

**TECHNICAL**

**Direct Tax**

**MIDA GUIDELINES FOR NEW TAX INCENTIVES UNDER BUDGET 2015**

**Background**

Under the heading of “*First Strategy: Strengthening Economic Growth*” in the 2015 Budget Speech, the following were among the proposed measures which were aimed at promoting the acceleration of domestic and foreign investment:

- Measure 4: “...continued promotion of investment in less developed areas”;
- Measure 5: “Incentive for Industrial Area Management”
- Measure 6: “Capital Allowance to increase Automation in Labour Intensive Industries”;
- Measure 9: “Encouraging Establishment of Principal Hub”.

Further to our [e-CTIM TECH-DT 37/2015](#) dated 13 April 2015, important information from the Guidelines issued by the Malaysian Investment Development Authority (MIDA) on incentives under Measures 4, 5 and 9 are summarised below.

**1. Incentives for Less Developed Areas**

Type of incentive

The incentive is in the form of exemption in respect of the following taxes:

<b>Exemption from</b>	<b>Incentive</b>
Income tax	<ul style="list-style-type: none"> <li>- 100%, for up to 15 years of assessment (YA) (5+5+5) commencing from the first YA the company derives statutory income (SI); <b>OR</b></li> <li>- 100% of qualifying capital expenditure (Investment Tax Allowance) incurred within a period of 10 years to be deducted against 100% of SI for each YA. Unutilized Investment Tax Allowance (ITA) to be carried forward until fully absorbed.</li> </ul> <p>In either of the above alternatives, the company must comply with conditions and achieve the Key Performance Index (KPIs) for any additional 5 years.</p>
Stamp duty	<ul style="list-style-type: none"> <li>- on transfer or lease of land or building used for development in relation to manufacturing and services activities.</li> </ul>
Withholding tax	<ul style="list-style-type: none"> <li>- on fees for technical advice, assistance or services or royalty in relation to manufacturing and services activities up to 31 December 2020.</li> </ul>
Import duty	<ul style="list-style-type: none"> <li>- on raw materials and components that are not produced locally and used directly in the manufacture of finished products subject to prevailing policy, guidelines and procedures; <b>and</b></li> <li>- on machinery and equipment that are not produced locally and used directly in the activity for selected services sector subject to prevailing policy guidelines and procedures.</li> </ul>

Criteria for Eligibility

The applicant must:-

- i. be a company incorporated under the Companies Act 1965.
  - ii. be either an existing company expanding its operation into the less developed areas, or a newly established company.
  - iii. be undertaking its manufacturing or services activities in the less developed areas that will lead to substantial creation of employment and rural development.
  - iv. comply with other conditions specified by the Minister of Finance including value added, local employment and Managerial, Technical and Supervisory staff index (MTS Index).
- the application must be received by MIDA from 1 January 2015 to 31 December 2020.

Procedures for Application

- The application should be made on [ICA/JA Forms](#) and submitted in **3 copies** to the Chief Executive Officer, MIDA, Kuala Lumpur.
- For Project in Sabah and Sarawak, **3 copies** of the [ICA/JA Forms](#) should **also** be submitted to the relevant MIDA office in Kota Kinabalu, Sabah and Kuching, Sarawak respectively.
- Form [ICA/JA-1](#) for new Manufacturing Project;  
Form [ICA/JA-2](#) for Expansion and/or Diversification Project of Existing Company  
Form [ICA/JA-3](#) for High Technology/Strategic Project

## 2. Incentive for Industrial Area Management

Type of Incentive

100% tax exemption on SI for 5 years starting from the date the company commences its activities.

Criteria for Eligibility

- The Industrial Estate (IE) must be gazetted by the State Authority as industrial land.
- The applicant must be a company which:-
  - is a newly established company; or an existing company, appointed by a Local Authority (PBT) must have an agreement on the management of IEs.
  - is incorporated under the Companies Act 1965.
  - is approved /licensed by a PBT.
  - is self-funded.
  - has commenced its operation not later than one year from the date of the receipt of the application by MIDA.
- The company must undertake ALL the **management, upgrading and maintenance activities within the IE** (compulsory activities) which are specified in the list provided in the Guidelines. (These include activities relating to the management, maintenance etc. of roads, street lightings, drainage systems, common facilities, landscaping, waste collection, transfer and disposals, maintenance of database on the Industrial area, etc.) (Please refer to the Guidelines for the full list.)
- The company may undertake ANY of the “**qualifying services**” specified in the list which is found in the Guidelines (which include the maintenance and repair of buildings, provision of security and personnel, rental of common facilities, relevant transportation, environmental management, construction of main infrastructure supports, IT infrastructure, janitorial/ cleaning services, recreational and relaxation facilities, any adapted facilities as required by tenants, etc.).

- At least 70% of the annual income of the industrial area management company must be derived from the specified compulsory activities mentioned above.
- Applications must be received by MIDA between 1 January 2015 and 31 December 2017.

#### Procedures for Application

- The application should be made on [IAM/JA Form](#) and submitted in **3 copies** to Chief Executive Officer, MIDA, Kuala Lumpur, Attention: Director, R&D & Business Services Division).
- For Project in Sabah and Sarawak, **3 copies** of the [IAM/JA Form](#) should **also** be submitted to the relevant MIDA office in Kota Kinabalu, Sabah and Kuching, Sarawak respectively.
- A [checklist](#) for submission of the application is available.

### 3. Principal Hub Incentive

#### Type of Incentive

“Principal Hub” (PH) is given the following definition:

*“A locally incorporated company that uses Malaysia as a base for conducting its regional and global businesses and operations to manage, control, and support its key functions, including management of risks, decision making, strategic business activities, trading, finance, management and human resource.”*

An approved PH company is eligible for a 3-tiered corporate taxation rate as shown in the following table (taken from the Guidelines);

Corporation	Tier 3		Tier 2		Tier 1	
Blocks (years)	5	+5	5	+5	5	+5
Income Tax rate	10%		5%		0%	
<b>Note:</b> <div>1. The PH incentive will be granted under Section 127(3)(b) of the Income Tax Act 1967 and approved through the National Committee on Investment. It will replace existing International Procurement Centres (IPC), Regional Distribution Centres (RDC) and Operational Headquarters (OHQ) incentive schemes, which will be officially terminated by 30 April 2015. (Refer to the <a href="#">Ministry of International Trade and Industries’ (MITI) Announcement dated 6 April 2015</a>).</div> <div>2. Each tier can be considered for an extension of up to 5 years within the tiers subject to fulfilling the criteria and requirement below and <div>(a) Jobs: 20% incremental of the base commitment; and (b) Business spending: 30% incremental of the base commitment</div></div>						

#### Criteria for Eligibility

- The applicant must:-
    - be incorporated locally under the Companies Act 1965.
    - have paid-up capital of more than RM2.5 million.
    - have minimum annual sales of RM300 million (Additional requirement for goods-based applicant company).
    - serve and control *network companies*\* in at least 3 countries outside Malaysia.
- (\* This is defined as “related companies or any entity within the group including

*subsidiaries, branches, joint ventures, franchises or any other company related to applicant's supply chain and business with contractual agreements.”)*

- carry out at least 3 qualifying services, out of which one must be from the “Strategic Services” cluster. Qualifying services are divided into 3 clusters: Strategic Services, Business Services and Shared Services. Please refer to the Guidelines for details.
- be the planning, control and reporting centre for the qualifying services.
- The following annual business spending is required:

	Tier 3	Tier 2	Tier 1
Annual business spending (RM)	3 million	5 million	10 million

- Must comply with the following “employment requirements”:

	Tier 3	Tier 2	Tier 1	Minimum monthly salary
No. of high value jobs* (including positions indicated below)	15	30	50	RM5,000
No. of key strategic/ management positions	3	4	5	RM25,000
At least 50% of high value jobs must be Malaysian by end of Year 3.				
Must have human resource training and development plan for Malaysians.				
* “High value jobs” is defined as “jobs that require higher and more diverse set of management/ technical/ professional skills such as management, analytics, communication, problem solving and proficiency in information technology.”				

- *Flexibility is allowed for complying with requirements relating to annual business spending and high value jobs creation by end of Year 3 of the first block for each tier (not applicable to companies already enjoying IPC/RDC/OHQ incentives). Failure to comply will result in claw back on tax which will be applied from Year 1.*

#### Other requirements

- Significant use of Malaysia's banking and financial services and other ancillary services and facilities (e.g. trade and logistics services, legal and arbitration services, etc.).
- Income tax exemption threshold received from services/ goods based company inside and outside Malaysia is based on the ratio of 30 : 70 (inside : outside).

**Malaysian-owned and incorporated businesses** are encouraged to provide headquarters (HQ) related services and expertise to their overseas companies.

#### Facilities Accorded to PH

- An approved PH company will enjoy customs duty exemption on raw materials, components or finished products brought into free industrial zones, LMW, free commercial zones and bonded warehouses for production or repackaging, cargo consolidation and integration before distribution to final consumers for goods based companies; Foreign Exchange Administration flexibilities etc. (Please refer to the Guidelines for the full list of facilities available.)
- No local equity/ownership conditions.

Mechanism

- A yearly report must be submitted to MIDA for evaluation of performance. Failure to do so may result in withdrawal of the incentive.
- Existing companies that have completed the IPC/RDC/OHQ incentives may be considered for the PH incentive by complying with the criteria for Tier 1 for a maximum incentive period of 5 years with the tax rate of 10%, subject also to incremental commitment of existing employment (20%) and business spending (30%).

Application Procedures

- The [application form \(PH\)](#) and [checklist](#) are available on the MIDA website.
- New applications for PH incentive must be received by MIDA from 1 May 2015 to 30 April 2018.
- Applications for extension of incentive period must be submitted 6 months prior to the expiry of the initial incentive period. The extended incentive period shall begin from the date following the end of the initial incentive period and continue for a period of 5 years.

For further information, please refer to the detailed Guidelines at the website of the [Institute](#) or Official website of [MIDA](#).

For further enquiry and clarification, please refer to

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