



TAX FLASH

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Guidelines on Transition of Multimedia Super Corridor Malaysia Status Company to Malaysia Digital Status

The Government has, on 4th July 2022 launched the Malaysia Digital ["MD"] initiative replacing the Multimedia Super Corridor ["MSC"] Malaysia which was first introduced in 1996. Thereafter, the Malaysia Digital Economy Corporation ["MDEC"] has published on its website the Guidelines on MD Status dated 30th June 2022 to provide details on the grant of MD Status, including the benefits and incentives thereunder, applicable conditions and post approval matters.

Following the above, MDEC has recently issued the *Guidelines on Transition of MSC Malaysia Status Company to MD Status dated 29th December 2022* to provide clarification for the transition from MSC Malaysia Status to MD Status.

Salient points of the abovementioned Guidelines on Transition of MSC Malaysia Status Company to MD Status include:-

- i. Expansion of Location and Removal of Minimum Office Space Requirement
 - Company is allowed to operate and undertake its approved activities in any location within Malaysia.
 - The minimum office space requirement is no longer applicable for the company.
 - The above took effect from 25th March 2022.
- ii. Compliance to MD Status Conditions
 - Company is required to continue to adhere to the existing conditions for the status as stated in the approval letter and/or conditions of grants issued to the company including any approved variation of conditions. Existing conditions may include the following:-
 - undertaking approved activities;
 - number or/and percentage of knowledge workers;
 - salary;
 - investment;
 - research and development expenditures;
 - paid up capital; and
 - other applicable conditions.
 - Any variation of conditions during the tax exemption period shall be subject to the approval of the National Committee on Investment.
 - In the event of non-compliance of status conditions, the status may be revoked and the effective date of revocation of status shall be determined by the approval committee comprising representatives from the Government.
- iii. Other General Conditions
 - The company shall not transfer or assign the status or any benefits, rights and/or obligations thereunder to any third party.
- iv. Benefits of MD Status
 - Company will continue to enjoy the offerings under the MD bill of guarantees. Existing approvals for incentives or benefits under the bill of guarantees will continue to subsist subject to compliance of existing applicable conditions.
 - The company may carry out its approved activities in the designated location to enjoy the world class physical and information infrastructure as well as competitive telecommunication tariff as per bill of guarantees.

The above Guidelines shall have effect from 25th March 2022.

Note: For further information relating to the Guidelines on MD Status, kindly refer to our [Tax Flash – September 2022 issue](#).

FAQ on Mutual Agreement Procedure

The Mutual Agreement Procedure [“MAP”] Article of Malaysia’s Tax Treaties provides that where a Malaysian resident or national considers that the actions of either or both Malaysia’s and its Treaty Partner’s tax administrations result or will result in taxation not in accordance with the provisions of the Tax Treaty, the person may request for assistance from the Malaysian Competent Authority [“CA”] to interact with CA of Treaty Partners in resolving the international tax disputes.

The Inland Revenue Board ["IRB"] has previously issued the MAP Guidelines dated 19th December 2017 to provide guidance on obtaining assistance from the Malaysian CA to persons that fall within the scope of an effective Tax Treaty that Malaysia has with its treaty partners. Following this, the IRB has issued the [Frequently Asked Questions \["FAQ"\] on MAP](#) to provide clarification to taxpayers on issues pertaining to the request for MAP.

Some of the pertinent points provided in the FAQ are as below:-

- For request of a MAP, the taxpayer is required to:-
 - indicate at least an Article in the relevant Tax Treaty between Malaysia and its Treaty Partner; and
 - demonstrate that the element of double taxation is probable and not just possible to arise in relation to MAP issues.
- Under the Malaysia's tax treaties, the time limit for a MAP request is 3 years from date of first notification of action resulting in taxation not in accordance with the tax treaty.
- Examples of MAP issues include transfer pricing adjustments, resident status, withholding tax and royalties.
- The taxpayer may reject the outcome arrived at by the CA if the taxpayer is not satisfied with it and continue to proceed with the domestic appeal. Double taxation may remain if the other redress mechanism (i.e. appeal or court decision) does not reverse the adjustment in its entirety.
- If the taxpayer withdraws the application for MAP at any time prior to reaching the outcome, the taxpayer will not be eligible to submit another application for MAP on the same issue for the same year of assessment as presented in the initial application for MAP.
- If the implementation of MAP affects subsequent years of assessment, the taxpayer will be required to submit an amended return for the affected years of assessments to the IRB branch that handles the taxpayer's income tax file.

The FAQ on MAP provides further details and various examples as reference.

Entry Into Force of New DTA Between Malaysia and Poland

The IRB has announced in its website that the new Double Taxation Agreement ["DTA"] between Malaysia and Poland which was signed on 8th July 2013 has entered into force on 12th January 2023 the following articles:-

- Article 25 (MAP); and
- Article 26 (Exchange of Information).

The abovementioned Articles 25 and 26 will replace Articles 23 and 24 of the DTA between Malaysia and Poland previously signed on 16th September 1977 respectively.

The other Articles under the new DTA will take effect from 1st January 2024.

Note: For further details of the new DTA between Malaysia and Poland, kindly refer to our [Tax Flash – July 2014](#) issue.

Payments via Cheques or Bank Drafts to RMCD

The Royal Malaysian Customs Department ["RMCD"] has made an announcement that with immediate effect, cheques or bank drafts shall be made payable to "Ketua Pengarah Kastam" for any payments made at the RMCD counters.

However, during the transitional period, payers may still issue the cheques or bank drafts under the old name, i.e. “Ketua Pengarah Negeri”, until 30th June 2023.

Deferment of Implementation of Imposition of Sales Tax on Low Value Goods, Service Tax on Goods Delivery Services and Excise Duty on Pre-Mixed Preparation Products for Beverages

The RMCD has on 10th March 2023 announced that the Minister of Finance has agreed that the effective dates for the imposition of the following taxes/duty be postponed to a date to be determined in a near future:-

- Sales tax on low value goods;
- Service tax on goods delivery services; and
- Excise duty on pre-mixed preparation products for beverages.

Note: For further details, kindly refer to our [Tax Flash – January 2023](#) issue.

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