

National Tax Conference 2014

Tax Incentives – Way Forward

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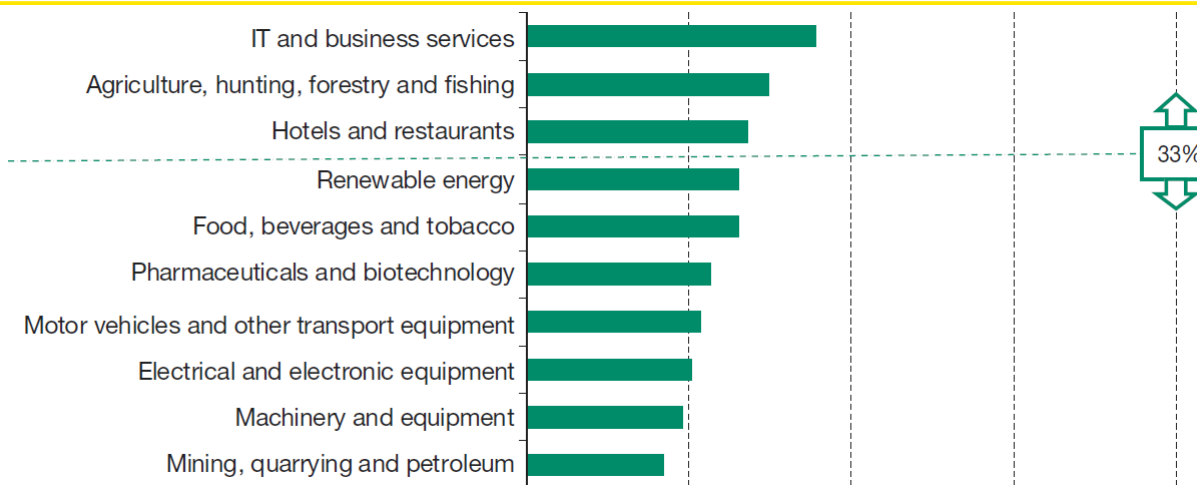


Building a better
working world

Recent global trends of tax incentives

Top 10 target industries (%)

1	IT and business
2	Agriculture
3	Tourism



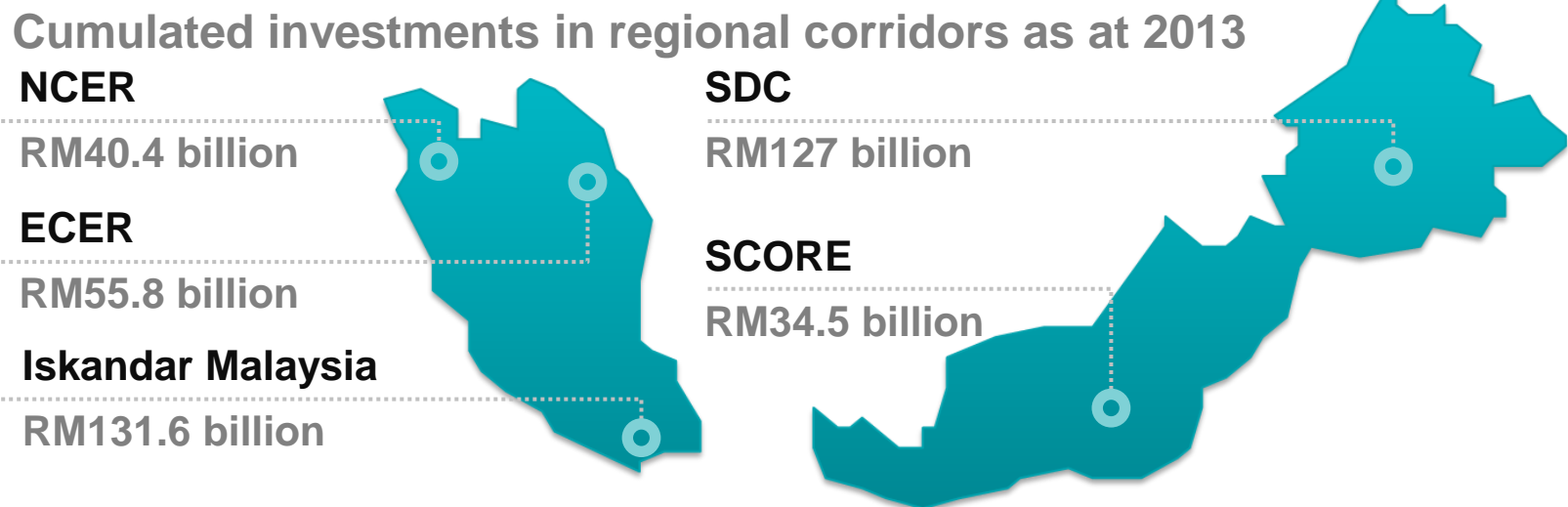
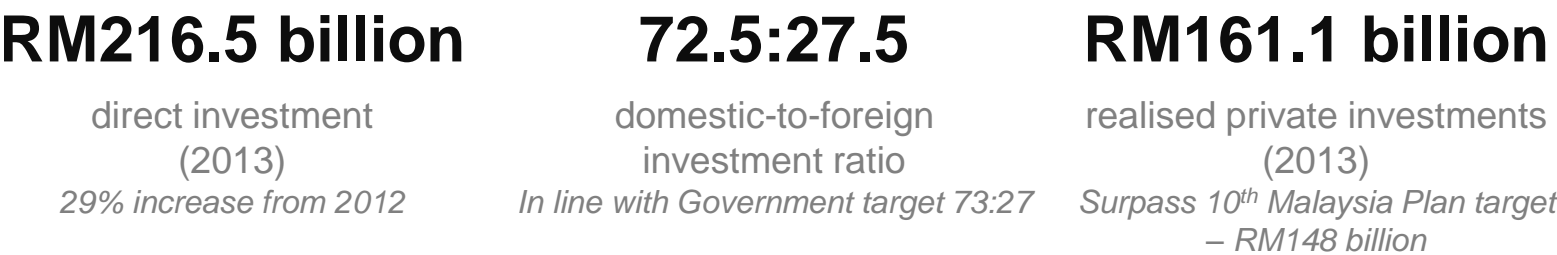
Most important objectives (%)

1	Job creation
2	Technology transfer
3	Export promotion



Source : UNCTAD World Investment Report 2014

Malaysia: investment performance

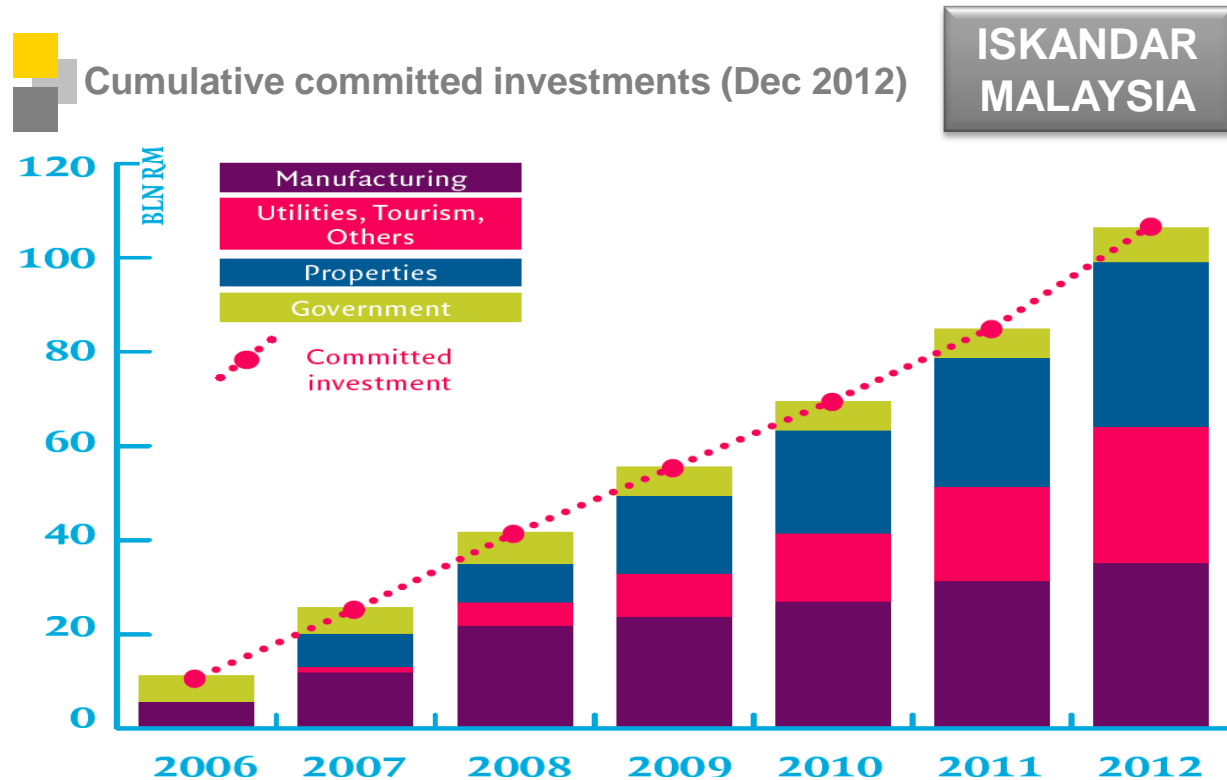


Cumulated investments in selected service sectors as at 2013

IPC	237 projects
RM8.5 bil	
OHQ	238 projects
RM4.1 bil	11,908 jobs
Logistic	49 projects
RM3.5 bil	
MSC	3,403 projects
not available	138,071 jobs
RDC	30 projects
RM361.5 mil	728 jobs
TMC	4 projects
RM66.6 mil	77 jobs

Source : MIDA Malaysia Investment Performance Report 2013, MSC Malaysia Annual Industry Report 2013, online news via Google search.

Investment performance: Iskandar Malaysia and MSC Malaysia



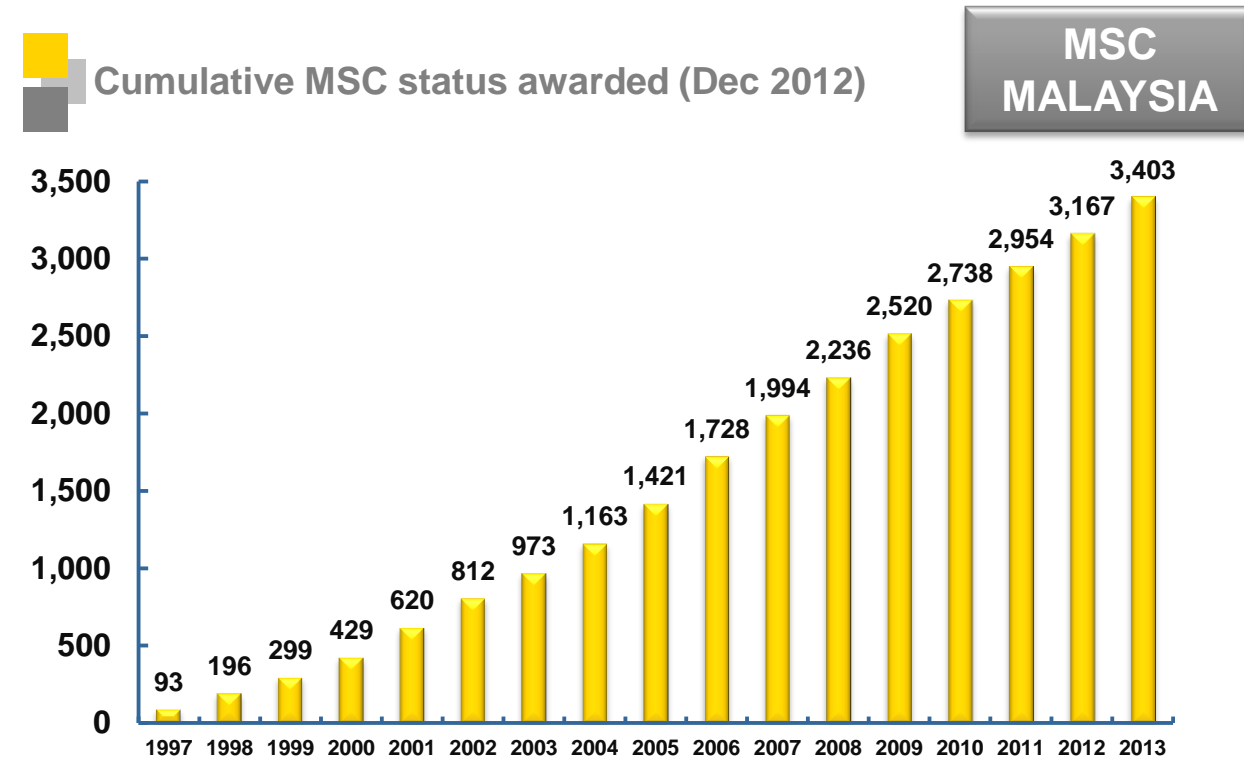
RM106.31 billion
cumulative
investments
as at 2012



554,796
total jobs
created
as at 2012



RM25.3 billion
new
investments
in 2013



3,403
total companies
awarded MSC
status as at 2013



138,071
total jobs
created
as at 2013



RM3 billion
new
investments
in 2013



Source : IRDA Annual Report 2012, MIDA Malaysia Investment Performance Report 2013

Source : MSC Malaysia Annual Industry Report 2013

Tax incentive policy recommendations



World Investment Report *UNCTAD (2014)*

Periodically review the costs and benefits and thoroughly evaluate and monitor effectiveness in achieving objectives

Rationale should derive from country's development strategy and effectiveness should be fully assessed before adoption

Aim to ensure self-sustained viability so as to avoid subsidizing non-viable industries

Granted on the basis of pre-determined, objective, clear and transparent criteria, offered on a non-discriminatory basis

Transformation from "location-based" incentives towards "sustainable development goals-based" incentives

Source : UNCTAD World Investment Report 2014



SEA Investment Policy Perspectives *OECD (2014)*

Make public all tax incentives and their objectives and administer incentives in a transparent manner

Provide tax incentives through tax laws and ensure tax incentives are ratified through law-making body or parliament

Consolidate all incentives under the authority of one body, where possible

Calculate forgone revenue and make it publicly available, collect data systematically, monitor effects

Enhance regional co-operation

Source : OECD Southeast Asia Investment Policy Perspectives 2014

World Bank's "Assessing the Effectiveness and Impact of Fiscal Incentives in Malaysia" report



DIAGNOSIS

- ! Tax and incentive structure is overly generous and complex, and may leave room for tax abuse
- ! Tax holidays are ineffective
- ! Overly generous R&D incentive schemes have not substantially raised R&D spending in the private sector
- ! R&D is quite sensitive to tax subsidies, but this does not mean that these subsidies are economically efficient
- ! Tax incentives may be very costly to the economy
- ! Fiscal incentives schemes benefit mainly large firms
- ! Reinvestment allowance has a positive impact on large firms' investment
- ! Pressuring the tax system to compensate for deficiencies in the investment climate may have a large opportunity cost



What needs to be done?

- ☐ Scaling back tax incentives in favor of a more general decline in corporate income taxes will enhance efficiency
- ☐ Sequencing the reform of the tax incentives system
- ☐ Improving the overall investment climate by reducing the regulatory burden

The road ahead



Malaysia has not been assessing the cost of its incentives and the following questions remain unanswered:

- ? By how much should the government reduce corporate income tax
- ? What will be the cost of reducing corporate income tax, in terms of revenues
- ? What should be the balance between incentives and corporate taxation

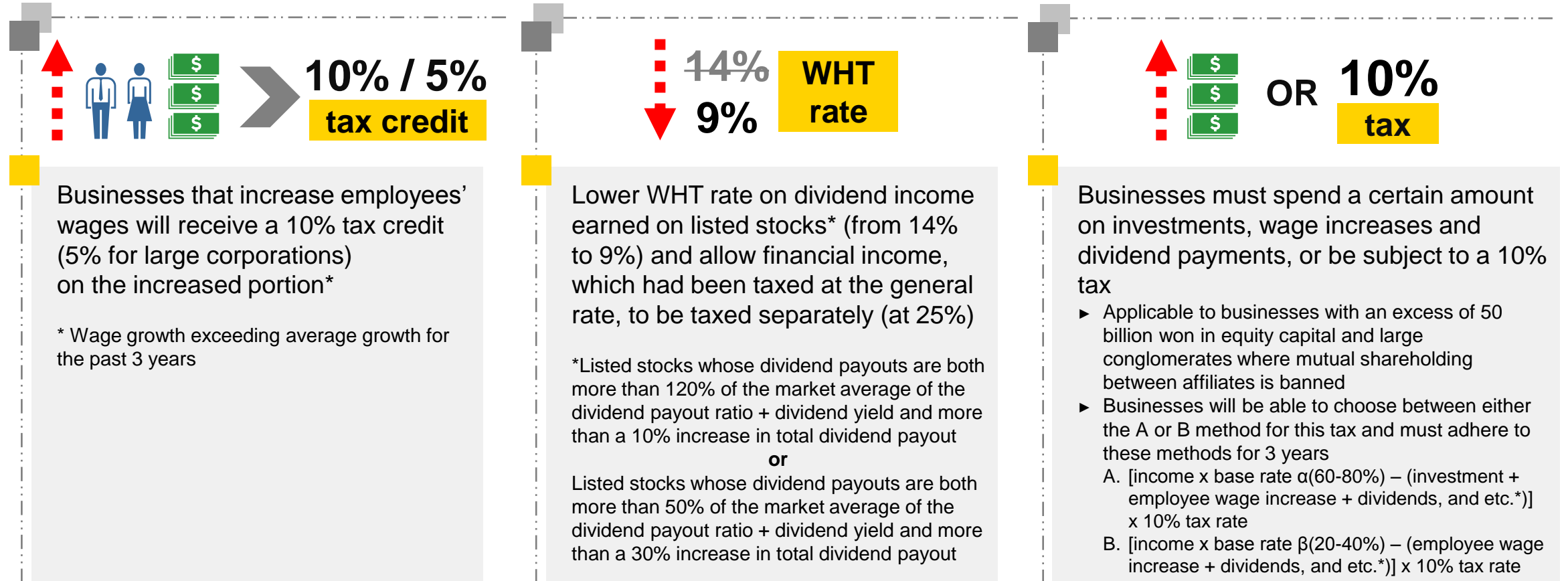
Recommendation:

- An appropriate costing of all corporate tax schemes
- More work on the revenue implications of reform proposals
- Broader examination of how business incentives fit into the tax system as a whole

Source : World Bank - Assessing the Effectiveness and Impact of Fiscal Incentives in Malaysia 2006

2014 Tax Revision Bill of South Korea: tax packages to boost household income

A new form of tax incentive – “outcome-based” incentive?



Source: Ministry of Strategy and Finance of South Korea Press release - 2014 Tax Revision Bill (6 August 2014)

Tax incentive administrative issues



Issuer of approval letter

MOF vs. Investment Promotion Authorities

- ▶ Who should be the right issuer?
- ▶ Legally sufficient if the tax incentive is not directly “issued / approved” by MOF?



Wording of approval letter

Malay wording vs. English wording

- ▶ Inconsistency in terms of meaning of words when both languages are used (e.g. bi-language approval letter, initial and revised letter use different languages)
- ▶ Which language should prevail when there is inconsistency?

Procedural requirements

- ▶ Is there a need to comply with standard post-incentive procedural requirement (e.g. Pioneer Certificate, Determination of Effective Date) when the approval letter is silent about it?
- ▶ What is the tax incentive commencement date / how should it be determined?



Wording of approval letter

Number of posts approved

- ▶ Expatriate approval is currently granted on per-post basis. May want to consider granting the said approval on a “blanket” basis



Conditions of tax incentive

“The company shall comply with all rules and regulations of the Government of Malaysia”

- ▶ How to demonstrate compliance?
- ▶ What is the scope of “all rules and regulations”?
- ▶ Striking a good balance between practicality to comply vs. tax incentive abuse?

Compliance and tracking

- ▶ Lack of guidelines / guidance in relation to compliance with tax incentive conditions and the relevant tracking steps to be taken
- ▶ Taxpayer is uncertain as to what exactly should be carried out to demonstrate compliance



Tax incentive legislation

Gazette orders

- ▶ There are various tax incentives which have not been gazetted (e.g. ECER tax incentives)
- ▶ What should be the correct sources for taxpayers to refer to for tax incentives available?

Thank you

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