



## TAX FLASH

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## **Guidelines for the Application for Tax Incentive for Smart Logistics Complex**

Following the 2025 Budget announcement, the Malaysian Investment Development Authority [“MIDA”] has recently issued the *Guidelines for the Application for Tax Incentive for Smart Logistics Complex [“SLC”]* to set out the eligibility criteria and requirements to qualify for this tax incentive. The introduction of the SLC tax incentive is an initiative by the Government to propel Malaysia’s logistics sector towards Industry 4.0 readiness, empower businesses to achieve greater efficiency and competitiveness, and reinforcing the country’s position as a leading regional logistics hub.

Some salient points of the abovementioned Guidelines include:-

### **i. Definition of SLC**

- SLC refers to a modern facility that utilises technology to optimise and automate various warehouse operations.
- It integrates advanced systems such as the Internet of Things [“IoT”], artificial intelligence [“AI”], Radio Frequency Identification [“RFID”] and automated material handling equipment to enhance efficiency, reduce costs and improve overall supply chain performance.

### **ii. Tax Incentive**

- Investment tax allowance of 60% on qualifying capital expenditure incurred within a period of 5 years.
- The allowance can be used to set off against 70% of statutory income for each year of assessment.
- Unutilised allowances can be carried forward until fully absorbed.
- Eligible capital expenditure can be backdated up to 3 years from the date of application but must not be earlier than 1<sup>st</sup> January 2023 or the expiry date of any previous tax incentive, whichever is later.

### **iii. Types of Business Model**

- SLC Model 1 (Investor and Operator)
  - A company which invests in smart warehouses and carries out the qualifying logistics services or activities [as defined in (vi) below].
- SLC Model 2 (Operator)
  - A company which leases smart warehouse with a minimum term of 10 years to carry out qualifying logistics services.

### **iv. Eligible Applicants**

- The applicant can be a new company or an existing company investing in smart warehouse to carry out the qualifying logistics services or activities.
- Only one company within the same group is eligible.
- Related companies undertaking the same SLC activity are not eligible for this incentive.
- The company must be incorporated under the Companies Act 2016 and resident in Malaysia.

### **v. Qualifying Criteria**

- The applicant must provide at least 1 of the logistics services from the qualifying activities as defined in (vi) below.
- The build-up area of the smart warehouse complex must be at least 30,000 m<sup>2</sup>.
- The company is required to incur fixed asset investment (excluding land) for the construction of the smart warehouse complex within the incentive period.
- The company must incur an adequate amount of annual operating expenditure throughout the tax incentive period. This amount shall not include the cost of goods sold, depreciation, interest on borrowings and expenses not directly involved in the company’s proposed activities.

## vi. Qualifying Logistics Services/Activities

- **Regional Distribution Center**
  - Collection and consolidation center for finished goods, components and spare parts produced by its group of companies for its own brand to be distributed to dealers, importers or its subsidiaries or other unrelated companies within or outside the country. These activities include bulk-breaking, repackaging and labelling.
- **Integrated Logistics Services**
  - End-to-end logistics services, including warehousing, transportation, freight forwarding, distribution, other value-added services (e.g. product assembly/installation, consolidation, procurement, quality control, and supply chain management).
- **Dangerous Goods Storage**
  - Safe warehousing, handling and storing of any goods classified as dangerous goods approved by the Government of Malaysia.
- **Cold Chain Facility**
  - Operation of a facility designed and equipped to store and handle perishable food products within the designated temperature

## vii. Other Requirements or Conditions

### • **Industry 4.0 Technologies**

The SLC must be equipped with at least 3 enabling elements technologies under the Industry 4.0:-

- big data analytics;
- cloud computing;
- augmented reality;
- cybersecurity;
- AI;
- additive manufacturing;
- system integration;
- simulation;
- IoT;
- autonomous robot; and/or
- advance materials.

### • **Green Technologies**

The SLC must adopt at least 1 of the following green technologies for its facilities:-

- renewable energy;
- energy efficiency;
- rainwater harvesting system; and/or
- green building or GreenRE rating tools.

- Upon approval, the company may be subject to any other conditions related to the incentive that are imposed by the National Committee on Investment.

## viii. Employee Related Requirements

- The company's full-time employees shall comprise of at least 80% Malaysians.
- The company must conduct internship programs related to the management and/or administration of the SLC facilities.
- At least 20% of the company's overall manpower shall be at the managerial, technical and supervisory level with a minimum monthly salary of RM7,000.
- The company must conduct technical training programs for the Malaysian employees who are directly employed by the company.

## ix. Use of Local Vendors and Suppliers

- The company must appoint local contractors as the main contractor for the construction of the smart warehouse complex and use local seaports, local airports and/or local transportation services for import and export transactions.

- The company must establish partnerships with at least 3 local logistics companies to carry out the integrated logistics activities.

**x. Effective Date of Application**

- Applicable for SLC applications received by MIDA from 1<sup>st</sup> January 2025 to 31<sup>st</sup> December 2027.
- The company must submit the incentive application to MIDA before the commencement of its proposed project. The commencement of the business is deemed to have occurred when the company issues its first sales invoice for the proposed SLC project.

**Note:** For further information on the above incentive, kindly refer to our [Tax Flash – November 2024 \(Special Edition\)](#).

**PN No. 1/2025 – Tax Treatment on the Acceptance of Donations or Contributions**

The Inland Revenue Board [“IRB”] has recently issued the [Practice Note \[“PN”\] No. 1/2025 - Tax Treatment on the Acceptance of Donations or Contributions](#) to provide clarity on the tax treatment of donations or contributions received by any person. “Person” includes a company, body of persons, a limited liability partnership and a sole proprietorship.

Some salient points of the PN include:-

- Donations or contributions received are included in the scope of chargeability to tax if the receipts have the characteristics of income or if the elements of badges of trade exist as follows:-
  - the income is received repeatedly;
  - the income flows from a source of income; and
  - the income is received in the ordinary course of business.
- Donations or contributions may be subject to tax if:-
  - the recipient of the donations or contributions is engaged in business; or
  - the donations or contributions received are used to increase revenue and to sustain its business activities.
- Receipts of donations or contributions by any institution, organisation or fund [“IOF”] for the purpose of carrying out its activities in order to achieve the objectives of the IOF are revenue subject to tax under Section 4(a) of the Income Tax Act 1967 [“ITA 1967”].
- Any expenses incurred for the purpose of implementing the objectives of establishment of the IOF including donations or contributions made for charitable activities are allowed as deduction under Section 33(1) of the ITA 1967. Any surplus of unutilised sum of the donations or contributions will be taxable as income under Section 4(a) of the ITA 1967.
- An IOF can apply for approval under Section 44(6) of the ITA 1967 if it fulfils the specified eligibility criteria. Income received by an approved IOF is exempted from tax under Paragraph 13(1)(a), Schedule 6 of the ITA 1967.

**Income Tax and Employer Audit Framework**

The IRB has issued the [Income Tax and Employer Audit Framework](#) (available in *Bahasa Malaysia*) to standardise the implementation of the tax audit process. This new framework, which takes effect from 15<sup>th</sup> March 2025, will replace and revoke the following frameworks:-

- Tax Audit Framework dated 1<sup>st</sup> May 2022;
- Tax Audit Framework on Finance and Insurance dated 1<sup>st</sup> May 2022;
- Tax Audit Framework for Petroleum dated 1<sup>st</sup> May 2022;
- Audit Framework for Employer dated 1<sup>st</sup> October 2021; and
- Tax Audit Framework on Withholding Tax dated 1<sup>st</sup> August 2015.

This new framework has consolidated all the abovementioned frameworks into a single document for the purpose of standardising the audit procedures and has set out clearly the rights and responsibilities of audit officers, taxpayers, employers and tax agents in respect of these audits by the IRB. Besides, the new framework has been expanded to cover audit on capital gains tax matters and tax matters related to Labuan business activities.

Some salient points of the new framework include:-

**i. Scope and Coverage Period of Tax Audit**

Audit Activity	Tax Audit Coverage	Statute of Limitation / Time-Barred	Non-Applicability of Time-Barred
Income tax audit [under the ITA 1967 and Petroleum (Income Tax) Act 1967 <b>excluding</b> issues on withholding tax / employer / Labuan business activities] <sup>1,2</sup>	Up to 3 years of assessment	Up to 5 years of assessment	
Withholding tax audit <sup>1</sup>	Up to 3 years of assessment	Up to 5 years of assessment	The time-barred does not apply for audit cases involving fraud, wilful default or negligence
Employer audit <sup>1</sup>	Up to 2 years of remuneration	For offences under Section 83 of the ITA 1967, up to 12 years from the year the offence was committed	
Labuan income tax audit <sup>3</sup>	Up to 3 years of assessment	Up to 5 years of assessment	

*Note 1: No changes are made on the coverage of income tax audit, petroleum income tax audit, finance and insurance income tax audit, withholding tax audit and employer audit as compared to the previously issued frameworks.*

*Note 2: The coverage of capital gains tax audit principally follows the income tax audit.*

*Note 3: The audit on Labuan income tax matters is newly introduced in this framework.*

**ii. Selection of Audit Cases**

- The following basis and criteria are used for selection of audit cases:-
  - information received from third parties;
  - industry issues; and/or
  - controlled transactions with related companies involving significant amounts.

**iii. Finalisation of Tax Audit**

- The timeframe for finalisation of income tax audit, petroleum income tax audit, finance and insurance income tax audit and employer audit remains as per the previously issued frameworks.
- For the audit on withholding tax matters, the timeframe for finalisation has been further specified as follows:-
  - payer – 90 calendar days from the date of commencement of tax audit;
  - payee – 180 calendar days from the date of commencement of tax audit.

**iv. Offences and Rates of Penalty**

<b>Audit Activity</b>	<b>Types of Offence</b>		<b>Rate of Penalty / Types of Sentence</b>
Income Tax Audit, Petroleum Income Tax Audit and Capital Gains Tax Audit <sup>1,2</sup>	Incorrect returns	First offence Second offence Third and subsequent offences	15% 30% 45%
	Technical adjustments		0%
	Wilful default/fraud		100%
	Voluntary disclosure before commencement of audit	Within 6 months from the due date of submission of the tax return, provided that the first amended tax return is submitted before the submission of the letter of voluntary disclosure	10%
		After the due date of submission of tax return	15%
	Failure / shortfall / late remittance	Increase in tax	10%
		Penalty under Section 113(2) of the ITA 1967 arising from the incorrect claim of tax deduction under Section 39 of the ITA 1967	Based on the number of offences discovered during the tax audit
Employer audit <sup>1</sup>	Section 107 of the ITA 1967	Not in compliance with Rule 10(1) or Rule 13 of the Income Tax (Deduction from Remuneration) Rules 1994	Fine of not less than RM200 and not exceeding RM20,000 or imprisonment for a term not exceeding 6 months, or both.
	Section 120(1)(b) of the ITA 1967	Failure in furnishing Form E, EA or CP58 under Section 83(1) / 83(1A) / 83A(1) of the ITA 1967	However, the offence may be compounded pursuant to Section 124 of the ITA 1967. For repeated offences, the number of offences committed previously will be taken into account in determining the amount of the compound to be imposed.
	Section 120(1)(c) of the ITA 1967	Failure in furnishing Form CP22, CP22A, CP22B or CP21 under Section 83(2) / 83(3) / 83(4) of the ITA 1967	
	Section 120(1)(e) of the ITA 1967	Failure in complying with the directive under Section 83(5) and Section 107 of the ITA 1967	
Labuan income tax audit <sup>3</sup>	Section 23 of the Labuan Business Activity Tax Act 1990 ["LBATA 1990"]	Failure to furnish correct particulars as required by the Director General of Inland Revenue under Section 5(3)(b) or 10(3)(b) of the LBATA 1990	Fine of not less than RM20,000 and not exceeding RM1,000,000 or imprisonment for a term not exceeding 2 years, or both.
		Failure to comply with notice given under Section 22B, 22C or 22D(5) of the LBATA 1990	However, the offence may be compounded pursuant to Section 24 of the LBATA 1990 up to 50% of the maximum penalty amount (RM500,000) except for the penalty being imposed upon conviction.
		Breach of Section 22EB of the LBATA 1990	
	Section 23A of the LBATA 1990	Default in furnishing return of profits	
	Section 23B of the LBATA 1990	Produced incorrect return of profits and information.	

*Note 1: No changes are made on the types and rates of penalty for income tax audit, petroleum income tax audit, finance and insurance income tax audit, withholding tax audit and employer audit as compared to the previously issued frameworks.*

*Note 2: The types and rates of penalty for capital gains tax audit principally follow the income tax audit.*

*Note 3: The types and rates of penalty for audit on Labuan income tax matters are newly introduced in this framework and will take effect from 1<sup>st</sup> January 2025.*

**v. Appeal on the Audit on Employer's Matters**

- The audit cases will be forwarded to the IRB's Klang Valley Legal Branch or the IRB's State Legal Division after 18 calendar days from the date of issuance of the letter informing the audit findings.
- Any employer who is dissatisfied with the audit findings or revised audit findings may make an appeal to the abovementioned IRB offices by submitting additional documents and evidence to support the appeal.

**Note:** For further information on the superseded frameworks, kindly refer to our [Tax Flash – June 2022](#), [Tax Flash – October 2021](#) and [Tax Flash – September 2015](#) issues.

**Double Taxation Relief (The Government of the Russian Federation) Order 2025**

The new [Double Taxation Agreement \["DTA"\] signed between Malaysia and Russia](#) has recently been gazetted.

Some salient points of the DTA include:-

- i. A building site, a construction, installation, or assembly project which exists for more than 12 months will constitute a permanent establishment ["PE"].
- ii. A PE is also deemed to exist if supervisory activities are carried out for more than 6 months within any 12-month period in connection with a building site or a construction, installation, or assembly project.
- iii. The withholding tax ["WT"] rates applicable on certain payments made to non-residents are as follows:-
  - Dividends – 10% of the gross amount of the dividends if the beneficial owner holds directly at least 25% of the capital of the company paying the dividends for 365 days before the dividend entitlement date or 15% of the gross amount of the dividends in all other cases (Note)
  - Interest – 10% (penalty charges for late payment are not considered as interest)
  - Royalties – 10%
  - Technical fees – 10%

The above DTA will enter in force upon ratification.

**Note:** Currently, there is no WT on outbound dividends under the ITA 1967.

## Online Application for an Instalment Scheme for Settlement of Balance of Tax Payable or Tax Arrears

The IRB has issued a [media release](#) on 18<sup>th</sup> March 2025 informing that with effect from 5<sup>th</sup> March 2025, taxpayers can access the IRB's MyTax portal and apply for an instalment scheme through the e-Ansuran facilities to settle their balance of tax payable or any tax arrears.

All applications will be approved automatically without the need to furnish any supporting documents, provided that the following criteria are met:-

- the amount in which the instalment is applied for must exceed RM300;
- the number of instalments requested is between 2 to 6 instalments;
- only applicable to income tax payments, including payments for increase in tax; and
- the application made is not related to any ongoing instalment scheme.

Please note that any cancellation of the e-Ansuran applied previously can only be made at the IRB offices.

## Service Tax Policy No. 7/2024 (Amendment No. 1) – Service Tax Treatment on Issuance of Virtual Credit Card

The Royal Malaysian Customs Department has published the [Service Tax Policy No. 7/2024 \(Amendment No. 1\) – Service Tax Treatment on Issuance of Virtual Credit Card](#) dated 14<sup>th</sup> March 2025 (available in *Bahasa Malaysia*). For the purpose of service tax exemption on the issuance of virtual credit card, the condition requiring the card verification value [“CVV”] to be the same as that of the physical credit card has been removed.

**Note:** For further details, kindly refer to our [Tax Flash – August 2024](#) issue.

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