



# MOORE Advent

## TAX FLASH

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### In this Issue

- [Updated Operational Guideline on Procedure for Submission of Amended Return Form](#)
- [Guidelines on Application for Approval as Approved Institutions / Organisations / Funds Under Section 44\(6\) of the ITA 1967](#)
- [Tax Incentives for Reinvestment Under the New Industrial Master Plan 2030](#)
- [Tax Incentives for the Pengerang Integrated Petroleum Complex](#)
- [Extension of Income Tax Exemption for Development Manager in Iskandar Development Region](#)
- [Extension of Incentive Period for BioNexus Status Company](#)
- [Service Tax Policy No. 4/2024 \(Amendment No. 1\) – Enhancement of Service Tax Treatment on Logistics Services](#)
- [Service Tax Guides](#)
- [Incentive on Remission of Penalties and Surcharges for Goods and Services Tax, Tourism Tax, Sales Tax, Service Tax and Departure Levy Offer for the Year of 2024](#)

### Updated Operational Guideline on Procedure for Submission of Amended Return Form

The Inland Revenue Board [“IRB”] has issued the updated *Operational Guideline No. 3/2024 - Procedure on Submission of Amended Return Form* dated 10<sup>th</sup> July 2024 (in *Bahasa Malaysia*) to replace the previous Operational Guideline No. 1/2020 dated 6<sup>th</sup> March 2020 with inclusion of amendments reflected in the prevailing law.

The salient amendments included in the above updated Operational Guideline are as follows:-

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

- i. Effective year of assessment ["YA"] 2023, the new provision under Section 30C of the Petroleum (Income Tax) Act 1967 ["PITA 1967"] allows taxpayers to make self-amendments to the information in the Petroleum Exploration Return Form submitted.
- ii. Effective 1<sup>st</sup> January 2024, Section 77A(1B) of the Income Tax Act 1967 ["ITA 1967"] requires taxpayers (i.e. Trust Bodies, Co-operative Societies, and Labuan entities) that receive profits or gains from the disposal of capital assets to submit a Capital Gains Tax ["CGT"] return form within 60 days from the date of disposed of capital assets. In line with this, Section 77B of the ITA 1967 has also been amended to allow the taxpayers to make self-amendments to the CGT return form that has been submitted by using the amended return form.
- iii. Amendments through the amended return form (other than amended CGT return form) can only be submitted once for a year of assessment whereas for the amended CGT return form, it can only be submitted once for each disposal made in a year of assessment.
- iv. Taxpayers are not eligible to submit amended return form if the Director General of Inland Revenue ["DGIR"] has raised an assessment or additional assessment pursuant to the provisions of Section 91 of the ITA 1967 / Section 39 of the PITA 1967 within six (6) months from the due date for submitting the return form.
- v. Taxpayers who do not fulfil the requirements for submitting the amended return form may still make amendments through a voluntary written declaration or electronic media at any time before the initiation of an audit. However, such amendments will be subject to the prevailing Tax Audit Framework.
- vi. The amended return form submitted is a deemed assessment made under Section 91A of the ITA 1967 / Section 39A of the PITA 1967 which cannot be appealed, except where the taxpayer disagrees with the tax treatment specified in the general guidelines or the policies, determinations, and practices of the DGIR when the assessment is made.

**Note:** For further information on the previous Operational Guideline No. 1/2020 dated 6<sup>th</sup> March 2020, kindly refer to our [Tax Flash – April 2020](#) issue.

### **Guidelines on Application for Approval as Approved Institutions/Organisations/Funds Under Section 44(6) of the ITA 1967**

The IRB has recently issued the updated [Guidelines on Application for Approval as Approved Institutions/Organisation/Fund under Section 44\(6\) of the ITA 1967](#) dated 20<sup>th</sup> August 2024 (in *Bahasa Malaysia*) ["the updated Guidelines"] to replace the previous Guidelines for Approval of DGIR under Section 44(6) of the ITA 1967 and Guidelines for Approval of DGIR under Section 44(6) of the ITA 1967 for Welfare and Education Funds issued on 30<sup>th</sup> January 2020 and 15<sup>th</sup> July 2020 respectively.

Following the 2024 Budget announcement, the above updated Guidelines has been issued to take into account the changes made on the limit of utilisation of accumulated funds for participation in business activities, threshold of charitable activity expenditure as well as other compliance requirements. The updated Guidelines which comes into effect from the year of assessment 2024 shall also apply to the existing Institutions/Organisations/Funds that have obtained approval from the DGIR.

The updated Guidelines provide details on the following:-

- i. Type of Institutions/Organisations/Fund eligible to apply for approval under Section 44(6) of the ITA 1967;
- ii. Eligibility criteria;

- iii. Application procedures;
- iv. Conditions for approval under Section 44(6) of the ITA 1967;
- v. Prohibition on the Institutions/Organisations/Funds during the approval period;
- vi. Implications and consequences of a breach of the conditions of approval obtained;
- vii. Approval period and application for extension under Section 44(6) of the ITA 1967;
- viii. The power of DGIR on approval and imposition of conditions; and
- ix. Tax treatment of donors.

The Guidelines do not apply to the application related to:-

- House of religious worship and schools; and
- Institutions/Organisation/Funds with the objectives of the education fund including sports education programmes.

**Note:** For further information on the previous Guidelines for Approval of DGIR under Section 44(6) of the ITA 1967, kindly refer to our [Tax Flash – March 2020](#) and [Tax Flash – August 2020](#) issues.

## **Tax Incentives for Reinvestment Under the New Industrial Master Plan 2030**

Following the 2024 Budget announcement, the Malaysian Investment Development Authority ["MIDA"] has issued the [Guideline and Procedures for the Application of Incentive for Reinvestment Under the New Industrial Master Plan \["NIMP"\] 2030](#) on 30<sup>th</sup> July 2024 to provide an opportunity for existing companies that have exhausted their eligibility to reinvestment allowance ["RA"] claim under Schedule 7A of the ITA 1967 to continue enjoying incentive for the increase in their capacity and investment in high-growth and high-value areas under the NIMP 2030.

Salient points of the abovementioned Guideline include:-

### **i. Type of Incentives**

- **Tier 1**
  - Investment Tax Allowance ["ITA"] of 100% of qualifying capital expenditure ["QCE"] (excluding land cost) incurred for a period of 5 years and to be off-set against 100% of the statutory income of a business for each assessment year until fully utilised; or
- **Tier 2**
  - ITA of 60% of QCE (excluding land cost) incurred for a period of 5 years and to be off-set against 70% of the statutory income of a business for each assessment year until fully utilised.

### **ii. Eligible Applicants**

- Companies resident in Malaysia and registered under the Companies Act 2016.
- Existing manufacturing company which has been in operation for not less than 36 months that may or may not have enjoyed tax incentives previously. For a company that had been approved with a tax incentive, the tax incentive period for the approved product(s) / activity(ies) must have ended.
- Undertaking an expansion or diversification projects in the manufacturing sector.
- A company having a related company that has been approved for the incentive for reinvestment under the NIMP 2030, is eligible for the incentive subject to the condition that the related company undertakes different products/activities.
- Eligible for only one round of incentive for reinvestment for the expansion or diversification projects under the NIMP 2030.

### **iii. Eligibility Criteria**

- Must be involved in eligible product(s)/activity(ies) in the manufacturing subsectors under the coverage of the NIMP 2030 as listed in paragraph 4.1 of the abovementioned Guideline.

iv. **Outcome-based Approach of the Tiering Tax Incentive**

| Investment Tax Allowance | Tier 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Tier 2                                                                       |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
|                          | 100% on QCE for 5 years, offset against 100% of statutory income of a business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 60% on QCE for 5 years, offset against 70% of statutory income of a business |
| Minimum Conditions       | i) QCE (excluding land) to be realised within 3 years as proposed;<br>ii) Adoption of Industrial Revolution 4.0 Technologies; and<br>iii) Research and Development expenditures as proposed.                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                              |
| Additional Conditions    | Subject to following outcomes (but not limited to):- <ul style="list-style-type: none"> <li>• Adequate number of new full-time Malaysian employees with high value jobs;</li> <li>• Number of local suppliers and/or local service providers appointed as proposed;</li> <li>• Adoption of green technology (generation of renewable energy or utilisation of energy efficiency equipment); and</li> <li>• any other conditions related to sustainable economic development such as education, social, accelerate Malaysian Small and Medium Enterprises and as stated in approval letter.</li> </ul> |                                                                              |

- A company currently claiming RA can opt to claim either Tier 1 or Tier 2 in the particular year of assessment. The 15 years period of RA will continue even though the company has opted for this incentive. However, companies which are yet to commence their RA claims under Schedule 7A of the ITA 1967 are not eligible for this incentive.

v. **Mechanism**

- Application for the incentive must be submitted to MIDA before the commencement of the proposed project. The 'commencement' is defined as the first sales invoice issued by the company for the proposed project.
- MIDA will issue an approval in the principle letter which indicate the tiering approach and outcome-based tax incentives to the company for the proposed project as approved by the National Committee on Investment.

vi. **Application Period**

- Application for the above tax incentive must be received by MIDA from 1<sup>st</sup> January 2024 to 31<sup>st</sup> December 2028.

**Tax Incentives for the Pengerang Integrated Petroleum Complex**

Pengerang Integrated Petroleum Complex ["PIPC"] is planned as a downstream oil and gas hub accommodating oil refineries, oil storage facilities and petrochemical product manufacturing plants. The PIPC spans across 22,904 acres (equivalent to 9,269 hectares or 92.7 sq. km) of land located in Pengerang, Johor. In the 2024 Budget, a Tax Incentive Package was announced and given to the companies manufacturing qualifying products and Industrial Park Developer in the PIPC area.

Following the above, MIDA has issued the following guidelines to provide details on the eligibility criteria and application procedures for the incentives:-

- *Guidelines and Procedures for the Application of the PIPC Special Incentive Package for the Manufacturing Sector; and*
- *Guidelines and Procedures for the Application of the PIPC Tax Incentive Package for Industrial Park Developer.*

The salient points of the abovementioned guidelines include:-

#### **i. Manufacturing Sector**

- Type of Incentive
  - Special tax rate / income tax exemption for a company with capital investment (excluding land) of RM500 million and above in the manufacturing sector:-

|                                 | <b>Tier 1</b>                                                                                                                                                                                                                             | <b>Tier 2</b>                                                                                                                                                                                                                            |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Special tax rate (option 1)     | 5% special tax rate for up to 10 years (5 years + 5 years)                                                                                                                                                                                | 10% special tax rate for up to 10 years (5 years + 5 years)                                                                                                                                                                              |
| Income tax exemption (option 2) | Income tax exemption equivalent to ITA of 100% on the qualifying capital investment (excluding land) for up to 10 years (5 years + 5 years). The allowance can be offset against up to 100% of statutory income for each assessment year. | Income tax exemption equivalent to ITA of 60% on the qualifying capital investment (excluding land) for up to 10 years (5 years + 5 years). The allowance can be offset against up to 100% of statutory income for each assessment year. |

- Stamp duty exemption on instrument for transfer of land/building or rental agreement of land/building for qualifying project/activity.
- Import duty exemption for raw material, machinery, components, spare parts and consumables that are used directly for qualifying project/activity.
- Eligible Applicant
  - The company must be incorporated under the Companies Act 2016 and resident in Malaysia;
  - A new company or an existing company undertaking diversification activities in relation to the eligible activities/products under this cluster; and
  - The company is required to have a minimum paid-up capital of RM2.5 million at the point of application to MIDA.

#### **ii. Industrial Park Developer**

- Type of Incentive
  - Special tax rate of 10% for a company on the disposal of rental/lease of land or buildings for qualifying projects for a period of 10 years; and
  - Stamp duty exemption on the instrument executed for transfer of land or building, or rental/lease of land or buildings, in relation to the development of qualifying project/activity.
- Eligible Applicant
  - The company must be incorporated under the Companies Act 2016 and resident in Malaysia;

- The company must register as an industrial park developer with Johor Petroleum Development Corporation; and
- The company will undertake the development of land, building or plant for sale or rental/lease in PIPC Industrial Park.

Applications for the incentives for manufacturing sector and industrial park developer must be submitted to MIDA and the Tax Division of the Ministry of Finance respectively, from 14<sup>th</sup> October 2023 until 31<sup>st</sup> December 2028.

For the purpose of the above guidelines:-

**“qualifying project”** means the company must develop a “plug and play” concept industrial park for chemical and petrochemical projects or any related support services activities (e.g. warehouse, maintenance, logistic, utilities, waste management and etc.) where basic infrastructure amenities such as electricity, water, internet and sewage treatment shall be provided in the industrial park.

### **Extension of Income Tax Exemption for Development Manager in Iskandar Development Region**

Pursuant to the Income Tax (Exemption) (No. 19) Order 2007 [“the principal Order”], income tax exemption is given to a development manager in respect of its statutory income derived from the provision of management, supervisory or marketing services to a developer in an approved node within the Iskandar Development Region from the YA 2007 to YA 2020.

The *Income Tax (Exemption) (No. 19) 2007 (Amendment) Order 2024* has been gazetted to provide that:-

- The exemption period shall be extended for another 4 years i.e. until YA 2024.
- The non-application rules have been amended to state that the principal Order shall not apply to a development manager which in the basis period for a year of assessment:-
  - has not obtained annual certification in relation to its activity from the node project development company; and
  - has been granted an exemption under Section 127(3)(b) or Section 127(3A) of the ITA 1967.

The abovementioned amendment Order is deemed to have come into operation from YA 2021.

### **Extension of Incentive Period for BioNexus Status Company**

A BioNexus status company undertaking qualifying activity relating to agricultural biotechnology, industrial biotechnology and healthcare biotechnology is eligible for the following:-

- a. Tax exemption of 70% of the statutory income derived from the qualifying activity for a year of assessment pursuant to the Income Tax (Exemption) (No. 4) Order 2023;
- b. Tax exemption equivalent to the amount of QCE incurred in the basis period for a year of assessment, restricted to 70% of the statutory income for the year of assessment pursuant to the Income Tax (Exemption) (No. 5) Order 2023.

The *Income Tax (Exemption) (No. 4) Order 2023 (Amendment) Order 2024* and *Income Tax (Exemption) (No. 5) Order 2023 (Amendment) Order 2024* has been gazetted to provide an extension of the period for another two years, i.e. until 31<sup>st</sup> December 2024 (previously 31<sup>st</sup> December 2022) for a BioNexus Status Company to apply for the tax exemption to the Minister through the Malaysian Bioeconomy Development Corporation Sdn Bhd.

Besides, the exemption level in (a) above has been increased to 100% of statutory income derived from the qualifying activity under the Income Tax (Exemption) (No. 4) Order 2023 (Amendment) Order 2024. However, there is no similar amendment made for (b) above.

**Note:** For further information relating to the above tax exemption for BioNexus Status Company, kindly refer to our [Tax Flash – January 2024](#) issue.

## **Service Tax Policy No. 4/2024 (Amendment No. 1) – Enhancement of Service Tax Treatment on Logistics Services**

The Royal Malaysian Customs Department [“RMCD”] has published the [Service Tax Policy No. 4/2024 \(Amendment No. 1\) – Enhancement of Service Tax Treatment on Logistics Services](#) [“the Amended STP 4/2024”] dated 23<sup>rd</sup> August 2024 (in *Bahasa Malaysia*) and it is deemed to have effect from 1<sup>st</sup> March 2024. The salient points extracted from the Amended STP 4/2024 are as follows:-

- i. The Service Tax (Imposition of Tax for Taxable Service in respect of Designated Areas and Special Areas) Order 2018 has been amended as follows:-
  - All logistics services (including the services of Customs agents) under Group J provided within or between the following areas are not subject to service tax:-
    - within designated areas or special areas;
    - between designated areas or special areas; and
    - between designated areas and special areas.
  - However, any person whose principal place of business is located in Malaysia (i.e. in principal customs area) and who provides logistics services to customers located in designated areas / special areas, or vice versa, is subject to service tax.
- ii. The door to door delivery services which are not subject to service tax have been enhanced as follows:-
  - goods delivery services from a place outside Malaysia to a place in Malaysia or from a place in Malaysia to a place outside Malaysia provided without involving a third party between the delivery service provider and the customer are not subject to service tax as per the Service Tax Policy No. 4/2024. With the amendments made to the Amended STP 4/2024, the delivery service provider is permitted to engage a third party service provider to carry out the delivery services;
  - goods delivery services are provided by the same service provider (note: the words “with the same network from the consignor” have been deleted) to the recipient;
  - the goods delivery is using the same airway bill / bill of lading / consignment note / delivery order from the service provider (note : previously “from the consignor”) to the recipient; and
  - use of the same invoice for shipping charges from the service provider (note: previously “from the consignor”) to the recipient (i.e. a single billing invoice).

**Note:** For further details, kindly refer to our [Tax Flash – April 2024](#) issue.

## **Service Tax Guides**

The RMCD has published the following service tax guides recently:-

- [Guide on Provision of Insurance Policy and Takaful Certificate](#) dated 29<sup>th</sup> August 2024 (in *Bahasa Malaysia*); and
- [Guide on Credit Card and Charge Card](#) dated 2<sup>nd</sup> September 2024 (in *Bahasa Malaysia*).

## Incentive on Remission of Penalties and Surcharges for Goods and Services Tax, Tourism Tax, Sales Tax, Service Tax and Departure Levy Offer for the Year of 2024

The RMCD has made an announcement (in *Bahasa Malaysia*) on 26<sup>th</sup> August 2024 to offer *Incentive on Remission of Penalties and Surcharges for Goods and Services Tax, Tourism Tax, Sales Tax, Service Tax and Departure Levy for the Year of 2024* ["the Incentive Programme"]. The salient points extracted from the Incentive Programme are as follows:-

- Conditions to qualify for the Incentive Programme:-
  - The bill of demand issued is in relation to the taxable period ended on or before 31<sup>st</sup> December 2023;
  - The tax, penalty and surcharge payments must be settled during the period from 26<sup>th</sup> August 2024 to 31<sup>st</sup> December 2024;
  - The following table summarises the category of outstanding payments and the related incentive rates applicable (note: the calculation of payment and remission granted is based on each taxable period):-

| Category of Arrears            | Payment Made from 26 <sup>th</sup> August 2024 to 31 <sup>st</sup> December 2024 |                     | Remission of Penalty / Surcharge |
|--------------------------------|----------------------------------------------------------------------------------|---------------------|----------------------------------|
|                                | Tax                                                                              | Penalty / Surcharge |                                  |
| a. Tax, penalty and surcharge  | 100%                                                                             | 0%                  | 100%                             |
| b. Tax and penalty / surcharge | 100%                                                                             | 0%                  | 100%                             |
| c. Penalty / surcharge         | 0%                                                                               | 15%                 | 85%                              |

- The Incentive Programme is also extended to companies that have obtained approval for making payments via instalments, provided that the remission schedule as outlined in the table above is duly observed;
- For companies that have made settlement payments, including through off-setting and other settlement methods before 26<sup>th</sup> August 2024, no tax refunds or penalty/surcharge remission will be allowed;
- The Incentive Programme does not apply to applications for penalty/surcharge remission in cases where a person is eligible for full remission such as penalty/surcharge arising from technical issues, amendments of output tax from bad debts recovered and retention sum as well as penalty/surcharge on tax approved for remission by the Ministry of Finance.

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