

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 "<u>Guidelines and Procedures</u> 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	ITA of 100% on	ITA of 60% on	5 or 10
Allowance (ITA)	qualifying capital	qualifying capital	years
	investment (excluding	investment (excluding	
	land) set off against up	land) set off against up	
	to <b>100% of statutory</b>	to <b>100% of statutory</b>	
	income.	income.	
Special Tax Rate	STR of 10% on statutory	STR of 15% on	5 or 10
(STR)	income (excluding	statutory income	years
	intellectual property	(excluding intellectual	
	income)	property income)	

Minimum	First 5 years
conditions	1) Paid up-capital of at least RM2.5 million.
	<ol> <li>Capital expenditure (excluding land) incurred as proposed.</li> </ol>
	<ul> <li>3) Number of full-time Malaysian employees with minimum monthly basic salary of RM5,000 where it represents at least 50% of total manpower.</li> </ul>
	<ol> <li>Undertakes a minimum of 2 local vendor development programs.</li> </ol>
	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.
	Second 5 years
	<ol> <li>Compliance with all minimum and additional condition imposed for the first 5 years.</li> </ol>
	<ol> <li>Cumulative capital expenditure (excluding land) incurred of at least RM1 billion.</li> </ol>
	<ol> <li>Undertakes a minimum of 2 local vendor development programs.</li> </ol>
	<ul> <li>4) Substantial increase in number of full-time Malaysian employees with minimum monthly basic salary of</li> </ul>
	RM5,000 where it represents at least 50% of total
Additional	manpower. First 5 years
conditions	Companies are subject to following outcomes (but not limited):
	<ol> <li>Annual operational expenditure including domestic ancillary services as proposed.</li> </ol>
	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.
Second 5 years
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

Incentives	Tier 1	Tier 2	Period
Investment Tax Allowance (ITA)	ITA of 60% on qualifying capital investment (excluding land) set off against up to 70% of statutory income.	ITA of 30% on5qualifying capitalinvestment (excludingland) set off against upto 70% of statutoryincome.income.	
Minimum conditions	<ol> <li>Paid up-capital of at least RM2.5 million.</li> <li>Capital expenditure (excluding land) incurred as proposed.</li> <li>Number of full-time Malaysian employees with minimum monthly basic salary of RM5,000 where it represents at least 50% of total manpower.</li> <li>Undertakes minimum 2 local vendor development program.</li> <li>Adoption of Industry 4.0 elements.</li> <li>Adoption of minimum 1 green technology as proposed.</li> <li>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.</li> </ol>		
Additional conditions	<ul> <li>Companies are subject to following outcomes (but not limited):</li> <li>1) Capital expenditure (excluding land) of at least RM300 million for a period of 5 years.</li> <li>2) Annual operational expenditure5 including domestic ancillary services as proposed.</li> <li>3) High-value jobs.</li> </ul>		

4) 5) 6) 7)	institutions.
	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:
	<ul> <li>(i) The project shall be implemented in a building / location separate from other activities carried out by the holding company or related companies.</li> <li>(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.</li> </ul>
	<ul> <li>(iii) All employees of the company shall be separated</li> <li>from the employees of the parent company or</li> <li>related companies except for the management staff</li> <li>and directors of the company.</li> </ul>
	(iv) The establishment of this project will not result in a reduction in the investment of the parent company or related companies.
со	ote: All conditions (minimum and additional) need to be mplied throughout the incentive period for the company 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 outcomebased 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 <u>https://investmalaysia.mida.gov.my</u>.

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

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

### 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:

Name	E-mail	Contact number
Tham Lih Jiun	ljtham@deloitte.com	+603 7610 8875
(Government Grants &		
Incentives Leader)		
Renee Ho	sueho@deloitte.com	+603 7610 8996
(Director)		
Jason Tey	jatey@deloitte.com	+603 7610 7547
(Director)		
Cheoh Guat Im	gcheoh@deloitte.com	+603 7610 7749
(Senior Manager)		

## <u>Appendix 1</u>

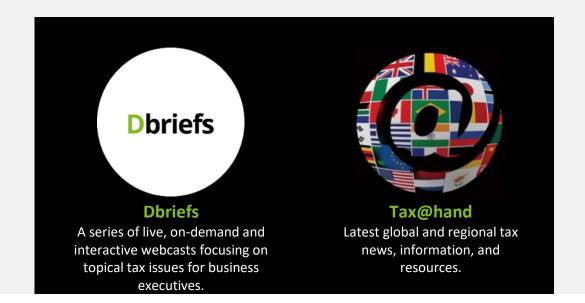
Category of DC	Power Supply	Power Capacity	Baseline PUE at Current IT Load	Proposed DESIGN PUE Target for High EE	Measurement Methodology for PUE	Proposed DESIGN WUE	Measurement Methodology For WUE	Measurement Frequency
Hyperscale (commercial single tenant & Service Provider Private)	High Voltage (132KV 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	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	standard	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	Low	0.85	Baseline	1.7 and	2.2	Annualised
(multi-	Voltage	MW -	needs to	below (to	m3/MWh	average
tenant)	(11KV)	< 4.25	be	be	or lower	
Purpose		MW	established	validated		
Built (pre				once		
2020 build)				baseline is		
				established)		
Colocation	Low	0.85	Baseline	1.7 and	2.2	Annualised
(multi-	Voltage	MW -	needs to	below (to	m3/MWh	average
tenant)	(11KV)	< 4.25	be	be	or lower	
Converted		MW	established	validated		
Building				once		
				baseline is		
				established)		
Enterprise	Low	0.85	Baseline	1.7 and	2.2	Annualised
Private	Voltage	MW -	needs to	below (to	m3/MWh	average
(Captive)	(11KV)	< 4.25	be	be	or lower	
Purpose		MW	established	validated		
Built &				once		
Converted				baseline is		
Building				established)		

### 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<sub>2</sub>/GWh).

Region	Grid emission factor (in GgCO <sub>2</sub> /GWh)
Peninsular Malaysia	0.758
Sabah	0.425
Sarawak	0.198



International Tax Review 2024 Awards Malaysia Tax Advisory Firm of the Year 2024 Malaysia Transfer Pricing Advisory Firm of the Year 2024 Malaysia Indirect Tax Advisory Firm of the Year 2024 Malaysia Tax Disputes Advisory Firm of the Year 2024





#### Deloitte Malaysia

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see <a href="https://www.deloitte.com/about">www.deloitte.com/about</a> to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which is a separate and independent legal entity, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Bengaluru, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Mumbai, New Delhi, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

#### About Deloitte Malaysia

In Malaysia, services are provided by Deloitte Tax Services Sdn Bhd and its affiliates.

This communication contains general information only, and none of DTTL, its global network of member firms or their related entities is, by means of this communication, rendering professional advice or services. Before making any

decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication.

© 2025 Deloitte Tax Services Sdn Bhd