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Tax Incentive for Iskandar Development Region Status Companies

The Income Tax (Exemption) Order 2024 (the “Exemption Order”) which provides tax incentive for Iskandar Development Region (IDR) status companies engaged in a qualifying activity was gazetted on 2 February 2024.

The Exemption Order states that tax incentive will be given to companies with IDR status that are involved in specific qualifying activities within certain sectors. The Exemption Order is deemed to have come into operation on 24 October 2013, except the following:

Qualifying activities which come into operation on 1 November 2016

- Information technology outsourcing, business process outsourcing and knowledge process outsourcing under the “Global business services” sector.

Qualifying activities which come into operation on 1 January 2021

- Wellness and assisted living under the “Healthcare and related services” sector.
- Emerging digital technologies under the “Digital business and services” sector.

Salient points of the Exemption Order are as follows:

IDR status company	<p>A company which -</p> <ul style="list-style-type: none">• is incorporated under the Companies Act 2016;• is resident in Malaysia;• undertakes a qualifying activity in an area within the IDR as approved by the Iskandar Regional Development Authority (IRDA); and• approved by the Minister of Finance (MOF).
Incentives	<ul style="list-style-type: none">• Investment tax allowance (ITA) equivalent to 100% of qualifying capital expenditure (QCE) for 5 consecutive years commencing from the date of the first QCE incurred.• The date of the first QCE incurred shall not be earlier than:<ul style="list-style-type: none">- 3 years before the date of the application for the incentive is received by the MOF; and- 24 October 2013.



Application procedure	<ul style="list-style-type: none"> Written application shall be submitted to MOF through the IRDA, on or after 24 October 2013 but not later than 31 December 2024.
Clawback of ITA	<ul style="list-style-type: none"> Where the building, machinery or plant is disposed of within 2 years from the date of acquisition, the ITA claimed shall be withdrawn.
Separate source	<ul style="list-style-type: none"> The provision of qualifying activities shall be treated as a separate and distinct business of the company. Separate accounts must be kept in respect of the qualifying activity which has been granted ITA.
Mutual exclusion / non- application provision	<ul style="list-style-type: none"> Conditions which render the incentive not applicable to an IDR status company include when the company - <ul style="list-style-type: none"> (a) Has engaged in a qualifying activity prior to the date the application is received by MOF; (b) Has claimed reinvestment allowance or investment allowance under the Income Tax Act 1967 (ITA 1967); (c) Has been granted incentive under Promotion of Investments Act 1986 (PIA 1986) or an exemption under paragraph 127(3)(b) or subsection 127(3A) of the ITA 1967 in respect of the same qualifying activity; or (d) Has claimed for a deduction under any rules made under section 154 of the ITA 1967 except - <ul style="list-style-type: none"> the rules in relation to allowance under Schedule 3 to the ITA 1967 (i.e. rules in relation to capital allowance, etc.); the Income Tax (Deduction for Audit Expenditure) Rules 2006; the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014; or the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2020.



Extension of Tax Incentives

- Tax deduction for investment in a BioNexus status company
- Returning Expert Programme



Deduction for investment in a BioNexus status company

Following the Budget 2023 (Retabled) announcement to extend the incentive for BioNexus status companies, the Income Tax (Deduction for Investment in a BioNexus Status Company) (Amendment) Rules 2024 (“the Rules”) was gazetted to extend the tax deduction for an investor who has made an investment in a BioNexus status company and submitted an application to the MOF through the Malaysia Bioeconomy Development Corporation Sdn Bhd by 31 December 2024 (previously until 31 December 2022). The extension is applicable for qualifying investments for the sole purpose of financing activities at the initiation of commercialisation stage of a new business approved by the Minister made during the period from 1 January 2023 to 31 December 2024.

A BioNexus status company refers to a company incorporated under the Companies Act 1965 which has been approved by the Minister to be engaged in a business of life sciences such as biology, medicine, anthropology, ecology or any other branches of science, which deal with living organisms and their organization, life processes and relationships to each other and their environment.

The Rules come into operation on 1 January 2023.

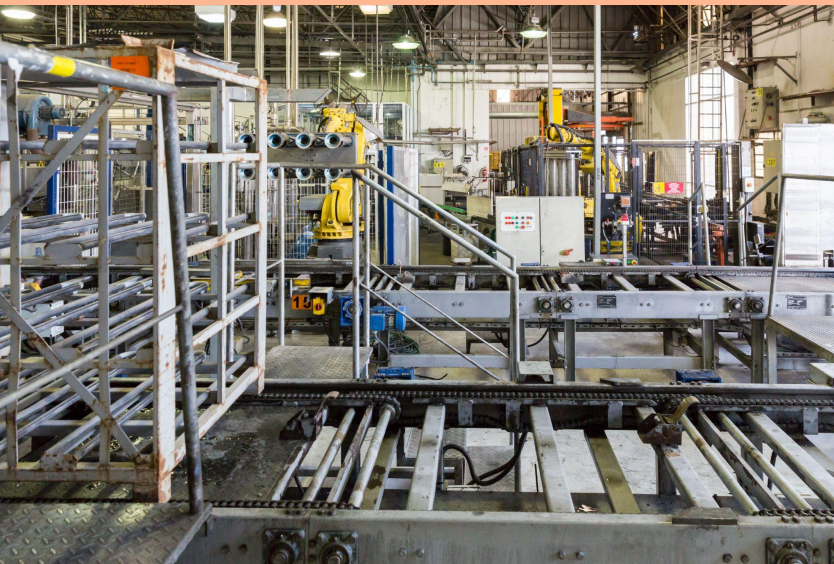
Returning Expert Programme (REP)

In Budget 2024, it was announced that the REP incentive is to be extended for applications received by Talent Corporation Berhad until 31 December 2027 (previously 31 December 2023). This proposed extension has now been gazetted via the Income Tax (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) (Amendment) Rules 2024.

Under the REP, an approved individual who is a citizen and resident in Malaysia can opt to apply a flat personal income tax rate of 15% for a continuous period of 5 YAs on his / her income derived from exercising employment with a Malaysian resident.

Public Ruling No. 1/2024 - Investment Tax Allowance - Promoted Product under the Manufacturing Sector

The Inland Revenue Board (IRB) has issued a new public ruling, Public Ruling No. 1/2024 - Investment Tax Allowance - Promoted Product under the Manufacturing Sector ("PR 1/2024").



PR 1/2024 provides general information on the promoted products and activities for the manufacturing sector that have been published through the following gazette orders:

- Promotion of Investments (Promoted Activities and Promoted Products for High Technology Companies) Order 2012 [P.U.(A) 59/2012]
- Promotion of Investments (Promoted Activities and Promoted Products for Selected Industries) Order 2012 [P.U.(A) 60/2012]
- Promotion of Investments (Promoted Activities and Promoted Products for Reinvestment) Order 2012 [P.U.(A) 61/2012]
- Promotion of Investments (Promoted Activities and Promoted Products) Order 2012 [P.U.(A) 62/2012]
- Promotion of Investments (Promoted Activities and Promoted Products for Small Scale Companies) Order 2012 [P.U.(A) 63/2012]

PR 1/2024 also explains the general application and approval of ITA, withdrawal and surrender of ITA, qualifying capital expenditure for the purpose of ITA and tax treatment for ITA. The details were covered in the Public Ruling No. 4/2023 - Investment Tax Allowance - Overview (refer [TaXavvy 26-2023](#)).

PR 1/2024 is available on IRB's website www.hasil.gov.my (Legislation > Public Ruling).

Guidelines for Approval of Hospital Welfare Funds

The IRB has recently provided the Guidelines for Approval by the Director General of Inland Revenue under Subsection 44(6) of ITA 1967 in relation to Welfare Funds for Public Hospitals, Private Hospitals and Teaching Hospitals dated 28 March 2023 (“the Guideline”) on its website.

The Guideline (available in Bahasa Malaysia only) sets out the details and requirements in relation to the application for a tax-exempt status for a Hospital Welfare Fund by public hospitals, private hospitals and teaching hospitals under section 44(6) of the ITA 1967.

The salient points to note from the Guideline are:

- Hospital Welfare Funds set up by private hospitals, public hospitals and teaching hospitals in order to provide free / subsidised medical aid and care to the targeted / underprivileged group qualify to apply for a tax exemption status under section 44(6) of the ITA 1967.
- The Hospital Welfare Funds must be established by the welfare unit of the hospital to obtain public funds to finance the following:
 - Part or all of the cost of treatment;
 - Medical equipment;
 - Rehabilitation equipment;
 - Medicine; and
 - Other welfare activities such as free health screening to the public, regular visits to nursing homes under the Department of Social Welfare and service enhancements to volunteers and the workforce involved, with costs approved in writing.
- The Hospital Welfare Funds are prohibited from being utilised for the following:
 - Payment of laboratory and diagnostic tests.
 - Treatment for infertility.
 - Disposable items and consumable items.
 - New treatment method that has not been proven to be effective.
 - Aesthetic surgery treatment except for treatment to improve or restore function.
- Sources of income: At least 90% of the donation into the Hospital Welfare Funds must be donations/contributions from the public. Monetary contribution from subsidiary companies or any companies related to the hospital in the same group shall not exceed 10%.



- Tax treatment:
 - Donations received into the Hospital Welfare Fund are exempt from tax.
 - Donors are eligible for tax deduction up to 10% of aggregate income.
- Composition of the member of the Committee: More than 50% of the committee members must be outsiders if the Hospital Welfare Funds is managed by hospitals registered under Suruhanjaya Syarikat Malaysia. Where the Hospital Welfare Funds is established by a teaching hospital registered under the Registrar of Societies, 70% of the committee members must consist of committee members of the society and 30% should be made up of outsiders.
- Approval will be granted up to a period of 5 years (renewable).
- Committee members are required to maintain a separate bank account for the funds, issue official receipts for monetary contributions received, submit to Jabatan Dasar Percukaian of IRB the audited financial statements of the funds and a list of donors who have made contributions of RM20,000 and above.

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



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 2024.



The IRB has informed the Association of Labuan Trust Companies that it has granted an extension of time to 31 July 2024 for submission of tax return forms under sections 5 and 10 of LBATA 1990 for YA 2024.

To facilitate the digitalisation of the LBATA tax filing (expected to commence in year 2025), 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:

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

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