



## TAX FLASH

March 2024

### In this Issue

- [PR No. 1/2024 – Investment Tax Allowance – Promoted Product Under Manufacturing Sector](#)
- [Tax Incentive for Iskandar Development Region Status Companies](#)
- [Extension of Application for Tax Incentive for an Approved Individual Under the Returning Expert Programme](#)
- [Exemption from Capital Gains Tax on Disposal of Share of a Controlled Company Incorporated Outside Malaysia](#)
- [Extension of the Application Period for Investment Deduction in a BioNexus Status Company](#)
- [E-Invoice Software Development Kit](#)
- [Updated E-Invoice Guidelines \[Version 2.2\]](#)
- [Updated E-Invoice Specific Guideline \[Version 2.0\]](#)

### **PR No. 1/2024 – Investment Tax Allowance – Promoted Product Under Manufacturing Sector**

The Inland Revenue Board [“IRB”] has recently published the *Public Ruling [“PR”] No. 1/2024 – Investment Tax Allowance [“ITA”] – Promoted Product Under Manufacturing Sector* to provide guidance on the claim of ITA given to a resident company participating or intending to participate in a business in relation to the production of a promoted product that is listed in Malaysia, reinvestment in particular industries and selected industries, as well as for high technology companies and small scale companies.

Salient points of the abovementioned PR include:-

#### **i. Promoted Product Under the Manufacturing Sector**

- The list of promoted products under the manufacturing sector for various types of company/industry has been published through the gazetting of several legislative as follows:-

- Moore Malaysia
- Moore Global
- Inland Revenue Board

- Promotion of Investments (Promoted Activities and Promoted Products) Order 2012;
- Promotion of Investments (Promoted Activities and Promoted Products for High Technology Companies) Order 2012;
- Promotion of Investments (Promoted Activities and Promoted Products for Selected Industries) Order 2012;
- Promotion of Investments (Promoted Activities and Promoted Products for Reinvestment) Order 2012; and
- Promotion of Investments (Promoted Activities and Promoted Products for Small Scale Companies) Order 2012.

## ii. ITA Rate and Exempt Statutory Income Rate

- The ITA rate and exempt statutory income rate is summarised and tabulated below:-

Promoted Products	ITA		
	ITA Rate on Qualifying Expenditure	Exempt Statutory Income Rate	Incentive Period
	(%)	(%)	(Number of Years)
General	60	70	5 + 5*
High technology company	60	100	5
Small Scale company	60	100	5
Selected industry	100	100	5
<b>Reinvestment</b>			
Oil palm biomass	100	100	5
Resource-based	60	70	5

\* A company engaged in an integrated agriculture activity is eligible for another 5 years of extension of ITA claim.

## iii. Tax Treatment for ITA

- Eligible company is given ITA of 60% or 100% of the qualifying expenditure incurred for the business of a promoted product for a period of 5 years which can be utilised to set-off up to 70% or 100% of the statutory income for a year of assessment. Any unutilised ITA can be carried forward to be deducted from the statutory income of the business of the same promoted product until it is fully utilised.
- Further details on the tax treatment for ITA are provided in the PR No. 4/2023 – ITA – Overview dated 10<sup>th</sup> November 2023.
- The PR provides example on the calculation and claim mechanism of the ITA for promoted product under manufacturing sector.

**Note:** For further information on the general application and approval of ITA, withdrawal and surrender of ITA, qualifying capital expenditure for the purpose of ITA and tax treatment for ITA on promoted products and activities for the manufacturing sector, kindly refer to our [Tax Flash – December 2023](#) issue.

## Tax Incentive for Iskandar Development Region Status Companies

The [Income Tax \(Exemption\) Order 2024](#) has been gazetted on 2<sup>nd</sup> February 2024 to provide exemption to a company granted with Iskandar Development Region status ["IDR status company"] from the payment of income tax in respect of the statutory income derived from the qualifying activity in the basis period for a year of assessment.

Salient points of the abovementioned Order include:-

- An IDR status company which incurs qualifying capital expenditure ["QCE"] in relation to a building, machinery or plant used in an approved node solely for the purpose of carrying on a qualifying activity is eligible for the abovementioned exemption, which is equivalent to the amount of allowance of 100% of the QCE incurred in the basis period for that year of assessment.
- The QCE shall not include capital expenditure incurred on:-
  - any building which is used as a living accommodation; or
  - any machinery or plant which is provided wholly or partly for the use of a director or an individual who is a member of the management or administration, or clerical staff of the qualifying company.
- Application for the exemption must be submitted in writing to the Iskandar Regional Development Authority ["IRDA"] from 24<sup>th</sup> October 2013 to 31<sup>st</sup> December 2024 with compliance with all the conditions imposed by the Minister.
- The exemption is granted for a period of 5 consecutive years commencing from the date of commencement of the first QCE incurred by the IDR status company, as determined by the IRDA.
- The date of the first QCE incurred by the qualifying company shall not be earlier than 3 months before the date of application is received by the Minister and shall not be earlier than 24<sup>th</sup> October 2013.
- The above Order shall not apply to an IDR status company which in the basis period for a year of assessment has engaged in a qualifying activity prior to the date of application is received by the Minister or has made a claim/granted certain incentives/exemption/deduction under the Promotion of Investments Act 1986 or the Income Tax Act 1967 ["ITA 1967"].

For the purpose of the above Order:-

**"IDR status company"** means a company which:-

- is incorporated under the Companies Act 2016;
- is resident in Malaysia;
- undertakes a qualifying activity in an approved node; and
- approved by the Minister.

**"Approved node"** means an area within the Iskandar Development Region as approved by the IRDA.

### **Extension of Application for Tax Incentive for an Approved Individual Under the Returning Expert Programme**

Under the Returning Expert Programme, an approved individual who is a citizen and resident in Malaysia can opt to apply a flat personal income tax rate of 15% for a period of 5 consecutive years of assessment in respect of the income derived from exercising employment with any person resident in Malaysia.

Following the 2024 Budget announcement, the *Income Tax (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) (Amendment) Rules 2024* has been gazetted to extend the period of application under the Returning Expert Programme for another 4 years, i.e. for applications received by Talent Corporation Malaysia Bhd. up to 31<sup>st</sup> December 2027.

**Note:** For further information on the *Income Tax (Determination of Approved Individual and Specified Year of Assessment under the Returning Expert Programme) Rules 2012*, kindly refer to our *Tax Flash – June 2012* issue.

## Exemption from Capital Gains Tax on Disposal of Share of a Controlled Company Incorporated Outside Malaysia

Under the Finance (No. 2) Act 2023, capital gains tax shall be imposed on the gains or profits made by a company, limited liability partnership, trust body or co-operative society from the disposal of shares under Section 15C of the ITA 1967 i.e. shares of a controlled company incorporated outside Malaysia if the controlled company owns real property situated in Malaysia or shares of another controlled company or both (conditions apply) ["Section 15C shares"], effective 1<sup>st</sup> January 2024.

The *Income Tax (Exemption) (No. 2) Order 2024* has been gazetted to provide exemption from capital gains tax for disposal of Section 15C shares made between 1<sup>st</sup> January 2024 and 29<sup>th</sup> February 2024. However, this exemption is not applicable to gains or profits from disposal of shares that is chargeable to tax under Section 4(a) of the ITA 1967.

**Note:** For further information relating to the capital gains tax on disposal of share of a controlled company incorporated outside Malaysia, kindly refer to our *Tax Flash - November 2023 (Special Edition)* issue.

## Extension of the Application Period for Investment Deduction in a BioNexus Status Company

Pursuant to the Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2016 and the subsequent amendment thereof, a qualifying person is granted a deduction in the basis period for a year of assessment of an amount equivalent to the actual value of investment made in a BioNexus status company approved by the Minister for the investment made in a BioNexus status company up to 31<sup>st</sup> December 2022.

Following the 2023 Budget (retabled) announcement, the *Income Tax (Deduction for Investment in a BioNexus Status Company) (Amendment) Rules 2024* has been gazetted to provide extension up to 31<sup>st</sup> December 2024 for a qualifying person to make the application to the Minister through Malaysia Bioeconomy Development Corporation Sdn Bhd for an approval to make investment in a BioNexus status company. This is applicable to the investment made in a BioNexus status company from 1<sup>st</sup> January 2023 to 31<sup>st</sup> December 2024.

The above amendment Rules shall be deemed to have come into operation on 1<sup>st</sup> January 2023.

**Note:** For further information relating to the above, kindly refer to our *Tax Flash – January 2017* and *Tax Flash – August 2022* issue.

## E-Invoice Software Development Kit

The IRB has released the e-Invoice Software Development Kit ["SDK"] (Beta version) on its website on 9<sup>th</sup> February 2024.

The e-Invoice SDK is a collection of tools, libraries and resources providing a net of functionalities, Application Programming Interfaces ["API"] and development guidelines to assist businesses in integrating their system to the MyInvoice System via API.

## Updated E-Invoice Guidelines [Version 2.2]

The IRB has recently issued the updated *e-Invoice Guideline [Version 2.2]* ["updated Guidelines"] dated 9<sup>th</sup> February 2024 with further clarifications and amendments relating to the implementation of e-Invoice.

The salient amendments included in the updated Guidelines are as follows:-

i. Exemption from Implementation of E-Invoice

- The persons who are exempted from issuing e-Invoice (include the issuance of self-billed e-Invoice) include individuals who are not conducting business (new addition).
- Suppliers are allowed to input buyer's tax identification number ["TIN"] field with the general TIN as assigned in Appendix I of the updated Guidelines for transactions with the following persons:-
  - the Government;
  - the State Government and state authority;
  - the Government authority;
  - local authority;
  - statutory authority and statutory body; and
  - facilities provided by the above Government, authority or body (e.g. hospitals, clinics, multipurpose hall etc.).

**Note:** For further details on the previous e-Invoice Guidelines Year 2023 issued by the IRB previously, kindly refer to our [Tax Flash – August 2023](#) and [Tax Flash – November 2023](#) issues.

### Updated E-Invoice Specific Guideline [Version 2.0]

The IRB has recently issued the updated [e-Invoice Specific Guideline \[Version 2.0\]](#) dated 9<sup>th</sup> February 2024 to provide further guidance on specific areas and to aid taxpayers in gaining a better understanding of certain e-Invoice treatment.

The salient amendments included in the updated e-Invoice Specific Guideline are as follows:-

i. **Transaction with Buyer**

- The consolidation of e-Invoice does not apply to self-billed e-Invoice.

ii. **Self-Billed e-Invoice**

- Self-billed e-Invoice will be allowed for the following transactions (new addition):-
  - payment/credit to taxpayers recorded in a statement/bill issued on a periodic basis (e.g. rebate); and
  - interest payment.

iii. **Cross Border Transaction – Timing for Issuance of Self-billed e-Invoice**

- In relation to importation of goods, the Malaysian purchaser should issue a self-billed e-Invoice upon obtaining customs clearance.
- For importation of services, self-billed e-Invoice should be issued upon payment made by the Malaysian purchaser or receipt of invoice from foreign supplier, whichever earlier.

iv. **Currency Exchange Rate Where Transactions are Conducted in Foreign Currency**

- Supplier may opt to provide either of the following for the purpose of issuance of e-Invoice:-
  - Supplier may submit the e-Invoice in the relevant foreign currency and the applicable currency exchange rate, without the RM-equivalent;
  - Supplier may submit the e-Invoice in the relevant foreign currency and the applicable RM-equivalent, without the currency exchange rate; or
  - Supplier may submit the e-Invoice in the relevant foreign currency, the applicable RM-equivalent along with the currency exchange rate.

## v. E-Commerce Transactions

- E-Commerce transaction means any sale or purchase of goods or services, conducted over any networks by methods specifically designed for the purpose of receiving or placing of orders. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. This transaction can be between various parties such as enterprises, households, individuals, governments and other public or private organisations.
- Issuance of e-Invoice from e-Commerce platform provider to purchaser
  - Upon implementation of e-Invoice, e-Commerce platform providers are responsible for the issuance of:-
    - e-Invoice (upon purchaser's request); or
    - receipt (if no e-Invoice is requested by the purchaser) to the purchaser for the transaction.
  - Where the purchaser does not require an e-Invoice, the e-Commerce platform provider is allowed to aggregate transactions with purchasers who do not require e-Invoice on a monthly basis and submit a consolidated e-Invoice to the IRB within 7 calendar days after the month end.
  - The role of supplier is e-Commerce platform provider whereas buyer is the purchaser for the purpose of e-Invoice issuance to purchaser.
  - Merchants and/or service providers are not required to issue e-Invoice or receipt to the purchaser for the goods sold or services performed.
- Issuance of self-billed e-Invoice by the e-Commerce platform provider to merchant and/or service provider
  - Upon implementation of e-Invoice, e-Commerce platform provider is required to issue self-billed e-Invoice to merchant and/or service provider for all transactions concluded on the e-Commerce platform.
  - The roles of both parties would be supplier is the merchant and/or service provider whereas buyer is the e-Commerce platform provider for the purpose of issuance of self-billed e-Invoice.
  - E-Commerce platform provider is allowed to create and submit self-billed e-Invoice for the IRB's validation in accordance with the current issuance frequency of issuing statements (e.g. daily, weekly, monthly, bi-monthly) to the merchant and/or service provider.

**Note:** For further details on the previous e-Invoice Specific Guideline Year 2023 issued by the IRB previously, kindly refer to our [Tax Flash – November 2023](#) issue.

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