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Guidelines on Income Tax Exemption for Religious Institution or Organisation under the Income Tax (Exemption) Order 2020

The Inland Revenue Board [“IRB”] has recently issued the *Guidelines on Income Tax Exemption for Religious Institution or Organisation under the Income Tax (Exemption) Order 2020* to explain the meaning of a religious institution or organisation and the conditions that entitle the religious institution or organisation registered under the Companies Act 2016 to obtain income tax exemption.

The Income Tax (Exemption) Order 2017 which took effect from year of assessment [“YA”] 2017 is only applicable to religious institution or organisation registered with the Registrar of Societies Malaysia or under any written law governing such religious institution or organisation.

Effective YA 2020, the tax exemption from all income is also given to religion institution or organisation incorporated under the Companies Act 2016.

Salient points of the Guidelines include:-

- i. A religious institution or organisation means a religious institution or organisation which must be:-
 - a company limited by guarantee and incorporated under the Companies Act 2016 for the purpose of religious worship or the advancement of religion and not operated or conducted primarily for profit; and
 - verified by the relevant associations / authorities as specified below:-

No.	Religions	Head of Religious Organisation
1.	Islam (mosque / surau)	State Islamic Religious Council
2.	Buddha (temple)	a) Malaysian Buddhist Association b) Buddhist Missionary Society Malaysia
3.	Christian (church)	Christian Federation of Malaysia (CFM) [Incorporating the Catholic Bishops Conference of Malaysia (CBSM), Council of Churches of Malaysia (CCM) and National Evangelical Christian Fellowship (NECF)]
4.	Hindu (temple)	Malaysia Hindu Sangam
5.	Sikh (gudwara)	a) Malaysian Gurdwaras (MGC) b) Khalsa Diwan Malaysia
6.	Tao (temple)	Federation of Taoist Associations Malaysia
7.	Others	Letter of confirmation by the Department of National Utility and Integration under Prime Minister’s Department

- ii. Application Procedure
 - The application for Income Tax Exemption must be submitted together with the relevant supporting documents
- iii. Consequence of a Breach of the Conditions of Approval obtain
 - If any conditions of the approval stated in the Guidelines is breached, the IRB has the discretion to revoke the approval granted

- iv. Approval Period and Application of Extension
 - The approval period granted for house of religion worship is 5 years
 - Any application for extension of the approval period is required to be submitted 6 months before expiration of the approval period
- v. The above exemption shall not apply to any religious institution or organisation registered under Societies Act 1966

Note : For further information on the Guideline on Income Tax Exemption for Religious Institution or Organisation under the Income Tax (Exemption) Order 2017, kindly refer to our [Tax Flash – October 2018](#) issue.

Guidelines and Procedures for the Application of Special ITA for the E&E Sector

Following the Budget 2020 announcement, the Malaysian Investment Development Authority ["MIDA"] has recently issued the [Guidelines and Procedures for the Application of Special Investment Tax Allowance \["ITA"\] for the Electrical & Electronic \["E&E"\] Sector](#) to encourage companies in the E&E Sector whose reinvestment allowance ["RA"] period has expired, to further reinvest in Malaysia.

The main objective of this incentive is to further promote high-value added activities in the E&E industry to transition into 5G digital economy and Industry 4.0.

Salient points of the abovementioned Guidelines include:-

- i. Type of Incentive
 - ITA of 50% on qualifying capital expenditure to be offset against 50% of statutory income
 - The incentive period is 5 years commencing from the date of the approval letter
- ii. Eligibility Criteria
 - Manufacturing company incorporated under the Companies Act 1965 or 2016, and residents in Malaysia
 - Possess valid Business License from the relevant Local Authority
 - Possess Manufacturing License from the Ministry of International Trade and Industry ["MITI"] or Confirmation Letter of Exempted from Manufacturing License from MIDA
 - Company engaged in manufacturing activities in the E&E sector and intend to reinvest for the purpose of:-
 - expansion;
 - automation;
 - diversification; or
 - modernization.
 - Company has fully exhausted the period of 15 years (eligibility period) to claim RA under Schedule 7A of the Income Tax Act 1967 by 31st December 2019 and is currently not enjoying any other tax incentives approved by the Government
 - The applicant company will be required to comply with the following conditions:-
 - minimum investment of the related proposed projects shall be at least RM1.5 million in capital expenditure within a period of 5 years;
 - incur the minimum yearly operational expenses (as proposed by company); and
 - hire minimum number of Malaysian full-time workers (as proposed by company).

- Besides, the applicant company shall at least satisfy **either one** of the following conditions:-
 - under the Vendor Development Program, applicant company must develop **at least 2 new local vendor** companies under the following subsectors:-
 - electronics components
 - electronics consumer
 - electronics industrial
 - electrical; or
 - under the Human Capital Development Program, applicant company must:-
 - undertake internship programs with local universities and/or polytechnics or industrial training placement at TVET institutions for at least five (5) Malaysian interns per year with a minimum training period of 3 months throughout the incentive period; or
 - collaborate with local universities on curriculum enhancement in related E&E syllabus; or
 - undertake up-skilling and/or re-skilling programs with local universities, polytechnics or technical institutions.

iii. Effective Date of Application

- Application must be received by MIDA from 1st January 2020 until 31st December 2021

Extension of Application for Tax Incentive for an Approved Individual under the Returning Expert Programme

The Income Tax (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) Rules 2012 provides an option for the chargeable income of an approved individual in respect of employment with any person resident in Malaysia in accordance with a prescribed formula to be taxed at a flat rate of 15% for 5 consecutive years of assessment.

Following the Budget 2021 announcement, the *Income Tax (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) (Amendment) Rules 2021* has been gazetted to extend the period of application under the Returning Expert Programme for another 3 years, i.e. up to 31st December 2023.

Note : For further information on the *Income Tax (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) Rules 2012*, kindly refer to our *Tax Flash – June 2012* issue.

Tax Deduction / Exemption on Value of Benefit in Respect of Smartphone, Tablet or Personal Computer Given by Employers to Employees

Pursuant to the Income Tax (Exemption) Order 2021, a tax exemption up to RM5,000 is granted to an employee who received a smartphone, tablet or personal computer from his employer. On the other hand, an employer is granted a tax deduction equivalent to the value for benefit given to the employee for the purpose of acquiring a smartphone, tablet or personal computer under the Income Tax (Deduction for Value of Benefit Given to Employees) Rules 2021. Both the aforesaid Order and Rules have effect for the YA 2020.

The *Income Tax (Exemption)(Amendment) Order 2021* and *Income Tax (Deduction for Value of Benefit Given to Employees) Rules 2021* have recently been gazetted to provide that the above principal Order and Rules will be effective from YA 2020 onwards.

Note : For further information on the *Income Tax (Exemption) Order 2021* and *Income Tax (Deduction for Value of Benefit Given to Employees) Rules 2021*, kindly refer to our *Tax Flash – March 2021* issue.

Media Release on Relaxation of Incentive Conditions for Manufacturing and Services Projects Approved under the Purview of MIDA

MIDA is the Government's principal investment promotion and development agency under the MITI to oversee and drive investments into the manufacturing and services sectors in Malaysia.

The Government has on 6th April 2021 announced via a [media release](#) that certain relaxation of conditions will be given to manufacturing and services companies that have been approved with incentives under the purview of MIDA. This is part of the proactive measures undertaken by the Government to continue Malaysia's economic revitalisation efforts by facilitating investments and restoring investors' confidence given the onset of the COVID-19 pandemic and the enforcement of the Movement Control Order which have challenged economic activities and businesses.

Under the normal procedure, the approved companies are required to comply with certain conditions and implement their approved projects within a specific period, as stipulated in the Approval Letters issued by MIDA. With the relaxation, a company may be considered for certain relaxations on achieving the approved thresholds or meeting the implementation timeline of their approved projects, subject to compliance of identified criteria set by the Government. The relaxation of compliance with stipulated conditions is applicable for the period between 2020 and 2021.

To leverage this facility, companies are required to submit their soonest requests to MIDA with relevant supporting documentation based on the prevailing policy decisions set by MITI as well as the Ministry of Finance.

Investors are encouraged to submit the applications for relaxation or amendment of incentive conditions to the relevant divisions for specific industries and services in MIDA.

Report to be Prepared for Sales Tax Exemption under AMES

A trader who has obtained the sales tax exemption under Approved Major Exporter Scheme ["AMES"] is required to prepare a report, namely [Monthly Report for the Movements of Taxable Trading Goods under AMES \["AMES-03"\]](#).

A manufacturer who has obtained the sales tax exemption under AMES is required to prepare the following reports:-

- [Monthly Report for the Movements of Raw Materials, Components and Packaging/Packing Materials \["AMES-04"\]](#); and
- [Monthly Report for Export / Local Sales of Non-Taxable Finished Goods \["AMES-04A"\]](#).

The abovementioned trader or manufacturer who has breached the conditions for AMES is required to submit the [Form AMES-02](#) and make good of the sales tax payment to Royal Malaysian Customs Department ["RMCD"].

Service Tax Policy No. 2/2019 (Amendment No. 1)

RMCD has on 5th April 2021 published the [Service Tax Policy No. 2/2019 \(Amendment No. 1\)](#). The exemption from accounting and payment of service tax on services imported into Labuan granted to companies in Labuan will be extended to 31st December 2021.

Note : For further details, kindly refer to our [Tax Flash – September 2019](#) issue.

Service Tax Policy No. 9/2020 (Amendment No. 2)

RMCD has on 18th March 2021 published the *Service Tax Policy No. 9/2020 (Amendment No. 2)*. Amendments are made subsequent to the People and Economic Strategic Empowerment Programme [“PEMERKASA”] announced by our Prime Minister on 17th March 2021. The amendments are in relation to the following exemptions:-

- the service tax exemption for hotel accommodation and related services will be extended to 31st December 2021;
- the paragraph in relation to exemption of tourism tax has been removed from this service tax policy and will be explained in Tourism Tax Policy No. 1/2021 (salient points of this policy are as summarised in the item below).

Note : For further details, kindly refer to our *Tax Flash – March 2020* and *Tax Flash – July 2020* issues.

Tourism Tax Policy No. 1/2021

RMCD has on 18th March 2021 published the *Tourism Tax Policy No. 1/2021*. The salient points pertaining to this policy are summarised below:-

- i. tourism tax exemption will be extended to 31st December 2021;
- ii. accommodation operators must comply with the provisions of the Tourism Tax Act 2017 [“the TTA 2017”] and the Tourism Tax Regulations 2017 during the exemption period regardless of whether there is any tourism tax being levied or not;
- iii. accommodation operators must submit TTx-03 return according to the taxable period in accordance with the provisions of Section 19(5) of the TTA 2017 and:-
 - to account and pay the tourism tax received from foreign tourists for an accommodation before the exemption period or any tourism tax that has not been received from tourists within twelve (12) calendar months that becomes due in the taxable period;
 - to state the amount of tourism tax exempted in Column 7 to the TTx-03 return; and
 - to state the amount of tourism tax exempted in invoices issued to foreign tourists. The description “exempt”, “NIL” or “RM0.00” can be stated in the invoice issued to the foreign tourist during the exemption period.

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