



TaXavvy

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Guideline for Application for Research & Development Status and Tax Incentive for Research & Development Services

The Malaysian Investment Development Authority (MIDA) has recently issued the Guideline for Application by Contract Research and Development (R&D) Companies or R&D Companies for:

- I. R&D Status Company; or
- II. Tax Incentive for R&D Services

under the Promotion of Investments Act 1986 (“the 2023 R&D Guideline”).

In Budget 2022, it was announced that the R&D “Status” of a *Contract R&D Company* and a *R&D Company* is to be subject to approval by the Minister of International Trade and Industry (MITI) effective from 1 January 2022. Existing Contract R&D Companies and R&D Companies may retain their R&D Status for a grace period of 6 months from 1 January 2022 to 30 June 2022 (“grace period”). These companies are required to notify MITI of their intention to retain their R&D Status post 30 June 2022 on or before the expiry of the grace period. MIDA has subsequently issued a media release dated 3 February 2022 that the notification is to be submitted to MIDA (refer to [TaXavvy 2/2022](#)).

The 2023 R&D Guideline is an update from the previous version dated 31 March 2021. The update is mainly to incorporate the measures from Budget 2022 as mentioned above. Salient points are as follows:

Application for R&D status

- An existing Contract R&D Company or R&D Company which fails to notify MIDA of its intention to retain its R&D Status within the grace period will cease to be an approved R&D Status Company.
- Effective from 1 January 2022, the approval of R&D Status will be granted for a period of 5 consecutive years, starting from the date of approval or any other date as may be determined by MITI.
- An approved R&D Status Company may apply to extend its R&D Status for another period of 5 years before the expiry of the previous approved period, subject to meeting criteria and conditions imposed (as per their approval letters). The company is required to complete the *Forms on Compliance of Conditions for R&D Status Companies* as evidence of compliance.

The Forms are available on MIDA’s website www.mida.gov.my (Forms and Guidelines > Services Sector > Research and Development).



- The approval of the R&D Status will cease at the end of the 5-year period if application for extension is not received by MIDA.
- For companies which have yet to commence operations at the point of application of R&D Status to MIDA, these companies must notify MIDA on their starting date of operation by completing the Notification Form on Business Operation which is available on the MIDA's website www.mida.gov.my (Forms and Guidelines > Services Sector > Research and Development). MIDA will issue an acknowledgement letter for the purpose of claiming double deduction under Section 34B of the Income Tax Act 1967 (ITA 1967) by the clients of such companies which incur payment for the use of qualifying R&D services rendered by such companies.

Key compliance criteria for the purposes of application for R&D Status

- Company must be incorporated under Companies Act 2016 and resident in Malaysia.
- R&D activities undertaken must comply with the definition of R&D under the Promotion of Investments Act 1986, i.e. any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the object of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes, but does not include—
 - (a) quality control or routine testing of materials, devices or products;
 - (b) research in the social sciences or the humanities;
 - (c) routine data collections;
 - (d) efficiency surveys or management studies;
 - (e) market research or sales promotion;
 - (f) routine modifications or changes to materials, devices, products, processes or production methods; or
 - (g) cosmetic modifications or stylistic changes to materials, devices, products, processes or production methods.
- R&D activities undertaken must be in accordance with the needs of the country and bring benefits to the Malaysian economy.

The Guideline is available on the MIDA's website www.mida.gov.my (Forms and Guidelines > Services Sector > Research and Development).



Extension of Tax Relief for Net Deposits placed into *Skim Simpanan Pendidikan Nasional* (SSPN) account

The tax relief of up to RM8,000 in respect of the net amount deposited into SSPN by an individual taxpayer for his/her child has been proposed to be extended until Year of Assessment (YA) 2024.

The tax relief which was originally scheduled to expire in YA 2022 was not featured in the Budget 2023 measures when it was retabled on 24 February 2023. However, on 29 March 2023, the Prime Minister and Finance Minister announced in Parliament that the individual tax relief for SSPN will be extended for another 2 years until YA 2024. This is expected to benefit approximately 400,000 taxpayers.



Extension of Time for Filing of Labuan Tax Returns

The deadline for submission of tax return forms under the Labuan Business Activity Tax Act 1990 (LBATA 1990) is extended to 31 July 2023.



The IRB has issued a letter to the Association of Labuan Trust Companies dated 15 March 2023 granting extension of time to 31 July 2023 for submission of tax return forms under Sections 5 and 10 of LBATA 1990 for YA 2023.

The IRB has also in the said letter informed that the LBATA tax filing is expected to be fully digitalised in the year 2025. To facilitate the digitalisation process, the IRB requires Labuan entities to submit scanned copies (together with hard copies) of the following relevant documents to the IRB’s Labuan International Section from YA 2023 onwards:

Income Tax Return Form	Tax Clearance Application	LE File Registration	Others
<ul style="list-style-type: none">• Cover letter• LE1 - Return of profits by a Labuan entity• LE3 - Irrevocable election by a Labuan entity to be charged under ITA 1967• LE4 - Statutory declaration (Labuan trading)• LE5 - Statutory declaration (Labuan non-trading)• Audited accounts / Management accounts• Payment slip	<ul style="list-style-type: none">• CP7LE - Application of tax clearance letter for Labuan entity• Supporting documents as stipulated in Operational Guideline No. 1/2022 - Application of Tax Clearance Letter for Company, Limited Liability Partnership and Labuan Entity	<ul style="list-style-type: none">• CP600LE - Income tax number registration form for Labuan entity• Certificate of registration• Form 25, Form 27, Form 13, Form 7• Memorandum of Articles of Association / Charter of the Labuan Foundation / Deed of Trust• Declaration by a Labuan trust company as trustee• Other related document	<ul style="list-style-type: none">• Other related documents such as change of Labuan Entity name, changes of director

Comment: Further guidance on the manner / medium of submission of the scanned copies of the documents will be required from the IRB.

In addition, there is currently no provisions under the LBATA 1990 in relation to submission of Labuan tax return forms using digital / electronic means. The necessary amendments to LBATA 1990 would have to be made.

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