

**Guidelines and Procedures for the Application of
Special Tax Incentive for Selected Services Activities under the National
Economic Recovery Plan (PENJANA)**

1. BACKGROUND:

- 1.1. The Government has announced the Special Tax Incentive under the Economic Recovery Plan (PENJANA) on 5 June 2020 for manufacturing companies that wish to relocate their manufacturing businesses to Malaysia.
- 1.2. Under Budget 2021, the Government has stated its commitment to spurring economic recovery through investment in key sectors and making Malaysia a destination for high-value service activities. Therefore, the Special Tax Incentive scope has been expanded to selected services activities, including companies adapting Industrial Revolution 4.0 and digitalisation technology which have a significant multiplier effect.
- 1.3. In addition to the Special Tax incentive, the Government also announced the Special Income Tax Rate at a flat-rate of 15% for a period of 5 consecutive years to non-residents individuals holding key position (C-Suite) for strategic investments made by companies relocating their operations to Malaysia.

2. TYPE OF SPECIAL TAX INCENTIVES:

- 2.1. **Tax Incentive** for the relocation of services activities:

Category of Company	Tax Treatment
<p>A. New Company</p> <ul style="list-style-type: none"> • Company does not have any existing operation/entity in Malaysia (including the related company); <u>or</u> • Company does not have any existing services operation in Malaysia but have an existing operation/entity for non-services operation, e.g. manufacturing and 	<p>Income tax rate of 0% to 10% for a period of up to 10 years</p>

Category of Company	Tax Treatment
<ul style="list-style-type: none"> • Company relocating its facility for qualifying services activities from any country to Malaysia; <u>or</u> • Company relocating new services activities which are different from the existing services operation in the country (diversification activity); <u>or</u> • Company establishing a new operation in Malaysia. 	
<p>B. Existing Company</p> <p>A foreign or locally owned company with existing services operation in Malaysia (including services activities as per para 3.3) and proposes to undertake services activities as per para 3.3 for a new business segment, which are separated from the operation of the existing services activities.</p>	<p>Income tax rate of 10% for a period of up to 10 years</p>

2.2. A flat-rate of 15% applies to a non-citizen individuals who is resident in Malaysia who holds C-Suite position or key position.

3. ELIGIBILITY CRITERIA FOR TAX INCENTIVE:

- 3.1. The company must be incorporated under the Companies Act 2016 and resident in Malaysia.
- 3.2. The company fulfills the definition of a 'new company' or an 'existing company' under the incentive as per para 2.1.
- 3.3. The company adapting Industrial Revolution 4.0 and digitalisation technology. The company must undertake any of the following services activities:
 - a. Provision of technology solution, or more typically technology company which develops technology and provides technology solutions based on substantial scientific or engineering challenges;
 - b. Provision of infrastructure and technology for cloud computing;
 - c. Research and development/design and development activities;

- d. Medical devices testing laboratory and clinical trials; and
 - e. Any services or manufacturing-related services activities, as determined by the Minister of Finance.
- 3.4. The company to incur **capital investment or business expenditure** which would benefit the economy of Malaysia in the following areas:
- i) Adoption of Industrial Revolution 4.0 or digitalisation technology
 - ii) Employment opportunities for Malaysians including fresh Malaysian graduates
 - iii) Technology transfer
 - iv) Utilisation of local goods and services
 - v) Internship for Malaysian students
 - vi) Collaboration with local industries/institutions/universities.

The company is advised to share and discuss with MIDA, their level of commitment and compliance to the above agenda. Specific conditions related to the agenda shall be imposed on the incentive approval.

- 3.5. For services project with small capital investments, the company must incur an adequate¹ amount of annual operating expenditure² to support the company in conducting its services activities/business operation in Malaysia. The operating expenditure should include local services for insurance, legal, banking, ICT and transportation; if those services could be sourced from local/domestic service providers. However, this amount shall not include the cost of goods sold, depreciation, interest on borrowings and expenses that are not directly related to the company's proposed activities.
- 3.6. The company is required to commence its operation within one (1) year from the date of approval;

¹ *Proposals submitted by companies will be evaluated in detail by MIDA and will be deliberated in the National Committee on Investments (NCI) for decision*

² *Operating expenditure represents daily expenses to run a business. For the purpose of condition compliance, it will be based on the operating expenditure which reflected in the company's audited financial statement (excluding interest, depreciation and other expenses which are not incurred for the production of services income)*

or

The company to incur the first capital expenditure within one (1) year from the approval date and to be completed within three (3) years from the date of the first capital expenditure incurred.

- 3.7. An existing company granted approval for this incentive has to keep separate accounts for services/activities approved with Tax Incentive and services/activities without Tax Incentive.

4. ELIGIBILITY CRITERIA FOR SPECIAL INCOME TAX TREATMENT FOR INDIVIDUALS

- 4.1. This tax incentive is limited to five (5) non-citizen individuals employed in each company that has been approved the Special Tax Rate for the relocation of businesses to Malaysia.

- 4.2. The non-citizen individual must be a resident in Malaysia and hold a *key position (C-Suite).

**Key position (C-Suite) – position of top senior executives which relied on functional know-how and technical skills, such as Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Operating Officer (COO), and Chief Information Officer (CIO).*

- 4.3. The non-citizen individual must receive a basic monthly salary of not less than RM25,000.

- 4.4. The non-citizen individual is a Malaysian tax resident for each year of assessment throughout the five consecutive years of assessment.

- 4.5. Income tax will be charged on the chargeable income of a qualifying individual at the rate of fifteen per cent for five consecutive years of assessment.

5. EFFECTIVE DATE OF APPLICATION:

- 5.1. Applications for the Special Tax Incentive received by MIDA from 7 November 2020 until 31 December 2022 are eligible to be considered for this incentive.

- 5.2. Applications for the Special Income Tax Rate of 15% to non-citizen individuals who are residents in Malaysia must be made through MIDA on or before 7 November 2020 but not later than 31 December 2021.

6. MECHANISM:

- 6.1. The Special Tax Incentive and Special Income Tax Treatment for individuals under PENJANA are provided under the Income Tax Act, 1967 and approved in the National Committee of Investment.
- 6.2. The non-citizen individual holding the Key Position (C-Suite) eligible for the Special Income Tax Treatment will be approved in the Technical Committee of Expatriate Post in MIDA.

7. APPLICATION SUBMISSION:

- 7.1. The completed application should be submitted in three (3) sets of PENJANA (Services) Form to:

Chief Executive Officer
Malaysian Investment Development Authority (MIDA)
MIDA Sentral, No. 5 Jalan Stesen Sentral,
Kuala Lumpur Sentral
50470 Kuala Lumpur

- 7.2. Application with incomplete information will not be accepted and will be returned to the applicant company.
- 7.3. For enquiries and clarification, please refer to: -

MIDA Website : www.mida.gov.my
Tel : (603) – 2267 3633
Fax : (603) – 2273 4208
Email : investmalaysia@mida.gov.my