



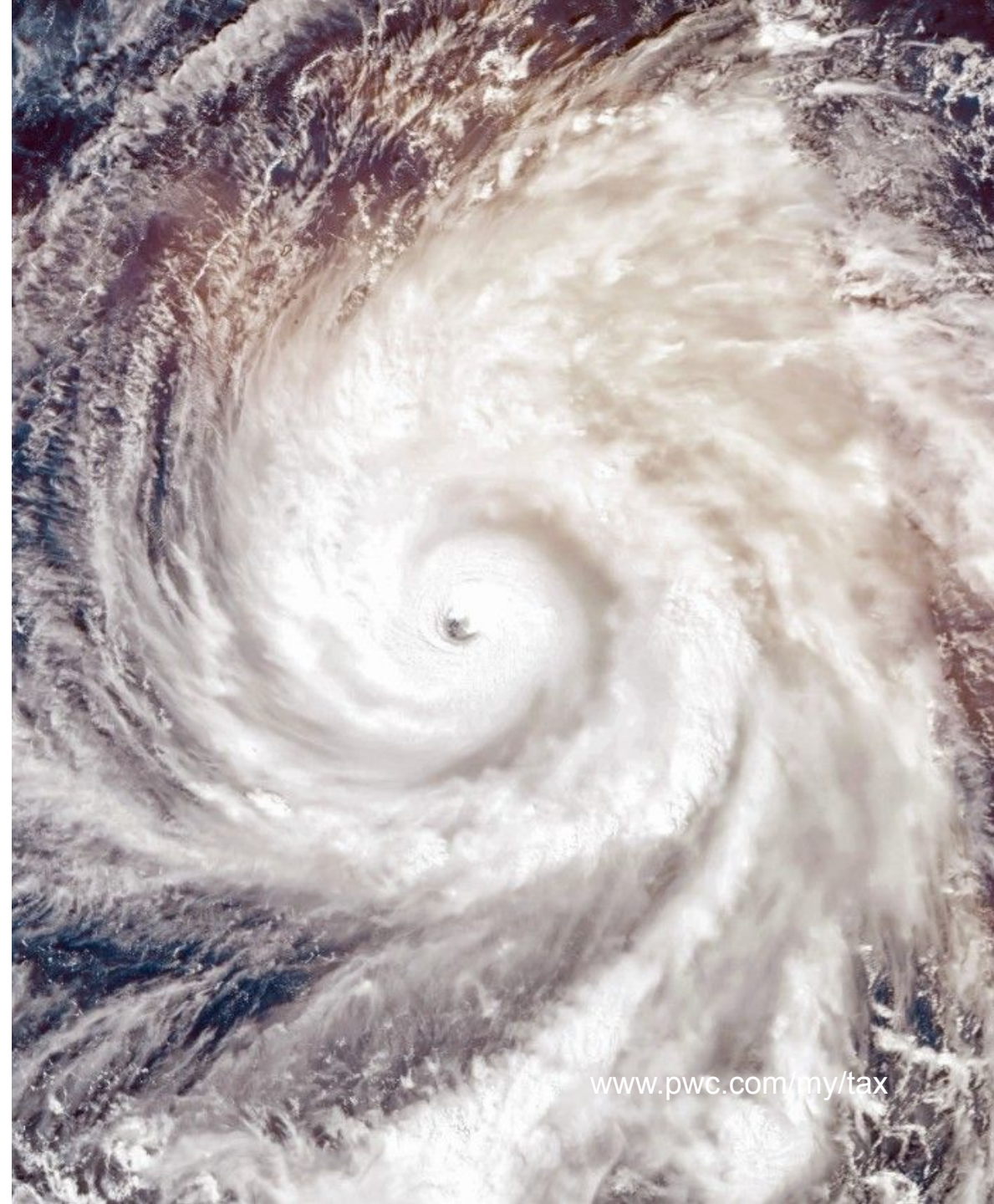
Taxavvy

2 October 2020 | Issue 45-2020

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Special tax incentive under PENJANA - MIDA Guideline

Following the announcement on the PENJANA initiatives on 5 June 2020, one of which is a special tax incentive to encourage investors in the manufacturing sector to relocate their manufacturing facilities to Malaysia, MIDA has issued a guideline on the special tax incentive under PENJANA (“the guideline”).

Applications for the special tax incentive are to be made to MIDA during the period from 1 July 2020 to 31 December 2021.



The special tax incentive is for new companies and existing companies which relocate or set up their manufacturing operations in Malaysia. The incentive is open to manufacturing activities which are not included in the list of non-qualifying activities (refer to Appendix A of the guideline).

A “new company” is a company which does not have an existing manufacturing operation in Malaysia, and:

- relocates its manufacturing facility from any country to Malaysia; or
- establishes a new operation in Malaysia.

An “existing company” is a foreign or locally owned company with an existing manufacturing operation in Malaysia and relocates its overseas manufacturing operation for a new business segment (not an expansion of an existing product) from outside Malaysia to Malaysia.

The following are details of the incentive:

	New company	Existing company
Incentive	<ul style="list-style-type: none"> • 0% tax rate for 10 years for new capital investment of between RM300 million to RM500 million • 0% tax rate for 15 years for new capital investment above RM500 million 	100% Investment Tax Allowance for 5 years for capital investment above RM300 million, which is to be set off against 100% of statutory income
Conditions	<ul style="list-style-type: none"> • The first capital expenditure is to be incurred within 1 year from the date of approval • The capital expenditure is to be incurred within 3 years from the date the first capital expenditure is incurred • Existing company is to keep a separate accounts for products / activities under this incentive or to set up a new entity to carry out the project 	

The guideline is available on MIDA's website www.mida.gov.my (Forms > Forms & Guidelines)

Income Tax (Deduction for Expenditure on Industry4WRD Readiness Assessment) Rules 2020

Pursuant to the Budget 2019 proposal, the Income Tax (Deduction for Expenditure on Industry4WRD Readiness Assessment) Rules 2020 (“the Rules”) has been gazetted and is effective for years of assessment (YAs) 2019 to 2021. The Rules provides a deduction for the fees incurred in relation to the Industry4WRD Readiness Assessment program implemented by the Malaysia Productivity Corporation for the purpose of assessing the gap and level of readiness of the companies to adopt Industry 4.0.



Tax deduction

- A tax deduction is given in arriving at a qualifying company’s adjusted income, on the amount of fee incurred during the period from 2 January 2019 to 31 December 2020, up to a maximum RM27,000, on Industry4WRD Readiness Assessment program.
- Application for the said deduction is to be made through the Malaysia Productivity Corporation before 31 December 2021.

Qualifying company

- A company resident in Malaysia and incorporated under the Companies Act 2016.
- Engaged in manufacturing activities in compliance with the Industrial Co-ordination Act 1975 or manufacturing related services.
- Holds a business license issued by the local authority.
- Has been in operation for at least 36 months.
- Has not been approved for a Government grant or subsidy in relation to the Industry4WRD Readiness Assessment program which is subject to the Income Tax (Exemption) Order (No. 22) 2006 (“2006 Order”).

The 2006 Order provides tax exemption on grant or subsidy received from the Government and a State Government.

Amendment of tax incentives for private healthcare services

Following the proposal in Budget 2018 to increase the income tax exemption for export of private healthcare services, the Income Tax (Exemption) (No. 9) 2002 (Amendment) Order 2020 (“Amendment Order”) was gazetted on 8 September 2020.



Existing incentive

Resident private healthcare services providers are eligible for tax exemption on income derived from export of private healthcare services.

The amount of exemption is equivalent to 50% of the value of increased export of the private healthcare services. The amount of exemption is available to be set off against 70% of statutory income.

Changes under the Amendment Order

The amount of exemption is equivalent to 100% of the value of increased export of private healthcare services. The amount of exemption is available to be set off against 70% of statutory income. The change is effective from YA 2018 to YA 2020 and is subject to the following key conditions in each YA:

- At least 10% of the total number of patients receiving the private healthcare services consist of foreign clients
- At least 10% of gross income is derived from the foreign clients

Guideline on tax deduction of secretarial and tax filing fees

The IRB has issued a guideline dated 18 September 2020 in relation to the tax deduction of secretarial and tax filing fees from YA 2020 onwards (“the guideline”).

The guideline explains the tax treatment from YA 2020 onwards under the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020 (“Rules”) where tax deduction in a YA is given for a cumulative sum of up to RM15,000 for both tax filing and secretarial fees ([TaXavvy 37/2020](#)).

Although the Rules state that fees have to be incurred and paid in the same basis period for a YA in order for a tax deduction to be made, the guideline provides that the fees do not have to be incurred and paid in the same basis period for a YA in order for a tax deduction to be made as follows:

- When the fees are incurred in a YA but is paid in a subsequent YA: Deduction is to be claimed in the subsequent YA.
- When fees are pre-paid prior the services to be rendered: Deduction is to be claimed in the YA in which the services are rendered.
- When fees are incurred and paid in the same YA: Deduction is to be claimed in that YA

The above treatments are consistent with those provided by the IRB in its previous guideline for the tax deduction under the Income Tax (Deduction for Expenses in Relation to Secretarial Fee and Tax Filing Fee) Rules 2014 which was applicable up to YA 2019.

The guidelines is available on IRB’s website www.hasil.gov.my (Legislation > Technical Guidelines).



Labuan entities carrying on pure equity holding activities - Labuan FSA's directive

The Labuan FSA has issued a directive dated 10 August 2020 which prescribes the prerequisites of the management and control requirements for Labuan entities that undertake pure equity holding activities.

Subsequently, the Labuan FSA also issued a clarification dated 10 September 2020 on the Board Meeting requirement in relation to the said directive.

Directive on management and control requirements for Labuan entities that undertake pure equity holding activities ("the Directive")

The Directive applies to a Labuan entity that undertakes pure equity holding activities. The following are the management and control requirements:

- To comply with paragraph 5.5. of IRB's Public Ruling No. 5/2011 (Residence Status of Companies and Bodies of Person) dated 16 May 2011 ("PR 5/2011")
- Has its registered office in Labuan
- Appoints a Labuan trust company as resident secretary in Labuan
- Keeps its accounting business records including minutes of meetings in Labuan

Paragraph 5.5 of PR 5/2011 deals with the management and control of a company, which is the key factor used in ascertaining the tax residence status of a company in Malaysia. If at any time during the basis period of a YA at least one meeting of the Board of Directors is held in Malaysia, the company is a tax resident in Malaysia for that YA.

Labuan FSA's clarification dated 10 September 2020

Subsequently, the Labuan FSA issued a clarification as a follow up to the Directive, which clarifies that:

- Any Board meeting must be held out of Labuan at least once a year.
- The Board meeting may be conducted virtually (during the extended Recovery MCO period until 31 December 2020), subject to the hosting of such meetings be arranged by the resident secretary of the pure equity holding entity in Labuan.
- The Directive is effective from YA 2021 onwards.
- Reference to PR 5/2011 is also reference to the latest public ruling of the same title (the latest version being Public Ruling No. 9/2019).

Both the Directive and clarification is available on Labuan FSA's website www.labuanibfc.com (Legislation & Guidelines > Guidelines > Tax Related Matters).



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