top-up Tax

231. (1) For the purposes of Domestic Top-up Tax and Multinational Top-up Tax, any natural person or Constituent Entity who without reasonable excuse—

(a) fails to comply with a notice given under subsection 106A(1), section 204, subsection 205(4), section 206 or section 208;

(b) contravenes subsection 106A(2) or section 210; or

(c) fails to furnish the correct particulars as required by the Director General under subparagraph 201(6)*(a)*(vi) or paragraph 202(3)*(b)*,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Where a natural person or Constituent Entity has been convicted of an offence under subsection (1), the court may make a further order that the natural person or Constituent Entity shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court thinks fit, from the date the order is made.

Additional provisions as to offences under section 227, 229, 230 or 231

232. (1) No proceedings for an offence under section 227, 229, 230 or 231 shall be instituted more than twelve years after the offence was committed.

(2) Any natural person or Constituent Entity who aids, abets or incites another natural person or Constituent Entity to commit an offence under section 227, 229, 230 or 231 shall be deemed to have committed the same offence and shall be liable to the same penalty.

Domestic Top-up Tax and Multinational Top-up Tax, etc., payable notwithstanding institution of proceedings

233. The institution of proceedings or the imposition of a penalty, special penalty, fine or term of imprisonment under this Part shall not relieve any natural person or Constituent Entity from liability for the payment of any Domestic Top-up Tax or Multinational Top-up Tax (or any penalty deemed under this Part to be tax payable) or any debt or other sum for which the natural person or Constituent Entity is or may be liable or from liability to make any return which the natural person or Constituent Entity is required by this Part to make.

Power to compound offences under Part XI

234. Where any natural person or Constituent Entity has committed any offence under this Part, the Director General may at any time before conviction compound the offence and section 124, shall apply accordingly.

Recovery of penalties imposed under Part XI

235. (1) Special penalties imposed under subsection 225(2), 227(1) or 228(1) shall be recoverable in the same way as fines imposed on conviction.

(2) Any penalty imposed on any natural person or Constituent Entity under subsection 225(5) or 227(2) shall be collected as if it were part of the tax payable by that natural person or Constituent Entity, but shall not be treated as tax so payable for the purposes of any provision of this Act other than sections 220 to 222.

Jurisdiction of subordinate court under Part XI

236. Notwithstanding any other written law, a subordinate court (as defined in Schedule 5) shall have the power to try any offence under this Part and on conviction to impose the full penalty therefore.

Remission of tax

237. (1) The tax paid or payable by any Constituent Entity may be remitted wholly or in part—

(a) on grounds of poverty, by the Director General; or

(b) on grounds of justice and equity, by the Minister,

and any tax so remitted shall not be regarded as tax payable for the purposes of any other provision of this Act.

(2) Where a Constituent Entity granted remission under subsection (1) has paid any of the tax to which the remission relates, the Constituent Entity shall be entitled to have the amount which the Constituent Entity has paid refunded to it as if the amount were an overpayment to which section 223 applies.

Chapter 18

Relief

Relief in respect of error or mistake under Part XI

238. If any Constituent Entity who has paid tax for any Financial Year alleges that an assessment relating to that Financial Year is excessive by reason of some error or mistake in a return or statement made by it for the purposes of this Part and furnished by it to the Director General prior to the

assessment becoming final and conclusive, the Constituent Entity may within five Financial Years after the end of the Financial Year within which the assessment was made make an application in writing to the Director General for relief and section 131 of this Act as far as it is applicable and with the necessary modifications, shall apply.

Chapter 19

Supplemental

Application of certain provisions of Part X to matters regarding Multinational Top-up Tax

239. For the avoidance of doubt—

(a) sections 134, 135, 136, 137, 138A, 142A, 144, 145, 146, 147, 148, 149, 151, 152, 152A and 153 shall apply to this Part;

(b) section 138 shall apply to this Part and subsection 138(4) shall apply to this Part as if reference to "the income of any person" were a reference to "the tax of the Constituent Entity"; and

(c) section 143 shall apply to this Part and subsection 143(3) shall apply to this Part as if reference to "the amount of the chargeable income and the appropriate rate of tax applicable thereto" were a reference to "the tax payable".".

Amendment of Schedule 1

31. Schedule 1 to the principal Act is amended by inserting after Part XX the following part:

"Part XXI

Notwithstanding Part I, income tax shall be charged for a year of assessment on the income of a company, limited liability partnership, trust body or co-operative society from the disposal of capital asset referred to in paragraph 4*(aa)* at the following rates:

(a) in relation to a disposal of capital asset situated in Malaysia which was acquired before 1 January 2024—

(i) at the rate of 10 per cent on every ringgit of the chargeable income from the disposal of the capital asset; or

(ii) at the rate of 2 per cent of gross on the disposal price of the capital asset;

(b) in relation to a disposal of capital asset situated in Malaysia which was acquired on or after 1 January 2024 at the rate of 10 per cent on every ringgit of the chargeable income from the disposal of the capital asset;

(c) in relation to a disposal of capital asset other than a disposal under paragraphs *(a)* and *(b)*, at the applicable rate to the company, limited liability partnership, trust body or co-operative society as specified under Part I or IV on every ringgit of the chargeable income from the disposal of the capital asset.".

Amendment of Schedule 3

32. Subparagraph 19A(4) of Schedule 3 to the principal Act is amended—

(a) in subsubparagraph *(b)*, by deleting the word "or" at the end of the subsubparagraph*;*

(b) in subsubparagraph *(c)*, by substituting for the full stop at the end of the subsubparagraph the words "; or"; and

(c) by inserting after subsubparagraph *(c)* the following subsubparagraph:

"*(d)* twenty per cent of the paid-up capital in respect of ordinary shares of the company at the beginning of the basis period for a year of assessment is directly or indirectly owned by one or more companies incorporated outside Malaysia or by one or more individuals who are not citizens of Malaysia.".

Amendment of Schedule 6

33. Schedule 6 to the principal Act is amended—

(a) in subsubparagraph 13(1)*(a)*, by substituting for the words "so long as the approval remains in force" the words "in the basis period for a year of assessment so long as the institution, organization or fund complies with the conditions of the approval in that basis period for that year of assessment"; and

(b) by inserting after paragraph 37 the following paragraph:

"**38.** (1) Gains or profits from the disposal of a capital asset situated in Malaysia.

(2) The exemption under subparagraph (1) shall not apply to—

(a) disposal of shares of a company incorporated in Malaysia not listed on the stock exchange; and

(b) disposal of shares under section 15C.".

Amendment of Schedule 7

34. Paragraph 16 of Schedule 7 to the principal Act is amended by substituting for the definition of "foreign income" the following definition:

' "foreign income" means, in relation to—

(a) unilateral credit, income derived from outside Malaysia charged to foreign tax;

(b) bilateral credit, income derived from outside Malaysia and from Malaysia, charged to foreign tax.'.

Chapter III

AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

Commencement of amendments to the Real Property Gains Tax Act 1976

35. (1) Sections 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 come into operation on 1 January 2025.

(2) Section 50 comes into operation on 1 January 2024.

Amendment of section 2

36. The Real Property Gains Tax Act 1976, which is referred to as the "principal Act" in this Chapter, is amended in subsection 2(1)—

(a) by inserting after the definition of "business" the following definition:

' "business trust" has the meaning assigned to it in the Capital Markets and Services Act 2007 [*Act 671*];'; and

(b) in the definition of "company", by inserting after the word "Malaysia" the words "and a business trust".

Amendment of section 13

37. Section 13 of the principal Act is amended in subsection (1)—

(a) in paragraph *(b)*, by deleting the word "and" at the end of the paragraph;

(b) in paragraph *(c)*, by substituting for the words "submit a written valuation of the asset by a valuer." the words "containing the market value of the asset based on a valuation made by a valuer;"; and

(c) by inserting after paragraph *(c)* the following paragraphs:

"*(d)* specifying the chargeable gain and the amount of tax payable (if any) on that chargeable gain for that disposal; and

(e) containing such particulars as may be required by the Director General.".

New section 13A

38. The principal Act is amended by inserting after section 13 the following section:

"**Amendment of return**

13A. (1) Where for a year of assessment a person has furnished a return in accordance with section 13, that person may make amendment to such return in an amended return as prescribed by the Director General in respect of the amount of tax or additional tax payable by that person on the chargeable gains or on the amount of tax which has been or would have been wrongly repaid to him.

(2) An amended return under subsection (1) shall only be made after the due date for the furnishing of the return in accordance with section 13, but not later than six months from that date.

(3) For the purposes of this section, the amended return shall—

(a) specify the amount or additional amount of chargeable gains and the amount of tax or additional tax payable on that chargeable gains;

(b) specify the amount of tax payable on the tax which has or would have been wrongly repaid to him;

(c) specify the increased sum ascertained in accordance with subsection (4); or

(d) contain such particulars as may be required by the Director General.

(4) The tax or additional tax payable under subsection (1) shall be increased by a sum equal to ten per cent of the amount of such tax or additional tax.

(5) The amendment under subsection (1) shall only be made once.

(6) Where—

(a) a return for a year of assessment has been furnished in accordance with section 13; and

(b) the Director General has made an assessment for that year of assessment under section 15,

no amendment shall be allowed under this section.".

Amendment of section 14

39. Section 14 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

"(1) Where a person has furnished a return in accordance with section 13, the Director General shall be deemed to have made, on the day on which the return is furnished, an assessment in respect of that person in the amount of tax on the chargeable gains, the tax and the chargeable gains being the respective amounts as specified in the return."; and

(b) by inserting after subsection (1) the following subsection:

"(1A) For the purposes of this Act, where the Director General is deemed to have made an assessment under subsection (1)—

(a) the return referred to in that subsection shall be deemed to be a notice of assessment; and

(b) the deemed notice of assessment shall be deemed to have been served on the person on the day on which the Director General is deemed to have made the assessment.".

Amendment of section 15

40. Section 15 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

"(1A) Where the Director General discovers that the whole or part of any tax repaid to a person, otherwise than in consequence of an agreement with respect to an assessment pursuant to subsection 101(2) of the Income Tax Act 1967 or in consequence of an assessment having been determined on appeal, has been repaid by mistake whether of fact or law, the Director General may make an assessment in respect of that person in the amount of that tax or that part of that tax, as the case may be:

Provided that no such assessment shall be made—

(a) if the repayment was in fact made on the basis of, or in accordance with, the practice of the Director General generally prevailing at the time when the repayment was made; or

(b) in respect of any tax, more than five years after the tax has been repaid."; and

(b) in subsection (2), by substituting for the words "or wilful default" wherever appearing the words ", wilful default or negligence".

New section 15A

41. The principal Act is amended by inserting after section 15 the following section:

"**Deemed assessment on the amended return**

15A. (1) Where a person has furnished an amended return in accordance with section 13A for a year of assessment, the Director General shall be deemed to have made, on the day on which the amended return is furnished, an assessment or additional assessment in respect of that person—

(a) in the amount of tax or additional tax payable on the chargeable gains; or

(b) in the amount of tax which has been or would have been wrongly repaid,

the tax or additional tax and the chargeable gains being respective amounts as specified in the amended return.

(2) For the purposes of this Act, where the Director General is deemed to have made an assessment or additional assessment under subsection (1)—

(a) the amended return referred to in that subsection shall be deemed to be a notice of assessment or additional assessment; and

(b) the deemed notice of assessment or additional assessment shall be deemed to have been served on the person on the day on which the Director General is deemed to have made the assessment or additional assessment.".

New section 16A

42. The principal Act is amended by inserting after section 16 the following section:

"**Discharge of double assessments**

16A. Where two or more assessments have been made with respect to a person on the same gain in respect of the same chargeable asset for a year of assessment, the Director General may discharge such assessments as need to be discharged in order to ensure that the gain is charged to tax only once for that year.".

Amendment of section 17

43. Section 17 of the principal Act is amended by inserting after the words "The Director General shall" the words ", as soon as may be after an assessment, other than assessment under subsections 14(1) and 15A(1), has been made,".

Amendment of section 19

44. The principal Act is amended by substituting for section 19 the following section:

"**Relief in respect of error or mistake**

19. (1) If any person who has paid tax for any year of assessment alleges that an assessment relating to that year is excessive by reason of error or mistake in a return or statement made by him for the purposes of this Act and furnished by him to the Director General prior to the assessment becoming final and conclusive, he may within five years after the end of the year of assessment within which the assessment was made make an application in writing to the Director General for relief.

(2) Upon receiving an application under subsection (1), the Director General shall inquire into the matter and, subject to this section, shall give such relief by way of repayment of tax in respect of the alleged error or mistake which appears to him to be just and reasonable.

(3) In determining any application under this section, the Director General shall have regard to all the relevant circumstances of the case and specifically—

(a) shall consider whether the granting of relief would result in the exclusion from charge to tax of income of the applicant; and

(b) for that purpose may take into consideration the chargeability of the applicant for years of assessment other than the year to which the application relates and assessment made upon him for those years.

(4) No relief shall be given under this section in respect of an error or mistake as to the basis on which the chargeability of the applicant ought to have been computed where the return or statement containing the error or mistake was in fact made on the basis of, or in accordance with, the practice of the Director General generally prevailing at the time when the return or statement was made.

(5) An application under subsection (1) shall be as nearly as may be in the same form as a notice of appeal under section 18, and, where the applicant is aggrieved by the Director General's decision—

(a) the applicant may, within six months after the decision is being informed, request in the prescribed form for the Director General to forward the application to the Special Commissioners;

(b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102 of the Income Tax Act 1967; and

(c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.".

New section 19A

45. The principal Act is amended by inserting after section 19 the following section:

"**Relief other than in respect of error or mistake**

19A. (1) Where any person, who has furnished to the Director General a return in respect of a chargeable asset disposed of in a year of assessment in accordance with section 13 and has paid tax for that disposal, alleges that the assessment relating to that year of assessment is excessive by reason of—

(a) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any other written law is published in the *Gazette* after the year of assessment in which the return is furnished; or

(b) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished,

that person may make an application in writing to the Director General for relief.

(2) The application under subsection (1) shall be made within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later.

(3) Upon receiving an application under subsection (1), the Director General shall inquire into the matter and may give such relief by way of repayment of tax which appears to the Director General to be just and reasonable.

(4) An application under subsection (1) shall be made as nearly as may be in the same form as a notice of appeal under section 99 of the Income Tax Act 1967.

(5) Where the applicant is aggrieved by the Director General's decision on the application under subsection (1)—

(a) the applicant may within six months after being informed of the decision, request in writing to the Director General to forward the application to the Special Commissioners;

(b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102 of the Income Tax Act 1967; and

(c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.".

Amendment of section 20

46. The principal Act is amended by substituting for section 20 the following section:

"**Finality of assessment**

20. (1) Where—

(a) no valid notice of appeal against an assessment has been given under section 18 within the time specified by that section (or any extension thereof);

(b) an agreement has been reached with respect to an assessment pursuant to subsection 101(2) of the Income Tax Act 1967;

(c) an assessment has been determined on appeal and there is no right of further appeal; or

(d) a valid notice of appeal against an assessment has been given but the appellant dies before the hearing of the appeal by the Special Commissioners is commenced or completed and no personal representatives of the estate of the deceased appellant applies to the Special Commissioners within two years after his death to proceed with or complete the hearing,

the assessment as made, agreed to or determined shall be final and conclusive for the purposes of this Act.

(2) Nothing in subsection (1) shall prejudice the exercise of any power conferred on the Director General by section 15 or 16A.".

Amendment of section 21

47. Section 21 of the principal Act is amended—

(a) in subsection (1), by substituting for the words "Subject to this section" the words "Except as provided in subsections (1A) and (1B)"; and

(b) by inserting after subsection (1) the following subsections:

"(1A) Where an assessment on a return has been made under subsection 14(1), the tax or additional tax payable under the assessment shall be due and payable within the period of sixty days from the date of disposal whether or not that person appeals against the assessment or additional assessment.

(1B) Where an assessment on an amended return has been made under section 15A, the tax or additional tax payable under the assessment shall be due and payable on the day the amended return is furnished whether or not that person appeals against the assessment or additional assessment.".

New sections 28A, 28B and 28C

48. The principal Act is amended by inserting after section 28 the following sections:

"**Power to call for specific returns and production of books**

28A. For the purpose of obtaining full information for ascertaining whether or not a person is chargeable to tax or for determining his liability, the Director General may by notice under his hand require that or any other person—

(a) to complete and deliver to the Director General within a time specified in the notice, not being less than thirty days from the date of service of the notice, any return specified in the notice;

(b) to attend personally before the Director General and produce for examination all books, accounts, returns and other documents which the Director General thinks necessary;

(c) to make a return in accordance with paragraph *(a)* and also to attend in accordance with paragraph *(b)*; or

(d) to provide in writing such information or particulars which the Director General thinks necessary.

Power to call for statement of bank accounts, etc.

28B. The Director General may by notice under his hand require any person to furnish within a time specified in the notice, not being less than thirty days from the date of service of the notice, a statement containing particulars of—

(a) all banking accounts—

(i) in his own name or in the name of a wife or dependent child of his or jointly in any such names;

(ii) in which he is or has been interested jointly or solely; or

(iii) on which he has or has had power to operate jointly or solely,

being accounts which are in existence or have been in existence at any time during a period to be specified in the notice;

(b) all savings and loan accounts, deposits, building society accounts and co-operative society accounts in regard to which he has or has had any interest or power to operate jointly or solely during that period;

(c) all assets which he and any wife or dependent child of his possess or have possessed during that period;

(d) all disposals of his and the chargeable gain from those disposals; and

(e) all facts bearing upon his present or past chargeability to tax.

Duty to keep documents for ascertaining chargeable gain and tax payable

28C. (1) Subject to this section, every person who is required to furnish a return of his disposals for a year of assessment under this Act shall keep and retain in safe custody sufficient documents for a period of seven years from the end of that year of assessment for the purpose of ascertaining his chargeable gain and tax payable.

(2) Where a person referred to in subsection (1) has not furnished a return as required under this Act for a year of assessment, that person shall keep and retain the documents referred to in subsection (1) which relate to that year of assessment for a period of seven years after the end of the year in which the return is furnished.

(3) The Director General may waive all or any of the provisions under subsection (1) in respect of any disposal.

(4) Any person who is required by this section to keep documents and—

(a) does so electronically, shall retain the documents in an electronically readable form and shall keep the documents in such a manner as to enable the documents to be readily accessible and convertible into writing; or

(b) has originally kept documents in a manual form and subsequently converts those documents into an electronic form, shall retain those documents prior to the conversion in their original form.

(5) All documents that relate to any disposal of chargeable assets situated in Malaysia shall be kept and retained in Malaysia.

(6) For the purposes of this section, "documents" includes—

(a) statement of chargeable gains;

(b) statement of income and incidental cost; and

(c) invoices, vouchers, receipts and such other documents as are necessary to verify the particulars in a return.".

Amendment of section 57A

49. Subsection 57A(3) of the principal Act is amended by inserting after the words "in writing to a" the word "nominee,".

Amendment of Schedule 2

50. Schedule 2 to the principal Act is amended—

(a) in subparagraph 1(1)—

(i) by inserting after the definition of "connected person" the following definition:

' "co-operative society" means any co-operative society registered under the Co-operative Societies Act 1993 [*Act 502*];';

(ii) in the English language text, in the definition of "relative", by substituting for the full stop at the end of that definition a semi colon; and

(iii) by inserting after the definition of "relative" the following definition:

' "trust body" has the meaning assigned to it under the Income Tax Act 1967.'; and

(b) in paragraph 34A, by inserting after subparagraph (5) the following subparagraph:

"(5A) This paragraph shall not apply to an acquisition or a disposal of any shares by a company, limited liability partnership, trust body or co-operative society, other than a Labuan entity as provided under section 2B of the Labuan Business Activity Tax Act 1990, on or after 1 January 2024.".

CHAPTER IV

AMENDMENTS TO THE STAMP ACT 1949

Commencement of amendments to the Stamp Act 1949

51. This Chapter comes into operation on 1 January 2024.

Amendment of section 2

52. The Stamp Act 1949, which is referred to as the "principal Act" in this Chapter, is amended in section 2—

(a) by substituting for the full stop at the end of the definition of "stock" a semi colon; and

(b) by inserting after the definition of "stock" the following definition:

' "writing" or "written" includes any handwriting, typewriting, printing, electronic record or transmission which is in an electronically readable form.".

Amendment of section 7

53. Section 7 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting paragraph *(a)*; and

(ii) by deleting paragraph *(aa)*; and

(b) by deleting subsections (2), (3), (4), (5), (6), (7) and (8).

Deletion of section 8

54. The principal Act is amended by deleting section 8.

Amendment of section 15

55. Subsection 15(6) of the principal Act is amended by substituting for the words "which the duty paid has been impressed" the words "which the duty has been paid".

Amendment of section 39

56. Section 39 of the principal Act is amended—

(a) in subsection (1), by substituting for the words "by filing a notice of appeal with the High Court" the words "in accordance with the procedure and practice for the time being in force in the High Court";

(b) by substituting for subsection (1A) the following subsection:

"(1A) Where an appeal has been filed under subsection (1), the cause papers of the appeal shall be served on the Collector within the time stipulated for the filing of the appeal."; and

(c) by inserting after subsection (5) the following subsection:

"(6) Unless it is otherwise provided by rules of court, the rules of court for the time being in force in relation to appeals in civil matters from the High Court in its original jurisdiction to the Court of Appeal and the Federal Court shall apply with the necessary modifications to appeals under this section to the High Court, the Court of Appeal and the Federal Court respectively.".

Amendment of section 42

57. Section 42 of the principal Act is amended by inserting after subsection (2) the following subsection:

"(2A) For the purposes of subsection (2), where the instrument is received by way of electronic transmission, the date of receipt thereof shall be verified by the production of a copy or print-out of the electronic transmission.".

Amendment of section 43

58. The principal Act is amended by substituting for section 43 the following section:

"**Bills, cheques or notes drawn out of Malaysia**

43. Every person into whose hands any cheque or promissory note drawn or made out of Malaysia comes in Malaysia before it is stamped shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in Malaysia, bring the cheque or promissory note to the Collector for assessment of duty in accordance with section 36 within thirty days after it has been first received in Malaysia.".

Amendment of section 45

59. Subsection 45(1) of the principal Act is amended by substituting for the words "affix thereto the proper adhesive stamp, and upon cancelling the same in manner herein before provided," the words "bring the cheque to the Collector for assessment of duty in accordance with section 36, and".

Amendment of section 48

60. Section 48 of the principal Act is amended—

(a) by deleting the words "43 or"; and

(b) by deleting paragraphs *(a)* and *(b)*.

Amendment of section 57

61. Section 57 of the principal Act is amended by deleting paragraph *(b)*.

Deletion of section 60

62. The principal Act is amended by deleting section 60.

Deletion of section 60A

63. The principal Act is amended by deleting section 60A.

Deletion of section 71

64. The principal Act is amended by deleting section 71.

Deletion of section 72

65. The principal Act is amended by deleting section 72.

Deletion of section 73

66. The principal Act is amended by deleting section 73.

Amendment of section 82

67. Section 82 of the principal Act is amended by deleting paragraphs *(a)* and *(b)*.

Amendment of First Schedule

68. The First Schedule to the principal Act is amended—

(a) in subparagraph 27*(a)*(ii), in the column "Proper Stamp Duty" by deleting the words "but the total duty payable shall not exceed RM2,000"; and

(b) in Item 32—

(i) by inserting after paragraph *(a)* and the particulars relating to it the following paragraph and particulars:

"*(aa)*	On sale of any property (except stock, shares, marketable securities and accounts receivables or book debts of the kind mentioned in paragraph *(c)*) to a foreign company or a person who is not a citizen and not a permanent resident	RM4.00 for every RM100 or fractional part of RM100 of the amount of the money value of the consideration or the market value of the property, whichever is the greater.

"; and

(ii) by substituting for paragraph *(h)* and the particulars relating to it the following paragraph and particulars:

"*(h)*	Of any property—	
	(i) by way of gift (whether by way of voluntary disposition or otherwise)	*See* Gift and subsection 16(1)
	(ii) by way of release or renunciation by a beneficiary of a deceased estate to another beneficiary entitled under the same estate	RM10.00 ".

Deletion of Second Schedule

69. The principal Act is amended by deleting the Second Schedule.

Deletion of Fifth Schedule

70. The principal Act is amended by deleting the Fifth Schedule.

Chapter V

AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

Commencement of amendments to the Petroleum (Income Tax) Act 1967

71. (1) Subparagraph 72*(a)*(i) and sections 75, 76 and 77 come into operation on 1 January 2024.

(2) Subparagraph 72*(a)*(ii), paragraph 72*(b)* and section 74 have effect for the year of assessment 2024 and subsequent years of assessment.

(3) Section 73 has effect for the Financial Year beginning on 1 January 2025 and subsequent Financial Years.

(4) Section 78 comes into operation on the coming into operation of this Act.

Amendment of section 2

72. The Petroleum (Income Tax) Act 1967, which is referred to as the "principal Act" in this Chapter, is amended in section 2—

(a) in subsection (1)—

(i) by inserting after the definition of ' "disposal" and "disposed of" ' the following definition:

' "electronic invoice" has the meaning assigned to it in the Income Tax Act 1967 [*Act 53*];'; and

(ii) by substituting for the definition of "secondary recovery" the following definition:

' "secondary recovery" means a method or process which has as its object the production of quantities of hydrocarbons by the application of external energy to the underground reservoir which is carried out—

(a) subsequent to the earlier recovery process for the purposes of additional and accelerated recovery of those hydrocarbons; or

(b) for the initial recovery or extraction of those hydrocarbons;'; and

(b) in subsection (4), by substituting for subparagraph *(a)*(i) the following subparagraph:

"*(a)*(i) notwithstanding subsection (3), where a partnership carries on petroleum operations under two or more petroleum agreements and the areas under

those agreements are contiguous, the petroleum operations in those areas shall be treated as being carried on under one petroleum agreement if all the members of that partnership are the same original parties to the petroleum agreements and approved by the Director General:

Provided that where a partnership is succeeded under subsection (3), this paragraph shall apply to an area under the petroleum agreement, including any expansion thereof which are contiguous prior to the succession of the partnership:

Provided further that where an area under a petroleum agreement is contiguous with agreement areas which are contiguous under existing petroleum agreements, that first mentioned area shall be treated as contiguous with the existing petroleum agreements areas for the purposes of this paragraph if the members of the partnership of the first mentioned petroleum agreement are the same as the original parties to the existing petroleum agreements; and".

Amendment of section 3

73. Section 3 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1); and

(b) by inserting after the renumbered subsection (1) the following subsections:

"(2) Notwithstanding any other provisions of this Act and for the purposes of the imposition of Domestic Top-up Tax or Multinational Top-up Tax and the implementation of the GloBE Rules, Part XI of the Income Tax Act 1967 shall also apply to a chargeable person who is a Constituent Entity that is a member of a Multinational Enterprise Group that has annual revenue of seven hundred and fifty million euro or more in the Consolidated Financial Statements of

the Ultimate Parent Entity in at least two of the four consecutive Financial Years immediately preceding the tested Financial Year.

(3) Where one or more of the Financial Years of the Multinational Enterprise Group taken into account for the purposes of subsection (2) is of a period other than twelve months, for each of those Financial Years the seven hundred and fifty million euro annual revenue is adjusted proportionally to correspond with the length of the relevant Financial Year.

(4) For the purposes of subsections (2) and (3), "Consolidated Financial Statement", "Constituent Entity", "Financial Year", "GloBE Rules", "Multinational Enterprise Group" and "Ultimate Parent Entity" have the meaning assigned to them in Part XI of the Income Tax Act 1967.".

Amendment of section 4

74. Subsection 4(3) of the principal Act is amended by substituting for the words "For the avoidance of doubt" the words "Except where subsection 2(4) applies, for the avoidance of doubt".

New section 34B

75. The principal Act is amended by inserting after section 34A the following section:

"**Duty to issue electronic invoice**

34B. (1) Subject to this section, a person shall, in a year of assessment, issue an electronic invoice for each transaction in respect of any goods sold or services performed from petroleum operations by the person in that year of assessment.

(2) For the purposes of subsection (1)—

(a) the persons who shall issue the electronic invoice and the particulars to be included in the electronic invoice are as prescribed by the Minister under section 82C of the Income Tax Act 1967; and

(b) the conditions and specifications under which an electronic invoice is to be issued shall be as determined by the Director General under the guidelines issued in accordance with section 134A of the Income Tax Act 1967.

(3) Any electronic invoice issued by a person in respect of goods sold or services performed under subsection (1) shall be transmitted electronically to and validated by the Director General.

(4) Where for any year of assessment a person is required to issue an invoice under any other written law in respect of goods sold or services performed from petroleum operations, the electronic invoice issued in accordance with subsection (1) including any other particulars as may be required shall be construed as an invoice issued under that law, provided that where the particulars of electronic invoice are inconsistent with the requirements for the issuance of invoice under that law, the electronic invoice shall only be valid and enforceable for the purposes of this Act.

(5) Where for any year of assessment an electronic invoice is issued in accordance with subsection (1), the Director General shall not be liable for any loss or damage suffered by any person due to any error or omission arising, appearing in an electronic invoice provided that the error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the issuance of the electronic invoice.

(6) Subject to the conditions as may be determined by the Director General, where for any year of assessment a person acquires any goods sold or enjoys any services performed, the person shall for that year of assessment issue a self-billed invoice in accordance with the conditions as may be imposed by the Director General and the invoice shall be treated as an electronic invoice.

(7) Where for any year of assessment a person makes an error or mistake in respect of any electronic invoice issued in accordance with this section, the person may for the purpose of rectifying the error or mistake issue a substitute electronic invoice within three days from the date of issuance of the defective electronic invoice.

(8) Where for any year of assessment any goods sold or services performed by a person from petroleum operations involves the issuance of credit note or debit note, the person issuing the credit note or debit note shall make adjustments in ascertaining his chargeable income for that year of assessment accordingly.

(9) A person may, in respect of any goods sold or services performed by him in any year of assessment, add any additional particulars to the electronic invoice under this section.

(10) The provisions of the Personal Data Protection Act 2010 [*Act 709*] shall not apply to any personal data processed for electronic invoice issued or transmitted to the Director General under this section and any other related provisions of this Act.".

New section 57B

76. The principal Act is amended by inserting after section 57A the following section:

"**Failure to issue electronic invoice**

57B. Any person who, without reasonable excuse, contravenes subsection 34B(1) or (6), shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.".

Amendment of section 71

77. Section 71 of the principal Act is amended—

(a) in subsection (4), by inserting after paragraph *(a)* the following paragraph:

"*(aa)* the production or disclosure of classified material in relation to electronic invoice to the Director General of Customs and Excise (or to the public officers under his direction and control) or the use of classified material in relation to electronic invoice by the Director General of Customs and Excise, to such an extent as is necessary or expedient for the exercise of his function;"; and

(b) in subsection (5), in the definition of "classified person"—

(i) in paragraph *(c)*, by deleting the word "or" at the end of the paragraph;

(ii) in paragraph *(d)*, by inserting after the words "Malaysia;" the word "or"; and

(iii) by inserting after paragraph *(d)* the following paragraph:

"*(e)* any person who, for any reason, has by any means access to any information on an electronic invoice under this Act;".

Amendment of section 82A

78. Section 82A of the principal Act is amended by inserting after subsection (3) the following subsection:

"(3A) For the purposes of subsection (1), a person referred to under subsection 27(2) may authorize in writing an employee to furnish on his behalf any form prescribed under this Act in the manner provided for in subsection (1).".

CHAPTER VI

AMENDMENTS TO THE LABUAN BUSINESS ACTIVITY TAX ACT 1990

Commencement of amendments to the Labuan Business Activity Tax Act 1990

79. (1) Sections 80, 83, 84, 85 and 86 come into operation on 1 January 2024.

(2) Sections 81 and 82 have effect for the Financial Year beginning on 1 January 2025 and subsequent Financial Years.

Amendment of section 2

80. The Labuan Business Activity Tax Act 1990, which is referred to as the "principal Act" in this Chapter, is amended in subsection 2(1) by inserting after the definition of "domestic company" the following definition:

' "electronic invoice" has the meaning assigned to it in the Income Tax Act 1967;'.

Amendment of section 3

81. Section 3 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1); and

(b) by inserting after the renumbered subsection (1) the following subsections:

"(2) Notwithstanding any other provisions of this Act and for the purposes of the imposition of Domestic Top-up Tax or Multinational Top-up Tax and the implementation of the GloBE Rules, Part XI of the Income Tax Act 1967 shall also apply to a Labuan entity which is a Constituent Entity that is a member of a Multinational Enterprise Group that has annual

revenue of seven hundred and fifty million euro or more in the Consolidated Financial Statements of the Ultimate Parent Entity in at least two of the four consecutive Financial Years immediately preceding the tested Financial Year.

(3) Where one or more of the Financial Years of the Multinational Enterprise Group taken into account for the purposes of subsection (2) is of a period other than twelve months, for each of those Financial Years the seven hundred and fifty million euro annual revenue is adjusted proportionally to correspond with the length of the relevant Financial Year.

(4) For the purposes of subsections (2) and (3), "Consolidated Financial Statement", "Constituent Entity", "Financial Year", "GloBE Rules", "Multinational Enterprise Group" and "Ultimate Parent Entity" have the meaning assigned to them in Part XI of the Income Tax Act 1967.".

Amendment of section 9

82. Subsection 9(1) of the principal Act is amended by substituting for the words "section 3" the words "subsection 3(1)".

New section 21B

83. The principal Act is amended by inserting after section 21A the following section:

"**Admissibility of electronic record**

21B. (1) Notwithstanding any other written law, where in any proceedings under this Act an electronic record of any document is stored or received by or communicated to the Director General on an electronic medium or by way of electronic transmission, the electronic record or the copy or print-out of that electronic record shall be admissible as evidence of the facts stated or contained therein:

Provided that the record or the copy or print-out is—

(a) certified by the Director General to contain all or any information furnished, stored, communicated or received on an electronic medium or by way of electronic transmission under this section; or

(b) otherwise authenticated in the manner provided in the Evidence Act 1950 [*Act 56*] for authentication of documents produced by computer.

(2) Where the electronic record of any document, or a copy or print-out of that record is admissible under subsection (1), it shall be presumed, until the contrary is proved, that the record or the copy or print-out accurately reproduces the content of that document.

(3) For the purposes of this Act, "electronic medium" includes a data, text, an image or any other information stored, received or communicated by means of electronic, magnetic, optical, imaging or any other data processing device.".

Amendment of section 22A

84. Section 22A of the principal Act is amended in subsection (1)—

(a) in paragraph *(a)*, by deleting the word "and" at the end of the paragraph; and

(b) by inserting after paragraph *(a)* the following paragraph:

"*(aa)* the disclosure of information in relation to electronic invoice to the Director General of Customs and Excise (or to the public officers under his direction and control) or the use of information in relation to electronic invoice by the Director General of Customs and Excise, to such an extent as is necessary or expedient for the exercise of his function; and".

New section 22DA

85. The principal Act is amended by inserting after section 22D the following section:

"**Duty to issue electronic invoice**

22DA. (1) Subject to this section, a person shall, in a year of assessment issue an electronic invoice for each transaction in respect of any goods sold or services performed by the person in that year of assessment.

(2) For the purposes of subsection (1)—

(a) the persons who shall issue the electronic invoice and the particulars to be included in the electronic invoice are as prescribed by the Minister under section 82C of the Income Tax Act 1967; and

(b) the conditions and specifications under which an electronic invoice is to be issued shall be as determined by the Director General under the guidelines issued in accordance with section 17A of this Act.

(3) Any electronic invoice issued by a person in respect of goods sold or services performed under subsection (1) shall be transmitted electronically to and validated by the Director General.

(4) Where for any year of assessment a person is required to issue an invoice under any other written law in respect of goods sold or services performed, the electronic invoice issued in accordance with subsection (1) including any other particulars as may be required shall be construed as an invoice issued under that law, provided that where the particulars of electronic invoice are inconsistent with the requirements for the issuance of invoice under that law, the electronic invoice shall only be valid and enforceable for the purposes of this Act.

(5) Where for any year of assessment an electronic invoice is issued in accordance with subsection (1), the Director General shall not be liable for any loss or damage suffered by any person due to any error or omission arising, appearing

in an electronic invoice provided that the error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the issuance of the electronic invoice.

(6) Subject to the conditions as may be determined by the Director General, where for any year of assessment a person acquires any goods sold or enjoys any services performed, the person shall for that year of assessment issue a self-billed invoice in accordance with the conditions as may be imposed by the Director General and the invoice shall be treated as an electronic invoice.

(7) The Director General may, for any year of assessment in respect of any goods sold or services performed, determine a person to consolidate the number of transactions in respect of such goods sold or services performed in that year of assessment into a consolidated transaction invoice, and that person shall transmit the consolidated transaction invoice to the Director General within a specified time and in accordance with the conditions as determined by the Director General and such consolidated transaction invoice shall for the purposes of this section constitute an electronic invoice issued by that person.

(8) Where for any year of assessment a person makes an error or mistake in respect of any electronic invoice issued in accordance with this section, the person may for the purpose of rectifying the error or mistake issue a substitute electronic invoice within three days from the date of issuance of the defective electronic invoice.

(9) Where for any year of assessment any goods sold or services performed by a person involves the issuance of credit note or debit note, the person issuing the credit note or debit note shall make adjustments in ascertaining his chargeable profits for that year of assessment accordingly.

(10) A person may, in respect of any goods sold or services performed by him in any year of assessment, add any additional particulars to the electronic invoice under this section.

(11) The provisions of the Personal Data Protection Act 2010 [*Act 709*] shall not apply to any personal data processed for electronic invoice issued or transmitted to the Director General under this section and any other related provisions of this Act.".

New section 22EA

86. The principal Act is amended by inserting after section 22E the following section:

"**Failure to issue electronic invoice**

22EA. Any person who, without reasonable excuse, contravenes subsection 22DA(1), (6) or (7), shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred ringgit and not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.".

Chapter VII

AMENDMENT TO THE ENTERTAINMENTS DUTY ACT 1953

Commencement of amendment to the Entertainments Duty Act 1953

87. Section 88 comes into operation on the coming into operation of this Act.

Amendment of section 23

88. Section 23 of the Entertainments Duty Act 1953 is amended by substituting for subsection (2) the following subsection:

"(2) Any regulations made under this Act shall be laid before the Dewan Rakyat.".

CHAPTER VIII

AMENDMENT TO THE CUSTOMS ACT 1967

Commencement of amendment to the Customs Act 1967

89. Section 90 comes into operation on the coming into operation of this Act.

Amendment of section 11

90. Section 11 of the Customs Act 1967 is amended—

(a) in the shoulder note, by deleting the words "**to be approved by the Dewan Rakyat**";

(b) by substituting for subsection (2) the following subsection:

"(2) Any order made under subsection (1) shall be laid before the Dewan Rakyat."; and

(c) by deleting subsections (3), (4) and (5).

CHAPTER IX

AMENDMENT TO THE EXCISE ACT 1976

Commencement of amendment to the Excise Act 1976

91. Section 92 comes into operation on the coming into operation of this Act.

Amendment of section 6

92. Section 6 of the Excise Act 1976 is amended—

(a) by substituting for subsection (2) the following subsection:

"(2) Any order made under subsection (1) shall be laid before the Dewan Rakyat."; and

(b) by deleting subsections (3), (4) and (5).

Chapter X

AMENDMENT TO THE GOODS VEHICLE LEVY ACT 1983

Commencement of amendment to the Goods Vehicle Levy Act 1983

93. Section 94 comes into operation on the coming into operation of this Act.

Amendment of section 3

94. Section 3 of the Goods Vehicle Levy Act 1983 is amended by substituting for subsection (3) the following subsection:

"(3) Any order made under subsection (2) shall be laid before the Dewan Rakyat.".

Chapter XI

AMENDMENT TO THE WINDFALL PROFIT LEVY ACT 1998

Commencement of amendment to the Windfall Profit Levy Act 1998

95. Section 96 comes into operation on the coming into operation of this Act.

Amendment of section 7

96. The Windfall Profit Levy Act 1998 is amended by substituting for section 7 the following section:

"**Order to be laid before Dewan Rakyat**

7. An order determining the amount of levy to be levied under this Act shall be laid before the Dewan Rakyat.".

CHAPTER XII

AMENDMENTS TO THE TOURISM TAX ACT 2017

Commencement of amendments to the Tourism Tax Act 2017

97. (1) Section 98 comes into operation on the coming into operation of this Act.

(2) Sections 99, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109 come into operation on 1 January 2024.

Amendment of section 8

98. The Tourism Tax Act 2017, which is referred to as the "principal Act" in this Chapter, is amended in section 8—

(a) by substituting for subsection (3) the following subsection:

"(3) Any order made under subsection (1) shall be laid before the Dewan Rakyat."; and

(b) by deleting subsections (4) and (5).

Amendment of section 10

99. Subsection 10(1) of the principal Act is amended by substituting for the words "in the manner as may be prescribed" the words "in the form and manner as determined by the Director General".

Amendment of section 11

100. Subsection 11(1) of the principal Act is amended by substituting for the words "in the manner as may be prescribed" the words "in the form and manner as determined by the Director General".

Amendment of section 14

101. Section 14 of the principal Act is amended by inserting after subsection (1) the following subsection:

"(1A) Notwithstanding subsection (1), the Director General may, upon request in writing and subject to such conditions as he thinks fit to impose, approve any one or more of the prescribed particulars not to be contained in an invoice.".

Amendment of section 19

102. Section 19 of the principal Act is amended—

(a) in subsection (1), by substituting for the words "as may be prescribed and the return shall be furnished to the Director General in the prescribed manner" the words "in the form and manner as determined by the Director General"; and

(b) in subsection (2), by substituting for the words "the return in the taxable period following after the end of that period of twelve calendar months and the return shall be furnished to the Director General in the prescribed manner" the words "a return in the form and manner as determined by the Director General in the taxable period following after the end of that period of twelve calendar months".

Amendment of section 20C

103. Section 20C of the principal Act is amended by substituting for the words "in the manner as may be prescribed" wherever appearing the words "in the form and manner as determined by the Director General".

Amendment of section 20I

104. Subsection 20I(1) of the principal Act is amended by substituting for the words "as may be prescribed and the return shall be furnished to the Director General in the prescribed manner" the words "in the form and manner as determined by the Director General".

Amendment of section 22

105. Subsection 22(1) of the principal Act is amended by substituting for the words "in the prescribed form to the Director General" the words "in the form and manner as determined by the Director General".

New Part VIA

106. The principal Act is amended by inserting after Part VI the following part:

"PART VIA

RULING

Public ruling

31A. (1) The Director General may, at any time, make a public ruling on the application of any provision of this Act in relation to any person or class of persons, or any type of business activities.

(2) The Director General may amend or withdraw, either wholly or partly, any public ruling made under this section.

(3) Notwithstanding any provision of this Act, where a public ruling under subsection (1) applies to any person in relation to a business activity and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and the business activities in accordance with the ruling.".

Amendment of section 65

107. Subsection 65(2) of the principal Act is amended by substituting for paragraph *(b)* the following paragraph:

"*(b)* produce any thing in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.".

Deletion of section 66

108. The principal Act is amended by deleting section 66.

Amendment of section 70

109. Section 70 of the principal Act is amended by deleting paragraph (2)*(c)*.

Chapter XIII

AMENDMENTS TO THE SALES TAX ACT 2018

Commencement of amendments to the Sales Tax Act 2018

110. (1) Sections 111, 112, 113, 114, 117 and 125 come into operation on the coming into operation of this Act.

(2) Sections 115, 116, 118, 119, 120, 121, 122, 123 and 124 come into operation on 1 January 2024.

Amendment of section 10

111. The Sales Tax Act 2018, which is referred to as the "principal Act" in this Chapter, is amended in section 10—

(a) by substituting for subsection (3) the following subsection:

"(3) Any order made under subsection (2) shall be laid before the Dewan Rakyat."; and

(b) by deleting subsections (4), (5) and (6).

Amendment of section 11A

112. Section 11A of the principal Act is amended in the definition of "seller", by substituting for the words "low value goods on an online marketplace" the words "low value goods on an online platform".

Amendment of section 11B

113. Subsection 11B(2) of the principal Act is amended by substituting for the words "sections 3, 14, 15, 16, 23, 32, 35" the words "sections 3, 14, 15, 16, 32".

New section 11E

114. The principal Act is amended by inserting after section 11D the following section:

"**Sales tax on importation is not applicable on low value goods**

11E. Notwithstanding paragraph 8(1)*(b)*, no sales tax shall be levied on the low value goods if it is proven to the proper officer of sales tax that the sales tax has been charged by the registered seller and being paid on the low value goods.".

Amendment of section 13

115. Subsection 13(1) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 14

116. Subsection 14(1) of the principal Act is amended by inserting after the words "registered manufacturer" the words "in the form and manner as determined by the Director General".

Amendment of section 23

117. Section 23 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1); and

(b) by inserting after the renumbered subsection (1) the following subsection:

"(2) Notwithstanding subsection (1), the Director General may, upon request in writing by the registered manufacturer and subject to such conditions as he thinks fit to impose, approve any one or more of the prescribed particulars not to be contained on a credit note or debit note.".

Amendment of section 26

118. Subsection 26(1) of the principal Act is amended by substituting for the words "as may be prescribed and the return shall be furnished to the Director General in the prescribed manner" the words "in the form and manner as determined by the Director General".

Amendment of section 39

119. Subsection 39(1) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 43

120. Subsection 43(1) of the principal Act is amended by substituting for the words "Any person may apply, in the prescribed form together with the prescribed fee, to the Director General" the words "Any person may apply to the Director General, in the form and manner as determined by the Director General together with the prescribed fee,".

Amendment of section 82

121. Paragraph 82(4)*(b)* of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 90

122. Subsection 90(2) of the principal Act is amended by substituting for paragraph *(b)* the following paragraph:

"*(b)* produce any thing in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.".

Amendment of section 96

123. Subsection 96(2) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 106

124. The principal Act is amended by deleting paragraph 106(2)*(k)*.

Amendment of Schedule

125. The Schedule of the principal Act is amended—

(a) in relation to section 25, in column (2), by substituting for paragraph 1 the following paragraph:

"1. In subsection (1), by substituting for the words "following month" the words "following two months".";

and

(b) by inserting before the particulars in relation to section 35A the following particulars:

(1) *Provision of this Act*	(2) *Modifications*
"Section 35	1. Substitute for the words "taxable goods manufactured or imported" wherever appearing the words "sale of low value goods".
	2. Substitute for the words "taxable goods" wherever appearing the words "low value goods".".

CHAPTER XIV

AMENDMENTS TO THE SERVICE TAX ACT 2018

Commencement of amendments to the Service Tax Act 2018

126. (1) Section 127 comes into operation on the coming into operation of this Act.

(2) Sections 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139 and 140 come into operation on 1 January 2024.

Amendment of section 10

127. The Service Tax Act 2018, which is referred to as the "principal Act" in this Chapter, is amended in section 10—

(a) by substituting for subsection (3) the following subsection:

"(3) Any order made under subsection (2) shall be laid before the Dewan Rakyat."; and

(b) by deleting subsections (4), (5) and (6).

Amendment of section 13

128. Subsection 13(1) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 14

129. Subsection 14(1) of the principal Act is amended by inserting after the words "registered person" the words "in the form and manner as determined by the Director General".

Amendment of section 17

130. Subsection 17(1) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 26

131. Subsection 26(1) of the principal Act is amended by substituting for the words "as may be prescribed and the return shall be furnished to the Director General in the prescribed manner" the words "in the form and manner as determined by the Director General".

Amendment of section 26A

132. Paragraph 26A(1)*(a)* of the principal Act is amended by substituting for the words "as may be prescribed and the declaration shall be furnished to the Director General" the words "in the form and manner as determined by the Director General".

Amendment of section 38

133. Subsection 38(1) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 39

134. Subsection 39(1) of the principal Act is amended by inserting after the words "his customer" the words "who is not doing business".

Amendment of section 42

135. Subsection 42(1) of the principal Act is amended by substituting for the words "Any person may apply, in the prescribed form together with the prescribed fee, to the Director General" the words "Any person may apply to the Director General, in the form and manner as determined by the Director General together with the prescribed fee,".

Amendment of section 56C

136. Subsection 56C(1) of the principal Act is amended by substituting for the words "prescribed form" the words "form and manner as determined by the Director General".

Amendment of section 56H

137. Section 56H of the principal Act is amended—

(a) by inserting after subsection (3) the following subsection:

"(3A) The Director General may, as he thinks fit, re-determine any taxable period other than the period as determined under subsection (1) or (3) for the foreign registered person.";

(b) by substituting for subsection (4) the following subsection:

"(4) A foreign registered person shall, in respect of his taxable period, account for the service tax due, in a return, as may be determined by the Director General and the return shall be furnished to the Director General in the manner as determined by the Director General not later than the last day of the month following the end of his taxable period to which the return relates."; and

(c) by inserting after subsection (4A) the following subsection:

"(4B) Subject to subsections (4) and (4A), a return shall be deemed to be furnished upon receiving by the Director General in the form and manner as determined by the Director General.".

Amendment of section 75

138. Subsection 75(2) of the principal Act is amended by substituting for paragraph *(b)* the following paragraph:

"*(b)* produce any thing in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.".

Amendment of section 81

139. Subsection 81(2) of the principal Act is amended by substituting for the words "in the prescribed form" the words "in the form and manner as determined by the Director General".

Amendment of section 91

140. Section 91 of the principal Act is amended—

(a) by deleting paragraph (2)*(k)*; and

(b) by renumbering subsection (2) after the existing paragraph (2)*(m)* as subsection (3).

Chapter XV

AMENDMENT TO THE DEPARTURE LEVY ACT 2019

Commencement of amendment to the Departure Levy Act 2019

141. Section 142 comes into operation on the coming into operation of this Act.

Amendment of section 11

142. Section 11 of the Departure Levy Act 2019 is amended by substituting for subsection (2) the following subsection:

"(2) Any order made under subsection (1) shall be laid before the Dewan Rakyat.".