CASGlobal

DOING BUSINESS IN MALAYSIA

(FROM TAX PERSPECTIVES)

APRIL 2022

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CONTENTS

CHAPTER 1: ECONOMIC HIGHLIGHT

ECONOMIC HIGHLIGHT

Since gaining independence in 1957, Malaysia has successfully diversified its economy from one that was initially agriculture and commodity-based, to one that now plays host to robust manufacturing and service sectors, which have propelled the country to become a leading exporter of electrical appliances, parts, and components.

Malaysia is said to be one of the most open economies in the world with a trade to GDP ratio averaging over 130% since 2010. Openness to trade and investment has been instrumental in employment creation and income growth, with about 40% of jobs in Malaysia linked to export activities. After the Asian financial crisis of 1997-1998, Malaysia's economy has been on an upward trajectory, averaging growth of 5.4% since 2010, and is expected to achieve its transition from an upper middle-income economy to a high-income economy by 2024.

Following a solid rebound in GDP growth in Q4 2021, recent indicators paint a mixed picture for Q1 2022. A relatively low unemployment figure in January, coupled with robust growth in retail sales in the same month, hints at upbeat consumer spending at the outset of the year. That said, a marked slowdown in industrial production in January, and lower manufacturing PMI readings in January-February on average compared to Q4, point to muted conditions in the private sector.

Moreover, record-high numbers of new Covid 19 infections in March could be weighing on domestic activity. Despite a resurgent pandemic, the government will ease most Covid-19 related restrictions for fully vaccinated visitor on 1 April, likely supporting the tourism sector ahead. Lastly, Fitch Ratings recently affirmed its 'BBB+' credit rating, citing a healthy GDP growth outlook and solid foreign demand for Malaysian exports.

CHAPTER 2: BUSINESS TAXATION

BUSINESS TAXATION

Residence Status

A company will be a Malaysian tax resident if at any time during the basis year, the management and control of the company's business or any one of its businesses are exercised in Malaysia.

The management and control are considered to be exercised where the directors meet to conduct the company's business irrespective of where the company might be incorporated.

Tax Rate

Resident

Tax rate for companies in Malaysia is 24% for YA 2020 and onwards. For YA 2022 only, Cukai Makmur of 33% is applicable on chargeable income exceeding RM100 million. However, special tax rates are given for Small and Medium Enterprises (SMEs). This includes, 17% on the first MYR 600,000 and 24% on subsequent chargeable income.

SMEs are companies incorporated and resident in Malaysia with ordinary paid-up share capital of MYR 2.5 million and below at the beginning of the basis period for a YA (provided not more than 50% of the ordinary paid-up share capital of the company is directly or indirectly owned by (or linked to) a related company which has an ordinary paid-up share capital of more than MYR 2.5 million at the beginning of the basis period for a YA).

Reduction in the income tax rate based on the percentage of increase in chargeable income as compared to the immediate preceding YA [provided that the resident company is incorporated under Companies Act 2016 (Act 777)]:

Percentage of Increase in Chargeable Income as Compared to the Immediate Preceding YA	Percentage Point of Reduction	Income Tax Rate after Reduction (%)
Less than 5%	Nil	24
5% - 9.99%	1	23
10% - 14.99%	2	22
15% - 19.99%	3	21
20% and above	4	20

Non-Resident

Business income of a Non-Resident company / branch will be subject to tax at a flat rate of 24%.

Compliance Requirements

Income Tax Return

Under the self-assessment system, all companies must file the tax return (Form C) to IRBM within 7 months from the end of the accounting period. The tax return must be submitted by way of an electronic medium i.e. e-filing. The return filed by a taxpayer will be deemed as a notice of assessment served upon the taxpayer.

Accordingly, any balance of the tax payable after taking into account payments made via the instalment scheme would have to be remitted to IRBM together with tax return within 7 months from the end accounting period. Penalties will be imposed for late submission and payment.

Offenses	**Penalty**
Failure to submit a tax return	Liable to a fine ranging from MYR 200 to MYR 20,000 or imprisonment not exceeding 6 months or both.
Late filing of tax return	Penalties ranging from 20% to 35% of the tax payable will be imposed
Failure to remit tax payable	10% penalty is imposed on unpaid amount and an additional 5% if such tax is still not paid after 60 days

Estimation of Tax Payable

Estimate of Tax

Under the self-assessment system, it is mandatory for every company to determine and submit in a prescribed form (Form CP204) an estimate of its tax payable for a YA, 30 days before beginning of the basis period. A company is still required to submit Form CP204 with the stipulated deadline even if it expects its estimate of tax payable be NIL. The estimate of tax payable for that year cannot be less than 85% of the original or revised estimate of tax payable for the immediate preceding YA.

When a company first commences operations (i.e. during the first basis period), the estimate of tax payable must be submitted to the IRBM within 3 months from the date of commencement of its business and thereafter no later than 30 days before the beginning of the basis period. However, if the first basis period is less than 6 months, that company is not required to furnish an estimate of tax payable for that YA.

Where a SME first commences operations, the SME is given exemption from filing of Form CP204 for a period of 2 years beginning from the YA in which the SME commences operations. However, the SME is advised to submit Form CP204 notifying the IRBM of its SME status without having to state the amount of estimate of tax payable.

The tax estimate or revision must be submitted by way of an electronic medium i.e. e-filing.

Instalment payment

When the estimation of tax payable has been submitted to IRBM, the company is required to remit this amount to the IRBM in equal monthly instalments according to the number of months in its basis period. Each monthly instalment is due and payable to the IRBM by the 15th of every month.

Revision of Estimate of Tax

Every company is allowed to revise its estimate of tax payable by submitting Form CP204A in the 6th month and/or 9th month of its basis period.

Offenses	**Penalty**
Failure to furnish Form CP204	Liable to a fine ranging from MYR 200 to MYR 20,000 or imprisonment not exceeding 6 months or both
Late payment penalty	Penalty of 10% will be imposed on the unpaid amount
Difference between the estimate submitted and final tax payable	When the tax payable for a particular YA exceeds the original or the revised estimate by an amount exceeding 30% of the tax payable, the difference will be subject to a penalty of 10%

Employer's Return of Remuneration

Every employer** must furnish the return (Form E) of its employee's employment income to IRBM by 31 March of each year. Form E is a report to inform IRBM on the number of employees and the list of employee's remuneration details.

** Company which is dormant or no employee is require to submit Form E too.

The employer must also prepare and deliver to his/her employee the statement of remuneration (Form EA) on or before the last day of February for each year.

The Form E must be submitted by way of an electronic medium i.e. e-filing.

Offenses	Penalty
Failure to furnish Form E and Form EA	Liable to a fine ranging from MYR 200 to MYR 20,000 or imprisonment not exceeding 6 months or both

Capital Allowances and Business Loss

Capital Allowances (CA)

Capital expenditure on asset acquisition, depreciation or amortisation on fixed asset is not deductible against income in computing tax payable. However, Schedule 3 of ITA 1967 provides a mechanism to claim tax relief on capital expenditure on asset acquisition in the form of "CA". This amount is deductible against adjusted income and the claim of CA is restricted to same business source only.

CA is calculate based on the qualifying expenditure incurred by taxpayer for asset used in business.

General rates of CA are as follow:

Type of Asset	Initial Allowance (%)	Annual Allowance (%)
Heavy machinery / Motor vehicle	20	20
General plant and machinery	20	14
Others e.g. furniture and fittings, office equipment	20	10
Small value assets (of value less than MYR 2,000 each) **	-	100

** The maximum limit claimable for each YA by non-SME is MYR 20,000.
Unutilized CA may be carried forward indefinitely to set off against future same business income.

Business Loss

For current period offset, business losses may be set off against income from other sources for that year. Tax losses may be carried forward indefinitely to set off against future business income, where the business source can be different.

However, dormant company is subject to shareholder continuity test whereby the tax losses can only be carried forward if the changes of shareholder is not more than 50%.

Group Relief

Under the provision of group relief, a company can surrender not more than 70% of its adjusted loss for a YA to one or more related companies within the same group.

Companies involved must satisfy all the following criteria:

(a) Incorporated and resident in Malaysia
(b) Have paid-up capital of ordinary shares exceed MYR 2.5 million at the beginning of the YA
(c) Related companies throughout the basis period for that YA and the 12 months period immediately preceding that basis period
(d) Have a 12-month basis period ending on the same date

Companies currently enjoying certain incentives such as Pioneer Status, Investment Tax Allowance, Reinvestment Allowance etc. are not eligible for group relief.

CHAPTER 3: PERSONAL TAXATION

PERSONAL TAXATION

Personal Tax

Residence Status

The residence of an individual is determined by his/her physical presence in Malaysia, regardless of the citizenship or nationality. An individual may qualify as tax resident for a particular YA if he meets any of the following conditions:

- In Malaysia for at least 182 days for the tax year
- In Malaysia for less than 182 days during the year but that period is linked by or to a period of physical presence of 182 or more consecutive days in the following or preceding year.
  [Temporary absences from Malaysia due to the following reasons are counted as part of the consecutive days, provided that the individual is in Malaysia before and after each temporary absence i.e. business trips, treatment for ill-health, social visits not exceeding 14 days]
- In Malaysia for 90 days or more during the year and in any 3 of the 4 immediately preceding years, he was in Malaysia for at least 90 days or was resident in Malaysia
- Resident for the immediately following year and for each of the 3 immediately preceding years

If a Non-Resident individual being employed in Malaysia for less than 60 days, he or she will not be taxable.

Only resident individual is entitled to claim Personal Tax Relief and Tax Rebate.

Tax Rate

The income tax rate for Malaysia resident individual is based on scale rate from 0% to 28% based on the chargeable income for YA 2021 onwards. For chargeable income exceeding RM 2,000,000, the person would be taxed at 30%.

Non-resident will be taxed at a flat rate of 30%.

Compliance Requirements

Income Tax Return

Under the self-assessment system, individuals have to file their income tax return and pay the balance of tax payable for the current YA not later than 30th April (Form BE - non-business income) and 30th June (Form B - with business income) of the following year.

Any balance of the tax payable after taking into account payments made via the instalment scheme or salary deductions would have to be remitted to IRBM together with tax return by 30 April / 30 June of the following year. Penalties will be imposed for late submission and payment.

Offenses	Penalty
Failure to submit a tax return	Liable to a fine ranging from MYR 200 to MYR 20,000 or imprisonment not exceeding 6 months or both.
Failure to remit tax payable	10% penalty is imposed on unpaid amount and an additional 5% if such tax is still not paid after 60 days

Estimation of Tax Payable

For individuals other than salaried individuals, the IRBM may issue a prescribed form (Form CP500) setting out the estimate of tax payable and due date under an instalment scheme (6 bi-monthly). The estimation is determined by the IRBM based on the tax assessed in the preceding year.

For salaried individuals, income tax will be deducted through the monthly salary deductions by employer and pay to IRBM under the Monthly Tax Deduction (MTD) scheme.

Offenses	Penalty
Late payment of instalment	10% penalty is imposed on the unpaid amount

Personal Reliefs (with effect from YA 2022)

** Only applicable to resident individual

Types of relief	**Amount (MYR)**
Self	9,000
Medical expenses for parents (max)	8,000
Medical expenses for taxpayer, spouse and children on serious diseases [including RM1,000 for medical examination expenses (max) and RM1,000 for vaccination expenses (max)]	8,000
Disabled person (further deduction):	
• Taxpayer • Spouse Supporting equipment for disabled taxpayer, spouse, children or parent	6,000 5,000 6,000*
Wife – if she has no source of income or elects for combined assessment	4,000
Husband – if he has no source of income or elects for combined assessment	4,000
Children (claimed by either husband or wife): • Per child (below 18 years of age) • Disabled child (unmarried) • Per child (over 18 years of age) - Overseas universities, colleges or similar establishments - Local universities, colleges or similar establishments - Disabled child pursuing tertiary education	 2,000 6,000 8,000 8,000 8,000 8,000
Life insurance premiums/Approved fund contributions/Private pension fund	7,000*
Private Retirement Scheme / Deferred Annuity premium	3,000*
Fees for acquiring technical, vocational, industrial, scientific, technological, legal, accounting or Islamic financing qualifications at tertiary level or any course of study at post graduate level	7,000*
Amount deposited into Skim Simpanan Pendidikan Nasional for taxpayer's child	8,000*
Parental care:	
• Father • Mother	1,500 1,500
Social Security Organization (SOCSO) scheme	350
Lifestyle, including the following expenses: ✓ Purchase of books, journals, magazines, printed daily newspaper and other similar publications (excluding banned publications); ✓ Purchase of sports equipment for sports activities as defined under the Sports Development Act 1997; ✓ Purchase of computer, smartphone or tablet; ✓ Subscription of broadband internet; and ✓ Gymnasium membership fee.	2,500*
Breastfeeding equipment	1,000

Fees paid to childcare centres and kindergartens	3,000
Approved provident fund contributions	4,000
Takaful or payment of life insurance:	
• Taxpayer (private sector) • Taxpayer (public sector)	3,000 4,000
Qualifying domestic travel expenses	1,000
Purchase of sports equipment, rental/entry fees for sport facilities and registration fees in sports competition	500
Tax relief for electronic vehicle (EV)	2,500

*Maximum relief

CHAPTER 4: SALES AND SERVICE TAX (SST)

SALES AND SERVICE TAX (SST)

Goods and Services Tax (GST) was implemented on 1 April 2015 at a standard rate of 6%. However, three years later, in May, Malaysia's Ministry of Finance announced that GST would be abolished and replaced by SST.

The SST has two elements:

1. Sales tax: A single-stage tax imposed on products manufactured and produced locally and on taxable goods imported into Malaysia.
2. Service tax: A consumption tax imposed on taxable services provided in Malaysia by a registered service provider carrying out their business.

Taxable goods under sales tax refer to goods produced and imported into Malaysia.
The rates for sales tax are:

- 5% - Goods including basic food stuffs, building materials, fruits juices, personal computers, mobile phones and watches
- 10% - For other goods except for petroleum subject to specific rates and goods that are not exempted

Taxable services are categorised into group A to I in Malaysia and include:

- Group A – Accommodation
- Group B – Food and beverage
- Group C – Might clubs, dance halls, cabarets, health and wellness centers, massage parlours, public houses and beer houses
- Group D – Private clubs
- Group E – Golf club and golf driving ranges
- Group F – Betting and gaming
- Group G – Professionals
- Group H – Credit card and charge card
- Group I – Other service providers

The rate for service tax is 6% for all taxable services. Services that are imported or exported are exempted from services tax.

A taxable person is a manufacturer or service provider who is subject to SST registration. Businesses that are exempted from SST registration may voluntarily apply for SST registration with the Director-General of Customs.

Businesses that provide taxable goods and services must register for SST if they meet the following conditions:
Sales tax

- Manufacturing taxable goods
- Total sales value within the last 12 months exceed RM 500,000

Service tax

- Providing taxable services
- Total value of taxable series within 12 months exceeds the prescribed threshold, which is usually RM 500,000 but certain services may have a different threshold.

Sales tax registration and services tax registration can be made through the MySST website.

The SST registration due date is the last day of the month in which the total sales of taxable goods or services exceed the threshold.

For example, if the total sales exceed the threshold on 31 May, the last day to apply for SST registration is 30 June.

Businesses that are exempted from SST must also submit an application for exemption through the MySST website.

Foreign companies that do not have a permanent establishment in Malaysia are not liable to register for sales tax or service tax.

Voluntary registration is also not available for foreign companies.

The taxable period for the SST return is every two months. Even if there is no tax to be paid, the return must be filed.

The SST payment must be made within 30 days from the end of the taxable period.

SST can be filed online through the CJP system or by downloading he Form SST-02 from the MySST portal and mail it to the Customs Processing Centre (CPC) by post.

Penalties are imposed on the following offences:

Types of relief	**Amount (MYR)**
Self	9,000
Medical expenses for parents (max)	8,000
Medical expenses for taxpayer, spouse and children on serious diseases [including RM1,000 for medical examination expenses (max) and RM1,000 for vaccination expenses (max)]	8,000
Disabled person (further deduction):	
• Taxpayer • Spouse Supporting equipment for disabled taxpayer, spouse, children or parent	6,000 5,000 6,000*
Wife – if she has no source of income or elects for combined assessment	4,000
Husband – if he has no source of income or elects for combined assessment	4,000
Children (claimed by either husband or wife):	

• Per child (below 18 years of age) • Disabled child (unmarried) • Per child (over 18 years of age) - Overseas universities, colleges or similar establishments - Local universities, colleges or similar establishments - Disabled child pursuing tertiary education	2,000 6,000 8,000 8,000 8,000 8,000
Life insurance premiums/Approved fund contributions/Private pension fund	7,000*
Private Retirement Scheme / Deferred Annuity premium	3,000*
Fees for acquiring technical, vocational, industrial, scientific, technological, legal, accounting or Islamic financing qualifications at tertiary level or any course of study at post graduate level	7,000*
Amount deposited into Skim Simpanan Pendidikan Nasional for taxpayer's child	8,000*
Parental care:	
• Father • Mother	1,500 1,500
Social Security Organization (SOCSO) scheme	350
Lifestyle, including the following expenses: ✓ Purchase of books, journals, magazines, printed daily newspaper and other similar publications (excluding banned publications); ✓ Purchase of sports equipment for sports activities as defined under the Sports Development Act 1997; ✓ Purchase of computer, smartphone or tablet; ✓ Subscription of broadband internet; and ✓ Gymnasium membership fee.	2,500*
Breastfeeding equipment	1,000
Fees paid to childcare centers and kindergartens	3,000
Approved provident fund contributions	4,000
Takaful or payment of life insurance:	
• Taxpayer (private sector) • Taxpayer (public sector)	3,000 4,000
Qualifying domestic travel expenses	1,000
Purchase of sports equipment, rental/entry fees for sport facilities and registration fees in sports competition	500
Tax relief for electronic vehicle (EV)	2,500

CHAPTER 5: OTHER TAXES

OTHER TAXES

Withholding Tax (w/h tax)

When Malaysia tax resident person pays consideration to a non-resident person, the payer is responsible for deducting tax therefrom at the rate applicable to such payments and remitting the tax to the IRBM. The payer must, within one month upon paying or crediting the recipient, pay the w/h tax so deducted to the IRBM.

If the payer fails to deduct and remit any amount of w/h tax due to the IRBM, the amount which he fails to pay shall be increased by 10%. Besides, such payment will be disallowed as an expense in the computation of the adjusted income until the payer pays the w/h tax together with the increased amount to IRBM.

Crediting, in relation to an amount, means more than a mere journal entry or an accrual of liability in the accounts of the payer. An amount is considered to have been credited if the amount is available to or for the benefit of the non-resident payee.

Payment subject to w/h tax	Rate (%)
Royalties	10
Interest	15
Dividend	NIL
Contract payments (services rendered in Malaysia) - Account on contractor - Account on employee	 10 3
Special classes of income - Technical fees - Rental of movable properties	 10 10
Other income such as commission, guarantee fee, agency fee etc.	10

The above rate may be reduced based on the Double Tax Agreement (DTA) signed with treaty partners. A person must attach Certificate of Tax Residence issued from the country of residence to claim the DTA rate.

Transfer Pricing (TP)

IRBM has introduced TP Guideline 2012, in line with the introduction of TP legislation in 2009 under Section 140A of the ITA 1967. The guideline is based on arm's length principle governed by Organisation for Economic Co-operation and Development (OECD) TP Guideline.

TP is essentially about justifying that the transaction prices set between related parties are at market value and on arm's length basis. Arm's length price is the price which would have been determined if such transactions were made between independent entities under the same or similar circumstances.

TP guideline requires that, a taxpayer who has entered into a major transaction with an associated person prepared and keep contemporaneous full TP documentation.

Taxpayer who falls outside the following threshold can opt to prepare simplified TP documentation:

- Gross income exceeding MYR 25 million and the total amount of related party transactions exceeding MYR 15 million
- For financial assistance, the threshold is MYR 50 million

TP documentation is not required to be submitted with the Income Tax Return Forms. However, the documentation should be made available to the IRBM within 14 days upon request.

The new subsection 113B(1) and 113B(4) of the Income Tax Act 1967 seek to provide for an offence for failure to furnish contemporaneous transfer pricing documentation, a fine of not less than RM 20,000 and not more than RM 100,000, or imprisonment for a term not exceeding 6 months or both. The Act comes into operation on 1 January 2021.

The new subsection 3c of the Income Tax Act 1967 allow the Director General to impose a surcharge of not more than 5% on any transfer pricing adjustment whether or not the adjustment results in additional tax payable. The Act comes into operation on 1 January 2021.

Real Property Gains Tax (RPGT)

RPGT is charged on gains arising from the disposal of real property, which is defined as any land situated in Malaysia and any interest, option or other right in or over such land. RPGT is also charged on the disposal of shares in a real property company (RPC). A RPC is a controlled company which owns real property or shares, or both where the defined value of its real property is more than 75% of its total tangible assets as at the date of acquisition.

Generally, a gain arises when the disposal price exceeds the acquisition price of the real property or the shares in an RPC. The seller and acquirer of a chargeable asset must each make a return to the IRB within 60 days of the date of disposal in the prescribed form, supported by the details stipulated in the form.

Purchaser is required to withhold 2% of the purchase price and remit it to the IRBM within 60 days after the date of disposal of the real property if the transaction is partly or wholly in cash. If the transaction is wholly non-cash, withholding does not apply.

Holding Period	RPGT rates		
	Company	Individual	
		Malaysia Citizen or Permanent Resident	Non-Citizen or Non-Permanent Resident
Within 2 years	30%	30%	30%
In 3rd year	30%	30%	30%
In 4th year	20%	20%	30%
In 5th year	15%	15%	30%
Beyond 5 years	10%	NIL	10%

Stamp Duty

Stamp duty is chargeable on certain instruments or documents. An unstamped or insufficiently stamped instrument is not admissible as evidence in a court of law, nor will it be acted upon by a public officer. Exemption of stamp duty is given on certain instruments and documents. The rate of duty varies according to the nature of the instruments/documents and transacted values. Following are rates of stamp duty for some common instruments and documents.

Conveyance, assignment or transfer

(a) Properties	**Value MYR**	**Rate**	**Duty payable MYR**
On the first	100,000	MYR 1 per MYR 100 or part thereof	1,000
On the next	400,000	MYR 2 per MYR 100 or part thereof	8,000
	500,000		9,000
In excess of*	500,000	MYR 3 per MYR 100 or part thereof	

* Effective 1 January 2018, the rate of duty for value in excess of MYR 1 million shall be MYR 4 per MYR 100 or part thereof.

(b) Stock, shares or marketable securities MYR 3 per MYR 1,000 or part thereof

<u>Service agreement</u>

		Stamp Duty
All service agreements	One tier	*Ad valorem* rate of 0.1%
Multi-tier service agreement: a) Non-government contract (i.e. between private entity and service providers).	First level	*Ad valorem* rate of 0.1%
	Subsequent level(s)	MYR 50
b) Government contract (i.e. between Federal/State Government of Malaysia or State/local authority and service providers).	First level	Exempted

CHAPTER 6: TAX INCENTIVES FOR PROMOTION OF INVESTMENT

TAX INCENTIVES FOR PROMOTION OF INVESTMENT

Malaysia offers a wide range of tax incentives for the promotion of investments in selected industry sectors e.g. manufacturing, agricultural, healthcare, information and communications technology (ICT) etc. Through tax incentives, the Government aims to attract foreign direct investments (FDIs) as investors from abroad need to be incentivised to relocate or set up their operations in Malaysia. These tax incentives appear in various forms, such as exemption on income, extra allowances on capital expenditure incurred, double deduction of expenses etc. Following are the major tax incentives available in Malaysia.

Pioneer Status (PS)

The standard PS incentive is a partial exemption from the payment of income tax for a period of 5 years up to 70% of a company's statutory income (income after deduction of allowable expenses and CA). Notwithstanding the standard rate, some PS companies enjoy 100% tax exemption over a period of 5 or 10 years.

In the event that a PS company makes losses during the pioneer period, the unutilised losses and CA may be carried forward to the post-pioneer period for an indefinite period of time for set off against future business income of the company.

The PS is available to companies engaged in promoted activities or producing promoted products. Company may apply the incentive from the Malaysian Investment Development Authority (MIDA). Few examples of categories entitled for PS are manufacturing, research and development, high technology Company etc.

Investment Tax Allowance (ITA)

The ITA incentive is an alternative to PS. Both the ITA and PS incentives are mutually exclusive i.e. a company can only enjoy either one of the incentives. The ITA incentive is preferable over the PS incentive for projects which are capital intensive and which are not expected to generate large profits in a short time. Similar to PS, ITA is available to companies involved in promoted activities or promoted products.

ITA is an allowance (in addition to the CA) on qualifying plant and equipment acquired by the company during the tax relief period. The normal rate of allowance is 60% on the qualifying capital expenditure. ITA can be offset up to 70% of the statutory income of the company. A 100% ITA may be utilised to reduce 100% of the statutory income of a company for certain promoted products or promoted activities.

Any unutilised ITA during the tax relief period may be carried forward for an indefinite period for set off against the future business income in the post-tax relief period.

Company may apply the incentive from MIDA. Few examples of categories entitled for ITA are manufacturing, research and development, production of *halal* food product etc.

Reinvestment Allowance (RA)

RA is available to manufacturing companies that reinvest their capital to embark on a project for either expansion of existing production capacity, modernisation or automation of the production facilities, or diversification into related products. RA is also available to companies engaged in agricultural projects (e.g. cultivation of rice, fruits, vegetables, livestock farming etc.)

The rate of RA is 60% on the qualifying capital expenditure (i.e. factory, plant and machinery) and is granted in addition to CA. The RA is used to reduce up to 70% of statutory income of the manufacturing company from its business source in respect of the qualifying project. Any unused RA may be carried forward indefinitely. A company can claim RA up to 100% of its statutory income in a particular YA if it could demonstrate that the level of process efficiency ratio exceeds the industrial average for the year.

The incentive period for RA is 15 years from the first year of claim by a company. Unlike PS or ITA, this incentive does not require prior approval from any of the authorities. RA incentive cannot be claimed in the same basis period if a company is also enjoying PS or ITA incentives.

CHAPTER 7: TAX AUDIT

TAX AUDIT

Under the self-assessment system, tax audits will be IRBM's key enforcement tool to ensure that the tax returns submitted are correct and have been prepared in accordance with the provisions of the law, guidelines and rulings issued by the IRBM.

The time-bar for tax audits is 5 years. Cases for audit are selected through the computerised system based on risk analysis criteria and on various criteria such as business performance, financial ratios, type of industry, past compliance records, third party information etc. However, it does not necessarily mean that a taxpayer who is selected for an audit has committed an offence.

The IRBM carries out 2 types of audit:

- <u>Desk Audit</u> - Involve the review of documents / information obtained by correspondence and interviews at the IBRM's office

- <u>Field Audit</u> - Entail a visit to the taxpayer's premises for a detailed review of all relevant documents

Upon the completion of an audit, the IRBM will issue a tax computation summarising the tax adjustment based on their findings and subsequently an additional assessment to collect the additional taxed from the taxpayer, if any. The taxpayer may still appeal against this assessment by submitting the appeal, through the prescribed Form Q to the Special Commissioners of Income Tax within 30 days from when the assessment is raised.

Tax payer is required to keep tax relevant documents for 7 years. Failing which, the taxpayer will be liable to a fine of between MYR 300 to MYR 10,000 or face imprisonment for a term not exceeding 1 year or to both.

ABOUT: CAS MALAYSIA PTE LTD

ABOUT CAS MALAYSIA PTE LTD

Company Background

CAS Malaysia PLT, Chartered Accountants is an audit firm registered with Malaysian Institute of Accountants and Audit Oversight Board of Malaysia. The firm is currently acting as auditors for several public companies listed on the Main Market and Ace Market of Bursa Malaysia.

CAS Malaysia was founded in 2002. Over the years, we have achieved many milestones, growing from a small start-up firm to become one of the leading premium professional service providers in Malaysia, with 4 Partners and a staff force of 50 professionals.

Services Provided

1. Audit & Assurance

CAS Malaysia is positioned to be your independent professional auditor in areas of Audit and Assurance Services. These services will broadly fall within the ambit of audit, due diligence and / or financial review. Statutory audit is one of our core professional activities.

2. Taxation

Our tax services are designed to help clients to integrate into today's competitive business as well as fiscal environment through effective tax planning and maximization of tax incentives while maintaining regulatory compliance. We offer a whole range of professional tax services aligned with the government's self-assessment system.

3. Business Advisory

Constant legislative changes, consolidations of businesses, as well as stiffer competitions in the marketplace and pressure to improve values for shareholders ca have a significant impact to an entity's continuing relevant in the marketplace. It is within this volatile environment that we believe we have put ourselves in a place of maximum potential to service our clients, especially those from the small and medium industry sectors (SMI) as well as emerging enterprises.

4. Academy

CAS Academy is part of CAS Malaysia to diversify our range of services and value-add for your benefit. With constant changing of rules and regulations that pressurize businesses to adapt to changes effectively and be able to make the right decision at the right time, we will assist professional that come from various industries and organizations to be able to keep abreast of the constant changes of current development as well as changes in the rules and regulations which subsequently reward their businesses to gain success and competitive advantage.

Apart from that, CAS Academy also aims to enhance the technical knowledge of directors and staff of organizations with a view towards improving performance, personal development, compliance and reporting.

Address
B-5-1, IOI Boulevard, Jalan Kenari 5, Bandar Puchong Jaya,
47170 Puchong, Selangor Darul Ehsan.

Website: https://www.cas.net.my/
Contact Person: Mr. Chen Voon Hann
Email: vhchen@cas.net.my
Mobile number: 019-382 7326