

**GUIDELINES FOR SECOND ROUND INCENTIVES FOR COMPANIES
UNDERTAKING R&D ACTIVITIES**

A. TAX INCENTIVES

Existing companies undertaking R&D activities will be eligible for either a second round Pioneer Status (PS) or Investment Tax Allowance (ITA) as follows:

(a) **Contract R&D Company**

- PS with full tax exemption (100%) of statutory income for a period of 5 years. Unabsorbed pioneer losses after the end of pioneer period are allowed to be carried forward for **7 consecutive year of assessments**; or
- ITA of 100% of **additional** qualifying capital expenditure incurred within a period of 10 years from the date the first qualifying capital expenditure is incurred. The allowance can be offset against 70% of the statutory income for each year of assessment. Unutilised allowances can be carried forward until fully absorbed.

(b) **R&D Company**

- ITA of 100% **additional** qualifying capital expenditure incurred within a period of 10 years from the date the first qualifying capital expenditure is incurred. The allowance can be offset against 70% of statutory income for each year of assessment. Unutilised allowances can be carried forward until fully absorbed.

(c) **In-house R&D**

- ITA of 50% of **additional** qualifying capital expenditure incurred within a period of 10 years from the date the first qualifying capital expenditure is incurred. The allowance can be offset against 70% of the statutory income for each year of assessment. Unutilised allowances can be carried forward until fully absorbed.

B. DEFINITION

- **Contract R&D Company** means a company which provides R&D services in Malaysia only to a company other than its related company
- **R&D Company** means a company which provides R&D services in Malaysia to its related companies or to any other company.
- **In-house R&D** means a company that carries out R&D activity within the company in Malaysia for the purpose of its own business.
- **R&D** is defined as any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the objective of acquiring new knowledge or using the results of the study for the production or improvement of materials, products, produce or processes. However, the R&D activities **does not include**:
 - i. Quality control or routine testing of materials, devices or products;
 - ii. Research in the social sciences or the humanities;
 - iii. Routine data collection
 - iv. Efficiency surveys or management studies
 - v. Market research or sales promotion
 - vi. Routine modifications or changes to materials, devices, products, processes or production methods; or
 - vii. Cosmetic modifications or stylistic changes to materials, devices, products, processes or production methods.
- **Related company** has the same meaning assigned in the Section 2 of the Promotion of Investments Act 1986.

C. ELIGIBILITY

(a) Eligible Applicant

Contract R&D Company, R&D Company and In-house R&D:

- Company which **has not enjoyed PS/ITA** for R&D activities
- Company granted PS/ITA for R&D activities whose PS/ITA has **expired**

(b) Eligible R & D Activity

Existing companies undertaking **reinvestments** (by way of additional expenditure for plant, machinery and building) for the following R&D activities are eligible for second round PS/ITA:

- (i) **expansion of existing R&D activities.**
- (ii) engaged in **new research projects / research methodology / processes / products**¹

(c) **Eligible Criteria**

- **The R&D activities undertaken must comply with the definition of R&D under the Promotion of Investments Act, 1986**
- The R&D activities undertaken must be in accordance with the needs of the country and benefits to the Malaysian economy.

(d) **Additional Criteria for Contract R&D Company and R&D Company**

Prevailing criteria will apply, i.e.:

- (i) At least 70% of the income of the company should be derived from its R&D services activities. Only R&D services income is to be exempted and income generated from Intellectual Property (IP)² if any, is excluded.
- (ii) For manufacturing-based research and development, the company must have adequate³ number of full-time employees working in Malaysia with degree or diploma in technical fields with relevant experience. Those employees must perform research and technical functions and comprise of at least 50% of the company's total workforce.
- (iii) For agriculture-based research and development, the company must have adequate³ number of full-time employees working in Malaysia with degree or diploma in technical fields with relevant experience. Those employees must perform research and technical; functions and comprise of at least 5% of the company's total workforce.
- (iv) The company must incur adequate³ amount of operating expenditure annually to support the company in conducting its R&D services activities/business operation in Malaysia. The operating expenditure should include local services for insurance, legal, banking, ICT and transportation; if those services could be sourced from local/domestic service providers. However, this amount shall not include the cost of goods sold, depreciation, interest on borrowings and expenses that are not directly involved in the company's proposed activities.

¹ ***Applicable only for Contract R&D Company applying for PS***

² ***IP income refers to any income derived from the ownership or licensing of rights to use IP assets (such as royalties, capital gains and other income from the sale of an IP asset) and from embedded IP income (from the sale of products and the use of processes directly related to the IP asset).***

³ ***Proposals submitted by companies will be evaluated in detail by MIDA and will be deliberated in the National Committee on Investments (NCI) for decision.***

- (e) **Effective Date of Second Round PS/ITA**
- (i) **For company undertaking reinvestment**
The tax relief period (for PS) or ITA will commence from the date first qualifying capital expenditure is incurred for reinvestment.
- (ii) **For Contract R&D Company undertaking new research projects / methodology / processes / products**
The tax relief period for PS will commence from the date of approval of second round PS.
- (f) **Scope of Second Round PS/ITA**
- (i) Tax relief under PS to be granted on the **total income** of the project.
- (ii) ITA is granted on the **qualifying capital expenditure** incurred for reinvestment.
- (g) **Expatriate Post(s)**
Company(s) undertaking reinvestment for the expansion of existing R&D activities or engage in new research projects or research methodology/processes/products may also apply for expatriate post(s).

D. MALAYSIA'S PARTICIPATION IN THE ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) TAXATION INITIATIVES

Malaysia had joined the Inclusive Framework (IF) on Base Erosion and Profit Shifting (BEPS) in January 2017 and became a BEPS Associate under the IF. As a BEPS Associate and a member of the Forum on Harmful Tax Practices (FHTP), Malaysia has to comply with the Base Erosion Profit Shifting (BEPS) Action 5: Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance' Report.

Contract R&D incentive is one of the incentives evaluated by the FHTP in 2017 and has been categorized under Non-IP Regime where companies must ensure substantial activity requirements are undertaken in the country to enjoy the incentives.

For Non-IP Regime, substantial activities are defined as having adequate number of full-time employees working in Malaysia with necessary qualifications and incurring adequate amount of operating expenditure in such activities.

Treatment of tax incentive approvals:

Approvals before 16 October 2017

Companies approved before 16 October 2017 can continue to enjoy the existing incentive without the imposition of substantial activities requirement as mentioned in paragraph (ii), (iii) and (iv) of Section C (Eligibility Criteria) until 30 June 2021.

Approval's starting from 16 October 2017

Companies approved starting from 16 October 2017 without the substantial activities requirements as mentioned in paragraph (ii), (iii) and (iv) of Section C (Eligibility Criteria) can only enjoy the existing incentive until 27 December 2018.

In both scenarios, companies are required to comply with the new substantial activities requirements and submit their applications to MIDA if they wish to continue enjoying the incentive.

E. APPLICATION PROCEDURE

- (a) Applications should be made using the relevant form as follows:
 - (i) **Contract R&D company and R&D company**
R&D/JA-5
 - (ii) **In-house R&D**
R&D/JA-6
- (b) Applicants are also requested to attach certified copies of the past 5 years audited accounts of the company.
- (c) The application should be submitted in three (3) copies to:
Chief Executive Officer
Malaysian Investment Development Authority (MIDA)
MIDA Sentral
No. 5 Jalan Stesen Sentral 5
Kuala Lumpur Sentral
50470 Kuala Lumpur
Malaysia
(Attn.: Director, Advanced Technology and Research & Development Division)
- (d) Application with incomplete information will not be accepted and will be returned to the company
- (e) For enquiries and clarification, please refer to:-

Website	:	www.mida.gov.my
Tel	:	(603) 2267 3633
Fax	:	(603) 2274 7970
E-mail	:	investmalaysia@mida.gov.my