

Doing business in Malaysia 2021





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About PwC

Foreword

Malaysia has emerged as an attractive regional hub for services in the last decade, with promising growth in the financial services, information and communications technology (ICT), manufacturing and logistics sectors among others.

The Malaysia Digital Economy Blueprint (MyDigital) initiative launched in February 2021, is expected to be the impetus to position Malaysia as a high-value-added economy and a net exporter of homegrown technologies and digital solutions, at the end of this decade.

Despite lingering uncertainties brought about by the COVID-19 pandemic, growth prospects look relatively optimistic. World Bank's Doing Business 2020 report ranks Malaysia 12th amongst 190 global economies, and 2nd in South East Asia. The Malaysian economy is also observed to be on the path to recovery in 2021, with GDP growth projected at 4.4% according to The Economist Intelligence Unit forecast as of 14 June 2021.

The country remains a well placed investment destination for companies looking for opportunities to diversify their supply chain and operations amidst ongoing trade and geo-political tensions affecting US, China and India.

It offers a dynamic and vibrant business environment with well-developed infrastructure and a productive workforce, supported by a market-oriented economy and pro-business Government policies.

Malaysia is increasingly being recognised as an innovative international Islamic financial centre. It is also emerging as a springboard for regional expansion into the Association of Southeast Asian Nations (ASEAN) in view of its strategic, central location and multilingual "Truly Asia" mix of Malay, Chinese and Indian populace.

When the Regional Comprehensive Economic Partnership (RCEP) comes into force after Malaysia ratifies the agreement by the end of 2021, barriers for entry to the Malaysian market will be lowered.

This Guide has been prepared to assist those interested in doing business in Malaysia. The coverage of the subjects is not exhaustive but is intended to deal with some of the more important and/or broad questions that may arise.

The material contained in this Guide is based on legislation as at 30 June 2021, unless otherwise indicated.

Malaysia, an
attractive
regional hub for
services



Chapter 1

Investment environment

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About Malaysia

Located in Southeast Asia, Malaysia is a federal constitutional monarchy that shares its borders with Singapore, Thailand, Indonesia and Brunei. It has a total land size of just under 330,000 km², similar to that of Japan, Germany, Finland, Norway.

Ethnically, it has a diverse and multicultural population (a total population of 32.75 million), consisting mostly of Bumiputera (Malays and other indigenous people), followed by Chinese and Indians.

As a former British colony, English is one of the most widely-spoken languages, especially in business. The national language of Malaysia is Malay, or Bahasa Malaysia. It also follows that its political structure and legal framework are largely based on British systems.

Malaysia is considered one of the most developed developing countries in the world, and is classified as an upper-middle income country, with a GNI per capita of US\$10,568. Other countries in this category include Mexico, Turkey and Brazil.

In the past 5 years, it has had consistent growth with an average GDP growth of 2.76% per year. It has also maintained a steadily low inflation rate, an average of 1.30% over the last 5 years.

Malaysia Country Snapshot



329,613 km²
total **land size**



Population
32.75 million



Majority race is **Bumiputera**,
accounting for
69.37%
of the population



Average **GDP growth**
2.76% per year
over the last 5 years



GNI per capita
US\$10,568



Average **inflation**
1.3% per year
over the last 5 years

Sources: Department of Statistics Malaysia, EIU Viewswire, the Bank Negara Malaysia (Malaysia's Central Bank), United Nations Statistics Division

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Location advantage



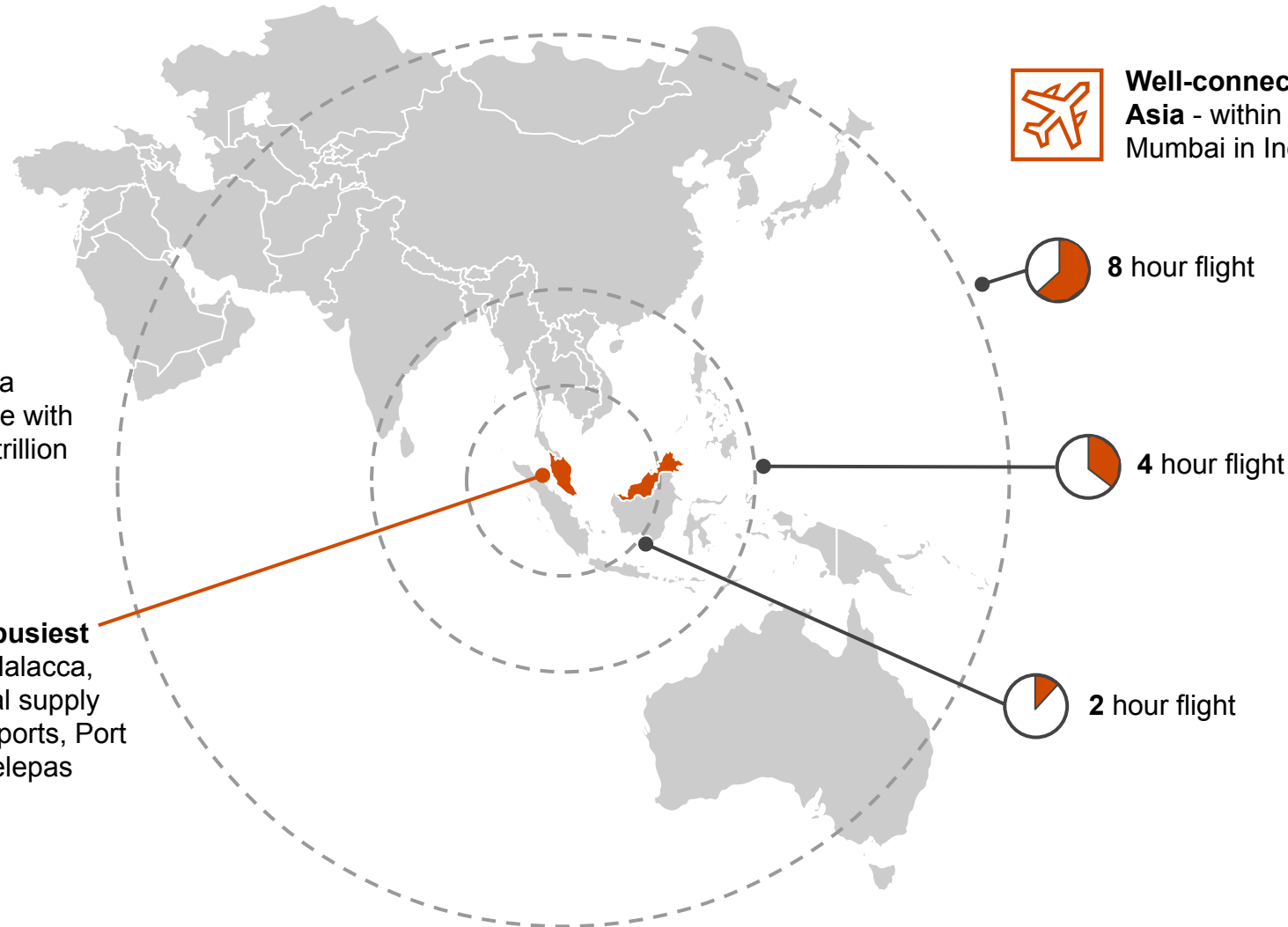
Centre of Southeast Asia - a market of 655.9 million people with a combined GDP of US\$3.2 trillion



Next to one of the world's busiest shipping lanes - Straits of Malacca, providing access to the global supply chain via two key Malaysian ports, Port Klang and Port of Tanjung Pelepas



Well-connected to major cities in Asia - within 8 hours flight from Mumbai in India to Beijing in China.



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Conductive business environment



Second most developed and competitive country in Southeast Asia, 27th globally - based on World Economic Forum's Global Competitiveness Index 2019



An easy and cost-competitive place for doing business - ranked 12th globally on Ease of Doing Business by World Bank Group 2020



Multiracial (multicultural) population, and a young workforce to support your regional operations (people, languages and social patterns). Its three main races comprises of Bumiputera (Malay³) Chinese and Indian.



Upper-middle income country as classified by The World Bank - GNI per capita of RM42,410 (US\$10,568)¹.



Open to foreign investments - there is a large presence of foreign companies (more than 5,000) here from more than 50 countries, with a cumulative investment (FDI stock) of US\$175 billion, as at December 2020²



The English language is commonly used in business



Lowest Cost of Living in Southeast Asia, 66th globally - Mercer's 2020 Cost of Living Survey



An **established legal system** - the Malaysian Constitution sets out the legal framework of the country. Malaysian law follows the legal system of the United Kingdom.

¹ Source: Bank Negara Malaysia and the World Bank

² According to the Malaysian Investment Development Authority and the Department of Statistics Malaysia

³ Malays share close similarities to Indonesians, e.g. in term of language and culture.

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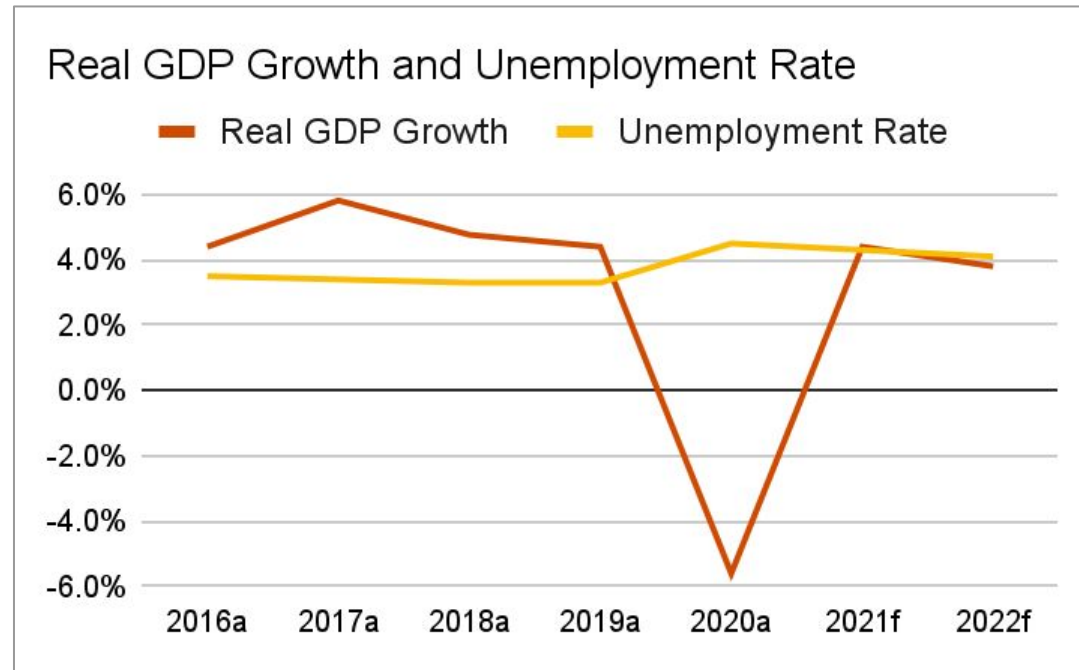
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Sustainable economic environment

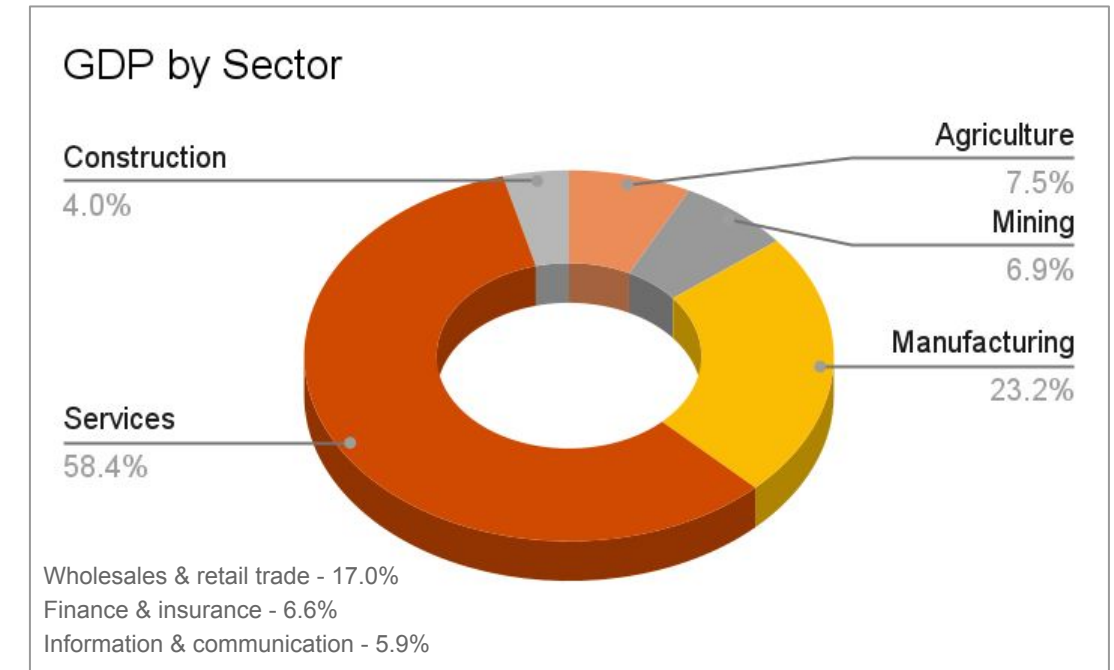
The economic growth and unemployment rate are expected to fully recover by 2022, despite contraction in 2020.



(a) actual (f) forecast

Source: EIU Viewswire

The economy is led by the services and manufacturing sectors, which is similar to advanced economies.



Source: Bank Negara Malaysia Annual Report 2020

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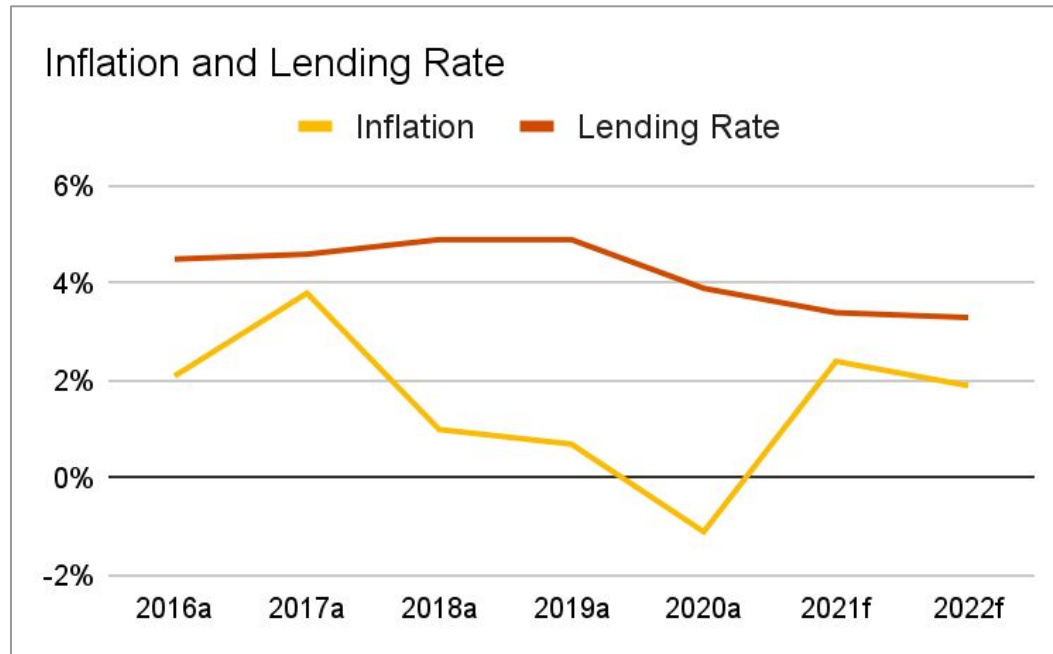
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Sustainable economic environment

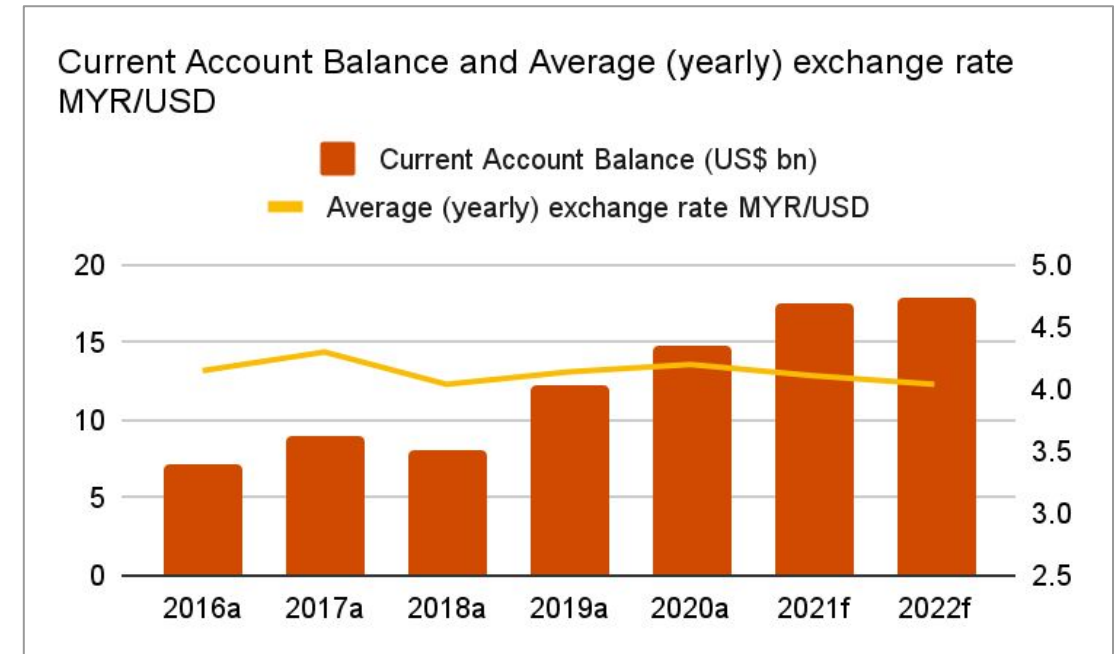
Low inflation and stable lending rates - provides for an accommodative environment for doing business.



(a) actual (f) forecast

Source: EIU Viewswire

High current account balance and trade surplus enhance the economy's capabilities to withstand external forex shocks.



(a) actual (f) forecast

Source: EIU Viewswire

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Digital economy to drive Malaysia's development

Digital technology is expected to be the new driver for the country's economy in the coming decade, and its contribution is projected to reach 22.6% of GDP by 2025¹.

Through the Malaysia Digital Economy Corporation (MDEC), the government is focusing on initiatives to develop capabilities around emerging technologies such as Big Data Analytics (BDA), Artificial Intelligence (AI), Internet of Things (IoT), financial technology (FinTech), data centres, cloud services and robotics.

To further accelerate the pace of digital adoption, the government launched the Malaysia Digital Economy Blueprint in 2020. Here are some of the key highlights of the blueprint:

- Drive the adoption of cloud services. Four Cloud Service Providers namely Microsoft, Google, Amazon and Telekom Malaysia have been given conditional approval to build and manage hyper-scale data centres and cloud services in Malaysia.
- 5G deployment, with plans to roll out the next generation mobile technology from 2022, with an investment budget of RM15 billion over 10 years.
- Build a trusted and secure digital environment by strengthening the nation's cybersecurity posture. This includes plans to develop upwards of 20,000 cybersecurity talents in the next five years and enhance data protection and other related regulatory framework.

¹Source: The Malaysia Digital Economy Blueprint

²Source: Department of Statistics Malaysia (DOSM)IMD World Competitiveness Center

³Source: IMD World Competitiveness Center

⁴Source: e-Conomy SEA 2020 Report by Google, Temasek and Bain & Company

⁵Source: World Economic Forum

Malaysia's digital position



Digital Readiness²

- 90.1% household have internet access rate as of 2019
- 98.2% households have access to mobile phone as of 2019



Ranked 26th globally and 2nd in Southeast Asia on IMD World Digital Competitiveness Ranking (WDCR) 2020³



One of the top eCommerce markets in ASEAN, with gross merchandise value (GMV) expected to rise to US\$30 billion in value by 2025.⁴



5th Best Digital Legal Framework - Global Competitiveness Report Special Edition 2020⁵

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Diversified international trade

A **broad range of trading partners** - largest trading partners by volume include China, Singapore and United States.

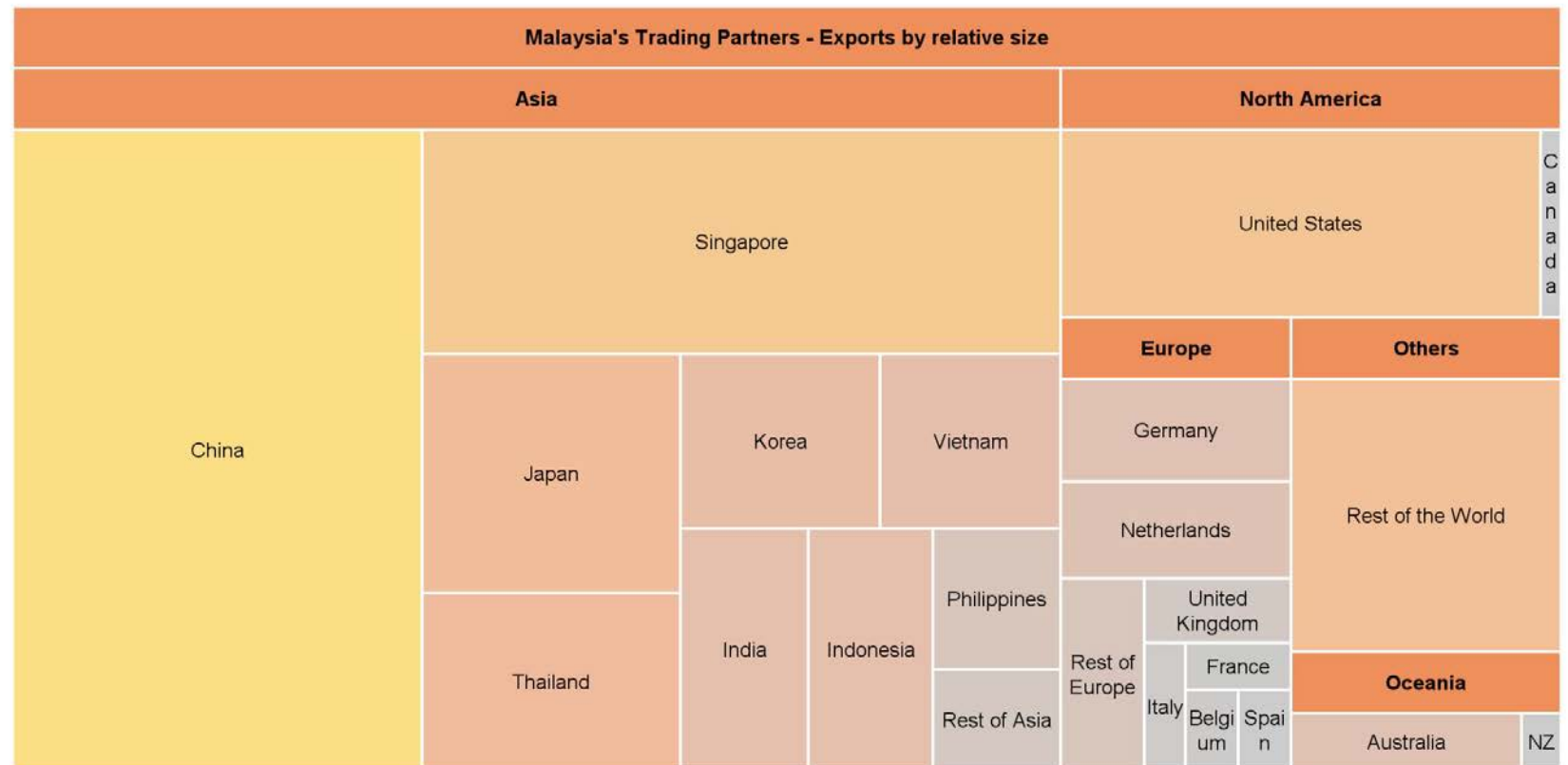
Malaysia's **external trade remain resilient** in the midst of pandemic, with exports only marginally declined by 1.4% in 2020 compared to the preceding year

Malaysia is one of the most open economies in the world with a trade to GDP ratio averaging over 130% since 2010.

ASEAN	Australia	Chile
China	India	Japan
Korea	New Zealand	Pakistan
Turkey		
CPTTP*	EFTA*	EU*
Iran*	RCEP*	

* Under negotiation / pending ratification

Malaysia's Trading Partners - Exports by relative size in 2020



Source: Bank Negara Malaysia Monthly Statistical Bulletin, April 2021

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Principal government agencies

The following is a non-exhaustive list of government agencies that are most relevant to foreign investors:



Malaysian Investment Development Authority (MIDA)

MIDA provides assistance to companies intending to invest in the manufacturing and services sectors as well as facilitates the implementation and operation of the projects.

Website: mida.gov.my



Malaysian Economic Corridors

There are also various Economic Corridors with statutory bodies assigned by the Federal government to encourage and drive development in specific regions in Malaysia.

A full list of these Malaysian Economic Corridors can be found in the **website**: mida.gov.my/about-mida/links-to-agency-partners/ (Malaysia's Economic Corridors)



Ministry of International Trade and Industry (MITI)

This ministry has overall responsibility for all aspects of international trade and industrial development.

Website: miti.gov.my



Companies Commission Malaysia (CCM)

CCM acts as an agency to incorporate companies and register businesses as well as provide the public with company and business information. All companies intending to do business in Malaysia are required to register with the CCM.

Website: ssm.com.my



Chapter 2

Business formation and the regulatory environment

Business formation and the regulatory environment

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Business formation: types of business entities

Types of entity

The following are the forms of business organizations available in Malaysia.

Company

Companies are governed by Companies Act 2016 (“CA 2016”) which provides for three types of companies to be incorporated:

1. Company limited by shares;
2. Company limited by guarantee; or
3. Unlimited company.

In practical terms, almost all companies will be companies limited by shares, i.e., companies with limited liability, the maximum liability of a member being limited to the value of share capital. Companies may be formed as either private companies or public companies. Unlimited companies have no limit to the liability on its members.

A private company is one which is prohibited by its Constitution (formerly referred to as memorandum and articles of association) to issue any invitation to the public to subscribe for shares or debentures of the company or to deposit money with the company. Shareholders / members of a private company shall not be more than fifty and are also restricted in their right to transfer their shares in the company as provided in CA 2016. A public company is employed where it is intended to invite the public to subscribe for shares or debentures in the company or to deposit money with the company.

Limited Liability Partnership (LLP)

LLP is an alternative business vehicle regulated under the Limited Liability Partnerships Act 2012, which combines the characteristics of a company and a conventional partnership.

An LLP is a separate legal entity from its partners. The liabilities of the partners of an LLP are limited while the LLP has unlimited capability in conducting business and holding property.

Two or more individuals or bodies corporate may form an LLP for any lawful business in accordance with the terms of the LLP Agreement. An LLP may also be formed for the purposes of carrying on professional services of which the partners must be natural persons of same professional practice and have in force, professional indemnity insurance approved by the Registrar.

An LLP has perpetual succession and any change in the partners will not affect the existence, rights or liabilities of a LLP.

Partnership or sole proprietorship

All sole proprietorships and partnerships (excluding LLPs) are unincorporated and must be registered with the Registrar of Businesses also under the auspices of the Companies Commission Malaysia (CCM). As unincorporated entities, sole proprietorships and partnerships have unlimited liability. In the case of partnerships, partners are both jointly and severally liable for the debts and obligations of the partnerships.

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The Federal Government of Malaysia

Malaysia adopts the constitutional monarchy form of government based on the Westminster system, which consists of three branches.

Legislative



- Creates laws by passing bills through the Parliament.
- The parliament consists of two houses, the House of Representatives (*Dewan Rakyat*) and the Senate (*Dewan Negara*).
- In most cases, bills are passed by both houses and assented by the Yang di-Pertuan Agong to become law.

Executive



- Although the Monarch is the Head of State, the executive power is vested in the cabinet of ministers and is led by the Prime Minister.
- The cabinet formulates economic policies, sets the national budget, and proposes and amends laws.
- There are 26 ministries in total. Among the key ministries that are relevant to foreign investors are the Ministry of Finance and Ministry of International Trade and Industry.

Judiciary



- The Judiciary is empowered to interpret laws that are created by the Parliament by hearing criminal and civil cases in court.
- Headed by the Chief Justice of Malaysia.
- Court system is based on British common law principles.
- More information on the court system is on the next page.

The state governments

Malaysia is a federation made up of 13 states and the federal territories of Kuala Lumpur, Putrajaya and Labuan. 9 of these states are headed by hereditary rulers, the Sultans, who serve as constitutional heads of state. The remaining 4 states are headed by the Yang Di-Pertua Negeri (governors) who are appointed for fixed terms of office to serve as constitutional heads of state.

Each state has its own written constitution and an elected legislative assembly. Each state government is led by a Menteri Besar (Chief Minister), who is appointed from among the members of the legislative assembly.

The division of powers between the various state governments and the federal government is defined by the Federal Constitution, which provides for a measure of autonomy for the 13 constituent states.

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Court system

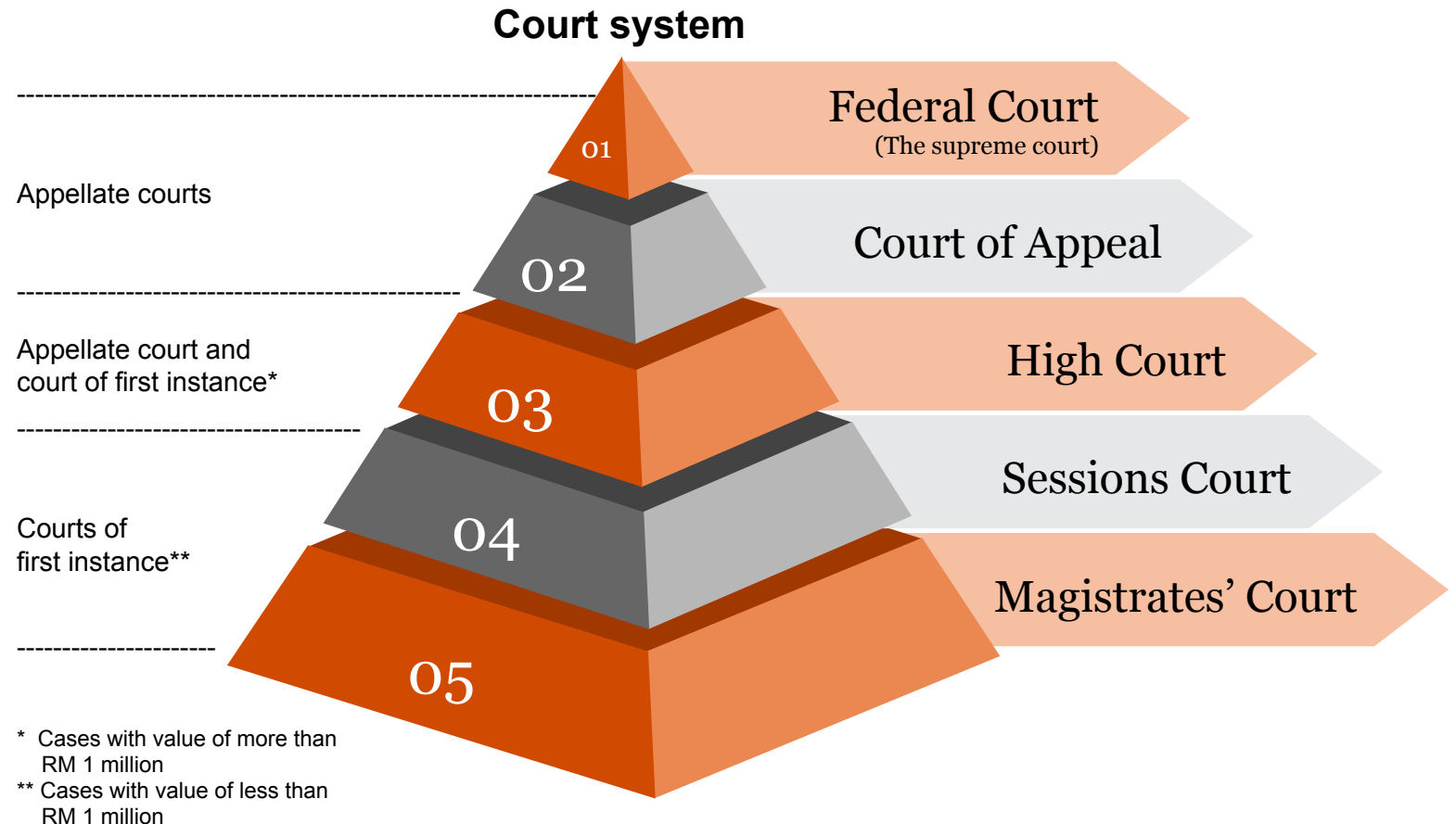
Substantially based on the British legal system and principles of common law.

Specialised statutory tribunals

Besides the ordinary courts of law there are also specialised statutory tribunals - e.g. Industrial Court, Labour Court, Tribunal for Consumer Claims. These quasi-judicial bodies serve to provide an alternative, inexpensive and expedited means to settle disputes between parties within their specialised jurisdictions.

Syariah Courts

There is a parallel system of state Syariah Courts which has limited jurisdiction over matters of state Islamic law. The Syariah Courts have jurisdiction only over matters involving Muslims.



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Regulatory environment for companies

Malaysia's doing business environment is governed by a number of regulations to maintain an efficient and competitive private sector as well as to protect the interest of the public and various stakeholders. Here are among the notable doing business regulatory frameworks:



Free and fair competition: the Malaysian Competition Commission investigates complaints on anti-competition behaviours, carries out market reviews and imposes penalties on offenders.



Price control and anti-profiteering: government can penalise businesses that make "unreasonably high profits" on any goods sold or services supplied.



Conduct in take-overs and mergers: the Malaysian Code on Take-Overs and Mergers 2016¹ (issued by the Securities Commission of Malaysia) aims to ensure that all shareholders are treated equally in a take-over and the acquisition of voting shares (or control of companies) takes place in an efficient, competitive and informed market.



Limits on foreign equity ownership: regulations on specific ownership requirements apply depending on sector. While generally, the government has been relaxing these requirements, there are a number of key areas where foreign ownership limits remain, such as in telecommunications, oil and gas and financial services.

¹ The Code can be viewed in its entirety on the Securities Commission of Malaysia's website: www.sc.com.my/regulation/guidelines/take-overs-code

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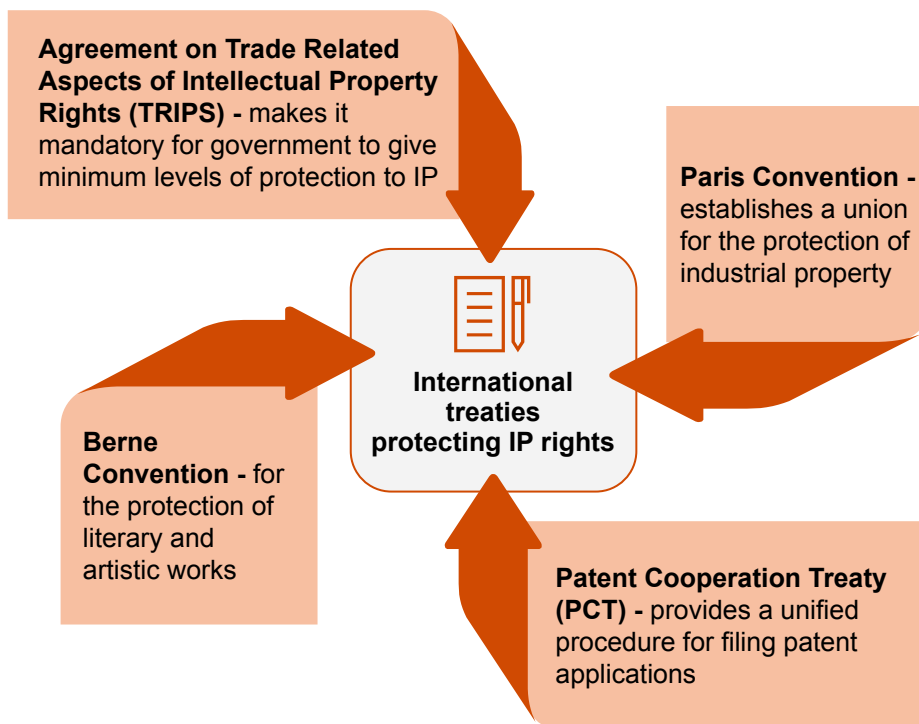
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Intellectual property (IP) rights

Malaysia conforms with international standards and provides protection to local and foreign investors - by being signatory to several international treaties, and through local legislation.



Malaysian Legislation	Protection for
Patents Act 1983 Patents Regulations 1986	Patents
Trade Marks Act 1976 Trade Marks Regulations 1997 Trade Descriptions Act 2011	Trade Marks
Industrial Designs Act 1996 Industrial Designs Regulations 1999	Industrial designs
Copyright Act 1987 Various regulations	Copyrights
Geographical Indications Act 2000 Geographical Indications Regulations 2001	(Upon registration) protection of goods following the name of the place where the goods are produced, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin.
Layout-Designs of Integrated Circuits Act 2000	Layout designs of integrated circuits

Registration of IP rights can be done through **Intellectual Property Corporation of Malaysia (MyIPO)**

Website: myipo.gov.my

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Controls on foreign exchange

Malaysia has a system of exchange control measures aimed at monitoring the settlement of foreign currency payments and receipts as well as encouraging the use of the country's financial resources for productive purposes in Malaysia. The Financial Services Act 2013 is the main legislation governing dealings and transactions in foreign currency whilst the Exchange Control Notices issued by the Central Bank of Malaysia, i.e. Bank Negara Malaysia (BNM) embody the general permissions and directions of the Controller of Foreign Exchange.

Some of the controls put into place include:

Remittances abroad by residents

Residents are permitted:

- To pay in Ringgit to non-residents for settlement of goods and services. Payment must be made into the non-resident's external account or the non-resident financial institution acting on the non-resident's behalf.

- To pay in foreign currency to non-residents for any purpose (other than derivatives), including settlement of goods and services.

Investments abroad by residents

Investment in foreign currency assets are subject to the following:

- Resident entities without domestic Ringgit borrowing are free to invest abroad.
- Resident entities with domestic Ringgit borrowing are permitted to invest abroad using foreign currency funds sourced from conversion of Ringgit or using funds in Trade Foreign Currency Account, up to RM50 million per annum (based on aggregate investments of entities within a group of entities with parent-subsidary relationship).

Borrowings in foreign currency by residents

Resident entities are generally allowed to borrow in foreign currency as follows:

- Any amount from licensed onshore banks, entities within its group other than a bank (excluding a non-resident company set up solely to obtain foreign currency borrowings from non-resident financial institutions, direct shareholders and issuance of foreign currency debt securities to other residents); or

- Up to a maximum of RM100 million equivalent in aggregate from other non-residents. The aggregate of RM100 million is shared with other resident entities within the resident's group of entities with parent-subsidary relationship.

Borrowings in Ringgit by non-residents

Non-residents are generally permitted to borrow any amount in Ringgit for the following purposes:

- Financing activities related to the production and consumption of goods or services (other than financial services).
- Financing activities related to the construction or purchase of residential or commercial properties (other than purchase of land only).
- Settlement of goods and services procured from residents.

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Types of accounts

1. Foreign currency accounts (FCA)

Residents are generally allowed to open FCAs with licensed onshore banks, or non-resident financial institutions. Resident exporter can retain any amount of export proceeds in foreign currency in its Trade FCA maintained with a licensed onshore bank to meet its foreign currency obligations.

2. External accounts

Non-residents are allowed to maintain an external account (i.e. account in Ringgit) with any financial institution in Malaysia. There is no restriction on the amount of Ringgit funds to be retained in the external accounts.



Chapter 3

Labour relations and social security

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Employment regulations

Employment Act 1955

The provisions of the Employment Act 1955 (“Employment Act”) cover any person who works under a contract of service with an employer and who does not earn more than RM2,000 a month on wages, or specific categories of employees. Employees earning more than RM2,000 but not exceeding RM5,000 may use the enforcement provisions of the Employment Act to enforce monetary claims under their contracts. This is applicable to West Malaysia only. The Sabah and Sarawak Labour Ordinances (“the ordinances”) cover certain types of employees who have entered into or work under a contract of service with their employers. The ordinances include foreign workers of these specified occupations. Where the persons are not covered by the Employment Act and the ordinances, common law relating to employment will apply to them.

The Industrial Relations Act 1967

The Industrial Relations Act 1967 (“the Act”) and the Industrial Relations Regulations 1980, form the legal framework within which the industrial relations system in Malaysia operates. The Act aims to provide safeguards for legitimate rights, prerogatives and interest of employees and employers and their trade unions, and to ensure that trade disputes are settled speedily and in a just manner, so as not to prejudice public and national interests.

The Department of Industrial Relations Malaysia continues to play an important role in maintaining a harmonious environment in the labour market, by helping to avert industrial action through active intervention, consultations as well as negotiations between parties. In the event of a dispute, the Act provides for free negotiation between trade unions and employers on a voluntary basis. Disputes may be reported to the Ministry of Human Resources for conciliation and referred to the Industrial Court for settlement. Awards made by the

Industrial Court are final and legally binding. The Act prohibits strikes or lockouts after a dispute has been referred to the Industrial Court.

The Employment (Part-Time Employees) Regulations 2010 (EPTER)

The EPTER provides protection for part-time employees (PTE) who are hitherto, not protected under any labour law. Some of the protection and benefits provided under the EPTER include payments for hours worked beyond normal hours, paid holidays, paid annual leave, sick leave and weekly rest days for PTE who fall within the regulations. This regulation will require employers to make contributions to the national Employees Provident Fund (EPF) and Social Security Organization (SOC SO) for most part-time workers who are eligible for such contributions.

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Others

The following legislative enactments / code are relevant in providing for the health, safety and general well-being of employees:

- *Factories and Machinery Act 1967* - law relating to the safety of employees in the use of machinery;
- *Occupational Safety and Health Act 1994* - imposes general duties upon employers, self-employed persons and employees to secure workplace health and safety;
- *Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace* - provides guidelines for employers on the establishment of in-house mechanism at the enterprise level to prevent and eradicate sexual harassment in the workplace.

Minimum Wage Order

The Minimum Wages Order 2020 ('2020 Order') was gazetted on 10 January 2020 to set out that effective February 2020, the minimum monthly wages in selected 16 City Council or 40 Municipal Council areas will be RM1,200 per month and areas other than the specified City Council or Municipal Council areas, will be RM1,100 per month.



Unions

Omnibus or general workers' unions are not permitted, but unions belonging to the same industry may apply to form a federation of trade unions or become affiliated with the Malaysian Trade Unions Congress or the Malaysian Labour Organization.

All trade unions are required by law to be registered with the Registrar of Trade Unions and must comply with the requirements of the Trade Unions Act 1959. This Act sets out rules for the conduct of union business, such as the election of officers, strike ballots and the use of union funds.

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Working conditions, wages / salaries and statutory contributions

The Malaysian Investment Development Authority (MIDA) publishes on its website at www.mida.gov.my a guide on the Cost of Doing Business in Malaysia which provides information on regulatory requirements relating to the following:

- Paid leave (annual leave, maternity leave, sick leave)
- Paid holiday;
- Normal working hours (not more than 8 hours per day or 48 hours per week);
- Payment for overtime work;
- Salaries (maximum and minimum) for executives and non-executives in the manufacturing sector.
- Statutory contributions in respect of employees to the following funds:

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Employees' Provident Fund (EPF)

The Employees Provident Fund Act 1991 requires employers and employees to make monthly contributions to the EPF to secure lump sum payments to employees at the age of 60 or earlier in the case of incapacity or upon permanent departure from Malaysia. Contributions are mandatory for employees who are Malaysian citizens or permanent residents. Expatriates and foreign workers, who are not Malaysian citizens or permanent residents are not required to contribute to EPF although they may elect to do so. The standard rates of contribution by an employer for a working personnel are 12% or 13% depending on income threshold, and 9% by the employee. The employee contribution rates of 9% is applicable till December 2021.

Social Security Organisation (SOCSO)

An insurance scheme that covers Employment Injury and Invalidity Pension Scheme is administered by SOCSO. All Malaysian citizens and permanent residents of Malaysia are covered by the Employment Injury Insurance Scheme (EIIS) and Invalidity Pension Schemes (IPS).

All employers who hire foreign workers (excluding domestic servants) are required to register and contribute to Employment Injury Scheme (EIIS) under SOCSO. A monthly contribution must be made for each eligible employee.

Employment Insurance System

The Employment Insurance System (EIS) is a social security network aimed at helping workers who lost their jobs, with financial assistance and to seek new jobs. EIS is administered by SOCSO. It is mandatory for all private sector employers to make monthly contribution for each of their employees.

Human Resources Development Fund (HRDF)

HRDF provides financial assistance for training by contributing employers under certain designated training schemes. The employer that fall under the industries listed by HRDF are required to register with the HRDF and contribute in respect of employees who are Malaysian citizens. Effective from **1 March 2021**, HRDF has expanded the coverage of the PSMB Act 2001 to include Malaysian employers across **ALL** industries, except Federal and State Government, statutory bodies and Non-Governmental Organisations (NGO) with social and welfare activities with a **minimum of 10 local employees**,

Additionally, employers across all sectors (except the above mentioned with 5 to 9 local employees will be given the option to contribute with HRDF.

The HRDF contribution rate is 1% and for employers under optional category, the contribution rate is at 0.5% of the local employee's monthly wages.

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Foreign personnel

Approval for expatriate posts

Approvals for expatriate posts are given by different authorized bodies or agencies depending on the type of core business of the company. MIDA approves expatriate posts in the following fields:

- Manufacturing
- Manufacturing related services
- Hotel and tourism industry
- Research and Development

Other approving agencies for expatriate posts are:

- Malaysia Digital Economy Corporation (MDEC) – for expatriate posts and skilled workers in IT based companies with MSC status.
- Public Service Department (PSD) – doctors and nurses in government hospitals and clinics; lecturers and tutors in government institutions of higher learning; contract posts in public services and jobs offered by the Public Service Commission or related government agencies.

- Central Bank of Malaysia – posts in banking, finance and insurance sectors.
- Securities Commission – employment in securities and share market.
- Department of Immigration Malaysia (the expatriate committee) – employment in sectors other than the above.

The following minimum paid-up share capital requirements must be fulfilled before an application for an expatriate position can be processed by the expatriate committee:

RM250,000 100% Malaysian owned company	RM350,000 Malaysian and foreign owned company
RM500,000 100% foreign owned company	RM1,000,000 Company undertaking distributive trade and involved in the sub-sectors of unregulated services

Labour market testing for employment of foreign nationals

To ensure that the employment for locals are protected, effective 1 January 2021, the job advertisement requirement was introduced for the hiring of expatriates under an Employment Pass.

However, the following categories are automatically exempted from the job advertisement requirement:

- i) Important positions (C-Suite & Key Post)
- ii) Positions with basic salary of RM15,000 and above
- iii) Representative Office/ Regional Office
- iv) Investors/ Shareholders/ Owners of the business
- v) Corporate transfers/ Placements/ Trade Agreements
- vi) International Organisation subjected to International Organisation Act (Privileges and Immunities) [Act 485]
- vii) Sports sector i.e recruitment of athletes/professional to join any sport organisation or club in Malaysia.
- viii) Renewal of Employment Pass (provided job scope remains unchanged)

Positions requiring a specific and unique skill set as well as strategic competencies are also exempted but this exemption is not automatic. Companies are required to apply for an exemption with strong justification for consideration to be exempted from advertising the position.



Chapter 4

Audit and financial reporting requirements

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Statutory requirements for Malaysian-incorporated companies

Accounting and other records

Every company incorporated under the Companies Act 2016 is required to keep accounting and other records so as to sufficiently explain the transactions and financial position of the company and to enable preparation of financial statements which shows a true and fair view of the company to be conveniently and properly audited. All transactions must be recorded within 60 days of completion. These accounting and other records are the responsibility of the company's directors and must be kept at the company's registered office (which must be in Malaysia) or such other place as the directors think fit. The accounting and other records are to be retained for 7 years after the completion of the transactions or operations to which they relate, and must be made available for inspection by the directors at all times.

System of Internal Control

The directors of a public company or a subsidiary of a public company shall have in place a system of internal control that will provide reasonable assurance that the assets of the company are safeguarded against loss from unauthorised use or disposition, to give a proper account of assets and all transactions are properly authorised and are recorded as necessary to enable the preparation of true and fair view of the financial statements of the company.

Financial statements

The directors must present a set of financial statements in accordance with the approved accounting standards issued or adopted by the Malaysian Accounting Standards Board (MASB) and the requirements of the Companies Act 2016.

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The financial statements or where applicable, consolidated financial statements shall give a true and fair view of the financial position as at the end of the financial year, financial performance and cash flows for the financial year of the company or the group.

Statement by directors and statutory declaration

The financial statements or where applicable, the consolidated financial statements shall be accompanied by:

- i. A statement signed by at least two directors and in the case of a sole director, by that director in accordance with the resolution of the Board of director(s) stating whether in their or his opinion the financial statements or where applicable, the consolidated financial statements is or are drawn up, in accordance with the applicable accounting standards, to give a true and fair view of the financial position and financial performance of the company and of the group.

- ii. A statutory declaration by a director or where the director is not primarily responsible for the financial management of the company, by the person responsible in setting forth his opinion as to the correctness of the financial statements and attested by the Commissioner for Oaths.

Directors' report

A directors' report must be attached to every set of financial statements. The matters required to be covered in the directors' report are set out in Section 253 and Fifth Schedule of the Companies Act 2016.

Duty of Circulation and Lodgement of Financial Statements and Directors' reports

The directors of every company must prepare financial statements within 18 months from the date of incorporation and, subsequently within 6 months of the company's financial year end.

A private company must circulate its financial statements and directors' report to its shareholders, auditors, debenture holders and every person who is entitled to receive notice of general meetings within 6 months of

the company's financial year end and lodge with the Registrar of the Companies Commission of Malaysia ("Registrar") within 30 days from the date of the circulation, whereas a public company must circulate its financial statements and directors' report to its members at least 21 days before its annual general meeting and lodge with the Registrar within 30 days from its annual general meeting. The lodgement can be filed electronically via Malaysian Business Reporting System (MBRS), an online submission platform.

All amounts shown in the financial statements and directors' reports shall be presented in Malaysian currency and if such financial statements and reports are in a language other than the national language or English language, there must be a translation in the national language or English language certified to be a correct translation by the Registrar annexed to such financial statements and reports.

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Auditors' report

The financial statements should be duly audited by an approved auditor except for those private companies qualified and elected for audit exemption.

The auditors' report shall state whether the financial statements have been properly drawn up in accordance with the applicable approved accounting standards and the Companies Act 2016 so as to give a true and fair view of the financial position, financial performance and cash flows of the group and of the company.

Additional disclosure requirements for public companies listed on Bursa Malaysia (PLCs)

PLCs are required to make relevant disclosures in their annual reports in accordance with the Listing Requirements of Bursa Malaysia Securities Berhad. The timeline for filing annual reports with the stock exchange is within 4 months from close of financial year.

PLCs are also required to announce the interim financial report on a quarterly basis to their shareholders within 2 months after the end of each quarter.

In addition, PLCs must ensure material information is disseminated on a timely basis in accordance with the manner as set out in the Listing Requirements of Bursa Malaysia Securities Berhad.

Corporate governance disclosure by PLCs

PLCs are required to disclose their compliance with the Malaysian Code on Corporate Governance (MCCG) in their annual reports. The MCCG which is published by the Securities Commission Malaysia (SC) sets out three key principles of good corporate governance, namely, board leadership and effectiveness; effective audit and risk management; and integrity in corporate reporting and meaningful relationship with stakeholders.

The MCCG adopts the “apply or explain an alternative” approach which a PLC is required to provide an explanation of how PLC has applied the best practices. When there are departures from best practices, a PLC is required to disclose the alternative practice it has adopted to meet the intended outcome of the best practices. In addition, for larger PLCs, they are required to disclose the intended action plan and the related timeframe for the adoption of the best practices.

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Statutory requirements for foreign companies carrying on business within Malaysia

Accounting and other records

A foreign company desiring to establish a place of business or to carry on business within Malaysia is required by the Companies Act 2016 to register itself with the Registrar.

The Companies Act 2016 requires the accounting and other records of a foreign company's operations in Malaysia to be kept in Malaysia that will sufficiently explain the transactions and financial position of the foreign company arising out of its operations in Malaysia and shall cause these records to be kept in such a manner as to enable them to be conveniently and properly audited. All transactions must be recorded within 60 days of completion.

Filing requirements

A foreign company is required to lodge with the Registrar within 2 months of its annual general meeting a copy of its financial statements and other documents required to be attached to its financial statements by the law applicable to the company in its place of incorporation or origin, and a duly audited statement showing the foreign company's assets used in and liabilities arising out of its operations in Malaysia as at the date to which the financial statements were made up.

Where the foreign company is not required to hold an annual general meeting and prepare a set of financial statements by the law of the place of its incorporation, the company is required to prepare a set of financial statements containing such particulars as if it were a public company incorporated in Malaysia.

Financial statements

The requirement of financial statements is similar to those companies incorporated in Malaysia. In addition, foreign companies that are listed on Bursa Malaysia can apply the acceptable internationally recognised accounting standards or MASB approved accounting standards, and have to comply with the disclosure requirements stated in the Listing Requirements of Bursa Malaysia Securities Berhad.

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Financial Reporting Framework in Malaysia

There are two financial reporting frameworks in Malaysia for the preparation of financial statements.



MASB Approved Accounting Standards for Entities other than Private Entities

Entities other than Private Entities shall apply the Malaysian Financial Reporting Standards (MFRS) framework which is identical to the International Financial Reporting Standards (IFRS).

MASB Approved Accounting Standards for Private Entities

Private entities shall comply with either:

1. Malaysian Private Entities Reporting Standards (MPERS) in their entirety. The MPERS is based on the International Financial Reporting Standard for Small and Medium-sized Entities (IFRS for SMEs) issued by the International Accounting Standards Board (IASB) except for property development activities; or
2. MFRS in their entirety.

A private entity is a private company as defined in section 2 of the Companies Act 2016 that:

- a) is not itself required to prepare or lodge any financial statements under any law administered by the Securities Commission Malaysia (SC) or Bank Negara Malaysia (BNM); and
- b) is not a subsidiary or associate of, or jointly controlled by, an entity which is required to prepare or lodge any financial statements under any law administered by the SC or BNM.

Notwithstanding the above, a private company that is itself, or is a subsidiary or associate of, or jointly controlled by, an entity that is a management company as defined in section 2 of the Interest Schemes Act 2016 is not a private entity.

A company may only be treated as a private entity in relation to such annual periods or interim periods throughout which it is a private entity.

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Auditing requirements

Audit requirements for public companies

The directors of a public company must appoint an auditor at any time before the first annual general meeting of the company or to fill a casual vacancy in the office of auditor. If the directors fail to appoint an auditor, the shareholders must appoint an auditor by ordinary resolution. The appointment and fixing of remuneration of auditors must then be tabled at each annual general meeting for shareholders' approval.

After the first annual general meeting, the shareholders have the right to appoint an auditor by ordinary resolution at the annual general meeting or when the company fails to appoint an auditor at an annual general meeting. If a public company fails to appoint an auditor, the Registrar has the power to appoint one or more auditors upon application in writing from any shareholder of the company.

Audit requirements for private companies

The directors of a private company (other than those companies that meet the audit exemption criteria and have elected for the audit exemption) must appoint an auditor at least 30 days before the end of the period for the submission of the first financial statements to the Registrar (for newly incorporated companies) or to fill a casual vacancy in the office of auditor. If the directors fail to appoint an auditor, the shareholders must appoint an auditor by ordinary resolution. Auditor must be appointed 30 days before the expiry of the period allowed for lodgement of the previous year's financial statements with the Registrar. If a private company fails to appoint an auditor, the Registrar has the power to appoint one or more auditors upon application in writing from any shareholder of the company.

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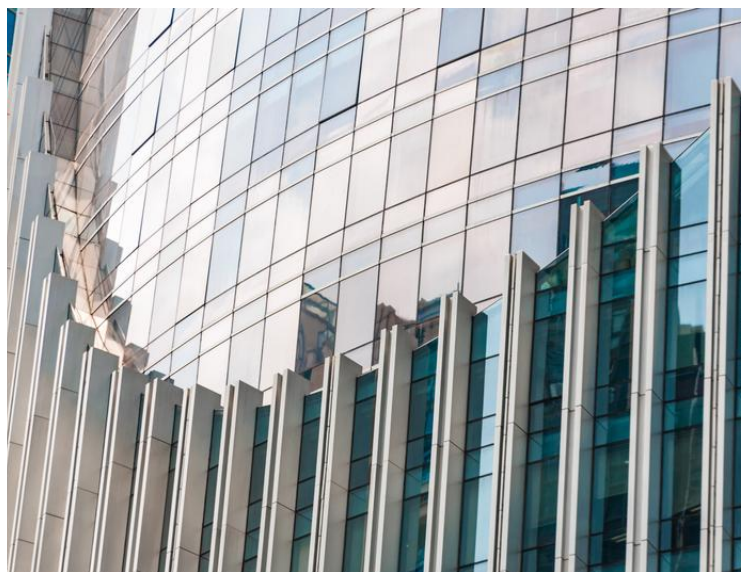
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Audit exemption for private companies

Pursuant to the Companies Act 2016, the Registrar has the power to exempt any private company from the requirement to appoint an auditor according to the conditions as determined by the Registrar.

A private company that meets the MASB's definition of a private entity and meets the criteria of one of the following 3 categories may elect for audit exemption.

The categories are set out below:

- a) Dormant company, i.e. a company that has been dormant from the time of its incorporation or it is dormant throughout the current financial year and in the immediate preceding financial year;
- b) Zero-Revenue company, i.e. a company that does not have any revenue during the current financial year and in the immediate past two financial years; and its total assets in the current and immediate past 2 financial year's statement of financial position does not exceed RM300,000;
- c) Threshold-Qualified company, i.e. a company that:
 - i) has revenue not exceeding RM100,000 during the current financial year and in the immediate past 2 financial years;
 - ii) its total assets in the current and in the immediate past 2 financial year's statement of financial position does not exceed RM300,000; and

- iii) has not more than 5 employees at the end of its current financial year and in each of its immediate past 2 financial year ends.

Any company that elects for audit exemption must circulate and lodge its unaudited financial statements with the Registrar accompanied with required certificate in accordance with the requirements of Companies Act 2016. The unaudited financial statements prepared shall comply with applicable approved accounting standards, and shall be lodged together with the directors' report, statement by directors and statutory declaration.

Approved standards on auditing

An audit of financial statements of a company incorporated under the Companies Act 2016 in Malaysia is conducted in accordance with approved standards on auditing in Malaysia, which are word-for-word consistent with the International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB).



Chapter 5

Business Taxation

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Principal taxes

The principal taxes are shown below:

Taxes on income

Income tax
Petroleum income tax

Taxes on transactions

Customs and excise duties
Sales tax
Service tax
Entertainment duty
Stamp duty
Windfall profit levy
Contract levy

Taxes on capital gains

There is no capital gains tax except for real property gains tax (RPGT) which is a tax on gains arising from the disposal of real property or shares in real property companies (RPC).

Income tax

Scope of tax

Income tax is imposed on income accruing in or derived from Malaysia with the general exception of resident companies carrying on a business of air / sea transport, banking or insurance, which are subject to income tax on a world income scope.

Classes of taxpayers

The principal classes of domestic and foreign taxpayers covered by the income tax legislation are companies, individuals, trade associations, co-operative societies, trusts, and estates. Generally, partnerships are not taxable entities. They are treated as conduits in which the partners and not the partnership, are taxed on the partnership income. However, a limited liability partnership is given the same tax treatment as a company.

Taxable income and gains

The sources of income subject to tax include those listed below:

- Gains or profits from any trade, business, profession, or vocation.
- Gains or profits from an employment, including allowances and benefits-in-kind.
- Dividends, interest and discounts.
- Rents, royalties and premiums.
- Pensions, annuities and other periodic payments.
- Any gains or profits not falling within the gains listed above.

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Corporate tax system

Residence of companies

A company is tax resident in Malaysia for the basis year for a year of assessment if at any time during the basis year, the management and control of its affairs are exercised in Malaysia. Generally, a company would be regarded as resident in Malaysia if at any time during the basis period for a year of assessment, at least one meeting of the Board of Directors is held in Malaysia concerning the management and control of the company.

Year of assessment (YA) and basis period

The YA is the year coinciding with the calendar year. For example, the YA 2021 is the year ending 31 December 2021. The basis period for a business source is normally the financial year (FY) ending in that particular YA. For example the basis period for YA 2021 for a business which closes its accounts on 30 June 2021, is the FY ending 30 June 2021. All non-business sources of income of a company are also assessed on the basis of the FY.

Taxation of shareholders

Under the single-tier system adopted by Malaysia, tax on a company's profits is a final tax. Dividends are exempt in the hands of shareholders, and companies are not required to deduct tax at source from dividends distributed to shareholders.

Foreign corporations – liability to tax

Foreign corporations (similar to Malaysian corporations) are taxed on income accruing in or derived from Malaysia. A broad basis for determining whether or not business profits are derived from Malaysia is to determine whether the foreign corporation is “trading within” Malaysia (taxable) or “trading with” Malaysia (non-taxable).

If a double taxation agreement with the home country of the foreign corporation is in force, the taxation of business profits derived by the foreign corporation is limited to the profits that are attributable to its permanent establishment situated in Malaysia.

With respect to income such as royalties, interest or service fees that is not attributable to a business carried on in Malaysia, the tax liability of the non-resident will be settled by way of withholding tax deducted by the paying entity. For example, a withholding tax at the rate of 10% is imposed on amounts received by a non-resident person for provision of any advice, assistance or services rendered in Malaysia (not limited to services of technical or management in nature), or the provision of services relating to the installation or operation of any apparatus or plant. For more details, please refer to the section on withholding tax.

For non-resident contractors that perform services in Malaysia for an extended duration of time, a withholding tax of 13% may apply.

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Rates of tax

Resident companies are taxed at the rate of 24%. However, a resident company with paid-up capital of RM2.5 million or less, and with gross business income of not more than RM50 million, is taxed at the following rates (provided that specified conditions are met):

Chargeable income	RM	Rate (%) (YA 2021)
On the first	600,000	17
In excess of	600,000	24

Non-resident companies are taxed at the rate of 24% on their business income.

Certain income received by a non-resident company that is not attributable to a business carried on by that non-resident in Malaysia is subject to tax at the following rates (unless the relevant double taxation agreement (DTA) provides some other rate):

Income	Rate (%)
Royalty	10
Rental of movable property	10
Advice, assistance or services rendered in Malaysia	10
Interest	15
Dividends	Exempt
Income other than the above	10

Withholding tax (WHT)

Payments of the aforementioned types of income to non-residents (except for dividends) are subject to WHT which is due and payable to the Inland Revenue Board (IRB) within one month after paying or crediting such payments. The rates of WHT are as shown aforementioned, except where the DTA between Malaysia and the country in which the recipient is resident, provides for a lower rate, in which case the DTA rate would be the WHT rate.

There is no WHT on dividends paid by Malaysian companies.

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Gross income and profits from business

Gross income and profits which are subject to income tax is generally based on the audited financial statements of the company. Adjustments will be made for non-taxable and non-tax deductible items.

Non-taxable income

Capital receipts are non-taxable. Certain types of income may also be specifically exempted by statute. “Single-tier” dividends as well as dividends paid out of tax exempt income received by a corporation are exempt from tax in the hands of shareholders.

Deductible expenses

Deductions are allowed for all outgoings and expenses incurred wholly and exclusively in producing gross income, unless specifically disallowed. Non-allowable expenses include domestic or private expenses, income tax or similar taxes, pre-incorporation, preliminary or start up expenses, capital withdrawn, or capital expenditure on improvements.



Interest expenses

Earning Stripping Rules (ESR) apply on interest expense (of more than RM500,000 in a basis period) in connection with or on any financial assistance obtained in cross-border controlled transactions (as defined). Under the ESR, the amount of allowable interest deduction is limited to 20% of the Tax-EBITDA (earnings before income tax, depreciation and amortisation) from each of the sources consisting of a business.

Capital allowances (CA) and industrial building allowances (IBA)

The accounting depreciation charged on buildings, plant and machinery, furniture, office equipment and motor vehicles is not deductible for tax purposes. The law, however, provides for CA and IBA to be claimed as a deduction on capital expenditure incurred which qualifies as plant (e.g. equipment, machinery, furniture) and industrial buildings (e.g. factory) respectively. The allowance is given in the form of an initial allowance in the year the expenditure is incurred and annual allowance at prescribed rates, until the qualifying expenditure is fully claimed.

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The broad categories of qualifying expenditure together with the prescribed CA and IBA rates are set out below:

Qualifying asset	Initial allowance (%)	Annual allowance (%)
Industrial building, whether constructed or purchased	10	3
Heavy machinery	20	20
General plant and machinery	20	14
Furniture and fixtures	20	10
Office equipment	20	10
Motor vehicles*	20	20
Small value assets of less than RM2,000 each (subject to a maximum total cost of RM20,000)	-	100

*The qualifying expenditure on motor vehicles not licensed for commercial transportation of goods or passengers is restricted to RM50,000. However, for new vehicles, where the “on-the-road price” of the vehicle does not exceed RM150,000, the maximum qualifying expenditure is restricted to RM100,000.

Accelerated CA is available for certain types of industrial buildings, such as buildings used as a school or an educational institution, and plant and machinery such as computers, information technology equipment, environmental protection equipment and waste recycling equipment.

Accelerated CA (20% initial allowance and 40% annual allowance) is also available for qualifying machinery and equipment including ICT equipment (except for motor vehicles) incurred from 1 March 2020 to 31 December 2021.

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Plantations and forests

Expenditure on new planting (as distinct from expenditure on replanting, which is deductible) and on the construction of roads in a plantation, qualifies for an agriculture allowance of 50% of the cost for two years. Expenditure on the construction of roads in a forest, or of buildings that are likely to be of little or no value when the plantation ceases to be worked, or when timber ceases to be extracted, qualifies for an agriculture allowance of 10% of the cost for ten years. The cost of construction of buildings used for staff welfare or as living accommodation, qualifies for an agriculture allowance of 20% of the cost for five years.

Deduction of capital allowances (CA)

CA on assets used in one business cannot be deducted against income from another business, or against income from other non-business sources.

When there is insufficient adjusted income to absorb the full amount of allowances available, the unutilised amount is carried forward for deduction against future business income from the same source.

For a dormant company, the unutilised capital allowances will be disregarded if there is a substantial change in shareholders

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Losses

Business losses can be set off against income from all sources in the current year.

Unutilised business losses in a YA can be carried forward for a maximum period of 7 consecutive YAs to be utilised against income from any business source. For a dormant company, the unutilised business losses will be disregarded if there is a substantial change in shareholders.

Group relief

Group relief is available to all locally incorporated, resident companies that fulfill certain conditions. Companies that qualify are allowed to surrender a maximum of 70% of its adjusted loss for a YA to one or more related companies. The period in which a company may surrender its adjusted loss is limited to the first 3 consecutive YAs after having completed its first 12-month basis period from commencement of its operations. Companies opting for group relief must make an irrevocable election to surrender or claim the tax loss in the return to be filed with the IRB for that YA.

Companies currently enjoying certain incentives such as pioneer status, investment tax allowance, reinvestment allowance etc. are not eligible for group relief.

Capital gains and other taxes

Other than RPGT, no tax is imposed on capital gains. For more details on RPGT and other taxes, please refer to Chapter 7.



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Tax administration

Submission of returns and assessments

Companies are required to submit a return of income within 7 months after the closing of accounts. Particulars required to be specified in the return include the amount of chargeable income and tax payable by the company. Upon submission of the return, an assessment is deemed to have been made on the company. The return is deemed to be a notice of assessment, which is deemed to be served on the company on the date that it is submitted.



Tax collection

Companies are required to furnish estimates of their tax payable for a YA not later than 30 days before the beginning of the basis period. However, a newly established company with paid-up capital of RM 2.5 million and less that meets certain specified conditions, is exempted from this requirement for 2 years, beginning from the YA in which the company commences operation. A revised estimate can be submitted in the 6th and / or 9th month of the basis period for a YA.

Companies are then required to pay tax by monthly installments (based on the estimates submitted) commencing from the second month of the company's basis period (financial year).

Tax payable by a company under an assessment upon submission of a return is due and payable by the "due date". The "due date" is defined as the last day on expiry of 7 months from the date on which the accounts are closed.

Public rulings and advance rulings

To facilitate compliance with tax laws, the Director General of Inland Revenue (DGIR) is empowered by law to issue public rulings. Public rulings set out the interpretation of the DGIR in respect of tax law, and the policy and procedures that are to be applied. Public rulings are binding on the DGIR but a taxpayer who has applied the treatment as set out in a particular public ruling may still appeal against an assessment which is based on the public ruling. All public rulings may be downloaded from the IRB's website at www.hasil.gov.my.

A taxpayer may request for an advance ruling from the DGIR, who may make an advance ruling on how any provision of the law applies to an arrangement described in the application. An advance ruling is only applicable to the person making the application and is not subject to review when issued. However, the taxpayer retains his right of appeal against any assessment issued in accordance with the tax treatment set out in the ruling. A charge will be imposed for the issuance of an advance ruling.



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Tax audit process

The general tax audit framework outlines the rights and responsibilities of audit officers, taxpayers, and tax agents in respect of a tax audit. A tax audit may cover a period of one to three YAs determined in accordance with the audit focus. The YAs to be covered in a tax audit may, however, be extended depending on the issues identified during an audit.

Statute of limitation

Additional assessments can be made within five (5) years after the expiration of the relevant YA. This time limit is not applicable where fraud, wilful default, or negligence has been committed.

Transfer pricing

Transfer pricing (TP) legislation

The basis for determining proper compensation is, almost universally, the arm's length principle which has also been accepted by the Inland Revenue Board (IRB).

The arm's length principle was incorporated into Section 140A of the Malaysian Income Tax Act 1967. It allows the DGIR to adjust any transfer prices between related parties in Malaysia which, in the view of the DGIR, do not meet the arm's length standard.

What constitutes "arm's length" is not defined in the Income Tax Act 1967. Consequently, the IRB has issued the TP Rules 2012 and the revised TP Guidelines 2012 to give guidance on the arm's length standard that is acceptable to the IRB. The TP Rules and Guidelines seek to provide guidance on the application of the law on controlled transactions, the acceptable methodologies as provided in the rules and administrative requirements including the types of records and documentation expected from taxpayers involved in TP arrangements.

Advance pricing arrangements (APA)

Companies are allowed to apply for APAs from the DGIR. The objective of establishing APAs is to provide an avenue for taxpayers to obtain certainty upfront that their related party transactions meet the arm's length standard. The IRB has issued the APA Rules 2012 and APA Guidelines 2012 to give guidance on the matter.

Statute of limitation for TP adjustments

The statute of limitation is seven (7) years from the expiration of a YA for raising an assessment or additional assessment for that YA in respect of TP adjustments for a transaction entered into between associated persons not at arm's length.

Country-by-Country Reporting

The Malaysian Country-by-Country Reporting Rules require a Malaysian multinational corporation (MNC) group with total consolidated group revenue of RM3 billion and above in the FY preceding the reporting FY to prepare and submit the Country-by-Country Report to the IRB no later than 12 months after the close of each FY.

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Malaysian entities of foreign MNC groups will generally not be required to prepare and file Country-by-Country Reports as the obligation to file will be with the ultimate holding company in the jurisdiction it is tax resident in. However a notification to the IRB may be required.

Business reorganisations

Business reorganisations involving a transfer of business normally has no tax consequences unless transfer of shares in a real property company is involved. In such cases, there may be RPGT implications arising from a transfer of shares.

If the disposer and acquirer are under a common control, the transfer of any asset between them is regarded as a “controlled transfer” wherein the disposer / acquirer is deemed to have disposed of / acquired the assets at the tax written down value. (“Control” means management control or the holding of 50% or more of the shares by the disposer / acquirer or other controlling corporation).

In other cases of transfer, the transfer values of the fixed assets will constitute qualifying expenditure for the purpose of computing CA of the transferee corporation, and for the transferor corporation, the disposal value of assets disposed of, on which computation of balancing charge or allowances will be based.

Group relief (outlined earlier) is available to all locally incorporated tax resident companies that fulfil certain conditions.

There may also be stamp duty implications when assets are transferred. However, relief from stamp duty may be available (please refer to Chapter 7).



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Tax incentives

In cognisance of the importance of the role of private sector investment in ensuring sustainable growth in the medium and long term, the government has instituted measures to enhance investment activity in Malaysia. One of the measures is through tax incentives. Tax incentives are generally applicable to investors who establish tax resident companies in Malaysia. The policy is to encourage foreign companies wishing to engage in continuing operations in Malaysia to incorporate local subsidiaries. Tax incentives to promote investments in Malaysia are generally in the form of tax exemptions on profit, capital based incentives in the form of allowances or deductions based on the quantum of capital expenditure incurred.

Malaysia has made legislative changes where required, to meet the Forum on Harmful Tax Practice's requirements.

Examples of tax incentives available are as follows:

Pioneer status (PS) and investment tax allowance (ITA)

PS incentive is an exemption from income tax on 70% of statutory income (adjusted income after deducting capital allowances) for a period of five years. ITA is an allowance of 60% of qualifying capital expenditure (QCE) incurred on a building or plant and machinery for a period of five years. ITA is an alternative incentive to PS.

Companies in the manufacturing, agricultural, hotel and tourism sectors or any other industrial or commercial sector that participate in a promoted activity of producing a promoted product may be eligible for the PS or ITA incentive where qualifying conditions are met.

There are also enhanced PS and ITA incentives available for companies undertaking projects in promoted products or activities where the government intends to further expedite growth. Enhanced PS usually takes the form of a full tax exemption whilst ITA is given on 100% of QCE.

Currently, eligible projects range from projects of national and strategic importance, high technology, research & development, healthcare, education, to those undertaking green technology activities such as energy conservation and generation of energy using renewable resources.

Any unutilised PS losses can be carried forward for a maximum period of 7 consecutive YAs after the end of the pioneer period. Any unutilised amount after the end of the 7th YA will be disregarded.

Islamic financial services sector

There are also an array of incentives available in furtherance of the government's objective of developing Malaysia into a leading international Islamic Financial Centre. These range from tax deduction given for issuance costs of various Islamic securities to tax exemptions granted for fees earned from management of funds in accordance to syariah principles.

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Principal hub

A principal hub is a locally incorporated company which uses Malaysia as a base for conducting its regional and global businesses and operations through management, control and support of key functions. These include management of risks, decision making and strategic business activities such as trading, finance, management and human resource.

Income tax at tiered rates (0%, 5%, or 10%) is given for a period of up to 10 years, subject to conditions being met (for applications from 1 January 2021 until 31 December 2022). Other available non-fiscal incentives include:

- No equity/ownership conditions.
- Foreign exchange administration flexibilities and expatriate positions.
- Customs duty exemption for raw materials, components, or finished products brought into free zones, licensed and bonded warehouses for production or repackaging cargo consolidation, and integration before distribution to its final customers for goods-based companies.

Special tax incentive for relocation to Malaysia

The main objective of this incentive is to attract investors to relocate their operations to Malaysia. The incentives offered (for applications received from 1 July 2020 to 31 December 2021) are as follows:

- Special tax rate of 0% for 10 years for new investment in manufacturing sector (capital investment of at least RM300 million and above).
- Special tax rate of 0% for 15 years for new investment in manufacturing sector (capital investment of at least RM500 million and above).
- 100% ITA for 5 years for existing company in Malaysia relocating overseas facilities into Malaysia (capital investment above RM300 million). The ITA is available to offset up to 100% of statutory income.

“Pre-packaged” incentives

As part of the Government’s efforts to attract high quality investments, specially “pre-packaged” incentives are available to companies resident in Malaysia carrying on an “approved business”. An “approved business” is defined to mean any business approved by the Minister of Finance (“the Minister”) under the special incentive scheme. Under this scheme, a company is entitled to claim either:

- Tax exemption on 70% (or any other rate as prescribed by the Minister) of the company’s statutory income; or
- Tax exemption on 70% (or any other rate as prescribed by the Minister) of statutory income granted based on a percentage (as determined by the Minister) of QCE incurred.

Multimedia Super Corridor (MSC)

MSC status is awarded to locally incorporated companies which provide approved ICT-related services which include global business services, knowledge processing outsourcing, financial technology, cybersecurity, software development and data analytics.

MSC Malaysia status companies are eligible for tax exemption on 70% or 100% of statutory income derived from approved services for 5 years (extendable for another 5 years).

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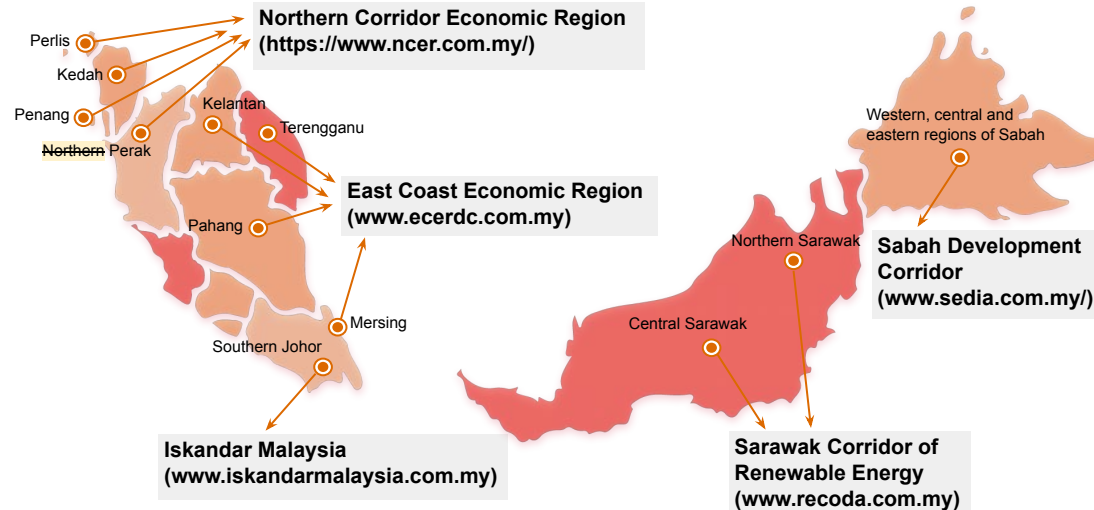
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Development Regions

The following development regions were launched as part of the Malaysian government's plan for national economic advancement through regional development and growth acceleration in various strategic locations by promotion of domestic and foreign investments:



Basic to the strategy for promotion of investments in these development regions is the provision of all necessary infrastructure (financial and non-financial) for the creation of a business-friendly environment, including tax and other financial incentives. Apart from existing incentives which are available for promoted activities and products provided under the Promotion of Investments Act 1986 (PS, ITA, etc.) and the Income Tax Act 1967, special incentives which are customised for the purpose of each development region have been (or will be) developed.

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. The rate of RA is 60% of QCE (i.e. expenditure on 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.

The incentive period for RA is 15 years from the first year of claim by a company. In respect of unutilised RA available at the end of the RA period, the 7 consecutive YAs carry-forward restriction apply, similar to the PS incentive.



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Scope of taxable income

Income tax is imposed on income accruing in or derived from Malaysia by any person (See Chapter 5). Gains or profits from an employment, profession or vocation are taxable if derived from Malaysia. Employment income is regarded as derived from Malaysia if the employment is exercised in Malaysia and is subject to Malaysian tax, even if the income is paid outside of Malaysia. Capital gains are not taxable except for those derived from disposal of real property or shares in a real property company (See Chapter 7).

Basis of assessment

Income is assessed to tax on a current year basis. All income of individuals are assessed on a calendar year basis. The year of assessment (YA) is the year coinciding with the calendar year, for example, the YA 2021 is the year ending 31 December 2021.

Residence status of individuals

The tax residence status of an individual is determined based on the number of days he is present in Malaysia. The individual would be regarded as a tax resident, if he meets any of the following conditions, i.e. if he is:

- in Malaysia for a least 182 days in a calendar year;
- in Malaysia for a period of less than 182 days during the year (shorter period) but that period is linked to a period of physical presence of 182 or more “consecutive” days in the following or preceding year (longer period). In ascertaining “consecutive” days, under certain situations, an individual’s temporary absence from Malaysia may be disregarded when determining tax residence status;
- 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 year immediately following that year and for each of the 3 immediately preceding years.

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Rates of tax

Resident individuals

Chargeable Income (RM)	Tax payable (RM)	Tax rate (%) on excess (YA 2021)
5,000	0	1
20,000	150	3
35,000	600	8
50,000	1,800	13
70,000	4,400	21
100,000	10,700	24
250,000	46,700	24.5
400,000	83,450	25
600,000	133,450	26
1,000,000	237,450	28
2,000,000	517,450	30

Non-resident individuals

Types of income	Tax rate (%)
Public entertainer's professional income	15
Interest	15
Royalty	10
Special classes of income: <ul style="list-style-type: none"> rental of movable property advice, assistance or services rendered in Malaysia payment for services rendered in connection with use of property or installation or operation of any plant, machinery or other apparatus purchased from a non-resident person 	10
Dividends (single tier)	Exempt
Business and employment income	30
Employment income of a knowledge worker who is a qualified person in Iskandar Malaysia (applications not later than 31 December 2022).	15
Employment income of a foreign citizen holding key or C-Suite positions in a company that has been granted relocation tax incentive (for applications received from 7 November 2020 until 31 December 2021) and subject to other eligibility criteria	15
Income other than the above	10

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Employment income

Gross employment income includes:

Cash remuneration Wages Salary Leave pay Fees Commissions Bonuses Gratuities		Perquisites Petrol card / petrol or travel allowance Childcare subsidies / allowance Income tax borne by employer		Benefits-in-kind Motorcar Household furnishings & appliances Driver Domestic servant Gardener Club membership	
Living accommodation Unfurnished living accommodation provided by the employer		Pension / provident fund Receipts from unapproved pension / provident fund arising from contributions made by the employer in respect of the employee		Compensation Compensation for loss of employment	

Valuations of some types of employment income are as follows:

- Cars or other household items provided for private use can be valued at prescribed rates that are lower than the actual cost incurred by the employer.
- Rent-free accommodation provided by the employer is valued at the lower of 30% of the employee's total cash remuneration (excluding equity income) or the actual rental value.

The following are some exemptions for certain BIK:

- Medical benefits, as well as childcare benefits provided by the employer.
- Leave passages, restricted to one overseas trip, up to a maximum amount of RM3,000, and three local trips (including meals and accommodation) per year.
- Full or partial exemption in respect of a variety of allowances (e.g. allowances for parking and meals, travel/petrol, or childcare allowances) or other benefits (e.g. telephones, pagers, etc. registered in the name of the employee/employer, monthly bills for telephones or broadband subscriptions, goods provided free or at a discount) for employees.

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Exemptions and concessional tax treatment for expatriates

Exemptions or concessions are given in certain situations, such as:

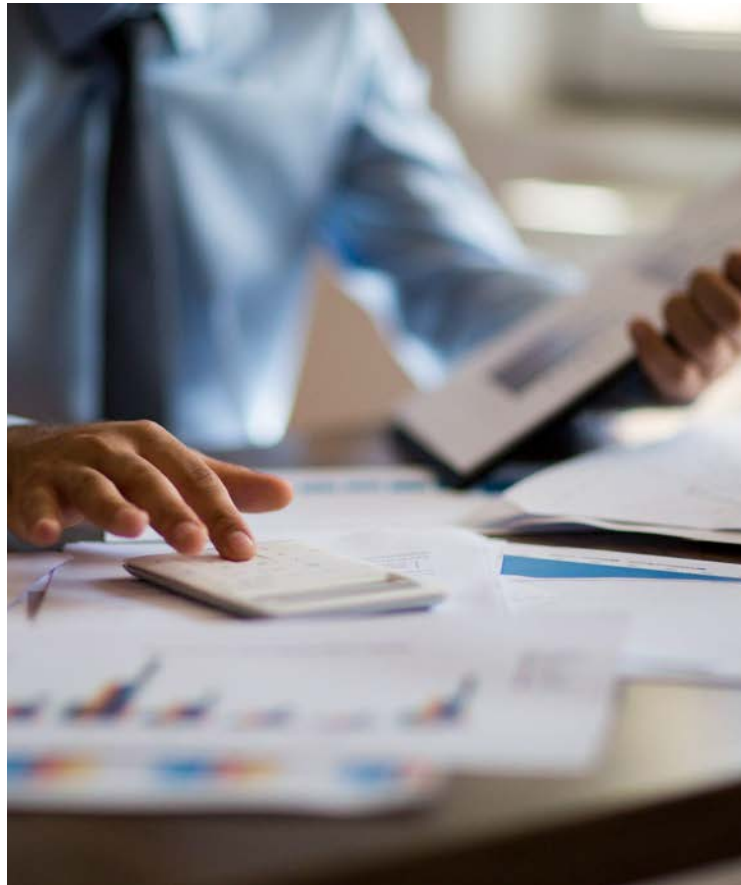
- Income tax exemption for non-resident employees who are short-term visitors (other than public entertainers), if the aggregate period(s) of employment in Malaysia do not exceed 60 days. If a short-term visiting employee is resident in a country that has a double tax treaty with Malaysia, the qualifying period is generally extended to 183 days provided certain other prescribed conditions are satisfied.
- Exemption for an expatriate receiving fees as a director of a Labuan entity (until YA 2025).
- Special tax concession for individuals (including Malaysian citizens) who are displaced as a result of COVID-19 travel restrictions, subject to meeting the stipulated conditions.

- Expatriates working in approved Operational Headquarters, Regional Offices, International Procurement Centres, Regional Distribution Centres or Treasury Management Centres, based in Malaysia are taxed on a time apportionment basis in accordance with the employment income attributable to the number of days the employment is exercised in Malaysia.

Deductions

Expenses and other payments

Employees are allowed a deduction for any expenditure wholly and exclusively incurred in the performance of their duties. Non-business expenses, such as medical expenses and taxes, are not deductible. Expenses of a private or domestic nature are expressly excluded from deduction.



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Personal relief

Personal reliefs are deductible from the total income of a tax resident individual to arrive at taxable income. Examples of personal reliefs given are:

	YA 2021 (RM)
Self	9,000
Spouse	4,000
Child	
• per child (below 18 years old)	2,000
• per child (over 18 years old) receiving full time instruction of higher education in respect of:	8,000
◦ diploma level and above (in Malaysia)	
◦ degree level and above (outside Malaysia)	
• per child (over 18 years old) serving under articles of indenture in a trade or profession	8,000
Life insurance premiums	3,000*
Employee Provident Fund / approved pension fund contributions	4,000*
Insurance premiums for education or medical benefits	3,000*
Medical expenses for self, spouse or child suffering from a serious disease (expanded to include fertility treatment, vaccination costs, and Covid-19 screening)	8,000*

*Maximum relief

Filing obligations and tax collection

An individual will self assess and compute his own chargeable income and tax payable. Upon submission of the tax return form, the taxpayer is deemed to have been served with a notice of assessment for which tax is due and payable. Annually, the due date for submission of individual income tax returns are:

- 30 April for individuals without business income
- 30 June for individuals with business income

Tax payments by employees are collected through compulsory monthly deductions from salary or bi-monthly instalment plan issued by the Inland Revenue Board (IRB). The balance of tax payable upon computing the chargeable income for a year of assessment is due and payable on the abovementioned submission due dates.



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Sales Tax

Sales tax was implemented with effect from 1 September 2018 to replace the Goods and Services Tax (GST). Sales tax is a single stage tax imposed on taxable goods manufactured in Malaysia that are subsequently sold, used or otherwise disposed of by a registered manufacturer or imported into Malaysia by any person. All goods are taxable goods unless they are specifically exempted by order of the Minister of Finance.

Sales tax is a consumption tax, and under the system the onus is on the registered manufacturer to calculate the tax, levy it and collect it from its customers. In the case of imported goods, sales tax is collected from the importer at the time the goods are cleared from customs control.

Manufacture

Manufacture, in relation to goods other than petroleum, means the conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials and includes the assembly or parts into pieces of machinery or other products but does not

include the installation of machinery or equipment for the purpose of construction. In relation to petroleum, it means the process of refining that includes the separation, conversion, purification and blending of refinery streams or petrochemical streams.

Registration and exemption from registration

A manufacturer is liable to be registered if the total sales value of his taxable goods for a 12-month period exceeds or is expected to exceed RM500,000. Certain manufacturing activities are exempted from the registration requirement. They include the developing and printing of photographs and production of film slides, the manufacture of ready mixed concrete, the repair of second-hand or used goods and the installation of air conditioners in motor vehicles.

Any manufacturer who is not liable to be registered for sales tax or exempted from registration may nonetheless apply to the Director General (DG) of Customs for voluntary registration as a registered manufacturer. The DG of Customs may approve the registration to be effective from a date he determines and subject to conditions he deems fit.

Rates of tax

The default rate of sales tax is 10%. There is a reduced rate of 5% for certain goods which are listed in the First Schedule of the Sales Tax (Rates of Tax) Order 2018. There are also specific rates (e.g. RM0.30 per litre, RM0.01 per kg, etc) for coal tar and petroleum products.

Goods exempted

All goods exported from Malaysia are exempted from sales tax. There are also goods which are specifically exempted by order from the Minister of Finance. The full list of goods specifically exempted is available in the Schedule A of the Sales Tax (Goods Exempted from Tax) Order 2018.

Tax-free raw material

In order to maintain the single-stage concept, there are facilities available to allow for inputs (raw materials and components) to be imported or acquired free of sales tax by a registered manufacturer for use in the manufacturing process.

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Approved Major Exporter Scheme

The Approved Major Exporter Scheme was introduced for traders and manufacturers whose annual sales exceed RM10 million and who export at least 80% of their annual sales. Such approved traders and manufacturers are granted full sales tax exemption on their importation or purchase of goods. Traders and manufacturers who fulfill all the prescribed conditions can apply to the DG of Customs for approval under this scheme.

Drawback

A person can claim drawback on the sales tax paid in respect of imported or locally acquired goods, which are subsequently exported.

Sales tax deduction

Registered manufacturers can apply to the DG of Customs for sales tax deduction on taxable raw materials, components or packing materials purchased from local traders and used solely in the manufacturing of their taxable goods. The rate of sales tax deduction is:

- 2% of the total value of taxable goods purchased if the taxable goods were charged with sales tax of 5%
- 4% of the total value of taxable goods purchased if the taxable goods were charged with sales tax of 10%

Payment of sales tax and taxable period

Sales tax is due at the time the taxable goods are sold, disposed of otherwise than by sale, or first used otherwise than as materials in the manufacture of taxable goods, by the taxable person. However, in relation to the classes of petroleum that are subject to sales tax, special provisions apply regarding the time when sales tax is due and payable.

Any sales tax that falls due during a taxable period, is payable to the Royal Malaysian Customs Department (RMCD) latest by the last day of the month following the end of the taxable period.

A taxable period is a period of 2 calendar months, however, a taxable person can apply to the DG of Customs to vary the taxable period. If the application to vary the taxable period is approved, the sales tax due is payable to RMCD latest by 30 days from the end of the varied taxable period.

Refund of sales tax on bad debts

A registered manufacturer or a person who has ceased to be a registered manufacturer can apply for a refund of sales tax in relation to bad debts. The conditions for the refund application are that:

- the whole or part of the sales tax paid has been written off as a bad debt; and
- all reasonable efforts have been made by the applicant to recover the sales tax.



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Service Tax

Service tax was implemented with effect from 1 September 2018 to replace the Goods and Services Tax (GST). Service tax is a consumption tax levied and charged on:

- (a) any taxable services (including digital services) provided in Malaysia by a registered person in carrying on his business;
- (b) any imported taxable services acquired by any person who carries on business in Malaysia; and
- (c) any digital services provided by a foreign registered person to a Malaysian consumer.

To avoid being taxed twice, local businesses which acquired digital services from a foreign registered person are exempted from having to account for and pay service tax through the imported taxable service mechanism.

Rates of tax

The rate of service tax is 6% ad valorem for all taxable services and digital services except for the provision of charge or credit card services. Service tax for the provision of charge or credit card services is RM25 per year on each principal card or supplementary card.

Registration of taxable person and taxable services

A taxable person is a person who is registered or liable to be registered for service tax. A person is liable to be registered if the total value of his taxable services for a 12-month period exceeds or is expected to exceed the prescribed registration threshold. The term “person” includes an individual, a firm, a society, an association, a company and every other juridical person.

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The following is a summary of taxable persons and their respective prescribed registration thresholds:

Group	Taxable person	Threshold (RM)
A	Operators of hotels, inns, lodging house, service apartment, homestay (subject to some exclusions)	500,000
B	Operators of restaurants, bars, snack-bars, canteen, coffee house or any place providing food and drinks whether eat-in or take-away (subject to some exclusions) Catering services providers Operators of food court	1,500,000
C	Operators of night-clubs, dance halls, cabarets Operators of 1st, 2nd or 3rd Class Public House and 1st or 2nd Class Beer House Operators of approved health and wellness centres and massage parlours (subject to some exclusions)	500,000

Group	Taxable person	Threshold (RM)
D	Operators of private clubs	500,000
E	Operators of golf course or golf driving range	500,000
F	Licensed operators of bettings, sweepstakes, lotteries, gaming machines or games of chance	500,000
G	Registered advocates, solicitors and syarie lawyers Registered public accountants Licensed or registered surveyors / registered valuers, appraisers and estate agents Registered professional engineers Registered architects Consultancy, training or coaching services providers (subject to some exclusions) Information technology services providers	500,000

Group	Taxable person	Threshold (RM)
G (con't)	Management services providers (subject to some exclusions) Employment services providers Licensed private agencies Operators of online platform or market place	
H	Persons who are regulated by Bank Negara Malaysia and provide credit card or charge card services through the issuance of a credit card or a charge card	Nil
I	Licensed insurers or takaful operators Licensed/registered persons providing telecommunication services and contents applications services Approved customs agents Operators of parking space for motor vehicles Operators of motor vehicles service or repair centres	500,000 500,000 Nil 500,000 500,000

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Group	Taxable person	Threshold (RM)
I (con't)	Licensed courier service providers	500,000
	Licensed hire-and-drive car, hire-car, charter bus and excursion bus services operators	500,000
	Advertising services providers	500,000
	Providers of electricity transmission and distribution services	500,000
	Licensed airlines providing domestic flights	500,000
	Financial brokerage and underwriting services providers	500,000
	Cleaning services providers (subject to some exclusions)	500,000

Any person who is not liable to be registered for service tax may nonetheless apply to the DG of Customs for voluntary registration as a registered person. The DG of Customs may approve the registration to be effective from a date he determines and subject to conditions he deems fit.

Examples of taxable services include but are not limited to the provision of accommodation premises, sale or provision of food, drinks and alcoholic beverages, certain professional services, digital services, certain telecommunication services, betting and gaming services, management services, security services, provision of parking space, provision of golf course, golf driving range or services related to golf or golf driving range, courier delivery services (other than to destinations outside Malaysia), domestic flight services, provision and issuance of charge card or credit card whether or not annual subscription or fee is imposed, and provision of electricity to domestic consumer.

A complete list of taxable persons and taxable services can be found in the First Schedule of the Service Tax Regulations 2018.

Registration of foreign service provider

With effect from 1 January 2020, service providers outside Malaysia who provide online services to Malaysian consumers will be required to register in Malaysia and charge service tax if the total value of

digital services provided to Malaysian consumers for a 12-month period exceeds or is expected to exceed the prescribed registration threshold of RM500,000.

Intra-group services

Service tax is not applicable in the following transactions performed among companies within a qualifying group of companies (i.e. subject to certain qualifying criteria):

- (a) Provision of certain qualifying professional services in Malaysia by a registered person;
- (b) Acquisition of certain qualifying professional services from overseas by a Malaysian; and
- (c) Provision of digital services by foreign service providers (with effect from 1 January 2021).

Exemption for specific *business-to-business* (B2B) services

Certain taxable professional services provided by a registered person to another registered person who provides the same professional service are exempted from service tax subject to certain qualifying criteria.

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Payment of service tax and taxable period for registered person (bi-monthly)

Service tax is due when payment is received for the taxable services rendered. Nonetheless, if payment is not received within 12 calendar months from the date of issuance of the invoice, the tax is due on the day immediately after the expiry of the 12-month period.

The DG of Customs may approve an application from a registered person for the service tax of the taxable service rendered to be due at the date of issuance of the invoice instead of the payment date.

Any service tax that falls due during a taxable period, is payable to the RMCD latest by the last day of the month following the end of the taxable period. A taxable period is a period of 2 calendar months, however, a taxable person can apply to the DG of Customs to vary the taxable period. If the application to vary the taxable period is approved, the service tax due is payable to RMCD latest by 30 days from the end of the varied taxable period.

Payment of service tax on imported taxable service

The service tax for imported taxable service is due at the earlier of the payment date or the date the invoice for the service is received. A taxable person is required to account for the service tax on imported taxable in its service tax return. However, a non-taxable person is required to account for the service tax on imported taxable service in a prescribed declaration (Form SST-02A) to the DG of Customs. The furnishing of the declaration and the payment of service tax due must be made latest by the last day of the month following the month in which the payment for the service is made or the invoice for the service is received.

Payment of service tax by a foreign registered person

For digital services provided by a foreign registered provider, service tax is due when payment is received for the digital services provided. With effect from 1 January 2021, the DG of Customs may approve an application from a foreign registered person for the service tax of the digital service provided to be due at the date of issuance of the invoice instead of the payment date.

Any service tax that falls due during a taxable period, is payable to the RMCD latest by the last day of the month following the end of that taxable period. A taxable period is a period of 3 calendar months, however, a foreign registered person can apply to the DG of Customs to vary the taxable period. If the application to vary the taxable period is approved, the service tax due is payable to RMCD latest by the last day of the month following the end of the varied taxable period.

Refund of service tax on bad debts

A registered person or a person who has ceased to be a registered person can apply for a refund of service tax in relation to bad debts. The conditions for the refund application are that:

- the whole or part of the service tax paid has been written off as a bad debt; and
- all reasonable efforts have been made by the applicant to recover the service tax.

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Import duties

Imports of goods are generally subject to import duties.

Rates of tax

Import duties are generally levied on an ad valorem basis, but they may also be imposed on a specific basis. The ad valorem rates range from 0% to 60%. Raw materials, machinery, essential foodstuffs, and pharmaceutical products are generally non-dutiable or subject to duties at lower rates.

Tariff rate quota

Malaysia has a tariff rate quota (TRQ) on selected agricultural products, such as chicken, milk and cream, hen eggs, cabbages. Under TRQ, the tariff charged depends on the volume of imports. Imports within quota (volume) attract duties at a lower tariff rate while a higher tariff rate applies on goods in excess of the quota volume “out-quota tariff rate”. The quota applicable is determined by the relevant agency, e.g. Department of Veterinary Services or Federal Agriculture Marketing Authority Department.

Value of goods

The value of goods for the purpose of computing import duties is determined largely in accordance with the World Trade Organisation (WTO) principles of customs valuation.

Exemptions

Manufacturers may apply to the relevant authorities for exemption from import duties for the following:

- raw materials and components used directly for the manufacture of goods for export and domestic markets; and
- dutiable machinery and equipment which are used directly in the manufacturing process.

Prohibition of imports

Import restrictions are seldom imposed except on a limited range of products for protection of local industries or for reasons of security and public safety. An import licence has to be obtained from the relevant authorities and other government agencies for the importation of prohibited goods.

Export duties

Export duties are generally imposed on Malaysia’s main commodities such as crude petroleum and palm oil for revenue purpose.

Prohibition of exports

Export prohibitions also apply to goods such as live animals, poultry, palm kernels and palms seeds, sugar and rice, unless accompanied by an export license issued by the relevant authorities and other government agencies.



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Excise duties

Excise duties are imposed on a selected range of goods manufactured in Malaysia or imported into Malaysia. Goods which are subject to excise duty include beer/stout, cider and perry, rice wine, mead, undenatured ethyl alcohol, brandy, whisky, rum and other spirits obtained by distilling fermented sugar-cane products, gin and geneva, cigarettes containing tobacco, motor vehicles, motorcycles, playing cards, mahjong tiles and sweetened beverages. No excise duty is payable on dutiable goods that are exported.

Licensing

Unless exempted from licensing, a manufacturer of tobacco, intoxicating liquor, sweetened beverages or goods subject to excise duties must have a licence to manufacture such goods.

A warehouse licence is required for storage of goods subject to excise duty. However, a licence to manufacture tobacco, intoxicating liquor, sweetened beverages or goods subject to excise duty also permits the holder to store such goods.

Rates of duties

The rates of excise duties vary from a composite rate ranging from RM0.40 per litre for sweetened beverages, RM1.10 per litre and 15% for certain types of spirituous beverages, to as much as 105% for motorcars (depending on engine capacity).

Payment of duty

As a general rule, duty is payable at the time the goods leave the place of manufacture or the licensed warehouse. However, for motor vehicles, duty is payable at the time the vehicles are registered with the Road Transport Department.

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Stamp duty

Stamp duty is chargeable on instruments and not on transactions.

Stamp duty rates

Stamp duty rates vary according to the value of the underlying transaction which is generally taken to be the higher of actual consideration or market value.

Transfer of properties in general (other than shares and marketable securities)

	Portion of total value (RM)	Rate	Stamp duty payable (RM)
On the first	100,000	RM1 per RM100 or part thereof	1,000
On the next	400,000	RM2 per RM100 or part thereof	8,000
On the next	500,000	RM3 per RM100 or part thereof	15,000
	1,000,000		24,000
In excess of	1,000,000	RM4 per RM100 or part thereof	

Transfer of shares not listed on stock exchange

RM3 for every RM1,000 or any fraction thereof.

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Loan, services and equipment lease agreement

The stamp duty rate is 0.5%. Reduced rates are available as follows:

i) Service agreement:

Reduced stamp duty rate		
All service agreement (one tier)		0.1%
Multi-tier service agreement		
a) Non-government contract (i.e. between private entity and service providers)	First level	0.1%
	Subsequent level(s)	0.1%, capped at RM50
b) Government contract (i.e. between Federal /State Government of Malaysia or State / local authority and service providers)	First level	Exempted
	Second level	0.1%
	Subsequent level(s)	0.1%, capped at RM50

ii) Loan agreement:

Reduced stamp duty rate		
Loan agreement without security and repayable on demand or in single bullet repayment	Ringgit Malaysia loan	0.1%



Stamp duty relief

Relief from stamp duty is available for various instruments. In relation to the transfer of properties/shares between related companies, the following reliefs are available subject to meeting the qualifying conditions:

1. Transfer of properties/shares between associated companies. Associated companies are essentially companies where either company owns 90% or more of the other company or where a third company owns 90% or more of both companies.
2. Transfer of properties/shares pursuant to a scheme of reconstruction or amalgamation of companies.

Real Property Gains Tax (RPGT)

Malaysia imposes a limited form of capital gains tax, i.e. RPGT. RPGT is imposed on gains arising from the disposal of real property including shares in a real property company (RPC) at the rates indicated in the table below.

Real property is defined as any land situated in Malaysia and any interest, option or other right in or over such land.

A RPC is essentially a controlled company where 75% or more of its total tangible assets consist of real property and/or shares in RPC. A controlled company is essentially a company which is owned by not more than 50 members and controlled by not more than 5 persons.

Disposal from the date of acquisition	RPGT rate		
	Companies incorporated in Malaysia, trustee of a trust, societies	Individuals (citizens & permanent residents)	Individuals (non-citizens & non-permanent residents), executor of deceased estate of a person who is not a citizen or not a permanent resident, companies not incorporated in Malaysia
Within 3 years	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th year onwards	10%	5%	10%

Other Taxes

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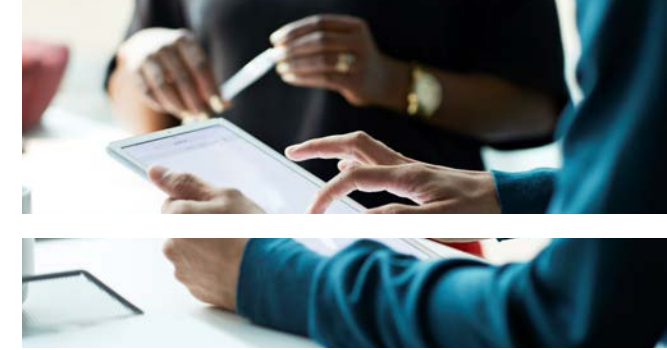
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Windfall profit levy

A levy is imposed on crude palm oil and crude palm kernel oil where the price exceeds RM2,500 per metric ton in Peninsula Malaysia, and RM3,000 per metric ton in Sabah and Sarawak.

Contract levy

A levy of 0.125% on contract works having a contract sum above RM500,000 is imposed on every registered contractor by the Construction Industry Development Board (CIDB).

Assessment, quit rent and road tax

Assessment rates and quit rent are payable by property owners according to the legislation of the local or municipal authorities on properties located in areas under their jurisdiction. Essentially, these levies are intended for the maintenance and provision of essential services to the areas. The tax is levied as a percentage of the capital value or the taxable value of the property.

Road tax is levied on owners of motor vehicles at rates that vary according to the type of vehicle and engine capacity.



About PwC

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Delivering the value you're looking for

PwC operations in Malaysia

PwC's history in Malaysia dates back to the early 1900s. Over the years, we have worked with many different types of clients - global companies, public sector entities, growing businesses and up-and-coming entrepreneurs. Because we believe we have a responsibility to play an integral role in the growth and progress of our nation. With our assurance, tax and advisory services, we help our clients succeed through both buoyant and challenging economic environments.

Our aim is to deliver value to you at all times. How we use our knowledge and experience to deliver that value, depends on what you want to achieve. We'll start by asking questions to get to know you and your business better. Are you looking to build trust? Give your shareholders more value? Or do you want to do something new with your business?

You can expect, when working with anyone of our people in Kuala Lumpur, Pulau Pinang, Ipoh, Melaka, Johor Bahru, Kuching, and Labuan that we'll help you recognise what your business needs are. Then we'll work with you to identify the goals critical to your corporate strategy.

Assurance services

We help organisations improve their external financial reporting and adapt to new regulatory requirements, such as the Financial Reporting Standards. Our audit clients include many leading companies listed on Bursa Malaysia as well as emerging Malaysian companies.

We also help clients respond to the need for greater transparency, improved corporate governance and business models, based on the principles of sustainability and environmental, social and governance (ESG) considerations.

Deals services

We help our clients do better deals and create value through mergers, acquisitions, disposals and restructuring.

In times of uncertainty, we address our clients' issues through a proactive approach to mitigating risks.

From making operational decisions, optimising cash and pursuing a financial turnaround, to undertaking strategic exits, we accompany our clients every step of the way.

Tax services

We work with clients to develop approaches and solutions to critical tax and business issues given our understanding of technical issues and compliance.

We help formulate effective tax strategies and contribute towards your overall corporate strategy. In the area of tax technology, we can help organisations capture data fit for purpose, automate processes, and enhance their ERP systems to enable their tax functions to meet the ever-changing demands of the business.

Consulting services

On 1 August 2013, the PwC Consulting business in Malaysia became part of our South East Asian Consulting joint venture.

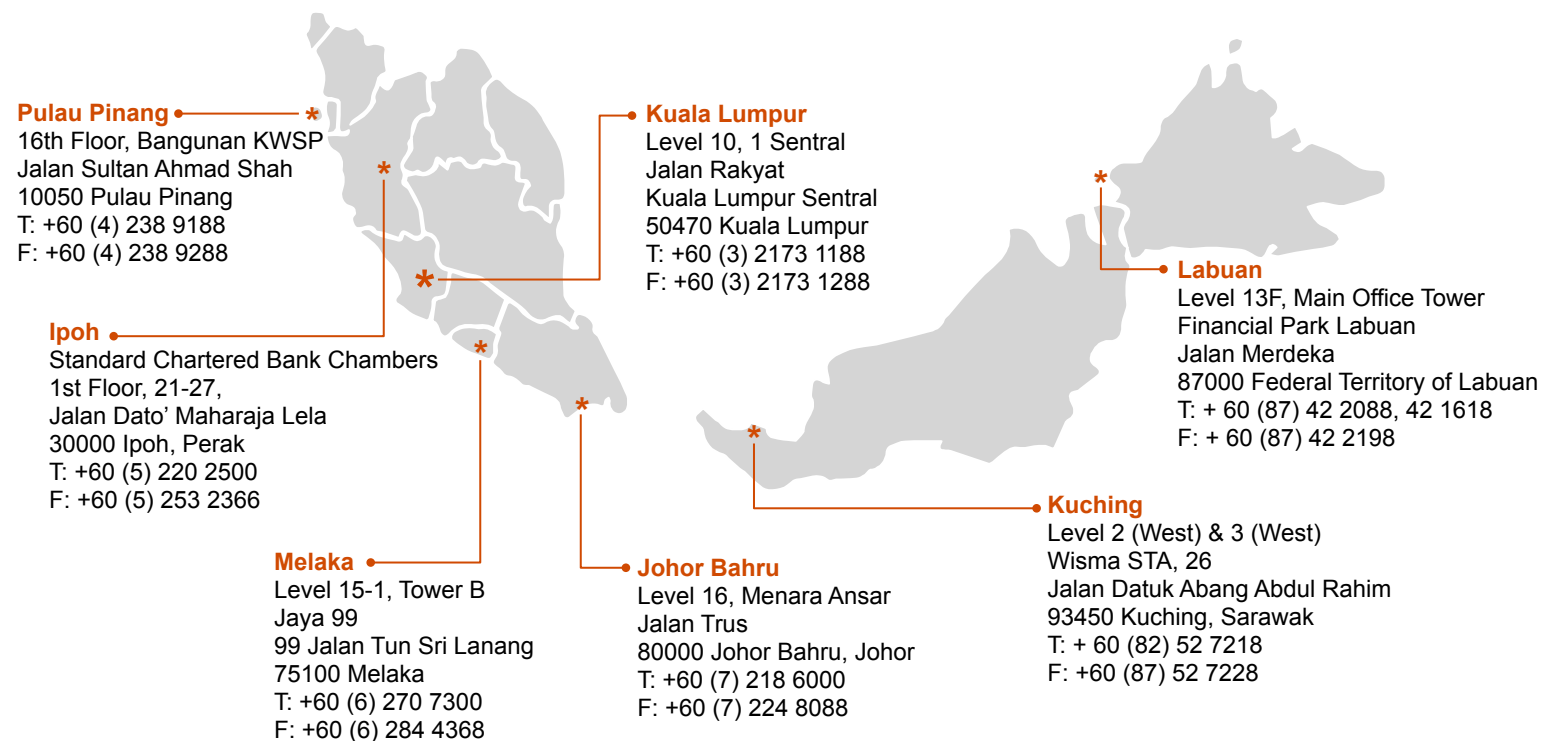
By bringing together our expertise across the region, we help organisations work smarter and grow faster. We consult with our clients to build effective organisations, innovate and grow, accelerate digital and technology impact, reduce costs, manage risk and regulation, and leverage talent.



About PwC

Delivering the value you're looking for

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