CONTENT

Introduction

In Malaysia, tax incentives, both direct and indirect, are provided for in the Promotion of Investments Act 1986, Income Tax Act 1967, Customs Act 1967, Sales Tax Act 1972, Excise Act 1976 and Free Zones Act 1990. These Acts cover investments in the manufacturing, agriculture, tourism (including hotel) and approved services sectors as well as R&D, training and environmental protection activities.

The direct tax incentives grant partial or total relief from income tax payment for a specified period, while indirect tax incentives are in the form of exemptions from import duty, sales tax and excise duty.

1. INCENTIVES FOR THE TOURISM INDUSTRY

Tourism projects, including eco-tourism and agro-tourism projects, are eligible for tax incentives. These include hotel businesses, construction of holiday camps, recreational projects including recreational camps, theme parks and construction of convention centres with a capacity to accommodate at least 3,000 participants.

Hotel businesses refer to the following:

- Construction or renovation of medium and low-cost hotels as certified by the Ministry of Tourism.
- Expansion/modernisation of existing hotels.

1.1 Incentives for the Hotel and Tourism Industry

(i) Pioneer Status

A company granted Pioneer Status enjoys a 5-year partial exemption from the payment of income tax. It will only have to pay tax on 30% of its statutory income, commencing from its Production Day which is determined by the Minister of International Trade and Industry.

Applications should be submitted to MIDA.

(ii) Investment Tax Allowance

As an alternative to Pioneer Status, a company may apply for Investment Tax Allowance (ITA). A company granted the ITA gets an allowance of 60% on the qualifying capital expenditure incurred within five years from the date on which the first qualifying capital expenditure is incurred.

Companies can offset this allowance against 70% of statutory income in the year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

(iii) Enhanced Incentives for Undertaking New Investments

Companies undertaking new investments in 4 and 5 star hotels in Sabah and Sarawak are eligible for the following incentives:

a. Pioneer Status, with income tax exemption of 100% of the statutory income for a period of five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

b. Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 100% of the statutory income in each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications received by 31 December 2013 are eligible for these incentives.

Applications should be submitted to MIDA.

(iv) Incentives for Reinvestment in Hotels and Tourism Projects

Companies that reinvest in the expansion, modernisation, renovation and refurbishment of hotels and tourism projects are eligible for additional rounds of Pioneer Status or Investment Tax Allowance as follows:

a. Pioneer Status with income tax exemption of 70% of the statutory income for a period of five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

b. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% of the statutory income in each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

   Companies are eligible to apply for PS or ITA for the first two rounds of reinvestments. For the third round of reinvestment, companies are only eligible to apply for ITA.

Applications received by 31 December 2013 are eligible for this incentive.

Applications should be submitted to MIDA.

(v) Incentive for Healthcare Travel

Private hospitals that invest in expansion, modernisation, renovation, refurbishment of existing hospitals or in the construction of new private hospital, or setting up of the International Patients Unit, are eligible for:

- Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 100% of the statutory income in each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

These hospitals must be registered with the Ministry of Health to qualify for the incentive.

Applications received by 31 December 2014 are eligible for the incentive.

Applications should be submitted to MIDA.

(vi) Additional Incentives for Healthcare Travel

a. Double Deduction for Expenses Incur in Obtaining Recognised Accreditation

Private hospitals which incur expenses in obtaining domestic or international recognised accreditation such as from the Malaysian Society for Quality in Health (MSQH) or Joint Commission International (JCI) qualify for double deduction for the purpose of income tax computation.

Claims should be submitted to IRB.

b. Automatic Employment/Professional Pass Approval for Medical Specialists

Employment/professional pass will be offered automatically to the following qualified medical specialist who return or come from abroad to serve in Malaysian hospitals:

- Malaysian or non-Malaysian medical specialists; and
- Non-Malaysian spouses who qualify as a professional as per stipulated in the Malaysian Classification of Occupation (MASCO).

However, this is subject to registration with the relevant professional bodies.

(vii) Incentives for the Luxury Yacht Industry

The luxury yacht industry is promoted as part of tourism products and is eligible for the following incentives:

- Companies that construct luxury yachts are eligible for the Pioneer Status incentive.

Applications should be submitted MIDA.

- Companies that carry out repair and maintenance activities for luxury yachts in the island of Langkawi, Malaysia are eligible for an income tax exemption of 100% for five years.

Applications should be submitted to the Ministry of Finance.

- Companies that provide chartering services of luxury yachts in the country are eligible for income tax exemption of 100% for a period of five years.

Claims should be submitted to IRB.

1.2 Additional Incentives for the Tourism Industry

(i) Double Deduction on Overseas Promotion

Hotels and tour operators qualify for a double deduction on the expenditure incurred for promotional activities overseas. The qualifying expenditure are:

- expenditure on publicity and advertisements in any mass media outside Malaysia;
- expenditure on publication of brochures, magazines and guide books, including delivery costs that are not charged to the overseas customers;
- expenditure on market research into new markets overseas, subject to the prior approval of the Minister of Tourism;
- expenditure that includes fares to any country outside Malaysia to negotiate or secure a contract for advertising or participating in trade fairs, conferences or forums approved by the Minister of Tourism. Such expenses are subject to a maximum of RM300 per day for lodging and RM150 per day for food for the duration of the stay overseas;
- expenditure in organising trade fairs, conferences or forums approved by the Minister of Tourism; and
- expenditure on the maintenance of sales offices overseas for purposes of promoting tourism in Malaysia.

Claims should be submitted to IRB.

(ii) Double Deduction on Approved Trade Fairs

Companies are also eligible for a double deduction on expenditure incurred in participating in an approved international trade fair in Malaysia.

Claims should be submitted to IRB.

(iii) Tax Exemption for Tour Operators

a. Foreign Tourists

Tour operators who bring in at least 500 foreign tourists in groups in a year inclusive of tours that enter and exit the country by air, sea or land transportation, will be exempted from tax in respect of income derived from the business of operating such tours. This incentive is only applicable to tour operators licensed by the Ministry of Tourism.

b. Local Tourists

Companies that organise domestic tour packages for at least 1,200 local tourists per year qualify for tax exemption on the income earned. A domestic tour means any tour package within Malaysia participated by local tourists (excluding inbound tourists) by air, land or sea transportation involving at least one night's accommodation.

The incentive is available until the year of assessment 2011.

Claims should be submitted to IRB.

(iv) Tax Exemption for Promoting International Conference and Trade Exhibitions

a. Local companies which promote international conferences in Malaysia qualify for tax exemption on the income earned from bringing at least 500 foreign participants into the country.

b. Income earned from organising international trade exhibitions in Malaysia qualifies for tax exemption as long as the exhibitions are approved by Matrade and the organisers bring in at least 500 foreign visitors per year.

Claims should be submitted to IRB.

(v) Deduction on Cultural Performances

Expenditure incurred by companies promoting and managing musical or cultural groups and sponsoring local and/or foreign cultural performances as approved by the Ministry of Tourism, qualifies for a single deduction.

To further encourage the private sector to sponsor local arts, cultural and heritage performances and shows, expenditure incurred in sponsoring such performances and shows has been increased from RM300,000 to RM500,000. However, the ceiling for deductions allowed on foreign performances and shows remains at RM200,000 per year.

Claims should be submitted to IRB.

(vi) Incentive for Car Rental Operators

Operators of car rental services for tourists are eligible for full excise duty exemption on the purchase of national cars and to enable tourists to explore challenging destinations, tour operators are also eligible for a 50% excise duty exemption on locally assembled 4WD vehicles.

Applications should be submitted to the Ministry of Finance.

(vii) Tax Exemption on the Value of Increased Exports

Healthcare services offered to foreign clients are qualified for tax exemption of 50% on the value of increased exports income subject to 70% of the statutory income for each year of assessment. Foreign clients are defined as:

- A company, partnership, organisation or cooperative society which is incorporated or registered outside Malaysia;
- A non-Malaysian citizen who does not hold a Malaysian working permit; or
- A non-resident Malaysian living abroad.

Effective from the year of assessment 2010 until the year of assessment 2014, this tax exemption rate has been enhanced to 100% and for the purpose of this incentive the following foreign clients are excluded:

- a non-Malaysian citizen that participates in Malaysia My Second Home Program and his dependants;
- a non-Malaysian citizen holding a Malaysian student pass and his dependants;
- a non-Malaysian citizen holding a Malaysian work permit and his dependants; or
- Malaysian citizens who are non-residents living abroad and his dependants.

However, healthcare services offered to such foreign clients as mentioned above continue to enjoy existing tax exemption on statutory income to the amount of 50% of the value of increased exports.

Claims should be submitted to IRB.

2. INCENTIVES FOR ENVIRONMENTAL MANAGEMENT

2.1 Incentives for the Storage, Treatment and Disposal of Toxic and Hazardous Wastes

Incentives are offered to encourage the setting up of proper facilities to store, treat and dispose of toxic and hazardous wastes. Companies that are directly involved in these three activities in an integrated manner qualify for:

i. Pioneer Status, with income tax exemption of 70% of the statutory income for a period of five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

ii. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% of the statutory income in each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

2.2 Incentives for Waste Recycling Activities

Companies undertaking waste recycling activities that are high value-added and use high technology are eligible for Pioneer Status or ITA. These activities which include the recycling of agricultural wastes or agricultural by-products, recycling of chemicals and the production of reconstituted wood-based panel boards or products are eligible for:

i. Pioneer Status, with income tax exemption of 70% of the statutory income for a period of five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

ii. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% of the statutory income in each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

2.3 Incentives for Energy Conservation

(i) Companies Providing Energy Conservation Services

In order to reduce operation costs as well as to promote environmental preservation, companies providing energy conservation services are eligible for the following incentives:

a. Pioneer Status with income tax exemption of 100% of the statutory income for a period of ten years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

b. Investment Tax Allowance (ITA) of 100% on the qualifying capital expenditure incurred within five years. The allowance can be offset against 100% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

The companies must implement their projects within one year from the date of approval.

Applications received by 31 December 2015 are eligible for this incentive.

(ii) Companies Undertaking Conservation of Energy for Own Consumption

Companies which undertake conservation of energy for own consumption are eligible for ITA of 100% on the qualifying capital expenditure incurred within five years. The allowance can be offset against 100% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward until fully utilised.

Applications received by 31 December 2015 are eligible for this incentive.

Applications should be submitted to MIDA.

2.4 Incentives for Energy Generation Activities Using Renewable Energy Resources

Companies undertaking generation of energy using biomass, hydropower (not exceeding 10 megawatts) and solar power that are renewable and environmentally friendly are eligible for the following incentives:

i. Pioneer Status with income tax exemption of 100% of statutory income for ten years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

ii. Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of five years. This allowance can be offset against 100% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Companies must implement their projects within one year from the date of approval.

With effect from 8 September 2007, other companies in the same group are eligible for the same incentives as above even though one company in the same group has been granted the incentive. Applications received by 31 December 2015 are eligible for this incentive.

For the purpose of this incentive, 'biomass sources' refer to palm oil mill/estate waste, rice mill waste, sugar cane mill waste, timber/sawmill waste, paper recycling mill waste, municipal waste and biogas (from landfill, palm oil mill effluent (POME), animal waste and others), while energy forms refer to electricity, steam, chilled water, and heat.

Applications should be submitted to MIDA.

2.5 Incentives for Generation of Renewable Energy for Own Consumption

Companies which generate energy from renewable resources for its own consumption are eligible for the Investment Tax Allowance of 100% on qualifying capital expenditure incurred within a period of five years. This allowance can be offset against 100% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications received by 31 December 2015 are eligible for this incentive.

Applications should be submitted to MIDA.

2.6 Tax Incentives for Building Obtaining Green Building Index Certificate

In order to widen the usage of green technology, the Government has launched the green building index (GBI) on 21 May 2009. GBI is a green rating index on environment-friendly buildings. The index is based on certain criteria amongst which are:

- energy and water efficiency;
- indoor environmental quality;
- sustainable management and planning of building sites in respect of pollution control and facilities for workers;
- usage of recyclable and environment friendly materials and resources; and
- adoption of new technology.

As a measure to encourage the construction of buildings using green technology:

i. Owners of buildings awarded the GBI certificate, are eligible for tax exemption equivalent to 100% of the additional capital expenditure incurred to obtain the GBI certificate. The exemption is allowed to set-off against 100% of the statutory income for each year of assessment. The incentive is applicable for new buildings and upgrading of existing buildings.

   The incentive is given only for the first GBI certificate issued in respect of the building.

   This incentive is effective for buildings awarded with GBI certificates from 24 October 2009 until 31 December 2014.

ii. Buyers of buildings and residential properties awarded GBI certificate bought from real property developers are eligible for stamp duty exemption on instruments of transfer of ownership of such buildings. The amount of stamp duty exemption is on the additional cost incurred to obtain the GBI certificate. The incentive is given only once to the first owner of the building.

   This incentive is effective for sales and purchase agreement executed from 24 October 2009 until 31 December 2014.

2.7 Accelerated Capital Allowance for Environmental Management

Companies using environmental protection equipment are eligible for an initial allowance of 40% and an annual allowance of 20% on the qualifying capital expenditure. Thus, the full amount can be written off within three years.

These companies are:

- Waste generators and wish to establish facilities to store, treat and dispose off their wastes, either on-site or off-site; and
- Undertake waste recycling activities.

Applications should be submitted to IRB.

In the case of companies that incur capital expenditure for conserving their own energy for consumption, the write-off period is accelerated by another one year.

Applications should be submitted to IRB with a letter from the Ministry of Energy, Green Technology and Water certifying that the related equipment is used exclusively for the purpose of energy conservation.

2.8 Exemption from Import Duty and Sales Tax on Solar Photovoltaic System Equipment

To widen the usage of energy from renewable resources:

- import duty and sales tax exemption on solar photovoltaic system equipment for the usage by third parties is given to importers including photovoltaic service providers approved by the Energy Commision; and

- sales tax exemption is given on the purchase of solar heating system equipment from local manufacturers.

Applications submitted to MIDA by 31 December 2012 are eligible for these incentives.

2.9 Exemption from Import Duty and Sales Tax on Energy Efficiency Equipment

To widen the usage of energy efficiency equipment:

- import duty and sales tax exemption is given on energy efficiency (EE) equipment such as high efficiency motors and insulation materials to importers including authorised agents approved by the Energy Commision; and

- sales tax exemption is given on the purchase of locally manufactured EE consumer goods such as refrigerator, air conditioner, lightings, fan and television.

Applications submitted to MIDA by 31 December 2012 are eligible for these incentives.

3. INCENTIVES FOR RESEARCH AND DEVELOPMENT

The Promotion of Investments Act 1986 defines research and development (R&D) as "any systematic or intensive study carried out in the field of science or technology with the objective of using the results of the study for the production or improvement of materials, devices, products, produce or processes but does not include:

- quality control of products or routine testing of materials, devices, products or produce;
- research in the social sciences or humanities;
- routine data collection;
- efficiency surveys or management studies; and
- market research or sales promotion.

To further strengthen Malaysia's foundation for more integrated R&D, companies which carry out design, development and prototyping as independent activities are also eligible for incentives.

3.1 Main Incentives for Research and Development

(i) Contract R&D Company

A contract R&D company, i.e., a company that provides R&D services in Malaysia to a company other than its related company, is eligible for:

- Pioneer Status with income tax exemption of 100% of the statutory income for five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

- Investment Tax Allowance (ITA) of 100% on the qualifying capital expenditure incurred within 10 years. The allowance can be offset against 70% of the statutory income for each year of assessment. Any unutilised capital allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

(ii) R&D Company

A R&D company, i.e. a company that provides R&D services in Malaysia to its related company or to any other company, is eligible for an ITA of 100% on the qualifying capital expenditure incurred within 10 years. The allowance can be offset against 70% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Should the R&D company opt not to avail itself of the allowance, its related companies can enjoy double deduction for payments made to the R&D company for services rendered. Applications should be submitted to MIDA.

Eligibility:
Contract R&D and R&D companies that fulfil the following criteria can apply for the various incentives:

a. Research undertaken should be in accordance with the needs of the country and bring benefit to the economy;

b. At least 70% of the income of the company should be derived from R&D activities;

c. For manufacturing-based R&D, at least 50% of the workforce of the company must be appropriately qualified personnel performing research and technical functions; and

d. For agriculture-based R&D, at least 5% of the workforce of the company must be appropriately qualified personnel performing research and technical functions.

(iii) In-house Research

A company that undertakes in-house R&D to further its business can apply for an ITA of 50% of the qualifying capital expenditure incurred within ten years. The company can offset the allowance against 70% (100% for promoted areas) of its statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

(iv) Second Round Incentives

R&D companies/activities mentioned in categories (i) - (iii) are eligible for a second round of Pioneer Status for another five years, or ITA for a further ten years, where applicable.

(v) Incentives for Commercialisation of Public Sector R&D

To encourage commercialisation of resource-based R&D findings of public research institutes, the following incentives are given:

a. A company that invests in its subsidiary company engaged in the commercialisation of the R&D findings is eligible for a tax deduction equivalent to the amount of investment made in the subsidiary company; and

b. The subsidiary company that undertakes the commercialisation of the R&D findings is eligible for Pioneer Status with income tax exemption of 100% of statutory income for 10 years.

The incentive is provided on the following conditions:

i. At least 70% of the investing company (holding company) and the company undertaking the commercialisation projects are owned by Malaysians;

ii. The company which invests should own at least 70% of the equity of the company that commercialises the R&D findings;

iii. The commercialisation of the R&D findings should be implemented within one year from the date of approval of the incentive.

3.2 Double Deduction for Research and Development

i. A company can enjoy a double deduction on its revenue (non-capital) expenditure for research which is directly undertaken and approved by the Minister of Finance.
ii. Double deduction can also be claimed for cash contributions or donations to approved research institutes, and payments for the use of the services of approved research institutes, approved research companies, R&D companies or contract R&D companies.
iii. Approved R&D expenditure incurred during the tax relief period for companies granted Pioneer Status can be accumulated and deducted after the tax relief period.
iv. Expenditure on R&D activities undertaken overseas, including the training of Malaysian staff, will be considered for double deduction on a case-by-case basis.

Claims should be submitted to IRB.

3.3 Incentives for Researchers to Commercialise Research Findings

Researchers who undertake research focused on value creation will be given a 50% tax exemption for five years on the income that they receive from the commercialisation of their research findings. The undertaking has to be verified by the Ministry of Science, Technology and Innovation.

Claims should be submitted to IRB.

4. INCENTIVES FOR THE MEDICAL DEVICES TESTING LABORATORIES

Medical devices testing laboratories have been identified as an important support service in ensuring that locally manufactured medical devices are of high quality and of international standards.

4.1 Companies Investing in New Testing Laboratories for Testing Medical Devices

Companies investing in setting up new laboratories are eligible for the following incentives:

a. Pioneer Status with income tax exemption of 100% of the statutory income for five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

b. Investment Tax Allowance (ITA) of 60% on the qualifying capital expenditure incurred within five years. The allowance can be offset against 100% of the statutory income for each year of assessment. Any unutilised capital allowances can be carried forward to subsequent years until fully utilised.

Applications received by 31 December 2012 are eligible for this incentive.

Applications should be submitted to MIDA.

4.2 Companies Upgrading Existing Testing Laboratories for Testing Medical Devices

Companies investing in upgrading existing laboratories are eligible for an Investment Tax Allowance (ITA) of 60% on the qualifying capital expenditure incurred within five years. This allowance can be offset against 100% of the statutory income for each year of assessment. Any unutilised capital allowances can be carried forward to subsequent years until fully utilised.

Applications received by 31 December 2012 are eligible for this incentive.

Applications should be submitted to MIDA.

5. INCENTIVES FOR TRAINING

5.1 Main Incentives for Training

To encourage human resource development, the following incentives are available:

Investment Tax Allowance

Companies that establish technical or vocational training institutions are eligible for an Investment Tax Allowance of 100% for ten years. This allowance can be offset against 70% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Existing companies providing technical or vocational training that undertake new investments to upgrade their training equipment or expand their training capacities also qualify for this incentive. The incentive also applies to:

- Private Higher Education Institutions (PHEIs) in the field of science; and
- Existing PHEIs in the field of science that undertake new investments to upgrade their training equipment or expand their training capacities.

The qualifying science courses are as follows:

i. Biotechnology
  - Medical and health biotechnology
  - Plant biotechnology
  - Food biotechnology
  - Industrial and environment biotechnology
  - Pharmaceutical biotechnology
  - Bioinformatics biotechnology

ii. Medical and Health Sciences
  - Medical science in gerontology
  - Medical science in clinical research
  - Medical biosciences
  - Biochemical genetics
  - Environmental health
  - Community health

iii. Molecular Biology
  - Immunology
  - Immunogenetics
  - Immunobiology

iv. Material sciences and technology

v. Food science and technology

Applications should be submitted to MIDA.

5.2 Additional Incentives for Training

(i) Deduction for Cost of Recruitment of Workers

Cost of recruitment of workers is allowed as a deduction for the purpose of tax computation. Cost includes expenses incurred in participation in job fairs, payment to employment agencies and head-hunters.

Claims should be submitted to IRB.

(ii) Deduction for Pre-Employment Training

Training expenses incurred before the commencement of business qualify for a single deduction. Nevertheless, companies must prove that they will employ the trainees.

Claims should be submitted to IRB.

(iii) Deduction for Non-Employee Training

Expenses incurred in providing practical training to residents who are not employees of the company can be considered for single deduction.

Claims should be submitted to IRB.

(iv) Deduction for Cash Contributions

Contributions in cash to technical or vocational training institutions that are not operating primarily for profit and those established and maintained by a statutory body qualify for single deduction.

Claims should be submitted to IRB.

(v) Special Industrial Building Allowance

Companies that incur expenditure on buildings used for approved industrial, technical or vocational training can claim a special annual Industrial Building Allowance (IBA) of 10% for 10 years on qualifying capital expenditure for the construction or purchase of a building.

Claims should be submitted to IRB.

(vi) Tax Exemption on Educational Equipment

Approved training institutes, in-house training projects and all private institutions of higher learning are eligible for import duty, sales tax and excise duty exemptions on all educational equipment including laboratory equipment for workshops, studios and language laboratories.

Applications should be submitted to MIDA.

(vii) Tax Exemption on Royalty Payments

Royalty payments made by educational institutions to non-residents (franchisors) for franchised education programmes that are approved by the Ministry of Education are eligible for tax exemption.

Claims should be submitted to IRB.

(viii) Double Deduction for Approved Training

Manufacturing and non-manufacturing companies that do not contribute to the Human Resource Development Fund (HRDF) qualify for double deduction on expenses incurred for approved training.

For the manufacturing sector, the training could be undertaken in-house or at approved training institutions. However, for the non-manufacturing sector, the training should be held only at approved training institutions. Approval is automatic when the training is at approved institutions.

For the hotel and tour operation business, training programmes, in-house or at approved training institutions, to upgrade the level of skills and professionalism in the tourism industry, should be approved by the Ministry of Tourism.

Effective from the year of assessment 2009 to year of assessment 2012, employers who incur expenses for training their employees in the following skills are eligible for double deduction:

- Post graduate courses in information and communication technology (ICT), electronics and life sciences;
- Post basic courses in nursing and allied health care; and
- Aircraft maintenance engineering courses.

Claims should be submitted to IRB.

(ix) Human Resource Development Fund (HRDF)

The Human Resources Development Fund (HRDF) was established in 1993 and administered by Pembangunan Sumber Manusia Berhad (PSMB). HRDF operates on the basis of a levy/grant system. Employers who have paid the levy will qualify for training grants from the fund to defray or subsidise training costs for their Malaysian employees.

For more information on HRDF please visit www.hrdf.com.my.

6. INCENTIVES FOR APPROVED SERVICE PROJECTS

Approved Service Projects (ASPs) or projects in the transportation, communications and utilities sub-sectors approved by the Minister of Finance qualify for the following tax incentives:

6.1 Exemption under Section 127 of the Income Tax 1967

Under Section 127 of the Income Tax 1967, companies undertaking ASPs can apply for income tax exemption of 70% of their statutory income for five years. Companies undertaking ASPs of national and strategic importance are eligible for a 100% income tax exemption of their statutory income for ten years.

Applications should be submitted to the Ministry of Finance.

6.2 Investment Allowance under Schedule 7B of the Income Tax Act 1967

The Investment Allowance (IA) under Schedule 7B of the Income Tax Act 1967 is an alternative to the incentive offered under Section 127. Under IA, companies undertaking ASPs are eligible for an allowance amounting to 60% on the qualifying capital expenditure incurred within five years from the date the first capital expenditure is incurred. The allowance can be offset against 70% of the statutory income and any unutilised allowances can be carried forward to subsequent years until fully utilised.

Companies undertaking ASPs of national and strategic importance are eligible for an allowance of 100% on the qualifying capital expenditure incurred within five years. This allowance can be offset against 100% of the statutory income.

Applications should be submitted to the Ministry of Finance.

6.3 Exemption from Import Duty, Sales Tax and Excise Duty on Raw Materials, Components, Machinery, Equipment, Spares and Consumables

Imports of raw materials and components not available locally and used directly to implement ASPs are eligible for exemption from import duty and sales tax, while locally purchased machinery or equipment are eligible for exemption from sales tax and excise duty.

Companies providing services in the transportation and telecommunications sectors, power plants and port operators can apply for import duty and sales tax exemption on spares and consumables that are not produced locally.

Applications should be submitted to MIDA.

7. INCENTIVES FOR FILM INDUSTRY

i. Pioneer Status, with income tax exemption of 70% (100% for promoted areas) of the statutory income for a period of five years or

ii. Investment Tax Allowance of 60% (100% for promoted areas) on the additional qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% (100% for promoted areas) of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

8. INCENTIVES FOR INTEGRATED CENTRAL UTILITY FACILITIES

An integrated central utility facility (ICUF) is defined as a facility capable of supplying utilities from a common complex at competitive prices and higher efficiency. Core services provided by integrated CUF include supply, storage, handling and other services of energy, water and gas. Companies providing ICUF are eligible for:

i. Pioneer Status, with income tax exemption of 70% of the statutory income for a period of five years; or

ii. Investment Tax Allowance of 60% on the additional qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

9. INCENTIVES FOR INTEGRATED MARKET SUPPORT SERVICES (IMS)

IMS services companies provide branding, feasibility studies, market research, marketing, product development and design and customer relationship management services. These activities promote product development, differentiation, distribution and marketing to improve the quality and enhance the competitiveness of their clients. Companies providing IMS are eligible for:

i. Pioneer Status, with income tax exemption of 70% of the statutory income for a period of five years; or

ii. Investment Tax Allowance of 60% on the additional qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications received by 31 December 2011 are eligible for these incentives.

Applications should be submitted to MIDA.

10. INCENTIVES FOR INTERGRATED LOGISTIC SERVICES

Companies providing Integrated logistics Services(ILS) which comprise activities along the logistics supply chain such as freight forwarding, warehousing, transportation and other related value-added services such as distribution, palletising, product assembly/installation, bulk breaking, consolidation, packaging/re-packaging, procurement, quality control, labeling/relabeling, testing and supply chain management, are eligible for:

i. Pioneer Status with income tax exemption of 70% of the statutory income for a period of five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company; or

ii. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within five years from the date the first qualifying capital expenditure is incurred. Companies can offset this allowance against 70% of their statutory income in the year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised. The remaining 30% of the statutory income will be taxed at the prevailing company tax rate.

Applications should be submitted to MIDA.

11. INCENTIVES FOR COLD CHAIN FACILITIES

Companies providing cold chain facilities that provide a wide range of services including cold room, refrigerated truck and other related services such as the collection, storage and distribution of perishable locally produced food products are eligible for:

i. Pioneer Status with income tax exemption of 70% of the statutory income for a period of five years. Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company.

ii. Investment Tax Allowances of 60% on the qualifying capital expenditure incurred within five years from the date the first qualifying capital expenditure is incurred. Companies can offset this allowance against 70% of their statutory income in the year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised. The remaining 30% of the statutory income will be taxed at the prevailing company tax rate.

Applications should be submitted to MIDA.

12. INCENTIVES FOR OTHER SERVICES

- **Irradiation Services**
- **Gas Sterilization Service**
- **Designing and Prototyping**
- **Servicing and upgrading or reconditioning of machinery and equipment**

i. Pioneer Status, with income tax exemption of 70% (100% for promoted areas) of the statutory income for a period of five years; or

ii. Investment Tax Allowance of 60% (100% for promoted areas) on the additional qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% (100% for promoted areas) of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised.

Applications should be submitted to MIDA.

13. INCENTIVES FOR OPERATIONAL HEADQUARTERS

An approved **Operational Headquarters (OHQ)** generally refers to a company that provides qualifying services to its offices or related companies regionally and globally.

A company that establishes an OHQ in Malaysia can be considered for tax incentives and facilities under the OHQ incentive programme. A company is granted OHQ status and tax incentives under Section 127 of the Income Tax Act 1967 for the provision of qualifying services to its offices or related companies within and outside Malaysia.

13.1 Approvals for OHQ Status, Incentives and Other Facilities

Companies that meet the following criteria can apply for OHQ status and incentives:

- Locally incorporated under the Companies Act 1965
- A minimum paid-up capital of RM0.5 million
- A minimum total operating expenditure of RM1.5 million per year
- Appoint at least three senior professional/ management personnel
- Serve at least three related companies outside Malaysia
- Have a sizeable and well-established network of companies outside Malaysia which employ a significant and substantial number of qualified professionals, technical and supporting personnel
- Carry out a minimum of three qualifying services:

  The qualifying services are as follows:
  - General management and administration
  - Business planning and coordination
  - Coordination of procurement of raw materials, components and finished products
  - Technical support and maintenance
  - Marketing control and sales promotion planning
  - Data/ information management and processing

- Research and development (R&D) work carried out in Malaysia on behalf of its offices or related companies within or outside Malaysia
- Training and personnel management for its offices or related companies within or outside Malaysia

- **Treasury and fund management services** to its offices or related companies outside Malaysia which include:
  - Providing credit facilities, to related companies outside Malaysia in currencies other than ringgit
  - Transacting or investing in stocks, shares and securities (including bonds, notes, certificates of deposits and treasury bills) in foreign currencies that are issued in or outside Malaysia
  - Investing in foreign currency deposits with onshore banks, licensed International Islamic Banks in Malaysia or overseas banks
  - Foreign exchange transactions and interest rate/currency swaps for hedging purposes that are made in a foreign currency and conducted through onshore banks and licensed banks in Labuan
  - Transactions in financial derivatives with onshore banks and in RM or USD denominated crude palm oil futures contracts on Bursa Malaysia for hedging purposes
  - Transactions in foreign-currency denominated derivatives on overseas specified exchanges made only through resident futures brokers for hedging and investment purposes

  The funds for carrying out the treasury and fund management activities are to be obtained only through borrowings made from onshore banks, licensed International Islamic Banks, or other resident companies within the same corporate group in Malaysia and non-residents in Labuan; or from the OHQ company's paid-up capital, its accumulated profits derived from qualifying activities, or the accumulated profits of its offices or from borrowings sourced from outside Malaysia.

  An OHQ set up by a financial institution is prohibited from providing treasury and fund management services to its related companies in Malaysia unless the related companies are institutions licensed under the Banking and Financial Institution Act 1989 (BAFIA).

- **Corporate financial advisory services** to its offices and related companies outside Malaysia which include:
  - Provision of credit administration denominated in currencies other than ringgit for related companies
  - Arrangement of credit facilities denominated in currencies other than ringgit for related companies

- Arrangement of interest rate or currency swaps in currencies other than ringgit
- An OHQ company may take over claims held by related companies and/or from third parties outside Malaysia at a discounted price (factoring)
- All products and services which related companies invoice to each other can be re-invoiced by the OHQ (re-invoicing)
- Netting of payments, other than the export proceed for goods exported from Malaysia, among related companies vis-à-vis the OHQ, is freely allowed
- An OHQ company may purchase machinery, equipment or real estate with a view to lease them to its related companies (leasing)
- An OHQ company may purchase machinery, equipment or real estate belonging to related companies with a view to lease them back to the same related companies (sales and lease back arrangements).

13.2 Equity Requirements

A company granted OHQ status and incentives under Section 127 of the Income Tax Act 1967, is allowed 100% foreign equity ownership.

13.3 Incentives

An approved OHQ company is eligible for income tax exemption for a period of 10 years under Section 127, Income Tax Act 1967 for income derived from the following sources:

- **Business Income**

  Income arising from services rendered by an OHQ company to its offices or related companies outside Malaysia.
- **Interest**

  Income derived from interest on foreign currency loans extended by an OHQ company to its offices or related companies outside Malaysia.
- **Royalties**

  Royalties received from R&D work carried out in Malaysia by an OHQ company on behalf of its offices or related companies outside Malaysia.

The income generated by an OHQ company in providing qualifying services to its offices and related companies in Malaysia will not be taxed during its tax-exempt period, provided such income does not exceed 20% of its overall income derived by providing qualifying services.

13.4 Foreign Exchange Administration (FEA) Flexibilities Accorded to Resident Companies with Approved Operational Headquarters Status (OHQ)

(i) Investment in foreign currency assets[1]

- Free to invest any amount in foreign currency assets to be funded with:

- Own foreign currency funds; or
- Foreign currency borrowing

(ii) Foreign currency borrowing

- Free to borrow any amount of foreign currency from onshore banks, licensed International Islamic Banks, other resident companies within the same corporate group[2] in Malaysia and from any non-residents, provided the OHQ do not on-lend the funds:
  - To other residents; or
  - Raise the funds on behalf of any resident
- Free to obtain any amount of foreign currency trade financing facilities from nonresident to finance import payments

(iii) Payment between resident companies

- No restriction for payment in ringgit

13.5 Other FEA Flexibilities

As a resident company, an OHQ status company is also entitled to other FEA flexibilities applicable to residents. For more information, please visit http://www.bnm.gov.my/microsites/fxadmin/0105_policies.htm.

13.6 Other Facilities

Other facilities accorded to an approved OHQ are as follows:

- Use professional services of foreign firms, provided that such services are not available locally
- Acquire fixed assets as long as the fixed assets are used for the purpose of carrying out the operations of the OHQ
- Expatriates working in OHQ companies are taxed only on the portion of their chargeable income attributable to the numbers of days that they are in Malaysia.

Applications should be submitted to MIDA.

[1] "Foreign currency assets" include:

(a) Foreign currency securities;
(b) Foreign currency loans;
(c) Foreign currency deposits;
(d) All approved foreign currency-denominated products offered by:

i. licensed onshore banks;
ii. licensed International Islamic Banks;
iii. Bursa Malaysia; and
iv. any residents permitted by the Controller of Foreign Exchange.

(e) Exchange traded foreign currency-denominated derivatives (other than currency contracts) transacted via resident futures brokers

[2] Corporate group refers to a group of companies with parent-subsidiary relationship in Malaysia

13.7 Expatriate Employment

There are two stages in the employment of expatriates: Application for an expatriate post and an endorsement of employment pass.

Companies applying for OHQ status can apply for expatriate posts, including key posts. The approval will be granted according to the company's requirement subject to the condition that the company has a minimum paid-up capital of RM500,000. All applications should be submitted to MIDA.

Upon approval of the expatriate posts by MIDA, the company must submit an application to the Immigration Department for endorsement of the Employment Pass. Once the Employment Pass has been endorsed, the expatriate can be hired.

14. INCENTIVES FOR INTERNATIONAL PROCUREMENT CENTRES/ REGIONAL DISTRIBUTION CENTRES

International Procurement Centres
An International Procurement Centre (IPC) is a locally incorporated company, which carries on a business in Malaysia to undertake procurement and sale of raw materials, components and finished products for its group of related companies and unrelated companies in Malaysia and abroad. Among the value-added activities involved are bulk breaking, repackaging and labeling.

Regional Distribution Centres
A Regional Distribution Centre (RDC) is a collection and consolidation centre for finished goods, components and spare parts produced by its own group of companies for its own brand to be distributed to dealers, importers or its subsidiaries or other unrelated companies within or outside the country. Among the value-added activities involved are bulk breaking, repackaging and labelling.

14.1 Approvals for IPC/RDC Status

Companies that meet the following criteria can apply for an IPC/RDC status:

- Locally incorporated under the Companies Act 1965
- A minimum paid-up capital of RM0.5 million
- A minimum total business spending (operating expenditure) of RM1.5 million per year

- Incremental usage of Malaysian ports and airports
- A minimum annual sales turnover of RM50 million by the third year of operation
- Domestic sales of not more than 20% of its annual sales value. Not more than 30% of its annual sales turnover is derived from sourcing of goods from outside Malaysia to overseas destinations via drop shipment
- IPC applications must have related manufacturing plant in Malaysia

14.2 Equity Requirements

A company granted IPC/RDC status and incentives under Section 127 of the Income Tax Act 1967, is allowed 100% foreign equity ownership.

14.3 Incentives

An approved IPC/RDC status company can be considered for:

- Tax exemption of statutory income for 10 years, under Section 127 of the Income Tax Act 1967
- Dividends paid from the exempt income will be exempted from tax in the hands of its shareholders

Eligibility criteria:

To qualify for the above incentives, an approved IPC/RDC status company must fulfill the following additional criteria:

- Annual sales turnover of at least RM100 million, of which the annual value of export sales achieve RM 80 million and the value of direct export sales achieve RM 50 million in respect of qualifying activities in the basis period for a year of assessment.
- Sales to the domestic market including sales to free zones (FZs) and licensed manufacturing warehouses (LMWs) are limited to 20% of its sales turnover.

14.4 Foreign Exchange Administration (FEA) Flexibilities Accorded to Resident Companies with International Procurement Centres (IPC) and Regional Distribution Centres (RDC) Status

(i) Hedging of current account transactions

- Free to hedge with onshore banks and licensed International Islamic Banks for payments and receipts for import and export of goods and services:
  - Based on firm underlying commitment; or
  - On anticipatory basis
- Hedging involving ringgit shall only be undertaken with licensed onshore banks

(ii) Payment between resident companies

- No restriction for payment in ringgit
- Free to pay other resident companies in foreign currency for the settlement of goods and services sourced from its foreign currency account, if the IPC/RDC have export earnings (either from export of goods or services).

14.5 Other FEA Flexibilities

As a resident company, an IPC and RDC status companies are also entitled to other FEA flexibilities applicable to residents. For more information please visit http://www.bnm.gov.my/microsites/fxadmin/0105_policies.htm.

14.6 Other Benefits

An approved IPC/RDC status company will enjoy the following benefits:

- Expatriate posts based on the requirements of the IPC/RDC
- Bring in raw materials, components or finished products with customs duty exemption into free industrial zones (FIZs), free commercial zones (FCZs), licensed manufacturing warehouse (LMWs) and bonded warehouses for re-packaging, cargo consolidation and integration before distribution to its final consumers.
- Expatriates working in IPC/RDC companies are taxed only on the portion of their chargeable income attributable to the numbers of days that they are in Malaysia.

Applications should be submitted to MIDA.

14.7 Expatriate Employment

Companies applying for IPC/RDC status can also apply for expatriate posts, including key posts. The approval will be granted according to the company's requirement subject to the condition that the company has a minimum paid-up capital of RM500,000. All applications should be submitted to MIDA.

Upon approval of the expatriate posts by MIDA, the company must submit an application to the Immigration Department for endorsement of the Employment Pass. Once the Employment Pass has been endorsed, the expatriate can be hired.

15. REPRESENTATIVE OFFICES AND REGIONAL OFFICES

A Representative Office/Regional Office of a foreign company based in Malaysia performs permissible activities for its headquarters/principal. Such offices should be totally funded from sources outside Malaysia and are not required to be incorporated or be registered with the Companies Commission of Malaysia (SSM) under the Companies Act 1965.

Representative Office

An approved representative office collects relevant information regarding investment and business opportunities to develop bilateral trade relations and promote the export of Malaysian goods and products.

Regional Office

An approved regional office serves as the coordination centre for its affiliates, subsidiaries and agents within the Asia Pacific region. It is responsible for conducting designated activities within the region it operates.

The approval for the establishment of representative/regional offices and expatriate employment is valid for a minimum period of two years and is renewable depending on the merits of each case.

15.1 Activities Allowed

An approved representative office/regional office is allowed to carry out the following activities:

- Plan or coordinate business activities
- Gather and analyse information or undertake feasibility studies on investment and business opportunities in Malaysia and the region
- Identify sources of raw materials, components or other industrial products
- Undertake research and product development
- Act as a coordination centre for the corporation's affiliates, subsidiaries and agents in the region

15.2 Activities Not Allowed

An approved representative office/regional office is not allowed to carry out the following activities:

- Engage in any trading (including import and export), business or any form of commercial activity
- Lease warehousing facilities; any shipment/transhipment or storage of goods must be carried out through a local agent or distributor
- Sign business contracts on behalf of the foreign corporation or provide services for a fee
- Participate in the daily management of any of its subsidiaries, affiliates or branches in Malaysia
- Conduct any business transaction or derive income from its operations

15.3 Equity Requirements

As representative/regional offices do not have issued capital in Malaysia, they are not subject to any equity condition.

15.4 Incentive

Expatriates working in regional offices are taxed only on the portion of their chargeable income attributable to the numbers of days that they are in Malaysia.

15.5 Expatriate Employment

An approved representative/regional office is allowed to employ expatriates at the managerial and technical level. Applications for the establishment of representative/regional offices and expatriate posts should be submitted to MIDA.

Upon approval of expatriate posts, companies should forward their applications for Employment Passes to the Immigration Department for endorsement.