



MOORE Advent

TAX FLASH

DECEMBER 2021

In this Issue

- [MIDA's Guidelines and Procedures for the Application of Special Tax Incentive under *PENJANA* - Manufacturing Sector](#)
- [MIDA's Guidelines and Procedures for Application of Special Tax Incentive for Selected Services Activities under *PENJANA*](#)
- [MIDA's Guidelines on Incentive for Manufacturers of Pharmaceutical Products Including Vaccines under the 2021 Budget](#)

- [Moore Malaysia](#)
- [Moore Global](#)
- [Inland Revenue Board](#)

MIDA's Guidelines and Procedures for the Application of Special Tax Incentive under *PENJANA* - Manufacturing Sector

Under the *PENJANA* Stimulus Package announced on 5th June 2020, special tax incentive was proposed for manufacturing companies relocating their businesses into Malaysia. Further, the Government has announced the special tax treatment for non-citizen individuals holding key position (C-Suite) for strategic investments made by such companies for relocation of operations to Malaysia. Following these announcements, the Malaysian Investment Development Authority ["MIDA"] has recently uploaded on its website the [Guidelines and Procedures for the Application of Special Tax Incentive under *PENJANA*](#) (as of 8th June 2021).

Salient points of the abovementioned Guidelines include:-

i. Type of Incentive

- For new company
 - Special tax rate of 0% for 10 years for new investment in manufacturing sector with capital investment between RM300 million to RM500 million;
 - Special tax rate of 0% for 15 years for new investment in manufacturing sector with capital investment above RM500 million
- For existing company
 - Investment Tax Allowance of 100% for 5 years for existing company in Malaysia relocating overseas facilities into Malaysia with capital investment above RM300 million. The allowance can be offset against 100% of statutory income for each year
- For non-citizen individual
 - Income tax at a flat rate of 15% for 5 consecutive years for a non-citizen individual who is holding key position / C-Suite positions in a company

ii. Definition of "New Company" and "Existing Company"

- "New Company" refers to a company:-
 - relocating manufacturing facility for eligible activities from any country to Malaysia or establishing new operation in Malaysia; and
 - does not have existing manufacturing operation in Malaysia
- "Existing Company" refers to:-
 - a foreign or locally owned company with existing manufacturing operation selected services in Malaysia and relocate its manufacturing operation from outside Malaysia for new business segment; and
 - the products from the new business segment are not expansion project for existing products

iii. Eligibility Criteria for New / Existing Company

- The company must undertake manufacturing activities other than the manufacturing activities listed in Appendix A to the Guidelines
- To incur the first capital expenditure within 1 year from the approval date
- The company will be subjected to the following conditions:-
 - fixed asset investment; and
 - 80% Malaysians employment by the third year of the company's production
- To keep separate accounts for products / activities with and without tax incentive or to set up new entities to carry out the project
- Required to have a paid-up capital of more than RM2.5 million

- iv. Eligibility Criteria for Non-citizen Individual
 - Restricted to 5 non-citizen individuals employed in the company;
 - Must be a resident in Malaysia and hold a key position (C-Suite);
 - Receiving a basic monthly salary of not less than RM25,000; and
 - Must attain tax resident status in Malaysia throughout the 5 consecutive years of assessment
- v. Effective Date of Application
 - For new / existing company - application for the special tax incentive must be received by MIDA from 1st July 2020 until 31st December 2022
 - For non-citizen individual - application for the special tax incentive must be received by MIDA from 7th November 2020 until 31st December 2021

Note : For further information on the above incentive, please refer to our [Tax Flash - November 2020 \(Special Edition No. 2\)](#) issue

MIDA's Guidelines and Procedures for Application of Special Tax Incentive for Selected Services Activities under *PENJANA*

Under the *PENJANA* Stimulus Package announced on 5th June 2020, special tax incentive was proposed to be given to manufacturing companies relocating their business to Malaysia. In Budget 2021, this special tax incentive has been expended to selected services activities (including companies adopting Industrial Revolution 4.0 and digitalization technology with significant multiplier effect) to spur economic recovery. Following that, MIDA has recently uploaded on its website the [Guidelines and Procedures for the Application of Special Tax Incentive for Selected Activities under the National Economic Recovery Plan](#) dated 7th November 2020.

Salient points of the abovementioned Guidelines include:-

- i. Type of Incentive
 - Income tax rate of 0% to 10% for a period up to 10 years for new company i.e.:-
 - Company without any existing operation/entity in Malaysia (including related company) or company with existing operation/entity for non-services operation (e.g. manufacturing) but does not have any existing services operation in Malaysia; and
 - Company relocating its facility for qualifying services activities from any country to Malaysia; or
 - Company relocating new services activities which are different from the existing services operation in Malaysia (diversification); or
 - Company establishing a new operation in Malaysia
 - Income tax rate of 10% for a period up to 10 years for existing company i.e.:-
 - A foreign or locally owned company with existing services operation in Malaysia and proposes to undertake qualifying services activities for a new business segment, which are separated from the operation of existing services activities
 - A flat rate of 15% for 5 consecutive for non-citizen individual i.e.:-
 - Who is a tax resident in Malaysia and holding key position / C-Suite positions in a company

- ii. Eligibility Criteria for New Company / Existing Company
 - Incorporated under Companies Act 2016 and resident in Malaysia
 - Adapting Industrial Revolution 4.0 and digitalization technology which undertaking the following services activities:-
 - Provision of technology solution (develops technology and provides technology solutions) based on substantial scientific or engineering challenges;
 - Provision of infrastructure and technology for cloud computing;
 - Research and development [“R&D”] or design and development activities;
 - Medical devices testing laboratory and clinical trials; and
 - Any services or manufacturing-related services activities as determined by the Minister of Finance
 - Incur capital investment or business expenditure which would benefit the economy of Malaysia in the following areas:-
 - Adoption of Industrial Revolution 4.0 or digitalization technology
 - Employment opportunities for Malaysia
 - Technology transfer
 - Utilisation of local goods and services
 - Internship for Malaysian students
 - Collaboration with local industries / institutions / universities
 - To commence its operation within 1 year from date of approval or to incur the first capital expenditure within 1 year from the approval date and completed within 3 years from the date of the first capital expenditure incurred
 - For services project with small capital investment, an adequate amount of annual operating expenses be incurred inclusive of insurance, legal, banking ICT and transportation from local / domestic service providers (if possible) to support the services activities or business operation in Malaysia
 - To keep separate accounts for products / activities with and without tax incentive
- iii. Eligibility Criteria for Non-Citizen Individual
 - Restricted to 5 non-citizen individuals employed in the company granted with the special tax incentive;
 - Must be a resident in Malaysia and hold a key position (C-Suite);
 - Receiving a basic monthly salary of not less than RM25,000; and
 - Must attain tax resident status in Malaysia throughout the 5 consecutive years of assessment
- iv. Effective Date of Application
 - For new / existing company – application for the special tax incentive must be received by MIDA from 7th November 2020 until 31st December 2022
 - For non-citizen individual – application for the special tax incentive must be received by MIDA from 7th November 2020 until 31st December 2021

MIDA’s Guidelines on Incentive for Manufacturers of Pharmaceutical Products Including Vaccines under the 2021 Budget

In the 2021 Budget announcement, it was proposed that the following incentives be given to encourage manufacturers of pharmaceutical products (including vaccines) to invest in Malaysia:-

- Income tax rate of 0% to 10% for a period of 10 years; and
- Income tax rate of 10% for the subsequent period of 10 years

Following the above, MIDA has recently uploaded on its website the [Guidelines on Incentive for Manufacturers of Pharmaceutical Products Including Vaccines Under the 2021 Budget](#).

Salient points of the abovementioned Guidelines include:-

- i. Eligibility Criteria for the Manufacturing Company
 - Must be incorporated under the Companies Act 2016.
 - Possesses a Manufacturing Licence from Ministry of International Trade and Industry or Confirmation Letter of Exemption from Manufacturing Licence from MIDA
 - Undertakes manufacturing of pharmaceutical products including formulation in Malaysia (not including fill and finish activity)
 - Incurs the first capital expenditure within 1 year of the approval date and commits its full capital expenditure as stated in the approval letter within 5 years of its initial capital expenditure

- ii. Other Conditions to be Satisfied by the Applicant Company
 - Carries out development of drug formulation and submit its drug formulation registration to the National Pharmaceutical Regulatory Agency in Malaysia within 10 years of the incentive approval
 - Undertakes R&D activities and establish collaborative programmes with higher learning institutions on related R&D programmes
 - Carries out manufacturing activities to produce the developed and formulated product in Malaysia
 - Value added for the product must be at least 40%
 - Manpower/employment requirements:-
 - at least 20% of the company's manpower with a degree in Science and Technical fields or Diploma
 - at least 80% of its fulltime employees are Malaysian
 - at least 15% of its full-time employees with monthly basic salary of RM5,000 or more
 - Undertakes internship programmes with local universities and/or polytechnics or industrial training placement at TVET institutions and has at least 6 Malaysian interns per year with a minimum training period of 3 months throughout the incentive period.
 - Carries out annual CSR activities with at least one hospital or health institution in Malaysia that is recognized by Ministry of Health Malaysia

Application for the incentive must be received by MIDA from 1st January 2021 until 31st December 2022.

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