

INCOME TAX (THE PRINCIPAL HUB INECNTIVE SCHEME) RULES 2022

PU (A) 164
24 May 2022

IN exercise of the powers conferred by paragraph 154(1)(b) read together with subsection 6(1A) and paragraph 2 of Part XVII of Schedule 1 to the Income Tax Act 1967 [Act 53], the Minister makes the following rules:

CITATION AND COMMENCEMENT

- 1(1)** These rules may be cited as the Income Tax (The Principal Hub Incentive Scheme) Rules 2022.
- 1(2)** These Rules have effect from the year of assessment 2021.

APPLICATION

- 2** These Rules shall apply to a qualifying company which applies in writing for the Principal Hub Incentive Scheme to the Minister through the Malaysian Investment Development Authority and such application is received on or after 1 January 2021 but not later than 31 December 2022.

INTERPRETATION

- 3** In these Rules—

"qualifying activity" means an activity that fulfils the eligibility condition prescribed by the Minister as provided under rule 4;

"Malaysian Investment Development Authority" means the Malaysian Investment Development Authority established under the Malaysian Investment Development Authority (Incorporation) Act 1965 [Act 397];

"Principal Hub Incentive Scheme" means an incentive scheme for the qualifying company which carries on a qualifying activity and approved by the Minister;

"new company" means a company—

- (a) which is incorporated under the Companies Act 2016 [Act 777] and resident in Malaysia;
- (b) which has a paid-up capital of more than two million five hundred thousand ringgit (RM2,500,000.00); and
- (c) which is established for the purpose of carrying on a qualifying activity under these Rules—
 - (i) which does not have an existing entity or related entity in Malaysia prior to the application referred to in rule 2 being made; or
 - (ii) which has an existing entity or related entity in Malaysia which has not carried on a qualifying activity in Malaysia prior to the application referred to in rule 2 being made;

"existing company" means a company—

- (a) which is incorporated under the Companies Act 2016 and resident in Malaysia;

- (b) which is already operating in Malaysia and carrying on a manufacturing or services activity other than the qualifying activity prior to the application referred to in rule 2 being made; and
- (c) which has a paid-up capital of more than two million five hundred thousand ringgit (RM2,500,000.00);

“qualifying company” means a new company or an existing company that fulfils the eligibility condition imposed by the Minister under the Act and these Rules.

QUALIFYING ACTIVITY

- 4 A qualifying activity referred under these Rules is a service activity undertaken by a qualifying company as specified in Schedule 1.

APPLICABLE RATE

- 5 The rate of income tax which shall be charged under these Rules for the specified years of assessment on the chargeable income of a qualifying company which carries on business in respect of a qualifying activity under the Principal Hub Incentive Scheme is at the rate specified in Schedule 2.

EXCLUSION OF INTELLECTUAL PROPERTY INCOME

- 6(1) In ascertaining the statutory income of a qualifying company, intellectual property income derived from the qualifying activity of the qualifying company shall be excluded.
- 6(2) For the purposes of subrule (1)—
 - (a) a qualifying company owns an intellectual property right if the qualifying company is the owner or the licensee of the right;
 - (b) royalties or other income is derived from an intellectual property right if it is receivable as consideration for the commercial exploitation of that right; and
 - (c) “intellectual property right” means a right arising from any patent, utility innovation and discovery, copyright, trade mark and service mark, industrial design, layout-design of integrated circuit, secret processes or formulae and know-how, geographical indication and the grant of protection of a plant variety, and other like rights, whether or not registered or registrable.
- 6(3) The intellectual property income referred to in subrule (1) is subject to tax under the Act.

SPECIFIED YEARS OF ASSESSMENT

- 7 The specified years of assessment referred under these Rules is a period of five consecutive years of assessment for the implementation of the Principal Hub Incentive Scheme commencing from the year of assessment as determined by the Minister.

CONDITIONS FOR THE PRINCIPAL HUB INCENTIVE SCHEME

- 8 A qualifying company which applies for the Principal Hub Incentive Scheme under these Rules shall comply with all conditions for the relevant category of qualifying company as specified in Schedule 2 and any other conditions imposed by the Minister as specified in the approval letter and the Guidelines for Principal Hub Incentive 3.0 issued or as revised by the Malaysian Investment Development Authority and approved by the Minister.

EXTENSION OF SPECIFIED YEARS OF ASSESSMENT FOR A NEW COMPANY

- 9(1)** The Minister may extend the specified years of assessment for a new company for another period of five years of assessment subject to the new company fulfilling all conditions as specified in Schedule 3 and any other conditions imposed by the Minister as specified in the approval letter.
- 9(2)** An application for the extension of the specified years of assessment shall be made by the new company in writing and received by the Minister through the Malaysian Investment Development Authority within thirty days before the expiry of the specified years of assessment.
- 9(3)** The extension of the specified years of assessment shall begin from the subsequent year of assessment after the expiry of the specified years of assessment and continues for a period of five years of assessment.

SURRENDER OF PRINCIPAL HUB INCENTIVE SCHEME

- 10(1)** The Minister may, at any time, except where the qualifying company fails to comply with any conditions imposed in relation to the Principal Hub Incentive Scheme, allow the qualifying company to surrender the Principal Hub Incentive Scheme granted under these Rules by notice in writing to the Minister through the Malaysian Investment Development Authority.
- 10(2)** The surrendering of the Principal Hub Incentive Scheme shall have effect on the first day in the basis period for the year of assessment in which the application for surrender of the Principal Hub Incentive Scheme is received by the Minister through the Malaysian Investment Development Authority.

NON-APPLICATION

- 11** These Rules shall not apply to a qualifying company which in the specified years of assessment—
- (a) has made a claim for reinvestment allowance under Schedule 7A to the Act or investment allowance for service sector under Schedule 7B to the Act;
 - (b) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
 - (c) has been granted an exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or
 - (d) has been approved by the Minister an incentive scheme under any rules made under section 154 of the Act; or
 - (e) has made a claim for deduction under any rules made under section 154 of the Act except—
 - (i) the rules in relation to allowance under Schedule 3 to the Act;
 - (ii) the Income Tax (Deduction for Audit Expenditure) Rules 2006 [P.U. (A) 129/2006]; or
 - (iii) the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 [P.U. (A) 162/2020].

SCHEDULE 1

[Rule 4]

(1) No.	(2) Cluster	(3) Qualifying service
1.	Strategic services	<ul style="list-style-type: none"> (a) Regional profit and loss or business unit management (b) Strategic business planning and corporate development (c) Corporate finance advisory services (d) Brand management (e) Intellectual property management (f) Senior-level talent acquisition and management
2.	Business services	<ul style="list-style-type: none"> (a) Bid and tender management (b) Treasury and fund management (c) Research, development and innovation (d) Project management (e) Sales and marketing (f) Business development (g) Technical support and consultancy (h) Information management and processing (i) Economic or investment research analysis (j) Strategic sourcing, procurement and distribution (k) Logistics services
3.	Shared services	<ul style="list-style-type: none"> (a) Corporate training and human resource management (b) Finance and accounting (transactions, internal audit)

SCHEDULE 2

[Rules 5 and 8]

(1) Category of qualifying company	(2) Category 1 (new company under subparagraph 3(c)(i))	(3) Category 2 (new company under subparagraph 3(c)(ii))	(4) Category 3 (existing company)
Income tax rate	0%	5%	10%
Conditions for a qualifying company under the Principal Hub Incentive Scheme			
Minimum number of full-time new employees in Malaysia with a minimum basic salary of five thousand ringgit (RM5,000.00) per month and at least fifty per cent of that new employees are Malaysians	50 persons	30 persons	30 persons
Minimum number of full-time new employees in Malaysia with a minimum basic salary of twenty five thousand ringgit (RM25,000.00) per month	5 persons	4 persons	5 persons
Minimum amount of annual operating expenditure in Malaysia (in ringgit Malaysia)	10,000,000.00	5,000,000.00	10,000,000.00

SCHEDULE 3

[Rule 9]

(1) Category of qualifying company	(2) Category 1 (new company under subparagraph 3(c)(i))	(3) Category 2 (new company under subparagraph 3(c)(ii))
Income tax rate	0%	5%
Conditions for the extension of the specified years of assessment for a new company under the Principal Hub Incentive Scheme		
Minimum number of full-time new employees in Malaysia with a minimum basic salary of five thousand ringgit (RM5,000.00) per month and at least fifty per cent of that new employees are Malaysians (to be complied with at the end of the last year of the specified years of assessment)	60 persons	36 persons
Minimum number of full-time new employees in Malaysia with a minimum basic salary of twenty five thousand ringgit (RM25,000.00) per month (to be complied with at the end of the last year of the specified years of assessment)	5 persons	4 persons
Minimum amount of annual operating expenditure in Malaysia (in ringgit Malaysia) (to be complied with at the end of the last year of the specified years of assessment)	13,000,000.00	7,000,000.00