
Technology, Media and Telecommunications & Data Protection

New Malaysia Digital Tax Incentive for Technology Investments in Malaysia

Introduction

On 31 May 2024, the Malaysia Digital Economy Corporation ("**MDEC**"), with the support of the Ministry of Digital and the Ministry of Finance, has introduced a new outcome-based tax incentive scheme ("**MD Tax Incentive**") for eligible Malaysia Digital Status ("**MD Status**") (formerly known as Multimedia Super Corridor Status ("**MSC Status**")) companies.

It is anticipated that the MD Tax Incentive will create a more conducive environment for foreign investments in the digital economy and ecosystem in Malaysia.

This Update aims to provide a quick overview and guidance in navigating the qualifying criteria and understanding the benefits offered under the newly introduced MD Tax Incentive.

Malaysia Digital Status

The Malaysian government, through MDEC, awards MD Status to eligible companies that participate in and undertake certain qualifying activities in Malaysia.

(1) Eligibility Criteria

Applying for and being granted an MD Status is a pre-requisite for the new MD Tax Incentive. In order to apply for the award of MD Status, the following criteria must be met:

- (a) the company must be incorporated under the Companies Act 2016;
- (b) the company must be a resident in Malaysia; and
- (c) the company is proposing to carry out or is currently carrying out one or more of the following qualifying activities.

(2) Qualifying Activities

A qualifying activity refers one or more of the following activities:

- artificial intelligence (AI) and/or big data analytics (BDA);
- internet of things (IOT);

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- cybersecurity;
- cloud;
- blockchain;
- drone technology;
- creative media technology including extended reality (XR) and/or mixed reality (MR);
- integrated circuit (IC) design with embedded software;
- robotics and/or automation; and/or
- advanced network connectivity and/or telecommunication technology.

(3) Post Award Conditions

Within 12 months from date of award of MD Status, the MD Status company must have complied with the following conditions:

- commenced the operation of and carrying out the qualifying activity in Malaysia;
- a minimum of two full time employees (including knowledge workers) that are employed for the qualifying activity with a minimum average monthly base salary of MYR5,000 (where USD1 = MYR4.7, approximately);
- incurred a minimum of MYR50,000 for annual operating expenditure; and
- a minimum paid-up capital of MYR1,000.

MD Tax Incentive

The overall structure of the new MD Tax Incentive is as illustrated below.

Categories						
New Investment Incentive				Expansion Incentive		
Rate	Reduced Tax Rate	OR	Investment Tax Allowance	Reduced Tax Rate	OR	Investment Tax Allowance
	0% on qualifying intellectual property ("IP") income		60% OR 100% of qualifying capital expenditure against up to 100% statutory income for up to five years			
	AND					
	5% OR 10% on qualifying non-IP income for up to ten years					

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There are two categories under the new MD Tax Incentive, namely: (1) *New Investment Incentive* and (2) *Expansion Incentive*, and under each category of incentive, a company may only apply for either a Reduced Tax Rate (“RTR”) or Investment Tax Allowance (“ITA”), but not both.

(1) New Investment Incentive

The New Investment Incentive aims to promote new investment activities in Malaysia and is granted to a company that fulfils the following requirements:

- (a) is incorporated or registered under the Companies Act 2016 and resident in Malaysia;
- (b) has a minimum paid up capital of MYR50,000;
- (c) has made an application for and been awarded with MD Status;
- (d) is proposing to undertake a qualifying activity in Malaysia;
- (e) has not issued any sales invoice for the qualifying activity in Malaysia prior to the date the tax incentive application is received, or has 60% direct or indirect Malaysian equity ownership and has not issued any sales invoice for the qualifying activity in Malaysia more than 12 months prior to the date the tax incentive application is received; and
- (f) is not granted any tax incentive by the Malaysian Government in relation to the qualifying activity.

(2) Expansion Incentive

The Expansion Incentive is largely targeted towards MD or MSC Status companies:

- (i) that have completed an initial incentive and propose to undertake a new activity; or
- (ii) that have not been granted any incentive on the existing activity and propose to undertake new activity.

The MD or MSC Status companies must also fulfil the following requirements:

- (a) is incorporated or registered under the Companies Act 2016 and resident in Malaysia;
- (b) has a minimum paid up capital of MYR250,000;
- (c) has been in operation for at least 36 months;
- (d) where the company has been granted a tax incentive for existing activity under the MD or MSC Status financial incentive schemes, the company has met all conditions under the tax incentive or has surrendered the tax incentive;
- (e) is proposing to undertake the qualifying activity in Malaysia;
- (f) has not issued any sales invoice for the qualifying activity in Malaysia prior to the date the tax incentive application is received; and
- (g) is not granted any tax incentive by the Malaysian Government in relation to the qualifying activity.

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Under the MD Tax Incentive, depending on whether a company applies for a RTR or ITA, as well as the tax rate that the company wishes to qualify for, there may be additional conditions to be complied with. Examples of these additional conditions include, to incur an adequate amount of qualifying capital expenditure, to employ an adequate number of full-time employees in Malaysia to carry out the qualifying activity, to provide sponsorship for activities relating to sustainable economic development, etc.

The application for MD Tax Incentive is open until 31 December 2027.

Conclusion

The new MD Tax Incentive represents a significant step towards solidifying Malaysia's position as the digital hub of ASEAN by providing a more investment-friendly environment in targeted digital sectors and is expected to spur the growth of digital economy in Malaysia.

Foreign businesses that are seeking to invest in and carry out one or more of the qualifying activities in Malaysia are therefore encouraged to consider applying for MD Status and qualifying for the MD Tax Incentive.

We trust the above provides a quick update on the new MD Tax Incentive, as well as the latest developments pertaining to the Malaysian technology and digital sector investment landscape. Should you require any assistance or clarification in relation to the above, please feel free to contact our team members below at your convenience.

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Client Update: Malaysia

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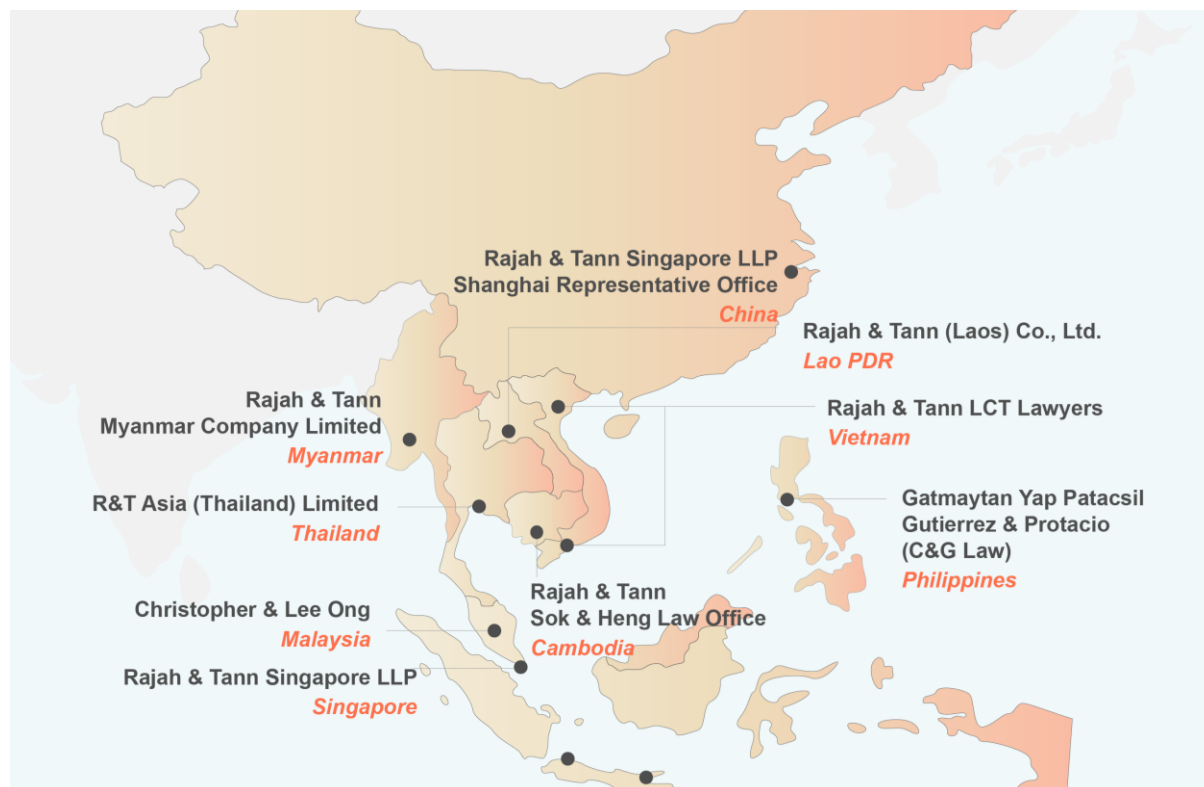
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