



## Tax Espresso - Special Alert

### Malaysia Digital Tax Incentives – New Investment Incentive and Expansion Incentive

#### Introduction

Following the launch and rebranding of Multimedia Super Corridor (MSC) Malaysia to Malaysia Digital (MD), the MD Status allows eligible companies to be granted a set of incentives, rights, and privileges from the Government of Malaysia, namely the [MD Bill of Guarantees](#) (BoGs). The Malaysia Digital Economy Corporation (MDEC) has recently published two guidelines on the available MD status tax incentives, namely, the [MD New Investment Incentive](#) and [MD Expansion Incentive](#), respectively.

In our [previous article](#), we provided an overview of the MD status, its application guidelines and BoGs. This article summarises the follow-up guidelines on tax incentives offered under the BoGs that will be granted to eligible companies after being awarded the MD status.

MD Tax Incentive is an outcome-based approach that uses a tiered system in granting tax incentive, which is offered to eligible companies that undertake activity utilising any of the MD-promoted tech enablers. A qualifying activity is

defined as one or more activities that address opportunities or problems by utilising any of the following MD-promoted tech enablers:

- Artificial Intelligence (AI) and/or Big Data Analytics (BDA)
- Internet of Things (IoT)
- Cybersecurity
- Cloud
- Blockchain
- Drone Technology
- Creative Media Technology including Extended Reality (XR) and/or Mixed Reality (MR)
- Integrated Circuit (IC) Design with Embedded Software
- Robotics and/or Automation
- Advanced Network Connectivity and/or Telecommunication Technology

### **MD New Investment Incentive**

The MD New Investment Incentive is offered to eligible companies that propose to undertake the qualifying activity under the tax incentive scheme. The guidelines on MD New Investment Incentive laid out the eligible conditions to enjoy the tax incentive granted. An eligible company may choose to enjoy either a reduced tax rate or investment tax allowance (ITA) on income derived from qualifying activity.

#### **Key Points**

##### **1. Eligible company**

Companies that have been awarded MD Status starting 1 July 2022 and applications received by MDEC no later than 31 December 2027 are eligible to be considered for this tax incentive.

##### **2. Eligible criteria**

To be eligible to apply for the MD New Investment Incentive, the applicant must be a company which:

- (a) is incorporated or deemed to be registered under the Companies Act 2016 and is a resident in Malaysia;
- (b) has a minimum paid-up capital of RM50,000;
- (c) has made an application for the award of MD Status;
- (d) is proposing to undertake the qualifying activity in Malaysia;
- (e) has not issued any sales invoice for the qualifying activity in Malaysia prior to the date the tax incentive application is received, or has sixty per cent (60%) direct or indirect Malaysian equity ownership and has not issued any sales invoice for the tax incentive application is received; and
- (f) is not granted any tax incentive by the Government of Malaysia in relation to the qualifying activity.

##### **3. Scope of tax incentives**

An eligible company may choose to apply for either the reduced tax rate or ITA, which are mutually exclusive. Once the chosen tax incentive has been approved, the company will not be allowed to change from reduced tax rate to ITA, and vice versa.

| Reduced Tax Rate        | Non-Intellectual Property (Non-IP) Income | Intellectual Property (IP) Income |
|-------------------------|---|-----------------------------------|
| Tax rate                | 10% or 5%                                 | 0%                                |
| Year of assessment (YA) | 10 consecutive YAs                        |                                   |

Companies shall be entitled to enjoy the applicable tax rate for each YA based on compliance of conditions applicable for that tax rate. The reduced tax rate is to be granted under Section 65B of Income Tax Act 1967 (the Act) including any subsequent amendments.

| ITA        | Conditions complied within 3 years from principle approval date                      | Additional conditions complied by expiry of ITA period |
|------------|--|--|
| ITA rate   | 60% of qualifying capital expenditures (QCE), against up to 100% of statutory income | 100% of QCE, against up to 100% of statutory income    |
| ITA period | 5 consecutive years  |  |

If the application for ITA is to be considered, the company will be issued with a principle approval letter and be required to comply with applicable conditions. The company can only proceed to claim the applicable ITA rate upon issuance of the relevant approval letter. The ITA will be granted under Section 127(3)(b) of the Act.

#### 4. Outcome-based tax incentive conditions

| Reduced Tax Rate   | Non-IP Income   | IP Income |
|--------------------|---|-----------|
| General conditions | <ol style="list-style-type: none"> <li>1) Employs an adequate number of full-time employees (FTE) in Malaysia to carry on the qualifying activity throughout the YA.</li> <li>2) Ensures the FTE comprises of adequate number of knowledge workers with a minimum average monthly basic salary of RM5,000 throughout the YA.</li> <li>3) Incurs an adequate amount of annual operating expenditure in Malaysia to carry on the qualifying activity by the end of each YA.</li> <li>4) Undertakes the qualifying activity in Malaysia throughout the YA.</li> <li>5) Remains as an MD Status company and complies with all conditions under the MD Status at all times.</li> <li>6) Submits to MDEC annually a self-declaration form (SDF) on compliance of conditions within seven (7)</li> </ol> |           |

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|  | <p>months from the end of each YA; the information submitted in the SDF must also first be verified by an independent external auditor appointed by the company at its own costs.</p> <p>7) Any other conditions stated in the approval letter.</p> <p>8) Complies with <a href="#">modified nexus approach</a> (applicable to IP income only).</p>   |
| Additional conditions (Non-IP income only) | <p>9) Meets a minimum of three (3) conditions related to sustainable economic development such as relevant initiatives in education, social and environment at the end of each YA as stated in the approval letter.</p> <p>10) Any other conditions stated in the approval letter.</p>  |
| Details                                    | <p>For non-IP income, the company shall be entitled to enjoy a reduced tax rate of 10% subject to compliance of conditions (1) to (7). If the company complies with conditions (1) to (7) and additional conditions (9) and (10), the company shall be entitled to enjoy reduced tax rate of 5%.</p> <p>For IP income, the company shall be entitled to enjoy a reduced tax rate of 0% subject to compliance of conditions (1) to (8) and (10).</p> <p>The company shall be entitled to enjoy the applicable tax rate for each YA based on compliance of conditions applicable for that tax rate.</p> |

| ITA                                 | Tier 1 (ITA of 60% QCE)  | Tier 2 (ITA of 100% QCE) |
|-------------------------------------|--|--------------------------|
| General conditions                  | <p>1) Incurs an adequate amount of QCE.</p> <p>2) Employs an adequate number of FTE in Malaysia to carry on the qualifying activity.</p> <p>3) Undertakes the qualifying activity in Malaysia at all times.</p> <p>4) Remains as an MD Status company and complies with all the conditions under MD Status at all times.</p> <p>5) Any other conditions stated in the approval letter.</p> |                          |
| Additional conditions (Tier 2 only) | <p>6) Maintains compliance of conditions (1) to (5).</p> <p>7) Meets a minimum of three (3) conditions related to sustainable economic development, such as relevant initiatives in education, social, and environment, each in year 4 and year 5 of the ITA period as stated in the approval letter.</p>  |                          |
| Details                             | <p>If the tax incentive application is to be considered, the company will be issued with a principle approval letter and be required to comply with conditions (1) to (5) within 3 years from the principle approval date. Upon compliance of such conditions, the company will be</p>   |                          |

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|  | <p>granted the approval for 60% of QCE and commencement date of the ITA period.</p> <p>If the company complies with all conditions including additional conditions (6) and (7) by the expiry of the ITA period, the company will be granted the approval for 100% of QCE.</p> <p>The company can only proceed to claim the applicable ITA rate upon issuance of the relevant approval letter.</p> |
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## MD Expansion Incentive

### Key Points

#### 1. Eligible company

- MD/MSM Malaysia Status company that has completed initial incentive and proposes to undertake new activity.
- MSM Status company that has not been granted any incentive on their existing activity and proposes to undertake new activity.

#### 2. Eligible criteria

To be eligible to apply for the Expansion Incentive, the applicant must be a company which:

- is incorporated or deemed to be registered under the Companies Act 2016 and a resident in Malaysia;
- has a minimum paid-up capital of RM250,000;
- has been in operation for at least 36 months;
- is an MD or MSM Malaysia Status company;
- in the case where the company has been granted tax incentive for existing activity under the MD or MSM Malaysia Status financial incentive schemes, the company has met all conditions under the tax incentive or has surrendered the tax incentive;
- is proposing to undertake the qualifying activity in Malaysia;
- has not issued any sales invoice for the qualifying activity in Malaysia prior to the date the tax incentive application is received; and
- is not granted any tax incentive by the Government of Malaysia in relation to the qualifying activity.

#### 3. Scope of tax incentives

An eligible company may choose to apply for either the reduced tax rate or ITA, which are mutually exclusive. Once the chosen tax incentive has been approved, the company will not be allowed to change from reduced tax rate to ITA, and vice versa.

| Reduced tax rate | Non-IP Income           | IP Income |
|------------------|-------------------------|-----------|
| Tax rate         | 15% on statutory income |           |

|    |                   |
|----|-------------------|
| YA | 5 consecutive YAs |
|----|-------------------|

Companies shall be entitled to enjoy the applicable tax rate for each YA based on compliance of conditions applicable for that tax rate. The reduced tax rate is to be granted under Section 65B of the Act including any subsequent amendments.

| ITA        | Conditions complied within 3 years from principle approval date | Additional conditions complied by expiry of ITA period |
|------------|---|--|
| ITA rate   | 30% of QCE, against up to 100% of statutory income (*)          | 60% of QCE, against up to 100% of statutory income     |
| ITA period | 5 consecutive years   |  |

\* *The statutory income refers to statutory income of the approved qualifying activity which has been granted with ITA.*

If the application for ITA is to be considered, the company will be issued with a principle approval letter and be required to comply with applicable conditions. The company can only proceed to claim the applicable ITA rate upon issuance of the relevant approval letter. The ITA is to be granted under Section 127(3)(b) of the Act.

#### 4. Outcome-based tax incentive conditions

| Reduced Tax Rate   | Non-IP Income   | IP Income |
|--------------------|---|-----------|
| General conditions | <ol style="list-style-type: none"> <li>1) Maintains the number of existing FTE throughout the YA.</li> <li>2) Employs an adequate number of new FTE in Malaysia to carry on the Approved Qualifying Activity.</li> <li>3) Ensures the new FTE comprises of adequate number of knowledge workers with minimum average monthly basic salary of RM5,000 to carry on the Approved Qualifying Activity in Malaysia throughout the YA.</li> <li>4) Incurs an adequate amount of annual operating expenditure in Malaysia to carry on the Approved Qualifying Activity by the end of each YA.</li> <li>5) Meets a minimum of two (2) conditions related to sustainable economic development, such as relevant initiatives in education, social, and environment, at the end of each YA as stated in the approval letter.</li> <li>6) Undertakes the Approved Qualifying Activity in Malaysia throughout the YA.</li> <li>7) Remains as an MD or MSC Malaysia Status company and complies with all the conditions under the MD or MSC Malaysia Status, at all times.</li> </ol> |           |

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|  | <p>8) Submits to MDEC annually an SDF on the compliance of conditions within 7 months from the end of each YA, and the information submitted in the SDF must first be verified by an independent external auditor appointed by the company at its own costs.</p> <p>9) Any other conditions stated in the approval letter.</p> <p>10) Complies with <a href="#">modified nexus approach</a> (applicable to IP income only).</p> |
|--|---|

| ITA                                 | Tier 1 (ITA of 30% QCE)  | Tier 2 (ITA of 60% QCE) |
|-------------------------------------|--|-------------------------|
| General conditions                  | <p>1) Maintains the number of existing FTE at all times.</p> <p>2) Employs an adequate number of new FTE in Malaysia to carry on the Approved Qualifying Activity.</p> <p>3) Incurs an adequate amount of QCE.</p> <p>4) Undertakes the Approved Qualifying Activity in Malaysia at all times.</p> <p>5) Remains as an MD or MSC Malaysia Status company and complies with all the conditions under the MD or MSC Malaysia Status at all times.</p> <p>6) Any other conditions stated in the approval letter.</p>  |                         |
| Additional conditions (Tier 2 only) | <p>7) Maintains compliance of conditions (1) to (6).</p> <p>8) Meets a minimum of three (3) conditions related to sustainable economic development such as relevant initiatives in education, social and environment, each in year 4 and year 5 of the ITA period, as stated in the approval letter.</p>   |                         |
| Details                             | <p>If the tax incentive application is to be considered, the company will be issued with a principle approval letter and be required to comply with conditions (1) to (6) within 3 years from the principle approval date. Upon compliance of such conditions, the company will be granted the approval for 30% of QCE and commencement date of the ITA period.</p> <p>If the company complies with all conditions including additional conditions (7) and (8) by the expiry of the ITA period, the company will be granted the approval for 60% of QCE.</p> <p>The company can only proceed to claim the applicable ITA rate upon issuance of the relevant approval letter.</p> |                         |

Please refer to the [Guidelines on Malaysia Digital \(MD\) Tax Incentive \(New Investment Incentive\) dated 26 April 2024](#) and [Guidelines on Malaysia Digital \(MD\) Tax Incentive \(Expansion Incentive dated\) 26 April 2024](#) for full details.

**Get in touch**

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