



Tax Espresso

A snappy delight

Greetings from Deloitte Malaysia Tax Services

A. Exemption Orders

On 15 August 2017, the following Exemption Orders (the Orders) relating to Waste Eco Park (WEP) for Green Technology were published in the Federal Gazette:

1. P.U.(A) 235/2017 – Income Tax (Exemption) (No. 4) Order 2017;
2. P.U.(A) 236/2017 – Income Tax (Exemption) (No. 5) Order 2017;
3. P.U.(A) 237/2017 – Income Tax (Exemption) (No. 6) Order 2017; and
4. P.U.(A) 238/2017 – Income Tax (Exemption) (No. 7) Order 2017.

The Orders provide income tax exemptions for companies that carry out activities in relation to WEP, which is defined in the Orders as a place for waste recycling, recovery

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Takeaways:

Exemption Orders

P.U.(A) 235/2017 -
Income Tax
(Exemption) (No. 4)
Order 2017

P.U.(A) 236/2017 -
Income Tax
(Exemption) (No. 5)
Order 2017

P.U.(A) 237/2017 -
Income Tax
(Exemption) (No. 6)
Order 2017

P.U.(A) 238/2017 -
Income Tax
(Exemption) (No. 7)
Order 2017

and treatment activities with the following minimum elements:

- basic infrastructure such as roads, drainage system, utilities and sewerage;
- building and facility for waste receipt and separation;
- waste water treatment facility;
- building for waste recycling, recovery or treatment facility; and
- building for education and awareness centre.

The tax incentives are available for WEP Developers, WEP Managers, and WEP Operators (companies operating in the WEP).

Order No. 4 provides an income tax exemption equivalent to 100% of qualifying capital expenditure incurred by an *operator* within a period of 5 consecutive years, which can be offset against 70% of statutory income for each year of assessment.

Order No. 5 provides an income tax exemption of 100% of the statutory income of the *operator* derived from a qualifying activity for a period of 5 consecutive years.

An *operator* is defined as a company incorporated under the Companies Act 2016 and resident in Malaysia which undertakes at least one of the qualifying activities of waste treatment, waste recovery or waste recycling in the WEP.

Order No. 6 provides a tax exemption of 70% on statutory income for a *manager* carrying out activities to ensure effective and efficient coordination, implementation and operation of the WEP, including promoting and advertising, managing facilities and infrastructure, ensuring the supply of types and amount of the waste received is within the capacity of the WEP and managing segregation and separation of the waste for the feedstock of the *operators*.

A *manager* is defined as a company incorporated under the Companies

P.U.(A) 253/2017 –
Income Tax
(Exemption) (No. 8)
Order 2017

Rules

P.U.(A) 252/2017 –
Income Tax
(Accelerated Capital
Allowance)
(Automation
Equipment) Rules
2017

Important deadlines:

Due date for 2018
tax estimates for
companies with
October year-end
(1 October 2017)

6th month revision of
tax estimates for
companies with
March year-end
(30 September 2017)

9th month revision of
tax estimates for
companies with
December year-end
(30 September 2017)

Statutory filing of
2017 tax returns for
companies with
February year-end
(30 September 2017)

Act 2016 and resident in Malaysia which carries out the activities stated in Order No. 6.

Finally, Order No. 7 provides a tax exemption of 70% on statutory income from qualifying activities of a *developer* that is a company incorporated under the Companies Act 2016 and resident in Malaysia which has developed the WEP and invested a minimum of RM50 million in fixed assets other than land within 3 years from the date the first capital expenditure is made.

The qualifying activities are the rental of a building, waste receipt and separation facility and waste water treatment facility in the WEP.

For all the above-mentioned Orders, the tax exemption is subject to other specific conditions and is effective from the year of assessment 2016.

Applications for the above tax exemptions are to be made through the Malaysian Investment Development Authority (MIDA) on or after 1 January 2016 but not later than 31 December 2020.

B. MIDA Guidelines and Forms

MIDA has uploaded the Guidelines and Application Forms on tax incentives relating to WEP for green technology on its website.

Tax incentives relating to Automation Capital Allowance

On 30 August 2017, two Gazette Orders were published in the Federal Gazette to provide incentives to a qualifying company that has incurred qualifying capital expenditure relating to automation equipment used in Malaysia solely for the purpose of carrying on a qualifying project (i.e., a project undertaken by a qualifying company for modernising or automating its existing manufacturing activity of a product). The qualifying company must hold a business licence issued by the relevant local authority and have carried on the qualifying project for a period of at least 36 months.

P.U.(A) 252/2017 – Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017 allows for accelerated capital allowance on the qualifying capital expenditure, whereas the P.U.(A) 253/2017 – Income Tax (Exemption) (No. 8) Order

2017 allows for income tax exemption (in respect of statutory income exemption) equivalent to the amount of capital allowance determined under P.U.(A) 252/2017.

The application for capital allowance or income tax exemption must have been made by a qualifying company through the Malaysian Investment Development Authority (MIDA) within the timeframe given for each category of qualifying companies.

P.U. (A) 252/2017 (Rules 5 and 6) provides that the initial and annual allowance rates of 20% and 80% are entitled to be claimed, for a qualifying company under Category 1 on the first RM4 million qualifying capital expenditure incurred by the qualifying company, and for a qualifying company under Category 2 on the first RM2 million qualifying capital expenditure incurred. Rule 4 also provides for a deeming provision relating to hire purchase agreement.

P.U. (A) 253/2017 provides that a qualifying company is exempted in the basis period for a YA from the payment of income tax in respect of statutory income derived from a qualifying project equivalent to 100% of allowance as determined under Rules 5 and 6 of P.U. (A) 252/2017. The exempted statutory income should not exceed 70% for each YA. Rule 6 provides for a complete withdrawal of the exemption given if the automation equipment used for a qualifying project purpose is disposed of within five years from its acquisition date. Rule 7 provides the determination of qualifying capital expenditure for automation equipment disposed of to a related company.

Apart from the above, the accelerated capital allowance and income tax exemption incentives require that the automation equipment be certified by the Director General of the Standards and Industrial Research Institute of Malaysia as 'adopting a technology that is more advanced than the current technology used by the qualifying company', as stated in Rule 3(b) of the Gazette Orders. The definitions of 'automation equipment', 'qualifying capital expenditure', 'qualifying project' and 'qualifying company' can be found in Rule 2 of the Gazette Orders.

There are other qualifying criteria and conditions in the Gazette Orders that must be satisfied.

We invite you to explore other tax-related information at:
<http://www2.deloitte.com/my/en/services/tax.html>

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