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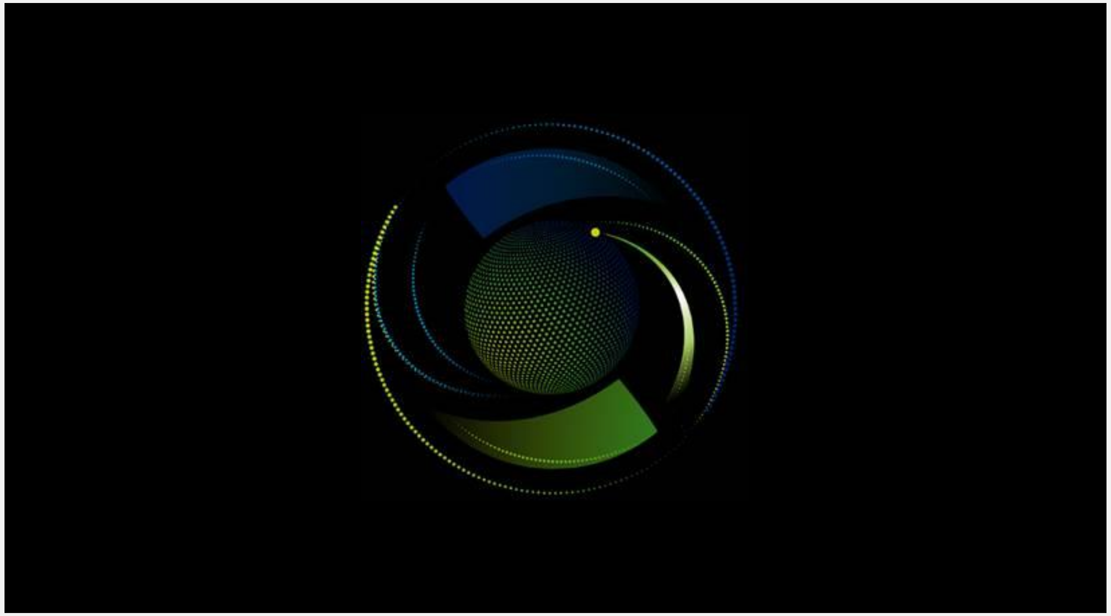
Malaysia | Tax | 16 January 2025



Tax Espresso – Special Alert

Guidelines and Procedures for the Application of Digital Ecosystem Acceleration (DESAC) scheme, and Guideline for Sustainable Development of Data Centre

Introduction

The Malaysian Government has recently published two guidelines for the sustainable development of data centres, namely the "Guidelines and Procedures for the Application of Digital Ecosystem Acceleration (DESAC) scheme" and the "Guideline for Sustainable Development of Data Centre".

As Malaysia continues to strengthen its position as a leading digital hub in Southeast Asia, the Government's introduction of the DESAC incentive scheme under Budget 2022 aims to attract digital infrastructure projects, such as data centres and cloud computing. With a strong emphasis on environmental responsibility, the sustainable development of data centres focuses on reducing energy consumption and carbon footprint, aligning with the country's goal of achieving net-zero emissions by year 2050.

Guidelines and Procedures for the Application of Digital Ecosystem Acceleration (DESAC) scheme

Qualifying activities

The DESAC scheme is provided for companies carrying on a qualifying activity as a Digital Infrastructure Provider. The qualifying activities are as follows:

1. Submarine cable including cable landing station; or
2. Data centre & cloud computing / data centre & data hosting.

Eligible applicants

New company

- Incorporated under the Companies Act 2016 (CA) and resident in Malaysia;
- Established for the purpose of carrying on a qualifying activity as digital infrastructure provider; and
- Does not have an existing entity or related entity in Malaysia; or which has an existing entity or related entity in Malaysia which has not carried on a same qualifying activity in Malaysia.

Existing company

- Incorporated under the CA and resident in Malaysia; and
- Approved for DESAC incentive and plans to undertake expansion project subject to period of tax incentive for expansion project is limited to the same effective period of existing tax incentive; or has related entity in Malaysia which has been approved with DESAC/MSC incentive.

Incentives for a new company

Incentives	Tier 1	Tier 2	Period
Investment Tax Allowance (ITA)	**ITA of 100%** on qualifying capital investment (excluding land) set off against up to **100% of statutory income**.	**ITA of 60%** on qualifying capital investment (excluding land) set off against up to **100% of statutory income**.	5 or 10 years
Special Tax Rate (STR)	**STR of 10%** on statutory income (excluding intellectual property income)	**STR of 15%** on statutory income (excluding intellectual property income)	5 or 10 years

Minimum conditions	**<u>First 5 years</u>** 1) Paid up-capital of at least RM2.5 million. 2) Capital expenditure (excluding land) incurred as proposed. 3) Number of full-time Malaysian employees with minimum monthly basic salary of RM5,000 where it represents at least 50% of total manpower. 4) Undertakes a minimum of 2 local vendor development programs. 5) Adoption of Industry 4.0 elements. 6) Adoption of minimum 1 green technology as proposed. *Note: Minimum conditions need to be complied not later than 36 months (ITA) / 24 months (STR) from the date of principle approval letter until the expiry of the first 5 years.* **<u>Second 5 years</u>** 1) Compliance with all minimum and additional condition imposed for the first 5 years. 2) Cumulative capital expenditure (excluding land) incurred of at least RM1 billion. 3) Undertakes a minimum of 2 local vendor development programs. 4) Substantial increase in number of full-time Malaysian employees with minimum monthly basic salary of RM5,000 where it represents at least 50% of total manpower.
Additional conditions	**<u>First 5 years</u>** Companies are subject to following outcomes (but not limited): 1) Annual operational expenditure including domestic ancillary services as proposed. 2) High-value jobs.

	3) Undertakes a minimum of 3 local vendor development programs. 4) Appoints a minimum of 1 local vendor. 5) Collaboration with universities and technical institutions. 6) Any other conditions related to the sustainable economy development such as education, social, accelerate Malaysian SMEs and as stated in the approval letter. **<u>Second 5 years</u>** Companies are subject to following outcomes with substantial increase from the first block (but not limited): 1) Annual operational expenditure including domestic ancillary services as proposed. 2) High-value jobs. 3) Undertakes minimum 3 local vendor development program. 4) Appoints a local vendor. 5) Collaboration with universities and technical institutions. 6) Any other conditions related to the sustainable economy development such as education, social, accelerate Malaysian SMEs, or relocate / establish management and control of regional / global services functions from Malaysia.

Incentives for existing company

<table>
<tr><th>Incentives</th><th>Tier 1</th><th>Tier 2</th><th>Period</th></tr>
<tr><td>Investment Tax Allowance (ITA)</td><td>ITA of 60% on qualifying capital investment (excluding land) set off against up to 70% of statutory income.</td><td>ITA of 30% on qualifying capital investment (excluding land) set off against up to 70% of statutory income.</td><td>5 years</td></tr>
<tr><td>Minimum conditions</td><td colspan="3">1) Paid up-capital of at least RM2.5 million.
2) Capital expenditure (excluding land) incurred as proposed.
3) Number of full-time Malaysian employees with minimum monthly basic salary of RM5,000 where it represents at least 50% of total manpower.
4) Undertakes minimum 2 local vendor development program.
5) Adoption of Industry 4.0 elements.
6) Adoption of minimum 1 green technology as proposed.

Note: Minimum conditions need to be complied not later than 36 months from the date of principle approval letter until the expiry of the first 5 years.</td></tr>
<tr><td>Additional conditions</td><td colspan="3">Companies are subject to following outcomes (but not limited):
1) Capital expenditure (excluding land) of at least RM300 million for a period of 5 years.
2) Annual operational expenditure5 including domestic ancillary services as proposed.
3) High-value jobs.</td></tr>
</table>

	4) Undertakes a minimum of 3 local vendor development programs. 5) Appoints a minimum of 1 local vendor. 6) Collaboration with universities and technical institutions. 7) Any other conditions related to the sustainable economy development such as education, social, accelerate Malaysian SMEs and as stated in the approval letter. 8) Companies within the same group undertaking the same qualifying activities as their parent companies / related companies will be imposed the following conditions: (i) The project shall be implemented in a building / location separate from other activities carried out by the holding company or related companies. (ii) The plant, machinery, equipment, and component used for this project shall be separated plant, machinery, equipment, and component and shall not be transferred from the holding company or related companies. (iii) All employees of the company shall be separated from the employees of the parent company or related companies except for the management staff and directors of the company. (iv) The establishment of this project will not result in a reduction in the investment of the parent company or related companies. *Note: All conditions (minimum and additional) need to be complied throughout the incentive period for the company to be eligible for Tier-1 tax incentive.*

Note: The compliance of minimum conditions will entitle the company to enjoy Tier 2 tax incentive. Whereas the compliance of both minimum and additional conditions will entitle the company to enjoy Tier 1 tax incentive.

Mechanisms of incentive application

The company must submit the incentive **application to MIDA before commencement of the proposed project** (first sales invoice issued by the company for the proposed project).

MIDA will issue a **principle approval letter** to the company on the tax incentive for the proposed project as approved by the National Committee on Investment (NCI). The principle approval letter will indicate tiering approach and outcome-based tax incentives with minimum and additional conditions imposed for each tier.

Applications received by MIDA from **1 January 2022 to 31 December 2027** are eligible to be considered for tax incentive under the DESAC scheme. Applications can be made online at https://investmalaysia.mida.gov.my.

Guideline for Sustainable Development of Data Centre

This guideline provides a comprehensive framework for the development and operation of sustainable data centres in Malaysia. It outlines best practices and regulatory standards to ensure that data centres are high-performing and environmentally friendly. The following measurements are to be used for achieving sustainable data centre status in Malaysia.

Applications received by MIDA for tax incentives under the DESAC scheme will be subject to conditions outlined in the guidelines for sustainable development of data centre.

Criteria	Definition	Measurement	Methodology
Power Usage Effectiveness (PUE)	Ratio of the data centre total energy consumption to information technology equipment energy consumption, calculated, measured, or assessed across the same period.	PUE limit based on different category of data centre (refer to **Appendix 1**).	The calculated design PUE value is based on international standard ISO/IEC 30134-2.
Carbon Usage Effectiveness (CUE)	Ratio of the data centre annual CO_2 emissions and IT equipment energy demand.	CO_2 emissions are calculated based on the source of energy and the quantity consumed. For grid electricity, the grid emissions factor is regional specific (refer to **Appendix 2**).	The calculated design CUE value is based on international standard ISO/IEC 30134-8.
Water Usage Effectiveness (WUE)	Ratio of the data centre water consumption divided by the energy consumed by IT equipment.	Recommended design WUE is 2.2 m3/MWh or lower. (refer to **Appendix 1**)	The calculated design WUE value according to international standard ISO/IEC 30134-9.

Please refer to the Guidelines and Procedures for the Application of Digital Ecosystem Acceleration (DESAC) scheme and Guideline for Sustainable Development of Data Centre.

Get in touch

Interested to find out more? Please speak to your usual Deloitte contact or any member of the Global Investment and Innovation Incentives (Gi3) Group listed below:

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<u>Appendix 1</u>

Category of DC	Power Supply	Power Capacity	Baseline PUE at Current IT Load	Proposed DESIGN PUE Target for High EE	Measurement Methodology for PUE	Proposed DESIGN WUE	Measurement Methodology For WUE	Measurement Frequency
Hyperscale (commercial single tenant & Service Provider Private)	High Voltage (132KV and above)	Above 21.25 MW	Baseline needs to be established	1.4 and below (to be validated once baseline is established)	The proposed PUE measurement will be based on ISO/IEC 30134-2:2016/Amd.1:2018	2.2 m3/MWh or lower	The proposed WUE measurement will be based on calculated WUE value according to international standard ISO/IEC 30134-9: 2022	Annualised average
Colocation (multi-tenant) Purpose Built (post 2020 build)	High Voltage (132KV and above)	Above 21.25 MW	Baseline needs to be established	1.6 and below (to be validated once baseline is established)		2.2 m3/MWh or lower		Annualised average
Colocation (multi-tenant) Purpose Built (pre 2020 build)	Medium Voltage (33KV)	4.25 to < 21.25 MW	Baseline needs to be established	1.7 and below (to be validated once baseline is established)		2.2 m3/MWh or lower		Annualised average

Colocation (multi-tenant) Purpose Built (pre 2020 build)	Low Voltage (11KV)	0.85 MW - < 4.25 MW	Baseline needs to be established	1.7 and below (to be validated once baseline is established)		2.2 m3/MWh or lower		Annualised average
Colocation (multi-tenant) Converted Building	Low Voltage (11KV)	0.85 MW - < 4.25 MW	Baseline needs to be established	1.7 and below (to be validated once baseline is established)		2.2 m3/MWh or lower		Annualised average
Enterprise Private (Captive) Purpose Built & Converted Building	Low Voltage (11KV)	0.85 MW - < 4.25 MW	Baseline needs to be established	1.7 and below (to be validated once baseline is established)		2.2 m3/MWh or lower		Annualised average

Appendix 2

The electricity emission factor obtained from 2021 Grid Emission Factor (GEF) in Malaysia, prepared by Energy Commission. The emission factors are expressed in Gigagram carbon dioxide per gigawatt hour (Gg CO_2/GWh).

Region	Grid emission factor (in GgCO_2/GWh)
Peninsular Malaysia	0.758
Sabah	0.425
Sarawak	0.198

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