

International Tax Malaysia Highlights 2021

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Recent developments

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Investment basics

Currency: Malaysian Ringgit (MYR)

Foreign exchange control: Malaysia maintains a system of exchange controls that is subject to foreign exchange administration rules issued by its central bank. The repatriation of capital, profits, dividends, royalties, rents, and commissions is freely permitted.

Accounting principles/financial statements: MFRS is mandatory for nonprivate entities for annual periods beginning on or after 1 January 2018.

Malaysian Private Entities Reporting Standards (MPERS) are mandatory for private entities for annual periods beginning on or after 1 January 2018, except for private entities that opt to adopt MFRS in its entirety.

Principal business entities: These are the public and private limited company, business trust, limited liability partnership, partnership, sole proprietorship, and branch of a foreign corporation.

Corporate taxation

Rates

Corporate income tax rate	24% (in general)
Branch tax rate	24% (in general)
Capital gains tax rate	0%/10%/15%/20%/30%

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

Basis: Corporations are taxed on income derived from Malaysia. Foreign-source income is exempt unless the resident corporation is carrying on a business in the banking, insurance, air transport, or shipping sectors.

Branches generally are taxed in the same way as subsidiaries. As branches of foreign corporations in Malaysia generally are treated as nonresidents unless it can be established that their management and control are exercised in Malaysia, tax on their income from payments under a project contract for work rendered in Malaysia may be withheld by the payer at

a rate of 10% (on account of the tax payable by the nonresident contractor) plus 3% (on account of the tax payable by the nonresident contractor's employees), which is creditable against the income tax payable. Nonresidents also generally are not eligible for investment incentives and exemptions.

Taxable income: Taxable income comprises all earnings derived from Malaysia, including gains or profits from a business, dividends, interest, rents, royalties, premiums, or other earnings.

Rate: The standard corporate tax rate is 24%, while the rate for resident small and medium-sized companies (i.e., companies incorporated in Malaysia with paid-up capital of MYR 2.5 million or less, that are not part of a group containing a company exceeding this capitalization threshold, and that have gross income from business sources of no more than MYR 50 million for the year of assessment (YA)) is 17% on the first MYR 600,000, with the balance being taxed at the 24% rate.

Surtax: There is no surtax.

Alternative minimum tax: A Labuan company carrying on a Labuan business activity that is a Labuan trading activity is taxed at 3% of the audited accounting profit, provided it fulfills the substance requirements specified in the relevant legislation. Otherwise, the standard corporate tax rate of 24% will apply.

Taxation of dividends: All corporations in Malaysia are required to adopt the single-tier system (STS). Dividends paid by companies under the STS are not taxable.

Capital gains: 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. For a company incorporated in Malaysia, the rate is 30% for such disposals of property made within three years after the date of acquisition. The rates are 20% and 15% for disposals in the fourth and fifth years after acquisition, respectively, and 10% for disposals in the sixth year after acquisition and thereafter. For a company incorporated outside Malaysia, the rate is 30% for disposals made within five years and 10% for disposals in the sixth year and thereafter.

Losses: Losses may be carried forward for seven consecutive YAs (except where there is a substantial change in corporate ownership of a dormant company). The carryback of losses is not permitted.

Foreign tax relief: 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.

Participation exemption: There is no participation exemption, but foreign-source income is not taxable and domestic dividends are tax-exempt.

Holding company regime: 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 expenses falling within the definition of "permitted expenses" in the tax legislation qualify for a tax deduction in respect of an IHC.

Incentives: A wide range of incentives are available for certain industries, such as manufacturing, hotels, healthcare services, information technology services, biotechnology, Islamic finance, venture capital, tourism, energy conservation, and environmental protection. Incentives include tax holidays of up to 10 years (pioneer status); investment tax allowances (i.e., a 60% to 100% allowance on capital investments made up to 10 years); accelerated capital allowances; double deductions; and reinvestment allowances (i.e., a 60% allowance on capital investments made in connection with qualifying projects). A new incentive has been introduced in the form of accelerated capital allowances and automation equipment allowances, 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.

Compliance for corporations

Tax year: The tax year is the fiscal year (generally the accounting year).

Consolidated returns: Consolidation is not permitted; each company is required to file a separate tax return. However, subject to certain conditions, 70% of a company’s adjusted loss may be used to offset profits of a related entity. The losses that may be surrendered generally are limited to those that relate to the first three YAs following a company’s first 12-month fiscal year of operations.

Filing and payment: Malaysia operates a self-assessment regime. Advance corporate tax (estimated tax) is payable in 12 monthly installments. A tax return must be filed within seven months of the company’s year end.

Penalties: Penalties apply for failure to comply with the tax law.

Rulings: Taxpayers may request an advance ruling on the tax treatment of a specific transaction. Public rulings also are issued by the authorities from time to time.

Individual taxation

Rates		
Individual income tax rate	Taxable income (of residents, in MYR)	Rate
	First 5,000	0%
	Next 15,000 (5,001–20,000)	1%
	Next 15,000 (20,001–35,000)	3%
	Next 15,000 (35,001–50,000)	8%
	Next 20,000 (50,001–70,000)	13%
	Next 30,000 (70,001–100,000)	21%
	Next 150,000 (100,001–250,000)	24%
	Next 150,000 (250,001–400,000)	24.5%
	Next 200,000 (400,001–600,000)	25%
	Next 400,000 (600,001–1 million)	26%
	Next 1,000,000 (1,000,001–2 million)	28%
	Over 2 million	30%
Capital gains tax rate (for citizens/permanent residents)		0%/5%/15%/20%/30%

Residence: Individuals are considered tax residents if they are present in Malaysia for 182 days or more in a calendar year. Alternatively, residence 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.

Basis: Individuals are taxed on income derived from Malaysia. Foreign-source income is exempt in Malaysia.

Taxable income: Taxable income comprises all earnings derived from Malaysia, including gains or profits from a business, employment, dividends, interest, rents, royalties, premiums, or other earnings. Employment income includes most employment benefits, whether in cash or in kind.

Rates: Income tax is imposed at progressive rates up to 30% for resident individuals. Individuals who do not meet the residence requirements are taxed at a flat rate of 30%.

Capital gains: 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. The rate is 30% for such disposals of property made within three years after the date of acquisition. The rates are 20% and 15% for disposals in the fourth and fifth years after acquisition, respectively, and a 5% rate applies for disposals after five years. For disposals by an individual who is not a citizen and not a permanent resident, the rates are 30% and 10% for disposals within and after five years after acquisition, respectively. In general, a citizen or a permanent resident may elect to claim an exemption for capital gains on the disposal of one residential property during a lifetime. However, gains arising from the disposal of residential property (up to three properties per citizen) by a Malaysian citizen during the period from 1 June 2020 to 31 December 2021 are exempt, subject to certain other conditions being fulfilled.

Deductions and allowances: Various allowances and personal deductions are available.

Foreign tax relief: Foreign tax paid may be credited against Malaysian tax on the same income (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.

Compliance for individuals

Tax year: The tax year is the calendar year.

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

Filing and payment: 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.

Penalties: Penalties apply for failure to comply with the tax law.

Rulings: Taxpayers may request an advance ruling on the tax treatment of a specific transaction. Public rulings also are issued by the authorities from time to time.

Withholding tax

Type of payment	Nonresidents*	
	Company	Individual
Dividends	0%	0%
Interest	0%/15%	0%/15%
Royalties	10%	10%
Fees for onshore services/use of moveable property	10%	10%

* Malaysia generally does not levy withholding tax on payments between residents. The rates listed for nonresidents are applicable in situations in which the nonresident's income is not attributable to a business carried on in Malaysia and may be reduced under a tax treaty, as noted below.

Dividends: Malaysia does not levy withholding tax on dividends.

Interest: A withholding tax of 15% generally applies to interest paid to a nonresident, unless the rate is reduced under a tax treaty. However, if the nonresident's interest income is attributable to a business carried on in Malaysia, see "Business income (PE or place of business)" under "Other," below.

Interest paid to a nonresident by a bank operating in Malaysia is exempt from tax, except for interest accruing to the nonresident's place of business in Malaysia and interest paid on funds required to maintain "net working funds," as prescribed by the central bank. Certain other interest paid to a nonresident also may be exempt.

Royalties: A withholding tax of 10% generally applies to royalties paid to a nonresident, unless the rate is reduced under a tax treaty. However, if the nonresident's royalty income is attributable to a business carried on in Malaysia, see "Business income (PE or place of business)" under "Other," below.

Fees for services: A 10% withholding tax generally applies to the rental of movable property and to service fees paid to a nonresident for services rendered onshore (with no distinction made between technical and non-technical services), unless the rate is reduced under a tax treaty. However, if the nonresident's income from advice, assistance, or services is attributable to a business carried on in Malaysia, see "Business income (PE or place of business)" under "Other," below.

Fees paid to a nonresident for services rendered offshore are not subject to withholding tax.

Branch remittance tax: There is no branch remittance tax.

Other

Business income (PE or place of business)

If a nonresident is deemed to have a permanent establishment (PE) in Malaysia (based on an applicable tax treaty), the nonresident will have to file a Malaysia income tax return (in which income will be taxed at the prevailing corporate tax rate of 24%), and service fee income that is attributable to the PE for onshore services will be subject to withholding tax at a total rate of 13% (i.e., 10% + 3%, as described above under "Basis" in the "Corporate taxation" section). Withholding tax on interest or royalty income does not apply if the interest or royalty is attributable to a PE or a place of business in Malaysia.

If PEs are not dealt with in an applicable tax treaty or in the absence of an applicable tax treaty, business income of a nonresident that is attributable to a place of business in Malaysia is deemed to be the nonresident's gross income derived from Malaysia from the business, irrespective of the duration of time that a project is carried on in Malaysia, and the nonresident will have to file a Malaysia income tax return (in which income will be taxed at the prevailing corporate tax rate of 24%). Service fee income that is attributable to the PE for onshore services will be subject to withholding tax at a total rate of 13% (i.e., 10% + 3%, as described above). Withholding tax on interest or royalty income does not apply if the interest or royalty is attributable to a PE or a place of business in Malaysia.

All taxes withheld are creditable against the income tax payable by the nonresident in its Malaysia income tax return.

Other gains or profits

A 10% withholding tax applies to certain one-time income paid to nonresidents, unless the rate is reduced under a tax treaty.

Anti-avoidance rules

Transfer pricing: Transfer pricing rules apply. Taxpayers can request an advance pricing agreement. Country-by-country (CbC) reporting has been introduced. A reporting entity (i.e., a Malaysian ultimate parent entity or surrogate parent entity of a multinational group with total consolidated group revenue of MYR 3 billion or more in the financial year preceding the reporting financial year) must file a CbC report for the entire financial year no later than 12 months from the close of the reporting entity's financial year.

Interest deduction limitations: Earnings stripping rules (ESRs) are applicable to the basis periods for YAs beginning on or after 1 July 2019. The ESRs are in line with the OECD recommendations under BEPS action 4 to address tax leakages due to excessive interest deductions on loans between related companies. Interest deductions on loans between companies in the same group (or between the company and a third party outside Malaysia whose financial assistance is guaranteed by a company in the same group) are limited based on 20% of the tax earnings before interest, tax, depreciation, and amortization (tax EBITDA).

Controlled foreign companies: There are no CFC rules.

Hybrids: There are no hybrid mismatch rules.

Economic substance requirements: Generally, for tax incentives to be granted, companies must meet a "substantial activity" requirement. To meet this requirement in the context of non-intellectual property regimes, a company must: (a) have an adequate number of full-time employees in Malaysia to carry out a qualifying activity; and (b) incur an adequate amount of annual operating expenditure to carry out a qualifying activity, or have an adequate investment in fixed assets in Malaysia to carry out the qualifying activity.

Disclosure requirements: 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.

Exit tax: There are no exit tax rules.

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

Sales tax and service tax

Rates

Standard rate	6% (service tax)/10% (sales tax)
Reduced rate	0%/5% (sales tax)

Taxable transactions: Malaysia levies sales tax and service tax on certain goods and services. Sales tax is charged on taxable goods manufactured in, or imported into, Malaysia (subject to exceptions). Service tax is imposed on prescribed taxable services including, among other things, digital services, domestic air passenger transport, telecommunication services, provision of accommodation, food and beverages, services in health and wellness centers and golf clubs, and certain professional services.

Imported taxable services acquired by a consumer in Malaysia from any person (vendor) outside Malaysia also are subject to service tax. Foreign providers of digital services that meet the registration threshold (MYR 500,000 per year of turnover from digital services provided to Malaysian consumers, including businesses and private consumers) generally

are required to register and collect service tax from the service recipients as from 1 January 2020. If the foreign digital service provider is not registered in Malaysia or does not account for the service tax, a Malaysian business receiving services is required to account for the service tax under a reverse-charge mechanism.

Rates: The standard sales tax rates are 10% or 5%, and the service tax rate is 6%. Goods that are exempt from sales tax generally include live animals, unprocessed food and vegetables, antibiotics, certain machinery, certain chemicals, and certain raw materials for the manufacture of goods.

Registration: The threshold for sales tax and service tax registration generally is MYR 500,000 per annum of taxable goods/taxable services, except for restaurants, where the threshold is MYR 1.5 million per annum of taxable services.

Filing and payment: Sales tax and service tax are to be paid to the authorities within one month after the end of a taxable period (which generally is two months). Where service tax on imported taxable services is to be paid to the authorities under the reverse-charge mechanism, it must be paid within one month after the month in which the Malaysian business recipient of the service (i) makes the payment to the overseas vendor, or (ii) receives the invoice from the overseas vendor, whichever is earlier.

Where there is a registered foreign digital service provider that is required to account for service tax, the service tax is to be paid to the customs authorities within one month after the end of a taxable period (which generally is three months).

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply to both companies and individuals.

Social security contributions: Both the employer and the employee are required to make contributions to the Social Security Organization (SOCSO). The employer generally contributes 1.75% for each employee registered with the SOCSO. 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. Both the employee and the employer contribute 0.2% of the employee's remuneration (capped at MYR 4,000 a month) to the Employment Insurance System (EIS).

Payroll tax: There is no specific payroll tax, but tax on employment income is withheld by the employer under a PAYE scheme and remitted to the tax authorities.

Capital duty: No capital duty is payable, but a local company is subject to an incorporation fee of MYR 1,000 and a foreign company is subject to an incorporation fee ranging from MYR 5,000 to MYR 70,000.

Real property tax: Individual states in Malaysia levy "quit" rent and assessments at varying rates.

Transfer tax: There is no transfer tax, except for stamp duty.

Stamp duty: Stamp duty is levied at rates between 1% and 4% of the value of property transfers, and at 0.3% on share transaction documents.

Net wealth/worth tax: There is no net wealth/net worth tax.

Inheritance/estate tax: There is no inheritance/estate tax.

Other: Equity requirements for companies have been substantially relaxed.

Tax treaties: Malaysia has concluded over 70 income tax treaties. Malaysia signed the OECD multilateral instrument (MLI) on 24 January 2018. For information on Malaysia's tax treaty network, visit [Deloitte International Tax Source](#).

Tax authorities: Inland Revenue Board of Malaysia; Royal Customs Department of Malaysia

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