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马来西亚税收和投资指南 - 2018
Guide to Taxation and
Investment in Malaysia - 2018

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1.0 投资环境

Investment climate

1.1 营商环境 Business environment

马来西亚是联邦体制国家，由任命参议院和当选众议院组成两院制的联邦议会。

Malaysia is a federated constitutional monarchy, with a bicameral federal parliament consisting of an appointed Senate and an elected House of Representatives.

自1957年独立后，快速的工业化使其从主要依靠矿产品和农产品出口转变成为以制造业和服务业为主的经济体。在“2020年愿景”经济发展蓝图下，马来西亚的目标是在2020年前成为全面发达的国家。

Following independence in 1957, rapid industrialisation has transformed the economy from one relying primarily on the production of mineral and agricultural export commodities into one dominated by manufacturing and services. Under the “Vision 2020” blueprint for economic development, Malaysia aims to become a fully developed nation by 2020.

马来西亚在某些商品领域也持续的引领着世界市场：它是棕榈油生产的领头者以及橡胶的主要供应国之一。马来西亚也是石油和天然气，电子和电气产品的生产国和出口国，后者占据制造货物总出口价值的36%。

Malaysia continues to play a leading role in world markets for some of its commodities: it is the leading producer of palm oil and one of the main sources of rubber. The country is also a producer and exporter of oil and natural gas as well as electrical and electronic goods, the latter accounting for 36% of total export value of manufactured goods.

然而，为了提升国家经济进入更高的层次，马来西亚正转向基于创新、创造和知识性活动的新型经济模式。

However, to elevate the nation to a more advanced economy, Malaysia is shifting to a new economic model based on innovation, creativity and knowledge-based activities.

马来西亚致力于多边经贸体系，维持相对开放的贸易政策体制，其政策主旨是针对主要出口商品、商品生产，以及日益增长的服务业开拓市场。作为东南亚国家联盟（东盟）的创始成员国和东盟自由贸易区（AFTA）协定的签署国，马来西亚有意取消对所有产品的进口关税，从而实现东盟自由贸易区的最终目标，创建一个区内货物自由流通的综合市场。

东盟(ASEAN)主要组成成员国有汶莱、柬埔寨、印度尼西亚、老挝、马来西亚、缅甸、菲律宾、新加坡、泰国和越南，是一个贸易和社会联合体，旨在促进东盟成员国以及与他国之间在经济和社会领域的合作，从而通过建立一个联合市场来吸引外国贸易和投资。

Malaysia is committed to a multilateral trading system. The country maintains a relatively open trade policy regime, with policies aimed at improving market access for exports of primary commodities, manufactured products and, increasingly, services. As a founding member of the Association of Southeast Asian Nations (ASEAN) and a signatory to the ASEAN Free Trade Area agreement (AFTA), Malaysia intends to eliminate import duties on all products and thereby realise AFTA's ultimate target of creating an integrated market with free flow of goods within the region.

ASEAN – comprising Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam – is a trade and social alliance intended to foster economic and social cooperation among ASEAN members and others, to establish a joint market for attracting foreign trade and investment.

马来西亚也受惠于与日本、挪威、白俄罗斯、列支敦士登、哈萨克斯坦、瑞士和俄罗斯联邦普遍优惠制 (GSP) 。

Malaysia also enjoys generalised system of preferences (GSP) privileges from Japan, Norway, Belarus, Liechtenstein, Kazakhstan, Switzerland and Russian Federation.

物价管制 Price controls

国内贸易合作和消费部控制液化石油气、糖、食用油和面粉的价格。特定主食的价格在节日期间也被控制。

The Ministry of Domestic Trade, Co-operatives and Consumerism controls prices of liquefied petroleum gas, sugar, cooking oil and flour. Prices of specific food staples are also subject to price controls during festive seasons.

知识产权 Intellectual property

马来西亚是世界知识产权组织 (WIPO) 的成员之一，同时也是保护工业产权巴黎公约和保护文学艺术作品伯尔尼公约的签署方。为了确保马来西亚知识产权保护符合国际标准，并为国内外投资者提供保护，马来西亚也签署了与贸易有关的知识产权协定 (TRIPS)，并加入专利合作条约以及尼斯和维也纳协定。

Malaysia is a member of the World Intellectual Property Organization (WIPO) and a signatory of the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. Malaysia also signed the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and acceded to the Patent Cooperation Treaty and the Nice and Vienna Agreement, to ensure that intellectual property protection in Malaysia conforms to international standards and provides protection to both local and foreign investors.

马来西亚的知识产权保护包括注册商标、专利、版权、工业设计、地理标志和集成电路图设计。在这方面，马来西亚具有包含充分民事和刑事处罚措施的强有力的法律，并采取主动的执法方式。马来西亚拥有知识产权法院，同时政府也已制定了国家知识产权政策。

Intellectual property protection in Malaysia covers trademarks, patents, copyrights, industrial designs, geographical indications and layout designs of integrated circuits. In this regard, Malaysia has strong laws with adequate civil and criminal penalties, and takes a proactive approach to enforcement. There is an Intellectual Property Court and the government has crafted a National Intellectual Property Policy.

马来西亚知识产权局管理和监督相关法律的实施(例如，2002年马来西亚企业知识产权法令、2000年地理标志法令、2000年集成电路图设计法令、1976年商标法令、1983年专利法令、1996年工业设计法令、1987年版权法令)和其他相关知识产权事项，例如，在知识产权方面提供咨询服务和增强大众对知识产权重要性的认识。

The Intellectual Property Corporation of Malaysia manages and regulates the laws (i.e., Intellectual Property Corporation of Malaysia Act 2002, Geographical Indications Act 2000, Layout-Designs of Integrated Circuit Act 2000, Trade Marks Act 1976, Patents Act 1983, Industrial Designs Act 1996 and Copyright Act 1987) and other matters relating to intellectual property such as providing advisory services on intellectual property and promoting public awareness on the importance of intellectual property.

1.2 货币 Currency

马来西亚货币是马币/令吉 (MYR)。

The currency in Malaysia is the Malaysian Ringgit (MYR).

1.3 财经和融资 Banking and financing

根据2001-2010年期间的金融业总体规划，马来西亚银行业进行了大量重组、整合和合规活动。这些金融改革为银行业奠定了坚实的基础，带来了面对国外竞争时的更具韧性和更佳的表现。第二个总体规划为2011年发布的2011-2020年期间的金融蓝图。这个蓝图建立在金融总体规划所取得的成就上，以发展为高附加值、高收入的马来西亚经济提供最佳服务的金融生态系统，同时也在满足亚洲新兴市场对金融发展的需求上起到重要的作用。此规划将进一步增强金融网络并支持区域一体化，从而更有效的将亚洲的盈余资金引向该区域的广阔投资机遇。

伊斯兰金融日趋进入重要的地位。2006年8月马来西亚政府提出的马来西亚国际伊斯兰金融中心的计划奠定了马来西亚在此领域的战略地位。马来西亚也继续推广纳闽岛作为离岸服务的国际金融中心。

The Malaysian banking sector has undertaken significant restructuring, consolidation and rationalisation efforts in accordance with the Financial Sector Master Plan (FSMP), which was for the period 2001-2010. These financial reforms have placed the banking sector on a stronger foundation with increased resilience and improved performance to face foreign competition. The second master plan, the Financial Sector Blueprint (Blueprint), was released in 2011 for the period 2011-2020. The Blueprint builds on the achievements of the FSMP to evolve a financial ecosystem that will best serve a high value-added, high-income Malaysian economy, while also having an increasingly important role in meeting the growing financial needs of emerging Asia. Initiatives will continue to be pursued to strengthen financial sector linkages and support intra-regional integration to effectively and efficiently intermediate Asia's surplus funds towards the vast investment opportunities in the region.

Islamic financing is of growing significance. The Malaysia International Islamic Financial Centre initiative was launched in August 2006 to position Malaysia strategically in this area. Malaysia also continues to promote Labuan as an international financial centre for offshore services.

1.4 外国投资 Foreign investment

尽管对特定领域的投资实施限制，马来西亚政府总体上非常鼓励外国投资。

政府自2009年开始实行服务业子行业自由化，允许外资参股，预计128个子行业（包括卫生与社会服务业、旅游业、运输业、商务服务业、计算机及相关服务业）将实现自由化。为了促进投资，马来西亚成立了审批服务业领域投资的全国委员会。

针对寻求新项目投资或扩展现有项目的企业，马来西亚推出一系列优惠政策。例如，新兴工业地位、特殊的投资税收减免、多种税收扣除、加速资本减免、双倍扣除；再投资减免（即与合格项目有关的资本投资的60%减免）、从政府机构获得政府支持的工业园区的政府资助和贷款。投资在欠发展的地区能符合上述多项优惠，但也可能获得额外优惠。获取“区域中心”资格的公司也可享有优惠。

马来西亚对多媒体超级走廊的高科技公司、经济发展走廊的公司和中小型企业提供优惠以鼓励发展。其他优惠领域包括制造业、酒店、医疗服务、信息技术服务、生物技术、伊斯兰金融、风险投资、服务业、旅游业、特定农业、石油、汽车零件制造、专用机械设备、节约能源和环境保护。纳闽岛的离岸金融业务也享受优惠。2018年财政预算案推出了一项新的激励措施，鼓励制造业及其相关服务部门采用大数据分析、自主机器人、工业物联网等技术驱动因素，向工业4.0转型。该激励措施将为2018至2020课税年（可在2个课税年内完全扣除）发生的首个1,000万马币合格资本支出提供加速资本减免和自动化设备减免。

以下1.5章节进一步描述了相关税收优惠政策。

The Malaysian government generally encourages foreign investment, although restrictions are imposed on investment in certain sectors.

The government has been liberalising services sub-sectors since 2009 and allowing foreign equity participation, and it is expected that 128 sub-sectors (in areas including health and social services, tourism, transport, business services and computer and related services) will be liberalised. A National Committee for Approval of Investments in the Services Sector has been established to facilitate investments.

A broad range of incentives are available for companies seeking to invest in new projects or expand existing projects. These include pioneer status, special investment capital allowances, a variety of tax deductions, accelerated capital allowances; double deductions; reinvestment allowances (i.e., a 60% allowance on capital investments made in connection with qualifying projects), access to government-sponsored industrial estates and concessional grants and loans from government agencies.

Investments in less-developed areas qualify for many of the same programs, but may receive additional benefits. Incentives for “principal hub” companies also are available.

Incentives are provided for high-technology companies in the Multimedia Super Corridor Malaysia, companies in the Economic Development corridors and small and medium-sized enterprises. Other favoured activities include manufacturing, hotel, healthcare services, information technology services, biotechnology, Islamic finance, venture capital, services, tourism, certain types of agriculture, petroleum, car component manufacturing, specialised machinery and equipment and energy conservation and environmental protection. Offshore financial services are favoured on the island of Labuan. The Budget 2018 proposes a new incentive to encourage the transformation to Industry 4.0 which involves the adoption of technology drivers such as big data analytics, autonomous robots, industrial internet of things, etc., by the manufacturing sector and its related services. The incentive would provide accelerated capital allowances and automation equipment allowances on the first MYR10 million qualifying capital expenditure incurred during years of assessment 2018 to 2020 (fully claimable within 2 years of assessment).

Available tax incentives are described further under 1.5. below.

1.5 税务优惠 Tax incentives

新兴工业地位(PS)和投资税收减免(ITA)

新兴工业地位优惠措施包括法定收入的70%免税（某些活动为100%）为期5年并可延长至10年。新兴工业地位优惠适用于从事“受推广活动”或生产“受推广产品”的公司。另外，投资税收减免在长达10年的时期内针对合格资本支出的60%至100%提供资本投资免税额。新兴工业地位和投资税收减免是不能同时适用的。

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

PS incentive involves a tax exemption of 70% of statutory income (100% for certain activities) for a period of five years which can be extended to a tax holiday of up to 10 years. The PS incentive is available to companies undertaking a “promoted activity” or producing a “promoted product”. Alternatively, the ITA provides a 60% to 100% allowance on capital investments made up to 10 years. Both ITA and PS incentives are mutually exclusive.

区域中心

政府已经发布了详细的指南（包括2017年7月7日修订的区域中心指南）以促进马来西亚在2015年4月推出的“区域中心”的设立发展。区域中心是指一家在马来西亚注册成立并以马来西亚作为其区域和全球业务运营基地的公司，该公司管理、控制和支持其业务主要职能，包括风险管理、决策制定、战略性业务活动、贸易、财务、管理和人力资源等职能。

新成立的区域中心公司在5年内享有0%、5%或10%的企业税率（而不是2018课税年度的24%标准公司税率）并可能再延长5年。对于现有的公司，包括已获得营运总部（OHQ）、国际采购中心（IPC）或区域分销中心（RDC）资格的现有公司，可以在五年内就其增值收入享受区域中心完全税务豁免优惠。区域中心优惠的5年延期将不适用于已获得IPC/OHQ/RDC资格且已被授予IPC/OHQ/RDC优惠的现有公司，但可适用于其他现有公司。

区域中心可适用的其他优惠措施如下：

- 对以生产货物为主的公司，在分销给最终消费者之前，对于其在自由贸易区内进行产品整合、生产和重新包装的原材料、零部件、制成品和货物集装，一律给予关税豁免；
- 无本地股权/所有权要求；
- 允许外商独资企业购置固定资产以经营其业务；
- 如果在马来西亚无法获得相关服务，则允许使用国外专业服务；
- 外汇管理灵活性；和
- 基于公司业务发展的需要和马来西亚现有外籍雇员的政策，批准特定的外籍雇员职位

2015年5月1日起，该政策取代了国际采购中心（IPC）、区域分销中心（RDC）和营运总部（OHQ）政策。

Principal hub

The government has issued detailed guidelines (including the revised Guidelines for Principal Hub dated 7 July 2017) for tax incentives to promote the establishment of “principal hubs” in Malaysia introduced in April 2015. A principal hub is a company incorporated in Malaysia and that uses Malaysia as a base for conducting its regional and global businesses and operations to manage, control and support its key functions, including management of risks, decision making, strategic business activities, trading, finance, management and human resources.

New principal hub companies will enjoy a reduced corporate tax rate of 0%, 5% or 10% (rather than the standard corporate tax rate of 24% effective from year of assessment 2018) for a period of five years, with a possible extension for another five years. For existing companies, including existing companies with approved operational headquarters (OHQ), international procurement centre (IPC), or regional distribution centre (RDC) status, the Principal Hub incentive grants full tax exemption on Value Added Income, for a period of five years. Extension for another five years is not available to existing companies that have obtained approved IPC, OHQ or RDC status and have been granted IPC/OHQ/RDC incentives, but is available for the other existing companies.

The following incentives will also be available:

- A customs duty exemption for goods-based companies on raw materials, components or finished products brought into free zones for production or repackaging, cargo consolidation and integration before distribution to the final consumers;
- No requirements for local equity/ownership;
- Permission for a foreign-owned company to acquire fixed assets for the purpose of carrying out the operations of its business plan;
- Use of foreign professional services if such services are not available in Malaysia;
- Flexibility in foreign exchange administration; and
- Certain permitted posts for expatriates, based on the requirements of the company's business plan and subject to Malaysia's current policy on expatriates.

The scheme replaced the incentive schemes for international procurement centres, regional distribution centres and operational headquarters, effective 1 May 2015.

1.6 外汇管制 Exchange controls

马来西亚拥有着和贸易伙伴交易自由的外汇管制体系。中央银行负责外汇管制和规范制定，从而协助银行监控国际交易结汇支付和收取款项。

资本、利润和所得（包括股息、利息、专利费、租金和佣金）可自由回流。除与特定国家的贸易往来外，外汇管理规定已经放宽或降低。总体而言，限制仅限于拥有境内马币借款的居民。

Malaysia maintains a liberal system of exchange controls that applies uniformly to transactions with its trading partners. The central bank handles foreign exchange controls and regulations aimed to assist the banks in monitoring settlement payments and receipts of international transactions.

Repatriations of capital, profits and income (which include dividends, interest, royalties, rents and commissions) are freely permitted. Foreign exchange administration rules have been relaxed or eliminated, except for trade with certain countries. Generally, restrictions apply only to a resident with domestic ringgit borrowing.

2.0 设立公司

Setting up a business

2.1 各类型企业个体 **Principal forms of business entity**

商业组织主要类型包括有限公司(上市公司和私有公司)、外国公司在当地的分支机构、企业信托、有限责任合伙、合伙和独资企业。对外国投资者而言，有限公司的形式最为常见，这种形式可以把股东的债务责任限制在一定范围内，保护公司与投资者的利益（包括外国母公司）。私人有限公司限制股份转让，而且不能通过股权和债务的形式向公众寻求融资。所有不符合私有公司条件的有限公司被认定为公众公司。私有公司可以转换为公众公司，反之亦然。

The main types of business organisations include the limited company (either public or private), local branch of a foreign company, business trust, limited liability partnership, partnership and sole proprietorship. Among foreign investors, the limited company is the most popular form. It limits liability to the unpaid portion of the nominal value of the shares held, safeguarding the interests of all parties (including the foreign parent company). Private limited companies restrict the right of share transfers and may not seek capital – either equity or debt – from the public. All limited companies that do not meet the conditions governing private firms are deemed public. Private companies may be converted into public companies, or vice versa.

设立公司的手续 Formalities for setting up a company

国家经济的扩张通常伴随着技术支持的稳健增长，其通过将技术转让给新的企业的方式实现。然而，大多数的转移是通过许可协议，并且仅限于外国技术持有者的子公司和关联公司。

先前马来西亚投资发展局(MIDA)必须审批所有技术转让协议，包括合资、技术援助、许可和工程服务，但现在这些都不再需要。

The country's economic expansion has been accompanied by a steady rise in technical assistance as a means to transfer technology to new ventures. Nevertheless, most such transfers through licensing agreements have been limited to subsidiaries and to affiliates of the foreign licensor.

It no longer is necessary to obtain approval from the Malaysian Industrial Development Authority (MIDA) for technology transfer agreements, including joint ventures, technical assistance, licensing and engineering services.

公司设立 Incorporation of company

在马来西亚成立公司，必须进行类似名称搜索以确认拟设立公司名称的可用性，并向公司委员会支付象征性费用。之后，则必须在批准公司名称之日起一个月内向公司委员会提交下列文件及注册费：

(1) 组织章程大纲；(2) 章程；(3) 法定合规声明；(4) 董事/发起人的法定声明；和(5) 公司注册详细信息汇总。需注意的是(1)和(2)是可选的，但担保有限公司除外。作为要求的一部分，必须任命作为指定机构成员或公司委员会许可的公司秘书，尽管任命可以推迟到公司成立后的30天内。通过公司委员会MyCOID在线门户取得的“超级表格”，可以在一天之内完成国内公司的注册。

To establish a company in Malaysia, a similar name search must be conducted for the availability of the proposed company's name, and a nominal fee paid to the Companies Commission. After that, the following documents, together with registration fees, must be submitted to the Companies Commission within one month from the date of approval of the company's name:

(1) the memorandum of association; (2) the articles of association; (3) statutory declaration of compliance; (4) statutory declaration by a director/promoter; and (5) summary of incorporation details. It is to be noted that (1) and (2) are optional except for a company limited by guarantee. As part of the requirements, a company secretary who is a member of a prescribed body or is licensed by the Companies Commission must be appointed although the appointment can be postponed to 30 days after incorporation. The incorporation of a domestic company can be completed within one day, through the “superform” accessible through the Companies Commission’s online MyCOID portal.

公司形式 Forms of entity

上市和私人有限责任公司要求

Requirements for public and private limited companies

资本：必须至少有1名持有马币1令吉股份的认股人。没有法定公积要求。出资可以为现金或其他形式，若为其他形式，估值必须由独立第三方来完成。

Capital: There must be a minimum of one subscriber holding one share of MYR1 each. There are no legal reserve requirements. Contributions can be made in cash or in kind, with valuation carried out by an impartial party.

股东：没有居民或国籍的限制要求。对于私人有限公司，股东的上限为50人，不包含公司或其子公司的雇员和前雇员。

Shareholders: For a private limited company, shareholders are restricted to a maximum of 50, excluding employees and former employees of the company or its subsidiary.

董事会：私人有限公司必须有至少1名，而上市公司则必须有至少2名，在马来西亚长期居住或仅在马来西亚居住的董事（可以为非马来西亚公民）。

Board of directors: Private limited companies must have at least one director and public companies must have at least two directors that maintain their principal (or only) place of residence in Malaysia (although they need not be Malaysian citizens).

管理，员工：对管理层或董事会的员工代表没有特别要求。管理层没有任何国籍或居住限制。

Management, labour: There is no requirement that labour be represented in management or on the board of directors. There are no nationality or residence requirements for management.

税务和费用：设立公司的专业费用介于马币2,500到5,000马币之间。发行股票、债券或其他工具是免税的，但仍然可能需要缴纳印花税。注册一家当地公司的注册费为1千马币，而外国公司注册一家分公司则需缴纳5,000马币到70,000马币的注册费。

Taxes and fees: The formation of a company involves professional fees ranging from MYR2,500 to MYR5,000. There are no taxes on the issuance of shares, bonds or other issues, although stamp duty may be payable. A local company is subject to an incorporation fee of MYR1,000 and a foreign company is subject to an incorporation fee ranging from MYR5,000 to MYR70,000.

股份种类：股份必须登记，上市公司及其子公司的普通股必须拥有平等的投票权。优先股可以被允许，并可能对股息，投票，资本偿还等有特殊的权利或限制。

Types of shares: Shares must be registered, and ordinary shares in a public company and its subsidiary must carry equal voting rights. Preferential shares are permitted and may carry special rights or restrictions on dividends, voting, repayment of capital, etc.

控制：决策权是通过简单多数资本规则来决定的。但是，担保有限公司的备忘录修改、章程修改和减资撤股均需要多于四分之三及以上多数（特殊决议）通过。

Control: Decisions are made by a simple majority of capital, except in the case of a company limited by guarantee for amendments to the memorandum or articles of association and reductions of share capital, where a three-fourths majority (special resolution) is required.

外国公司的分支机构 **Branch of a foreign corporation**

外国公司可以通过向公司委员会提交规定的电子表格并支付象征性费用来申请建立分支机构，以确保拟定公司名称的可用性。名称一旦被批准，注册文件（例如：外国公司注册证书和营业执照公证副本、条例或公司章程或其他基本规则（对于担保有限公司为可选项）、董事的详细资料、外国公司代理的法定声明、批准外国公司名称的文件）需在公司名称通过后1个月内，与注册费一起提交给公司委员会。分支机构也必须提供至少1名有权代表公司接受通知的马来西亚居民的名字和地址。

Branches may be established by making an application to the Companies Commission on a prescribed electronic form to ensure the availability of the proposed company's name, along with payment of a nominal fee. After that, registration documents (i.e., a notice of registration of the foreign company, statute or memorandum and articles of association or other instrument defining its constitution (optional unless for a company limited by guarantee), details of its directors, a statutory declaration by an agent of the foreign company and supporting documents approving the name of the foreign company) must be submitted to the Companies Commission, together with the registration fees, within one month from the date of approval of the company's name. A branch also must supply the name and address of at least one Malaysian resident who is authorised to accept notices served on the company.

从税务角度上，外国公司的分支机构基本上都被视为非马来西亚纳税居民。鉴于政府鼓励外国公司在当地开设子公司，居民公司所享受的部分税收优惠可能不能被分支机构所享有。虽然分支机构与居民公司所适用的所得税是一样的，但其通常不适用于税收优惠，而且必须针对并非来自马来西亚的所得提供相关证明。如果分支机构决定改为子公司，分支机构的亏损额不可以转入新注册的子公司。

Branches of foreign corporations in Malaysia are generally treated as non-residents in Malaysia for tax purposes. As part of the government's efforts to encourage foreign companies to incorporate local subsidiaries, certain tax benefits enjoyed by resident companies are not available to branches. Although branch operations are subject to income taxes similar to those levied on resident companies, branches generally are not eligible for tax incentives and must supply proof of income not derived from Malaysia. If a branch does decide to incorporate, it may not carry forward its existing business losses on incorporation.

建立分支机构和独立子公司的税收影响主要区别取决于母国的税收制度。如果母国对于纳税居民的全球收入征税，该公司可以先设立一家分支机构（在亏损期间），随后设立一家子公司（在公司开始盈利的时候）。

The tax implications associated with establishing a branch versus a subsidiary depend, in substantial part, on the tax regime imposed by the home country. Where the latter taxes the worldwide income of its residents, a company may initially open a branch (during the loss-making period) and subsequently incorporate a company (when the business begins to make a profit).

外国公司的代表处或区域办事处在马来西亚开展被允许的活动是不需要向公司委员会注册的。然而，其必须从MIDA得到相应的批准，通常有效期为2年。这些办事处是无需在马来西亚缴税的。

A representative office or regional office of a foreign company performing permissible activities in Malaysia is not required to be registered with the Companies Commission. Approval must be obtained, however, from MIDA and is normally valid for two years. These offices are not subject to tax in Malaysia.

2.2 企业条规 Regulation of business

企业并购 Mergers and acquisitions

之前，为了确保与新经济政策目标的一致性，外国投资委员会（FIC）规定了有关收购资产、合并和收购马来西亚现有公司和业务的准则。2009年外国投资委员会解散，从此迈向自由化。除了监管机构在某些战略行业实施的条款之外，不适用任何股权条件。然而，不论直接或间接购置价值马币2,000万或以上由土著（原住民）或政府所有的不动产都需要经过经济筹划单位批准（EPU）。除此之外，购置不动产不需EPU批准，但外国人士购买不动产每个单位的价值不得少于马币100万。

Previously, the Foreign Investment Committee (FIC) regulated guidelines on the acquisition of assets, mergers and takeovers of existing companies and businesses in Malaysia to ensure consistency with the objectives of the New Economic Policy. The FIC was disbanded in 2009, however, and the guidelines have been liberalised. No equity conditions apply except for those imposed by regulators in certain strategic sectors. However, any direct or indirect acquisition of property valued at MYR20 million and above that results in the dilution of ownership interests held by Bumiputera (indigenous peoples) or a government agency requires approval of the Economic Planning Unit (EPU). No other property acquisitions require EPU approval, but foreign interests cannot acquire property valued at less than MYR1,000,000 per unit.

垄断和贸易管制 **Monopolies and restraint of trade**

马来西亚无反垄断立法或对“垄断”的专门说明和定义，其自由企业经济体系鼓励良性竞争以及市场中供需的平衡。依据国家的世界贸易组织承诺，正在进行的金融、通信、多媒体和种植业方面的产业整合强化了本地企业，代替贯穿贸易和投资自由化的实施。然而，某些战略领域还是通过政府采购、贸易执照或许可证方面受到政府的保护。

2010年竞争法旨在反垄断和反卡特尔，包括了传统竞争法的关注重点，反竞争性协议、滥用市场支配地位和实质性减少竞争的收购等内容。

依据2010年马来西亚竞争委员会法案建立的马来西亚竞争委员会（MyCC）独立机构负责执行2010年竞争法。其主要作用是在竞争的过程中维护公司、消费者和国家经济的利益。

Malaysia does not have antitrust legislation or a formal definition of “monopoly”. Its free enterprise economy encourages healthy competition and fair play of the market forces of supply and demand. Industry consolidation is undertaken in the financial, communications and multimedia and plantation sectors to strengthen local companies, in lieu of implementing trade and investment liberalisation measures under the country's World Trade Organization commitments. However, certain strategic sectors still are protected from competition through government procurement and trade licensing or permits.

The Competition Act 2010, which is anti-monopoly and anti-cartel, includes traditional pillars of competition law concerning anti-competitive agreements, abuses of dominant position and mergers having the effect of substantially lessening competition.

The Malaysia Competition Commission (MyCC) is an independent body established under the Competition Commission Act 2010 to enforce the Competition Act 2010. Its main role is to protect the competitive process for the benefit of businesses, consumers and the economy.

2.3 会计、归档和审计要求 **Accounting, filing and auditing requirement**

对于非私有实体，马来西亚财务报告准则（MFRS）是强制适用的，但某些实体被允许采用财务报告准则（FRS）框架作为替代。选择适用FRS的非私有实体必须在2018年1月1日或之后开始的年度期间遵循MFRS。

马来西亚私有实体报告准则(MPERS)适用于私有实体（2016年1月1日或之后的财务报表）。私有实体可选择全面适用MFRS。而已替代性选择FRS的私有实体需要在2018年1月1日或之后开始的年度期间适用MFRS或MPERS。

公司必须提交年度报表、董事报告和财务审计报告给马来西亚公司委员会(CCM)。财务报告必须经过政府认证审计师的独立审阅。根据“2016年公司法”和“2001年马来西亚公司委员会法”，某些类型的私有公司有资格获得审计豁免，即休眠公司、零收入公司和符合门槛的公司。符合条件的公司选择豁免审计时，必须向公司注册员提交未经审计的财务报表，并附上所需的审计豁免证书。

MFRS is mandatory for non-private entities, with the exception of certain entities that are permitted to apply the Financial Reporting Standards (FRS) framework as an alternative. A non-private entity that has chosen to apply FRS will have to comply with MFRS for annual periods beginning on or after 1 January 2018.

Malaysian Private Entities Reporting Standards (MPERS) apply for private entities (effective for financial statements beginning on or after 1 January 2016). Private entities may opt to adopt MFRS in its entirety; a private entity that has, in the alternative, applied FRS as its financial reporting framework will have to apply either MFRS or the MPERS for annual periods beginning on or after 1 January 2018.

Companies must submit an annual return, directors' report and audited financial statements to the Companies Commission of Malaysia. Financial statements must be independently certified by government-approved auditors. Pursuant to the Companies Act 2016 and the Companies Commission of Malaysia Act 2001, certain categories of private companies are eligible for audit exemption, i.e., dormant companies, zero-revenue companies and threshold-qualified companies. An eligible company that elects to be exempted from audit must lodge its unaudited financial statements with the Registrar accompanied with the required audit exemption certificate.

3.0 企业税务

Business taxation

3.1 概述 Overview

在马来西亚开设公司主要适用公司所得税、不动产利得税与消费税。

如上述1.5章节所述，公司可适用范围广泛的税收优惠。

财政部下属机构内陆税收局（IRB）负责管理以下法规所规定的直接税：1967年所得税法、1967年石油(所得税)法、1976年不动产利得税法、1986年投资促进法、1949年印花税法及1990年纳闽岛商业活动税法。

Corporations in Malaysia are subject to corporate income tax, real property gains tax and goods and services tax.

As noted above under 1.5, a wide range of tax incentives is available.

The Inland Revenue Board (IRB), an agency of the Ministry of Finance, is responsible for the administration of direct taxes enacted under the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967, the Real Property Gains Tax Act 1976, the Promotion of Investments Act 1986, the Stamp Act 1949 and the Labuan Business Activity Tax Act 1990.

马来西亚公司税简介

Malaysia Quick Tax Facts for Companies

公司所得税税率 Corporate income tax rate	24%	项目3.3 Item 3.3
分支机构税税率 Branch tax rate	24%	项目3.3 Item 3.3
资本利得税税率 Capital gains tax rate	5%-30% (不动产 real property); 0% (其他财产 other property)	项目3.4 Item 3.4
基本原则 Basis	属地征税，但来源于银行、保险、空运或航运业除外 Territorial, except for income from banking, insurance or air and sea transport	
参与免税 Participation exemption	无 No	
亏损弥补 Loss relief		
- 在以后年度抵减 Carryforward	无限期 Unlimited	项目3.3 Item 3.3
- 在以前年度抵减 Carryback	无 No	Item 3.3

马来西亚公司税简介

Malaysia Quick Tax Facts for Companies

双重税收减免	有	项目3.5
Double taxation relief	Yes	Item 3.5
合并纳税	无，但有可能在集团范围内弥补亏损	项目3.7
Tax consolidation	No, but group loss relief may be available	Item 3.7
转让定价规则	有	项目3.6
Transfer pricing rules	Yes	Item 3.6
资本弱化规则	2018年1月1日起废除，取而代之的是将于	项目3.6
Thin capitalisation rules	2019年1月1日起生效的收益剥离规则（2018年财政预算案提议） Abolished from 1 January 2018 and to be replaced by Earning Stripping Rules effective from 1 January 2019 (Budget 2018 proposal)	Item 3.6
受控外国公司规则	无	项目3.6
Controlled foreign company rules	No	Item 3.6
纳税年度	财政年度	
Tax year	Fiscal year	
预缴税收	是	项目3.7
Advance payment of tax	Yes	Item 3.7
申报日期	在会计期间结束后的7个月	
Return due date	Seven months after end of accounting period	

预扣税 Withholding tax

– 股息 Dividends	0%	项目4.0
– 利息 Interest	0%/15%	Item 4.0
– 特许权使用费 Royalties	10%	
– 技术服务或安装/运营服务费	10%	
– Fees for technical or installation/operation services	10%	
– 可动产租金 Rental of movable properties	10%	
– 公众艺人 Public entertainer	15%	
– 分支机构利润汇出税 Branch remittance tax	No	

马来西亚公司税简介

Malaysia Quick Tax Facts for Companies

资本税	无	
Capital tax	No	
社会保障金	缴纳社会保险：雇主1.75%·雇员0.5%； 缴纳公积金：雇主12%/13%；雇员11%	项目4.5
Social security contributions	1.75% (employer) and 0.5% (employee) for social security; 11% (employee) and 12%/13% (employer) for Employees Provident Fund	Item 4.5
土地税和门牌税	存在地区差异	
Quit rent and assessment	Varies	
印花税	股份转让书据：0.3%	项目5.5
Stamp duty	财产转让：1%-3% 0.3% (share transaction documents); 1%-3% (property transfers)	Item 5.5
消费税	6%	项目5.1
Goods and services tax		Item 5.1

3.2 纳税居民 Tax Residence

如企业的管理和控制所在地在马来西亚，即被视为马来西亚居民企业。

A corporation is resident in Malaysia if its management and control are exercised in Malaysia.

3.3 应纳税所得和税率 Taxable income and rates

公司所得税税率一般为24%。从2017课税年起，对于在马来西亚成立的中小型居民企业（其实收资本应当不高于250万马币，并且不属于拥有超过该限额的公司的企业集团），其取得的首50万马币以内的所得可以适用18%的税率，超过部分应当适用24%的税率。

在2017与2018课税年中，如果企业的应纳税所得相较于上一课税年增长了5%或更多，企业税税率将下降1%到4%。降低的税率将适用于应纳税所得增加的部分。

The standard corporate tax rate is 24%, while the rate for resident and Malaysian-incorporated small and medium-sized companies (SMEs, i.e. companies capitalised at MYR2.5 million or less and not part of a group containing a company exceeding this capitalization threshold) is 18% (with effect from YA 2017) on the first MYR500,000, with the balance taxed at the 24% rate.

For YA 2017 and YA 2018, companies will be eligible for a reduction of between 1% and 4% on the standard tax rate for a portion of their income if there is an increase of 5% or more in the company's chargeable income, compared to the immediately preceding YA. The reduction in the tax rate will apply to the portion of chargeable income representing the increase.

可课税营业收入增长比例 % of Increase in Chargeable Business Income as Compared to the Immediate Preceding Year of Assessment	减少税率 % Point of Reduction on Income Tax Rate	增长部分应交税率 Reduced Income Tax Rate on Increase in Chargeable Business Income
小于5% Less than 5%	Nil 无	24%
5% - 9.99%	1%	23%
10% - 14.99%	2%	22%
15% - 19.99%	3%	21%
20% and above 20%及以上	4%	20%

马来西亚对石油所得的适用税率是38%。对于保险公司人寿资金的投资所得和资本利得，其适用税率是8%；对于股东资金（包括从人寿资金划转过来的盈余）的所得则适用24%的税率。合作社在一个滑动区间内征税，所得不高于3万马币的部分其适用税率是0%；而对于超过75万马币的部分，其适用税率为24%（自2015课税年起适用）。

Tax is levied on petroleum income at a rate of 38%. Insurance companies are taxed at 8% on investment income and capital gains of life funds, and 24% on the income of shareholders' funds (including surpluses actually transferred from the life fund). Cooperative societies are taxed on a sliding scale from 0% on the first MYR30,000 to 24% (effective from YA 2015) for income exceeding MYR750,000.

对公司所得不征收地方税，但棕榈果生产者需要就月均价格超过2,500马币/公吨的棕榈原油缴纳超额利润税（即暴利税）。依据《1990年纳闽公司法》，在纳闽联邦直辖区开展商业活动的纳闽公司可以选择按2万马币或按经审计的净利润的3%纳税。此类公司也可选择按《1967年所得税法》的规定纳税，但这一选择是不可撤销的。

No local taxes are levied on corporate income, but there is an excess profits tax (i.e., windfall profit levy) imposed on oil palm fruit producers when the monthly average price of crude palm oil exceeds MYR2,500 per metric ton. Companies incorporated under the Labuan Companies Act 1990 undertaking Labuan trading activities may choose between paying a 3% tax based on audited net profits or a flat rate of MYR20,000. Such companies also may make an irrevocable election to be taxed under the Income Tax Act 1967.

应纳税所得定义 **Taxable income defined**

公司应税所得指从马来西亚境内取得的全部收益，包括贸易及其他经营所得或利得、股息、利息、折扣、租金、特许权使用费、保险费或其他收益。这些规范适用于在马来西亚设立的分支机构和实体。

Taxable corporate income includes all earnings derived from Malaysia, including gains or profits from a trade or other business, dividends, interest, discounts, rents, royalties, premiums or other current earnings. These rules apply to branches as well as to entities incorporated in Malaysia.

为了简化和减轻以往纳税计算制度下的征管负担，马来西亚从2008年开始实行单层税制。在这种单层税制下，对公司应纳税所得征收的所得税是最终税，因此股东取得股息收入是免税的。

To simplify and ease the administrative burden under the previous tax imputation system, a single-tier tax system was introduced with effect from YA 2008. Under this single-tier tax system, income tax imposed on a company's chargeable income is a final tax and dividends distributed are exempted from tax in the hands of the shareholders.

来源于外国的所得一般不需在马来西亚纳税。但对一些特定业务，例如银行业、保险业、航运或船运业务除外等，除非其所得或利得可以被直接归属于马来西亚以外的活动，否则将被视为来源于马来西亚的所得。也就是说，公司或分支机构需证明哪些部分的收入来源于境外。

Foreign-source income is not subject to tax in Malaysia, although tax is levied on worldwide income for certain activities, such as banking, insurance, and air and sea transport operations. Unless profits or gains are attributed directly to activities conducted outside Malaysia, they are assumed to be derived from Malaysia. Thus, the burden is on the company or branch to prove which part of its income is foreign-source.

对于从事纳闽贸易活动的公司，完全来源于持有投资的所得，即纳闽非贸易活动，不属于征税范围。从上述公司得到的股息是免税的。

For a company carrying on Labuan trading activity, income derived solely from the holding of investments, i.e., Labuan non-trading activities, is not subject to tax. Any dividend received from such a company is tax-exempt.

控股公司制度 Holding company regime

投资控股公司 (IHC) 是指以持有投资为主且其毛收入 (不包括来源于投资营业的毛收入) 的 80%或以上均来自其投资的公司。一般而言, 控股公司所发生的费用只有相关毛收入引起的直接费用和符合税法中规定的“可扣除费用”定义的费用方可在税前扣除。

An investment holding company (IHC) is a company whose activities consist mainly of the holding of investments and that derives no less than 80% of its gross income (other than gross income from a source consisting of a business of holding of an investment) from such investments. Generally, only direct expenses attributable to the respective gross income and expenses falling within the definition of “permitted expenses” in the tax legislation qualify for a tax deduction in respect of an IHC.

扣除 Deductions

公司营运费用必须是完全及专门用于取得所得的用途才可扣除, 其中所得包括利息、支付特许权使用费和某些税收。但是, 在计算纳税人的应纳税所得额时, 与单层股息收入相关的费用不能扣除。

Deductions are allowed for any revenue expenditure incurred wholly and exclusively in the production of income, including interest, royalty payments and certain taxes. However, deductions in relation to single-tier dividend income shall be disregarded for the purpose of ascertaining chargeable income of the taxable person.

非贸易目的借款利息费用扣除是有限制的。同样, 对经批准组织的捐赠支出, 在总所得额10%的范围内可以扣除, 雇主给雇员缴纳的公积金, 在工资总额19%的范围内可以扣除。

Interest expense deductions are restricted when borrowings are used for nontrade purposes. Similarly, deductions are restricted to 10% of aggregate income for donations to approved organisations and 19% of deductible remuneration for the employer’s contribution to the Employees Provident Fund.

开办费、资本支出以及发行、注册、注销、清算支出是不可扣除的, 除非是《1967年所得税法》或部门规章中另有规定, 例如企业注册成立的费用、营运前招聘和培训费用、商标和专利注册费等。

No deduction is allowed for preliminary or pre-operating costs, capital expenditure or costs of flotation, registration, winding up or liquidation of a company, unless specifically permitted by the Income Tax Act 1967 or Ministerial Orders – such as the deductions for incorporation expenses, pre-commencement recruitment and training expenses and expenses for registration of trademarks and patents.

资本减免(税务折旧) Capital Allowance (Tax Depreciation)

政府制定了多类资产的资本减免率（税务折旧率），并对一些资产采用优惠的折旧率以鼓励对这些资产的买卖与使用。对于机械和设备每年资本减免额有三个类别。办公设备、家具和配件可以在8年内按每年10%计算折旧。一般机械和设备可以在6年内按每年14%计算折旧。重型机械和机动车辆则是在4年内按每年20%计算折旧。2018年财政预算案提议特定类别机械和设备（例如·电脑·包括电脑软件系统）可以自2017课税年起适用20%特别年度折旧率（定制软件为自2018课税年起）。不超过1,300马币的低价值资产可以一年内全额计提折旧，针对非中小型企业，每年不得超过13,000马币。

The government sets depreciation rates for various assets, with favourable rates for some items to promote their sale or use. There are three general classes of annual capital allowances for plant and machinery. Office equipment, furniture and fittings are subject to an annual depreciation allowance of 10% over eight years. The depreciation rate for general plant and machinery is set at 14% over six years. For heavy machinery and motor vehicles, the rate is 20% over four years. The Budget 2018 proposes that certain types of plant and machinery such as computers including computer software packages are given special annual allowance rate of 20% from YA 2017 onwards (note: for customised computer software from YA 2018 onwards). Small value assets with a cost not exceeding MYR1,300 each are fully depreciated within a year, subject to a maximum amount of MYR13,000 per year for non-SMEs.

根据标准折旧率，对于建造或购买的工业建筑（主要是指工厂和仓库，不含办公建筑），其第一年折旧率为13%，随后每年按直线法折旧3%。工业建筑定义也包括码头、防波堤、酒店、机场或赛车场，同样的适用于研究、研究所、学校或其他教育机构、私人医院、高级护理中心和员工生活宿舍建筑等。依据工业建筑的用途，每年折旧率可达到10%。

Under the standard rates, industrial buildings (principally factories and warehouses, but not office buildings) are depreciated at 13% in the first year and 3% annually thereafter on a straight-line basis, regardless of whether constructed or purchased. The definition of “industrial building” also applies to a dock, jetty, wharf, hotel, airport or motor racing circuit, as well as buildings used for research, schools or other educational institutions, private hospitals, senior care centres and living accommodations for employees, etc. Depending on the usage of the industrial building, the annual allowances may be at a higher rate of 10%.

马来西亚制造业或农业居民公司，在符合条件的项目中添购的机械、设备和发生的工厂建筑的资本支出，可以享有60%的再投资减免。该项优惠同样适用于新兴工业地位公司，但该公司必须取消已获得的新兴工业地位或收回已获得的投资税收减免。

A reinvestment allowance (RA) of 60% is granted to resident manufacturing or agricultural companies that incur capital expenditure on qualifying plant, machinery and factory buildings for qualifying projects. This incentive is granted to pioneer companies as well, subject to the forfeiture of their pioneer status or grant of investment tax allowance.

除部门规章另有规定之外，专利权、商标、版权、商誉或租赁（采矿租约除外）都无折旧/摊销。

There is no provision for depreciating patents, trademarks, copyrights, goodwill or leases (except mining leases) unless specifically permitted by the Ministerial Orders.

亏损 Losses

亏损可无限期向以后年度结转进行抵扣（休眠公司的所有权发生重大变更的情况除外）。结转的亏损可以弥补各类经营所得。亏损不可向以前年度进行追溯调整。

Losses may be carried forward indefinitely except where there is a substantial change in the ownership of a dormant company. The carried forward losses may offset income from all business sources. The carryback of losses is not permitted.

3.4 资本利得税 Capital gains taxation

在马来西亚，除了与土地和楼房相关的不动产外，处置投资或资本资产的资本利得是不征税的。

Malaysia does not tax capital gains from the sale of investments or capital assets other than those related to land and buildings.

不动产利得税适用于在马来西亚出售土地和任何产权、选择权或其他与土地相关的权利。它包括出售不动产公司股份的利得，“不动产公司”是指拥有不动产项目的受控公司或拥有其他不动产公司的股权，其定义为不少于公司有形资产总值的75%（不超过50个成员，且被不超过5人所控制的公司）。

A real property gains tax (RPGT) applies to the sale of land in Malaysia and any interest, option or other right in or over such land. This includes gains from the sale of shares in a “real property company,” i.e., a controlled company (one with no more than 50 members and controlled by no more than five persons) whose holdings of real property or shares in a real property company amount to 75% or more of its total tangible assets.

若在购置后3年内出售，其利得税税率为30%；若在购置后第4以及第5年出售，其税率分别为20%和15%；若在购置后第6年或之后出售，其税率为5%。

The rate is 30% for such disposals of real property made within three years of the date of acquisition. The rates are 20% and 15% for disposals in the fourth and fifth years after acquisition, respectively, and 5% for disposals in the sixth year after acquisition and thereafter.

出售不动产所引起的资本亏损可以用来抵销此类出售的资本利得。与马来西亚居民公司按照被批准的重组计划进行资产转让相似，出售强制取得的不动产的也可以免税。

Capital losses arising from the sale of real property may be used to offset against capital gains from such sales. Gains resulting from the disposal of property compulsorily acquired are exempt from the tax, as are asset transfers by resident companies under an approved restructuring scheme.

3.5 双重税收减免 Double taxation relief

马来西亚仅对来源于马来西亚境内的所得征税，来源于境外的所得在马来西亚不征税（但从事银行、保险、空运或航运业公司除外）。

Since Malaysia taxes only income that accrues in or is derived from the country, foreign income derived by a resident is not taxed in Malaysia (except for banking, insurance, and air and sea transport operations).

单边减免 Unilateral relief

境外税款可以用来抵减同一笔利润的马来西亚税款（在无税收协定的情况下，只能按境外税款的50%进行抵扣），但是抵销不得超过该项外国收入在马来西亚应当缴纳的税额。

Foreign tax paid may be credited against Malaysian tax on the same profits (limited to 50% of foreign tax in the absence of a tax treaty), but the credit is limited to the amount of Malaysian tax payable on the foreign income.

税收协定 Tax treaties

马来西亚有广泛的税收协定网络，其税收协定通常遵循经合组织协定范本。新签订的税收协定包含了经合组织遵循的信息交换规定（根据马来西亚主管当局作出的政策决定，即使双边协定没有相当于2014年经合组织税收协定范本第26条第（5）款的规定，也允许交换银行信息）。一些标准的要求，例如纳税居民、受益所有权等均适用。协定通常为所有类型的收入减免双重征税，限制一个国家对另一个国家居民公司的征税，并保护一个国家的居民公司免受另一个国家的歧视性税收。

税收协定的减免申请可以由纳税人通过所得税申报表形式提出，也可以在相关减免对应的课税年度结束后两年内提出书面申请。

Malaysia has a broad tax treaty network, with the treaties generally following the OECD model treaty. New treaties contain OECD-compliant exchange of information provisions (and based on a policy decision made by the Malaysian competent authority, the exchange of bank information is allowed even if the bilateral agreement does not have the provision equivalent to article 26(5) of the 2014 OECD model tax convention). Standard requirements, such as those relating to tax residence, beneficial ownership, etc. apply. Treaties generally provide for relief from double taxation on all types of income, limit the taxation by one country of companies resident in the other and protect companies resident in one country from discriminatory taxation in the other.

A claim for tax treaty relief can be made in a taxpayer's income tax return form, or a written request can be made for treaty relief within two years from the end of the relevant year of assessment for which the claim for relief is made.

马来西亚税收协定网络

Malaysia Tax Treaty Network

阿尔巴尼亚	法国	卢森堡	圣马力诺
Albania	France	Luxembourg	San Marino
澳大利亚	德国	马尔他	沙特阿拉伯
Australia	Germany	Malta	Saudi Arabia
奥地利	香港	毛里求斯	塞舌尔
Austria	Hong Kong	Mauritius	Seychelles
巴林岛	匈牙利	蒙古	新加坡
Bahrain	Hungary	Mongolia	Singapore
孟加拉国	印度	摩洛哥	南非
Bangladesh	India	Morocco	South Africa
比利时	印度尼西亚	缅甸	西班牙
Belgium	Indonesia	Myanmar	Spain
波斯尼亚&黑塞克维亚	伊朗	纳米比亚	泰国
Bosnia & Herzegovina	Iran	Namibia	Thailand
汶莱	爱尔兰	荷兰	土耳其
Brunei	Ireland	Netherlands	Turkey
加拿大	意大利	新西兰	土库曼斯坦
Canada	Italy	New Zealand	Turkmenistan
智利	日本	挪威	阿拉伯联合酋长国
Chile	Japan	Norway	United Arab Emirates
中国	约旦	巴基斯坦	联合王国(英国)
China	Jordan	Pakistan	United Kingdom
克罗地亚	哈萨克斯坦	巴布亚新几内亚	乌兹别克斯坦
Croatia	Kazakhstan	Papua New Guinea	Uzbekistan
捷克共和国	韩国	菲律宾	委内瑞拉
Czech Republic	Korea (ROK)	Philippines	Venezuela
丹麦	科威特	波兰	越南
Denmark	Kuwait	Poland	Vietnam
埃及	吉尔吉斯斯坦	卡塔尔	津巴布韦
Egypt	Kyrgyzstan	Qatar	Zimbabwe
斐济	老挝	罗马尼亚	斯洛伐克
Fiji	Laos	Romania	Slovak Republic
芬兰	黎巴嫩	俄罗斯	
Finland	Lebanon	Russia	

3.6 反避税规则 Anti-avoidance rules

转让定价 Transfer pricing

IRB在其转让定价指南中介绍了判断关联交易是否符合普通商业交易测试的5种方法：可比非受控价格法、再销售价格法、成本加成法、交易净利润法和利润分割法。对于向关联方提供或销售不动产/服务的交易，如果不符合公平交易原则，IRB有权进行调整。未能证明对价公允的交易可能会引起额外税款和罚款。此外，对于跨境交易可以签订预约定价协议。

Malaysia has transfer pricing guidelines where the IRB has introduced five testing methods to determine whether a related party transaction is made on ordinary commercial terms: the comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split methods. Any transaction for the supply or purchase of properties/services with an associated person that is not at an arm's length price can be adjusted by the IRB. Failure to demonstrate arm's length consideration also may result in additional taxes and penalties. However, an advance pricing agreement is available for cross-border transactions.

与马来西亚境内或境外关联公司之间的交易，包括购销、贷款、其他费用及收入等都必须要在年度所得税申报表中披露。纳税人也必须在年度所得税申报表上申报表明他们是否就此期间准备好转移定价报告。虽然没有法定的提交截止日期，但申报的相关文件需要在年度所得税申报期限前准备好。这些相关文件需要具备时效性，同时需符合IRB的要求。根据业务性质的不同，预约定价协议可能适用3到5年的时间。

Transactions with related companies within or outside of Malaysia must be disclosed on the annual income tax return, including purchases, loans, other expenses and other income. Taxpayers must also declare on the annual income tax return whether they have prepared a transfer pricing report for the period for which the return is made. Documentation should be prepared by the annual tax return filing due date although there is no statutory deadline to submit. Documentation should be contemporaneous and should be made available to the IRB upon request. Advance pricing agreements are possible for a period of three to five years, depending on the nature of the business.

国别报告 Country-by-country reporting

根据经合组织税基侵蚀及利润转移第13项行动计划关于跨国企业准备转让定价文件的建议，马来西亚已经为从2017年1月1日或之后开始的财政年度编制和提交国别报告 (CbC) 制定了规则和指南，第一份报告需要在2018年12月31日前提交。由2017年1月17日起，由于未能提交CbC报告或提交错误的申报表、信息表或报告，或不遵守部长为执行或促进多边征管互助安排而制定的规则的，将被处以不少于2万马币，不超过10万马币罚款或不超过6个月的监禁或两者兼施。“2017年所得税（修订）法案”将上述处罚和违法行为扩大以涵盖实施或促进双边税收协定和信息交换安排的措施。

In line with the OECD BEPS action 13 recommendations on transfer pricing documentation to be prepared by multinational enterprises, Malaysia has introduced rules and guidelines on the preparation and submission of country-by-country (CbC) reports for financial years beginning on or after 1 January 2017, with the first submissions being due by 31 December 2018. With effect from 17 January 2017, a penalty of not less than MYR20,000 and not more than MYR100,000 or imprisonment for a term not exceeding six months or both, for failure to furnish a CbC report or for filing incorrect return, information return / report or failure to comply with the Rules made by the Minister to implement or facilitate the operation of a mutual administrative assistance arrangement. The Income Tax (Amendment) Act 2017 extends the abovementioned penalties and offences to include implementing or facilitating the operation of a double taxation arrangement and information exchange arrangement.

资本弱化 (由收益剥离规则取代) Thin capitalisation to be replaced by Earning Stripping Rules

根据2017年10月27日公布的2018年财政预算案及2017年12月29日刊发的2017年(第2号)财政法令,自2019年1月1日起,马来西亚将实施收益剥离规则(ESR)以取代已纳入“所得税法”,但由于其适用曾被推迟到2018年1月1日而尚未生效的资本弱化规则。收益剥离规则将符合经合组织关于BEPS第4项行动计划的建议,以限制因关联公司之间贷款的过度利息扣除而导致的避税效果。根据规定,同一集团内公司之间的贷款利息扣除将根据特定的比率进行限制,该比率尚未公布。而从2018年1月1日起,资本弱化规则正式被废除。

According to the Budget 2018 announced on 27 October 2017 followed by the gazette of the Finance (No. 2) Act 2017 on 29 December 2017, Earnings Stripping Rules (ESR) would be introduced as from 1 January 2019, to replace the thin capitalisation rules that have been incorporated in the Income Tax Act but that have not yet entered into force because their application previously had been deferred until 1 January 2018. The ESR would be in line with the OECD recommendations under BEPS Action 4 to address tax leakages due to excessive interest deductions on loans between related companies. Under the rules, interest deductions on loans between companies in the same group would be limited based on a ratio that is yet to be determined. The provision for thin capitalisation rules is abolished as from 1 January 2018.

受控外国公司 Controlled foreign companies

马来西亚没有受控外国公司规则。

Malaysia does not have CFC rules.

一般反避税规则 **General anti-avoidance rule**

马来西亚拥有一般反避税规则，可以否定主要目的是为了获得赋税优惠而进行的税务规划。马来西亚同时也有一些具体反避税规则。

Malaysia has a general anti-avoidance rule that allows tax schemes being entered into with a primary or dominant purpose of obtaining a tax benefit to be disregarded. There are also several specific anti-avoidance rules.

3.7 税收管理 **Administration**

纳税年度 **Tax year**

公司的纳税年度（即评税年度）是其财政年度。

The tax year (i.e. the year of assessment) for a company is its fiscal year.

申报和支付 **Filing and payment**

企业必须依据预计的应纳税额每月分期缴纳。分期缴纳的税款需要在每月15号之前缴纳。如有迟缴或不足分期缴税额会有10%的罚款。如果应缴税额超过预缴税额的30%，低估的税额部分也会有10%的罚款。从2016课税年起，所有公司必须提交表格E。从2018课税年起，必须以电子媒介或电子传输方式递交表格E，暂估应缴税（CP204）或修订暂估应缴税（CP204A）申报表。

企业必须在会计期间结束后的7个月内按规定的格式通过电子传输方式向IRB提交纳税申报表。申报表旨在报告实际应纳税额，因此减去已经分期缴纳的税款之后可能存在应补交税款（应于申报截止日期之前缴纳）或者应退税款。对于IRB在其评税程序中要求补交的税款，公司应当在收到通知后30日内缴清。

未遵循税法相关要求的行为将受到相应处罚。

Companies must pay tax in monthly instalments based on estimates of tax payable. Instalments must be paid on or before the 15th day of each month. Late or insufficient instalments may incur a 10% penalty. Underestimation of tax payable would also result in a 10% penalty if the actual tax payable exceeds the estimate by more than 30%. A company shall furnish its Form E with effect from YA 2016 and estimate (CP 204) or revised tax estimate (CP 204A) with effect from YA 2018 by way of an electronic medium or electronic transmission.

Companies are required to electronically submit a return on the prescribed form to the IRB within seven months from the end of their accounting period. The form is used to report actual tax liabilities, which may result in a balance of tax payable (which must be settled by the filing deadline) or a refund from the tax instalments paid. Any additional assessment raised by the IRB must be settled within 30 days from the day the notice is served.

Penalties apply for failure to comply with the tax law.

合并申报 **Consolidated returns**

目前无关于合并申报的规定。但根据集团内抵扣制度，居民公司可以转移当年亏损的70%至一个或者多个关联公司。集团内抵扣必须符合以下条件：

- 在相关课税年度，集团公司在基础开始阶段（即转移和接收公司）的实收资本超过250万马币；
- 在要求抵减所属期间内及其之后的12个月内，集团公司之间的关联关系必须持续存在；
- 集团公司应纳税所得适用的税率是一致的；
- 集团公司有同样的会计年度结束时点。

享有新兴工业地位/先锋地位、投资税收减免、再投资减免或航运利润豁免的公司不具有团体抵扣的资格。

There is no provision for consolidated returns but, under a group relief system, resident companies may surrender up to 70% of current year adjusted losses to one or more related companies. Amongst others, the following requirements must be met to qualify for group relief:

- The group companies (i.e., surrendering and claimant companies) have a paid-up capital of more than MYR2.5 million at the beginning of the basis period for the relevant year of assessment;
- The group companies are related in the period in which the claim for group relief is made, as well as in the 12-month period immediately preceding that period;
- The chargeable income of the group of companies is subject to tax at the same rate; and
- The group companies have the same accounting year end.

Companies enjoying pioneer status, an investment tax allowance, a reinvestment allowance or an exemption of shipping profits are not eligible for group relief.

时效 Statute of limitations

一般来说，评税和补充评税应当在纳税年度终了后的五年内完成（如果评税与转让定价相关会延长至七年）。如果税务局认为交易定价不符合公平交易原则，则可以继续延长两年，即应当在七年内完成。然而，如果纳税人存在欺诈或故意违约或疏忽的情况，可以在任何时间进行评税。此外，对追征欠缴税款没有时效限制。

The general statute of limitations for an assessment or additional assessment is five years (extend to seven years if the assessment is in connection with transfer pricing) from the end of the relevant year of assessment. If the IRB is of the view that a transaction is not at arms-length price, the statute of limitation is extended by another two years to seven years. However, if there is fraud, wilful default or negligence on the part of the taxpayer, an assessment can be made at any time. There is no statute of limitations for the collection of unpaid tax.

税务机构 Tax authorities

内陆税收局(IRB)的责任是管理直接税收。皇家关税局管理海关税，国内货物税及消费税。

The IRB is responsible for the administration of direct taxes. The Royal Customs Department administers customs and excise duties and goods and services tax.

裁定 Rulings

针对特定交易的税务处理，纳税人可以要求取得事先裁定。税务机关也会发布公开裁定。

Taxpayers may request an advance ruling on the tax treatment of a specific transaction. Public rulings also are issued.

4.0 预扣税

Withholding taxes

4.1 股息 Dividends

在马来西亚，支付股息给非居民不会被征收预扣税。

Malaysia does not impose withholding tax on dividends paid to non-residents.

4.2 利息 Interest

支付利息给非马来西亚居民需扣缴15%的预扣税，除非这一税率在所适用的税收协定中被免除或降低。马来西亚银行向非居民支付的利息是免税的，但马来西亚中央银行规定保持网络资金所获取的利息除外。

1967年所得税法规定“经批准贷款”的利息免税。“经批准贷款”包括由非居民向政府、地方机关、法定机构或个人提供的由政府担保的贷款。

Interest paid to a non-resident is subject to withholding tax of 15%, which may be waived or reduced under an applicable tax treaty. However, interest paid to a non-resident by banks operating in Malaysia is exempt from tax, except for interest paid on funds required to maintain networking funds as prescribed by the Central Bank of Malaysia.

Interest on “approved loans”, as specified in the Income Tax Act 1967, is exempt from tax. Approved loans include those made by a non-resident to the government, local authority, statutory body or a person guaranteed by the government.

4.3 特许权与技术服务费 Royalties and technical service fees

支付特许权使用费和技术服务费给非马来西亚居民需扣缴10%的预扣税，除非这一税率在所适用的税收协定中被免除或降低。

自2017年1月17日起，所得税法下特许权使用费的定义将软件或其他项目的使用或使用权付款（例如与卫星、电缆、光纤、射频频谱等技术有关的项目）包括在内。这一措施减少了对特许权使用费预扣税的歧义，特别是澄清了与软件有关的付款将被视为特许权使用费，上述特许权使用费将按10%的现行税率缴纳预扣税（除非所适用的税收协定提供了较低的预扣税率）。

Royalties and technical service fees paid to non-residents are subject to a 10% withholding tax, which may be waived or reduced under an applicable tax treaty.

With effect from 17 January 2017, the definition of royalties under the income tax act include payments for the use of, or the right to use, software, among other items (e.g., items relating to technologies such as satellite, cable, fiber optics and the radiofrequency spectrum). This measure reduces the ambiguity regarding the application of withholding tax on royalties, particularly by clarifying that payments in relation to software would be treated as royalties, which would be subject to withholding tax at the prevailing rate of 10% (unless a lower rate is provided under an applicable tax treaty).

4.4 分支机构汇出税 Branch remittance tax

马来西亚不征收分支机构汇出税。

Malaysia does not levy a branch remittance tax.

4.5 薪酬税/社会保障金 Wage tax/social security contributions

依据所得税扣缴规定(PAYE)，雇主就雇员取得的薪酬所得为税务机关代扣代缴薪酬所得税。雇主和雇员都需出资缴纳社保给社会保障机构(SOCSO)。一般而言，雇主缴纳雇员薪酬的1.75%；雇员缴纳自己薪酬的0.5%。雇主和雇员也需分别按雇员薪酬的12%/13%和11%缴纳公积金(EPF)。从2016年3月到2017年12月，所需的员工EPF份额缴存率暂时降至8%。然而，员工可选择在此期间继续以11%的比例缴存。

Tax on employment income is withheld by the employer under a pay-as-you-earn (PAYE) scheme and remitted to the tax authorities.

Both the employer and the employee are required to make contributions to the Social Security Organisation. The employer generally contributes 1.75% of an employee's remuneration while the employee contributes 0.5% of his/her monthly wages. The employer and the employee also contribute to the Employees Provident Fund (EPF) at a rate of 12%/13% and 11% of the employee's remuneration, respectively. The required EPF contribution rate for employees is temporarily reduced to 8% from March 2016 through December 2017; however, employees may opt to continue contributing at the 11% rate during this period.

4.6 其他预扣税 Other withholding taxes

向非居民支付动产租金或在马来西亚境内提供技术或安装服务的服务费，需要扣缴10%的预扣税，除非在所适用的税收协定中被免税或降低。对于非居民取得的技术或安装服务收入，只有在收入归因于在马来西亚境内提供的服务时才需要在马来西亚缴纳预扣税。

1967年所得税法第4(f)条款规定的利得将被征收10%的预扣税。此类所得不包括营业所得、薪酬、股息、利息、贴现、租金、专利费、红利、津贴、年金或其他定期缴付。一般而言，这是针对非居民所取得的“一次性”收入，例如，佣金或担保费。

A 10% withholding tax applies to income received by nonresidents from the rental of movable property or from technical or installation services rendered in Malaysia, which may be waived or reduced under an applicable tax treaty. Income received by nonresidents from technical or installation services currently is subject to withholding tax in Malaysia only if the income is attributable to services that are carried out in Malaysia.

A 10% withholding tax is also imposed on gains or profits falling under section 4(f) of the Income Tax Act 1967 – income that is not from a business, employment, dividend, interest, discount, rent, royalty, premium, pension, annuity or other periodical payments. Generally, it refers to “one-off” income received by the non-resident, such as commission or guarantee fees.

5.0 间接税

Indirect taxes

5.1 消费税 Goods and services tax

2015年4月1日起，马来西亚消费税（GST）开始实施，税率为6%。消费税代替了之前的销售与服务税。

With effect from 1 April 2015, Malaysia has implemented Goods and Services Tax (“GST”) at the rate of 6%.

消费税适用于在马来西亚境内的应税货物及服务供应。消费税也适用于进口货物和部分进口服务。

GST will be imposed on the supply of taxable goods and services in Malaysia. GST will also be imposed on imported goods and some imported services.

货物与服务的供应可以为应税或非应税。应税供应适用标准税率或零税率。非应税供应适用免税待遇或者不在应税范围内。

Supplies of goods and services can be either taxable or non-taxable supplies. A taxable supply is either standard-rated or zero-rated. Non-taxable supplies are either exempt or out-of-scope.

标准税率供应的货物和服务征收的消费税税率为6%。注册消费税的纳税人必须对其供应收取消费税，并且在应税供应活动中可以抵扣进项税。零税率供应是指供应货物和服务征收消费税税率为0%。即纳税人不收取任何消费税，但有权申报抵扣相关的进项税。零税率供应包括基本必需品，如大米、新鲜鱼、肉、鸡、食用油和新鲜蔬菜；国内使用水；国内使用首个300千瓦时的电力；出口商品。免税供应免于征收消费税。纳税人不收取消费税并且不可申报抵扣经营过程中相关的进项税。免税供应包括居民住宅、人寿保险、私人健康服务、私人教育服务、金融服务、农业和公共用地、公共交通和高速公路收费。不属于应税范围内的供应即不在消费税规定的范畴，包括非商业交易、从马来西亚境外出售商品到另一个马来西亚境外的地区以及某些政府提供的服务，例如医疗服务、教育和许可证发行。

Standard-rated supplies of goods and services are subject to GST at 6%. A taxable person who is registered under GST has to collect GST on the supply and is eligible to claim input tax credit on his business inputs in making taxable supplies. Zero-rated supplies are subject to GST at a rate of 0%. In this respect, businesses do not collect any GST but are entitled to claim credit on inputs used in the course of the business. Zero-rated supplies includes basic essential goods such as rice, fresh fish, meat, chicken, cooking oil and fresh vegetables; water for domestic use; the first 300kWh of electricity for domestic use; and exports of goods. Exempt supplies are not subject to GST. Businesses do not collect GST and are not entitled to claim credit on inputs used in the course of business. Exempt supplies include residential buildings, life insurance, private health services, private educational services, financial services, land for agricultural and public

use, public mass transportation and highway toll. Out-of-scope supplies do not fall within the charging provision of the GST Act. They include non-business transactions, sale of goods from a place outside Malaysia to another place outside Malaysia as well as certain services provided by the Government sector such as healthcare services, education and issuance of licences.

消费税应于应税期间结束后次月的最后一天前进行申报与缴付（如有）。应税期间包括一个月、三个月或由局长决定的其他时间段。

GST returns must be submitted and paid (if any) not later than the last day of the following month after the end of the taxable period. The taxable period is either one month, three months or such other period as determined by the Director General.

5.2 资本税 Capital tax

马来西亚无资本税。但注册一家当地公司的注册费为1,000马币，而外国公司注册一家分公司则需缴纳5,000马币到70,000马币的注册费。

No capital duty payable but a local company is subject to an incorporation fee of MYR1,000 and a foreign company is subject to an incorporation fee ranging from MYR5,000 to MYR70,000.

5.3 土地税和门牌税 Quit rent and assessment

在马来西亚，各州的土地税和门牌税的征收税率有所不同。

Individual states levy quit rent and assessment at varying rates.

5.4 转让税 Transfer tax

除了印花税之外，无其他交易税（可参考5.5章节）

None, except for stamp duty (see 5.5 below).

5.5 印花税 Stamp duty

财产转让需缴纳其转让价值1%至3%的印花税，股权转让书据适用0.3%的印花税。

Stamp duty is levied at rates between 1% and 3% of the value of property transfers, and 0.3% on share transaction documents.

5.6 关税和国内货物税 Customs and excise duties

对烟草、啤酒和白酒、机动车辆、扑克和麻将征收国内货物税。大部分征税货物的进口关税税率从5%至30%不等。机动车辆的进口关税依据气缸容量征收税率从5%到35%不等。

Excise duties are levied on tobacco, beer and liquor, motor vehicles, playing cards and mahjong tiles. As for import duty, the rates range from 5% to 30% for dutiable goods. Import duty on a motor vehicle will depend on the cylinder capacity, and ranges from 5% to 35%.

5.7 环境税 Environmental taxes

无

None

5.8 旅游税 Tourism tax

自2017年9月1日起，对于住宿于马来西亚任何住宿场所的外国游客（即所有非马来西亚公民游客或非马来西亚永久居民游客）每间房每晚固定收取10马币的旅游税，由住宿场所的运营者代为征收。该等住宿场所包括由所有者、业主或经理全部或部分持有并以租赁或其他形式向游客提供暂时停留或住宿服务的住宿设施，即任何建筑物，包括旅馆、旅店、旅舍、休息室和住宿房屋，不论其是否提供食物或饮料。

With effect from 1 September 2017, a tourism tax is levied at a fixed rate of RM10 per room per night applicable to foreign tourists (i.e., all non-Malaysian national tourists or non-Malaysian permanent resident guests) staying at any accommodation premises in Malaysia, which is collected by the operator of that accommodation premises, i.e., any building, including hotels, inns, boarding houses, rest houses and lodging houses, held out by the proprietor, owner or manager, either wholly or partly, as offering lodging or sleeping accommodation to tourists for hire or any other form of reward, whether or not food or drink is also offered.

5.8 其他税收 Other taxes

娱乐税会依据门票金额按25%的税率征收，不过许多表演是免娱乐税的。

其他税收包括公路税（依据车辆种类和燃料类型对车辆征收）和博彩税。

An entertainment duty of 25% of the admission price is charged, although many performances are exempt.

Other taxes include a road tax (levied on vehicles, based on the type of vehicle and the type of fuel used) and gaming taxes.

6.0 个人税收

Taxes on individuals

在马来西亚，个人主要适用个人所得税、不动产利得税、社会保障金、土地税和门牌税、印花税、消费税。

在马来西亚，联邦政府是唯一征收个人所得税的机构。

Individuals in Malaysia are subject to personal income tax, real property gains tax, social security contributions, quit rent and assessment, stamp duty and GST.

The federal government is the only authority that levies income tax on individuals in Malaysia.

马来西亚个人税收简介

Malaysia Quick Tax Facts for Individuals

所得税税率	0%-28%	项目6.2
Income tax rates		Item 6.2
资本利得税税率	0%-30% (不动产或不动产公司股份); 0% (其他不动产) - 适用于公民/永久居民	项目6.2
Capital gains tax rates	0%-30% (real property or shares in a real property company); 0% (other property) for citizens/permanent residents 5%/30% (不动产或不动产公司股份) - 适用于非公民/非永久居民 5%/30% (real property or shares in a real property company) for non-citizens and non-permanent residents	Item 6.2
征税原则	属地征税	
Basis	Territorial	
双重税收减免	有	项目6.2
Double taxation relief	Yes	Item 6.2
纳税年度	日历年	
Tax year	Calendar year	
申报日期	次年日历年4月30日/6月30日	
Return due date	30 April/30 June of following calendar year	

马来西亚个人税收简介

Malaysia Quick Tax Facts for Individuals

预扣税 Withholding tax

– 股息 Dividends	0%	项目4.0
– 利息 Interest	0%/15%	Item 4.0
– 特许权使用费 Royalties	10%	
– 技术服务或安装/运营服务费 Fees for technical or installation/operation services	10%	
– 动产租金 Rental of movable properties	10%	
– 公众艺人 Public entertainer	15%	
净财产税 Net wealth tax	无 No	
社会保障金 Social security	缴纳社会保障金：雇主1.75%；雇员0.5% 缴纳公积金：雇主12%/13%；雇员11% 1.75% (employer) and 0.5% (employee) for social security; 11% (employee) and 12%/13 (employer) for Employees Provident Fund	项目6.6 Item 6.6
继承/赠予税 Inheritance/gift tax	5% and 30% (不动产 real property) 非马来西亚公民 for non-citizens	项目6.3 Item 6.3
土地税和门牌税 Quit rent and assessment	税率存在地区差异 Varies	
印花税 Stamp duty	在股份转让方面税率：0.3% 在财产转让方面税率：1%-3% 0.3% (share transaction documents); 1%-3% (property transfers)	项目5.5 Item 5.5
消费税 Goods and services tax	2015年4月1日起开始征收，税率为6% 6% from 1 April 2015	项目5.1 Item 5.1

6.1 纳税居民 Tax residence

在一个日历年中在马来西亚停留182天或以上的个人将被视为马来西亚纳税居民。或者，在连续停留至少182天或以上的日历年度的相邻年度中在马来西亚停留，如果被认为与停留182天或以上的年度相关，即使只停留1天，在相邻年度亦可被视为马来西亚纳税居民。其他纳税居民条件包括在马来西亚至少停留90天（如果满足其他条件），或在该年前或后停留指定年数。如个人没有满足成为马来西亚纳税居民的条件，个人所得将以固定税率纳税，同时也不能享受个人税收减免或退税。

Individuals are considered tax residents if they are in Malaysia for 182 days or more in a calendar year. Residence also may be established by physical presence in Malaysia for a mere day if it can be linked to a period of residence of at least 182 consecutive days in an adjoining year. Other residence tests involve a minimum of 90 days of physical presence in Malaysia (if certain other conditions are satisfied) or residence for a specified number of years preceding or following the year in question.

Individuals who do not meet the residence qualifications described above are taxed at a flat rate and are not eligible for personal tax reliefs or tax rebates.

6.2 应纳税所得和税率 Taxable income and rates

一般而言，所得税将从薪酬中扣除，随后，在纳税年度结束后的次年进行汇算清缴。

Generally, income taxes are withheld from salaries and are subsequently settled upon the filing of income tax returns after the close of the tax year.

应纳税收入 Taxable income

个人居民在马来西亚取得的收入依照正常税率征收个人所得税，可以享受多种扣减和个人减免。除非收入是与马来西亚就业有关，否则从境外取得的收入是免税的。

Resident individuals are taxed on Malaysia-source income at normal personal rates. They are entitled to various deductions and personal reliefs. Foreign-source income is exempt.

所得/收入包括贸易、业务或专业服务中获得的收益、薪酬（包括雇主承担的任何消费税销项税）、实物利益、住宿福利、股息、利息或贴现，以及租金。从银行或金融机构或某些联邦和州政府债券中得到的利息收入是免税的。在单层税收制度下，股息是不被征税的。纳税人必须披露雇主提供的津贴，例如房屋或教学津贴。

Income includes gains or profits from any trade, business or profession; salary or wages (including any GST output tax borne by the employer); benefits-in-kind; value of living accommodation; dividends, interest or discounts; and rent from property. An exemption is allowed for interest income from banking and financial institutions and certain federal and state government bonds. Single-tier dividends also are exempted. Taxpayers must report employer-provided allowances such as those provided for housing or education.

为了简化和减轻以往纳税计算制度下的征管负担，马来西亚从2008年开始实行单层税制。在这种单层税制下，对公司应纳税所得征收的所得税是最终税，因此股东取得股息收入是免税的。

To simplify and ease the administrative burden under the previous tax imputation system, a single-tier tax system was introduced with effect from YA 2008. Under this single-tier tax system, income tax imposed on a company's chargeable income is a final tax and dividends distributed are exempted from tax in the hands of the shareholders.

资本利得在马来西亚是不被征税的，但是出售不动产或不动产公司股权转让的收益会被征收不动产利得税（RPGT）。在出售任何种类的不动产时，个人可以申请享有10,000马币或应纳税所得10%的标准豁免，以较高者为准。公民和永久居民可获一次出售私人住宅的税收豁免。居民和非居民都可享有上述的豁免。

Capital gains are not taxed in Malaysia, except for gains derived from the disposal of real property or on the sale of shares in a real property company, which are subject to real property gains tax (RPGT). Individuals may claim a standard exemption of MYR10,000 or 10% of the chargeable gain, whichever is higher, on each sale of any type of real property. Citizens and permanent residents also are entitled to a full exemption on one sale of a private residence. These exemptions apply to both residents and non-residents.

特别的外国税收制度 **Special expatriate tax regime**

在马来西亚就业的外籍人士必须在IRB注册成为纳税人，且在马来西亚境内取得的所得均应纳税。如外籍人士在一个日历年度内在马来西亚就业时间（非停留时间）不超过60天，且该人不是马来西亚的纳税居民，则取得的受雇所得无需在马来西亚缴税。此项优惠不适用于个人在马来西亚两个连续的基础时期中的同期停留天数总共超过60天，或连续同期与另一个或多个同期总共停留超过60天。然而，外籍人士的收入也有可能根据适用的税收协定享受免税。

Foreign employees in Malaysia must register as taxpayers with the IRB and are subject to normal taxation if they derive income from Malaysia. An expatriate's employment income is exempt from income tax where the duration of employment (not the period of residence) does not exceed 60 days in a calendar year and the employee does not qualify as a tax resident. The exception will not apply where such individual is in Malaysia for a continuous period exceeding 60 days which overlaps over two successive basis periods or where the continuous overlapping period together with another period or periods exceed 60 days. An exemption also may be granted under a tax treaty, where applicable.

在纳闽或依斯干达开发区，对受雇从事符合条件的活动的外籍就业人士有特别税收优惠。从事伊斯兰金融和参与马来西亚技术合作计划的外国专家可获得免税。

Special tax concessions are available for foreign nationals employed in qualifying activities in Labuan or in the Iskandar Development Region. An exemption is granted to foreign experts in Islamic finance and those participating in the Malaysian Technical Cooperation Programme.

在获批准的营运总部、国际采购中心、区域分销中心或区域办事处工作的外籍人士，可按他们在马来西亚工作的天数计算应纳税所得。

Expatriates working in an approved operational headquarters, international procurement centre, regional distribution centre or regional office are taxed only on the portion of their chargeable income attributable to the number of days that they are in the country.

扣除和减免 Deductions and reliefs

员工只可以就完全用在履行受雇义务上的花费获得减免。

Employees may deduct only those expenses wholly incurred in performing employment duties.

个人税务减免包括（其中部分自2017课税年生效）：9,000马币的个人减免（如是残疾为15,000马币）；如选择夫妻联合估税，针对配偶是4,000马币（如是残疾为7,500马币）；未满18岁的未婚子女每个孩子减免2,000马币（起如是残疾为6,000马币）或18岁或以上正在受教育的子女（海外求学本科或以上、本地求学专科或以上学历的每个孩子子女减免为8,000马币（如是残疾总减免为14,000马币）；人寿保险及公积金（最高减免6,000马币）；教育及医药保费（最高减免3,000马币）；私人养老金和年金计划保费（最高减免3,000马币）；父母医药费（最高减免5,000马币）；个人、配偶和子女顽疾医药费（最高减免6,000马币）；对残疾的个人、配偶、子女或父母购买辅助器具（最高减免6,000马币）；获批准的技术、职业或研究生教育费用（最高减免7,000马币）；购买体育器材、书籍、个人电脑、宽带互联网订阅或健身机构会员费用（最高减免2,500马币）；此外，在职妇女在子女直到2岁前购买哺乳的设备可以每两年减免1,000马币；社会保险机构的缴纳份额（最高减免250马币）；每名年收入不超过24,000马币的父母每人1,500马币，须符合一定条件；纳税人在子女6岁前登记在儿童中心或社会福利部或教育部注册的幼儿园，可获得1,000马币的减免；2018年财政预算案提议针对2018、2019、2020课税年符合条件的马来西亚纳税居民所取得的租金收入给予50%税务豁免（每间住宅每月租金不超过2,000马币）。以及针对职业休息后重新投入工作的女性的职业收入最多连续12个月的豁免（截至2017年10月27日至少已有2年的职业休息期）。

Personal tax reliefs include the following (some with effect from YA 2017): MYR9,000 for the taxpayer (MYR15,000 if disabled); MYR4,000 for a spouse (MYR7,500 if disabled) if joint assessment is elected; MYR2,000 for each unmarried child below the age of 18 (MYR6,000 if disabled) or MYR8,000 for each child above 18 studying at the diploma level or above in Malaysia or studying at degree level or above overseas (total relief of MYR14,000 if disabled); life insurance premiums and provident fund contributions (up to MYR6,000); medical and education insurance premiums (up to MYR3,000); premiums for deferred annuities and contributions to private retirement schemes (up to MYR3,000); medical expenses of parents (up to MYR5,000); medical expenses where the taxpayer, spouse or child contracts a serious disease (up to MYR6,000); purchases of supporting equipment for a disabled taxpayer, spouse, child or parent (up to MYR6,000); approved technical or vocational or any postgraduate education fees (up to MYR7,000); purchases of sports equipment, books or personal computer or subscription of broadband internet or gym membership fee (up to MYR2,500); purchase of breastfeeding equipment by working women with child aged up to 2 years (up to MYR 1,000); contributions to social security (up to MYR250); and MYR1,500 for each parent whose annual income does not exceed MYR24,000, subject to certain conditions. Additional tax relief of MYR1,000 is available for the enrolment of children aged up to 6 years in registered child care centres or kindergartens. The Budget 2018 proposes exemptions of 50% on rental income received for YAs 2018, 2019 and 2020 (monthly rental not exceeding MYR2,000 for each residential home) and of employment income for up to 12 consecutive months for women returning to work after a career break (at least 2 years of career break on 27 October 2017).

如符合相关条件，房屋贷款利息连续三年可减免10,000马币。经批准的捐款是可以税收扣除的，上限为总收入的7%。伊斯兰宗教费可以从应纳税额中减免。

Relief also is granted for interest on housing loans up to MYR10,000 for three consecutive years, provided certain conditions are met. A deduction is available for approved donations, restricted to 7% of aggregate income. Islamic religious dues may be deducted from the tax payable.

妻子的收入单独于其丈夫的收入进行评估。在单独评估时可以抵扣以上个人减免。在单人/单独纳税评估中，个人或已婚夫妻的应纳税收入（净个人减免）低于35,000马币可享受400马币税收抵免/退还；在合并纳税评估中，可享受800马币税收抵免/退还。

A wife's income is assessed separately from that of her husband. She may then claim the above personal reliefs under separate assessment. Single or married couples with taxable income (net of personal reliefs) of less than MYR35,000 are entitled to tax credits/rebates of MYR400 under single/separate assessment and MYR800 under combined assessment.

税率 Rates

马来西亚纳税居民在一个滑动区间缴税，比如最开始5,000马币以内的税率为0%，而超过100万马币部分的税率为28%。非马来西亚纳税居民，在马来西亚取得的收入，固定税率为28%。对于不动产利得税，若在其购置后3年内出售，其收益税率为30%；若在其购置后的第4年或第5年出售，其税率分别为20%和15%；若在其购置5年后出售其税率为0。对于非马来西亚公民和非永久居民，若其购置的房地产在5年内出售，税率为30%；购置第6年及以后出售，税率为5%。

Residents are taxed on a sliding scale from 0% on the first MYR5,000 to 28% for income exceeding MYR1,000,000. Nonresidents are taxed at a flat rate of 28% on Malaysia-source income only.

The RPGT rate is 30% for disposals of real property made within three years of the date of acquisition. The rates are 20% and 15% for disposals in the fourth and fifth years after acquisition, respectively, and an exemption applies for disposals after five years. For non-citizens and non-permanent residents, the RPGT rates are 30% for disposals within five years and 5% for disposals in the sixth year and thereafter.

6.3 继承和赠予税 Inheritance and gift tax

马来西亚政府不征收继承与赠与税。

Malaysia does not levy inheritance or gift tax.

6.4 净财产税 Net wealth tax

马来西亚不征收净财产税。

Malaysia does not levy a net wealth tax.

6.5 不动产收益税 Real property gains tax

关于不动产利得税，请参考上述6.2章节。

See 6.2 above for the real property gains tax.

6.6 社会保障金 Social security contributions

雇主和雇员需分别按雇员薪酬的12%/13%和11%缴纳公积金（EPF）。从2016年3月到2017年12月，所需的员工EPF份额缴存率暂时降至8%。然而，员工可选择在此期间继续以11%的比例缴存。雇主和雇员也需缴纳社保金给社会保险机构（SCOSO），一般而言，雇主缴纳雇员薪酬的1.75%，雇员缴纳自己薪酬的0.5%。

Both the employee and the employer are required to make contributions to the EPF at a rate of 11% and 12%/13% of remuneration, respectively. The required EPF contribution rate for employees is temporarily reduced to 8% from March 2016 through December 2017; however, employees may opt to continue contributing at the 11% rate during this period. The employer and employee also contribute to social security: the employer generally contributes 1.75% of an employee's remuneration, and the employee contributes 0.5% of his/her monthly wages.

6.7 其他税收 Other taxes

无

None

6.8 合规 Compliance

个人纳税年度是日历年度。

依据所得税扣缴规定 (PAYE)，雇员受雇所得的税金由雇主代扣代缴。马来西亚采用的是自我评估制度。个人必须在次年的4月30日或6月30日分别对其受雇所得或经营所得完成申报并结清余额。

共同居住的已婚夫妻可以选择共同或单独申报纳税。

如行为不符合税法规定会受到处罚。

The tax year for individuals is the calendar year.

Tax on employment income is withheld by the employer under a pay-as-you-earn (PAYE) scheme and remitted to the tax authorities. Malaysia imposes a self-assessment regime. An individual deriving employment income or business income must file a tax return and settle any balance owed by 30 April or 30 June, respectively, in the following calendar year.

A married couple living together may opt to file a joint or separate assessment.

Penalties apply for failure to comply with the tax law.

7.0 工作环境

Labour environment

7.1 员工权利和酬劳 Employee rights and remuneration

马来西亚主要的劳动法包括1955年就业法令、1959年工会法令、1967年工业关系法令、1969年员工社会保障法令和1991年员工公积金法令。

Malaysia's main labour laws include the Employment Act 1955, the Trade Unions Act 1959, the Industrial Relations Act 1967, the Employees' Social Security Act 1969 and the Employees Provident Fund Act 1991.

工作时间 Working hours

通常工作时间被限制在每周48小时或工作6天，每天工作8个小时。工业和办公室员工一般每周工作44个小时。每月最多加班104个小时。所有穆斯林可以在周五下午参加祷告（中午12点到下午2:45之间）。

在工作日期间加班需补偿1.5倍的普通时薪。非工作日（例如，周日）期间加班是普通薪资比率的2倍；公共假日期间加班是普通薪资比率的3倍。

Normal working hours are limited to 48 hours or six days per week, at eight hours per day. A 44-hour working week is common for industrial and office employees. The maximum allowable overtime is 104 hours per month. A generally observed convention requires that all Muslim men be allowed to attend prayers on Friday afternoons (between noon and 2:45 p.m.).

Overtime on working days is compensated at a minimum of one-and-a-half times the regular hourly rate. On non-regular working days, such as Sundays, overtime is paid at twice the regular rate; public holidays require an overtime rate of three times the regular wage.

7.2 薪资和福利 Wages and benefits

马来西亚实行最低工资制度并已将最低工资调整为，西马所有员工为马币1,000；沙巴、沙撈越和纳閩则为马币920。薪资发放必须不得晚于次月的第7个工作日。

Malaysia has implemented a minimum wage policy that raised the basic wages of all employees to a minimum of MYR1,000 in Peninsular Malaysia and MYR920 in Sabah, Sarawak and Labuan respectively. Wages earned must be paid no later than the seventh day after month-end.

养老金 Pensions

1991年公积金(EPF)法提出强制给年满55岁的员工支付全额退休金。所有雇主和员工必须承担此类基金；员工需至少每月缴纳基本工资的11%。雇主必须承担每个员工个人EPF另外的12%/13%。此金额可在计算雇主的公司所得税时享有税收抵扣。此雇主减免可延伸至最高员工月薪的19%，但必须存入EPF或其他政府批准的储蓄计划。所有外籍员工和他们的雇主无需强制性缴纳；或者，外籍员工可选择承担月薪的11%，雇主每月每个外籍员工承担5马币。除了EPF外，雇主可对自行批准的养老金计划进行税收抵扣。

The Employees Provident Fund (EPF) Act 1991 provides for a compulsory contributory retirement fund that is payable to employees in full when they reach age 55. All employers and employees must contribute to the fund; the minimum mandatory employee's contribution is 11% of basic monthly pay. An employer must contribute another 12%/13% to each employee's personal EPF holding, which is tax deductible in determining the employer's corporate income tax. The relief provided to employers may be extended to contributions of up to 19% of an employee's monthly pay that is placed into an EPF or another government-approved savings scheme. All foreign workers/expatriates and their employers are exempt from compulsory contributions; alternatively, expatriates may elect to make contributions at 11% of their monthly wages, with employers providing MYR5 per expatriate per month. Employers can seek tax deductions for contributions to their own approved pension schemes, in addition to the EPF.

社会保障 Social insurance

社会保障组织负责管理所有员工的工伤计划和残疾计划。然而，此缴纳份额限制在月收入马币4,000的某个百分比内。一般情况下，依据工伤和残疾计划，雇主需支付员工月薪的1.75%，同时雇员支付月薪的0.5%。

The Social Security Organization (SOCSO) administers both the Employment Injury Scheme and the Invalidity Scheme for all workers. However, the contribution is capped at a percentage of earnings of MYR4,000 per month. Generally, employers contribute 1.75% of an employee's wages while employees contribute 0.5% of their respective monthly wages under the Employment Injury and Invalidity Schemes.

其他福利 Other benefits

各个州属和行业的假期和年假规定不同。然而，在全国范围内带薪假期强制为11天。

月薪不超过马币2,000并从事工作在2年以下的员工享有每年8天带薪假；从事工作2年到5年的员工享有每年12天带薪假；超过5年的员工享有每年16天带薪假。实际上，大多数员工每年拥有14天带薪年假，行政管理人员预计有3周的年假。

以上从事工作少于2年的员工每年有14天的病假；2年到5年的员工是18天；5年以上的员工是22天。如需住院，带薪病假会增加至每年60天。大多数公司提供免费医疗服务。女性员工保证享有60天带薪产假(高达5个小孩)，在员工普通工资和每天6马币中取其高者支付。(2018年财政预算案中建议增加到90天带薪产假)。

在马来西亚奖金可以是自由或固定的。一般上，员工的年度奖金是1至3个月的薪资。

Holiday and annual leave provisions vary widely among the states and industries. However, 11 paid holidays are mandatory nationwide.

An employee whose wages do not exceed MYR2,000 per month and with fewer than two years of service is entitled to eight days paid annual leave each year. An employee with service of two to five years is entitled to 12 days paid annual leave, and those employed for more than five years are entitled to 16 days. In practice, most employees receive around 14 days of paid annual leave per year, and executives expect three weeks of annual holiday.

The above employee is entitled to 14 days of annual sick leave if employed for less than two years, 18 days for two to five years and 22 days after five years. If hospitalisation is necessary, paid medical leave is extended to a total of 60 days per year. Most companies provide free medical facilities. Female employees are guaranteed 60 days of paid maternity leave (for up to five surviving children) at the greater of the employee's normal rate of pay or MYR6 per day. (It was proposed in Budget 2018 that it will be increased to 90 days paid maternity leave).

Bonus payments can be discretionary or fixed in Malaysia. Generally, employees receive an annual bonus equivalent to one to three months of salary.

7.3 终止雇佣 Termination of employment

员工合约必须包含一条款说明任何一方终止雇佣关系的流程。通常，解除雇佣关系需提前一个月通知或赔偿一个月薪资，除非协议中规定更长的时间。提前通知期可能会长达6个月，或有一次性解约费的规定。如果支付的赔偿金价值等同于所牵涉薪资的总额，任何一方都无需提前通知即可终止合约。

如合约中没有说明通知期限，法律规定从事工作少于2年的员工必须提前4周通知；工作2到5年需提前6周通知；工作超过5年需提前8周通知。

在1980年就业（终止和裁员）规定中，从事工作2年以下的员工享有至少10天薪资的裁员津贴；工作2到5年有15天薪资；工作超过5年有20天的薪资。

Employment contracts must include a clause stating the procedures for termination by either party. Normally, one month's notice of dismissal or one month's salary must be given, unless a longer period is stipulated in the agreement. The notice period may sometimes be as long as six months, or there may be provisions for lump-sum severance payments. Either party may end a contract without notice if an indemnity is paid equal to the amount of wages involved.

Where notice is not provided for in the agreement, the law stipulates that four weeks' notice must be given for employment of less than two years of service; six weeks for two to five years of service; and eight weeks for service exceeding five years.

Under the Employment (Termination and Lay-off Benefits) Regulations 1980, employees are entitled to a redundancy benefit of at least 10 days' wages for each year of service under two years, 15 days' wages per year for two or more but less than five years of service, and 20 days' wages per year for five years of service or more.

7.4 劳资关系 Labour-management relations

根据人力资源部截至2017年9月的统计数据，全国超过1,454万工人中仅有大约6%是加入工会的。工会必须在工会事务部门注册。总的来说，劳资关系是融洽而非对立的。

Based on statistics by the Ministry of Human Resources as of September 2017, only about 6.0% of the country's over 14.54 million workers are unionised. Trade unions must be registered with the Trade Union Affairs Department. Labour relations are generally harmonious and non-confrontational.

7.5 雇佣外籍员工 **Employment of foreigners**

企业是被鼓励雇佣所有阶级的马来人和当地民族的。政府要求所有外国投资公司为他们马来西亚员工建立培训项目以逐渐代替外籍员工(那些关键职位员工除外)·特别在管理层和白领职位。作为某些优惠·公司可被要求提交本土化议程。然而·由于劳动力的短缺·政府在这些政策上也很灵活。

It is encouraged that firms employ *Bumiputras* at all levels proportional to the local ethnic composition. The government also requires all foreign investment firms to set up training programs for their Malaysian staff and plan for the gradual replacement of expatriates (except those holding key posts) by Malaysians, particularly in managerial and white-collar positions. As part of the application for certain incentives, firms may be required to present a localisation schedule. A labour shortage, however, has compelled the government to be more flexible in applying these policies.

政府使得公司聘请有技能的外国人较容易。当地没有专业人士时可自动批准授予聘请高技能工人。如果马来西亚人里找不到需求的资历和经验·外籍员工可以填补此行政职务。外籍人士可担任该职位最长10年。在外籍人士到来1年内·为马来西亚填补该职位的培训项目必须开始。

The government has made it easier for companies to hire skilled foreigners. Automatic approval is granted to recruit highly skilled workers where no local expertise is available. Expatriates may fill executive posts if no Malaysians can be found with the necessary qualifications and experience. The expatriate may hold the post for up to 10 years. Within one year of the expatriate's arrival, a training program must begin for a Malaysian to fill the position.

外国人的职位审批通常是MIDA处理。多媒体发展公司批准来自自由多媒体超级走廊资质的公司申请和公共服务局批准申请政府医院、诊所和公共高等教育机构。其他授权批准银行、金融、保险和证券行业的机构为中央银行和证券委员会。

Approval for expatriate posts usually is handled by MIDA. The Multimedia Development Corporation approves applications from companies with Multimedia Super Corridor status, and the Public Service Department approves applications from government hospitals and clinics and public higher education institutions. Other approving authorities are the Central Bank and the Securities Commission for the banking, finance, insurance and securities industries.

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