



*cutting through complexity*

# Malaysia Tax Profile

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# 1 Corporate Income Tax

## Income Tax

Corporate income tax

## Tax Rate

Corporate tax rates for companies resident in Malaysia:

- 25 percent (24 percent from Year of Assessment (YA) 2016)

Special tax rates apply for companies resident in Malaysia with an ordinary paid-up share capital of MYR 2.5 million and below at the beginning of the basis period for a year of assessment (provided not more than 50 percent of the ordinary paid-up share capital of the company is directly or indirectly owned by (or linked to) a related company which has an ordinary paid-up share capital of more than MYR 2.5 million at the beginning of the basis period for a year of assessment):

- 20 percent on the first MYR 500,000 (19 percent from YA 2016)
- 25 percent on every ringgit exceeding MYR 500,000 (24 percent from YA 2016)

## Residence

A company will be a Malaysian tax resident if, at any time during the basis year, the management and control of the company's business or any one of its businesses are exercised in Malaysia.

## Compliance requirements

Assessment system – Self assessment

Estimate of tax payable must be made one month before the commencement of a year of assessment

Monthly instalments must be paid based on the estimate of tax payable

Filing due date – seven months from the date following the close of the accounting period

## International Withholding Tax Rates

Dividends paid to non-residents are not subject to withholding tax.

Royalties paid/credited to non-residents are subject to withholding tax at 10 percent. The rate may be reduced by the relevant Double Taxation Agreement (DTA).

Interest paid/credited to non-residents is subject to withholding tax at 15 percent. The rate may be reduced by the relevant DTA.



## Holding rules

From 1 January 2014, dividends paid by companies resident in Malaysia are exempt from Malaysian tax in the hands of shareholders.

There is no capital gains tax in Malaysia. However, there is real property gains tax (RPGT). RPGT is levied on the disposal of real property situated in Malaysia as well as the disposal of shares in a Real Property Company (RPC). A RPC is a controlled company which owns real property, shares, or both in another RPC, which have a defined value of not less than 75 percent of the value of its total tangible assets.

<b>RPGT rates for companies:</b>	
<b>Date of disposal from date of acquisition</b>	<b>Rates</b>
Within 3 years	30 percent
In the 4th year	20 percent
In the 5th year	15 percent
In the 6th and subsequent years	5 percent

## Tax Losses

Current period offset – business losses may be set off against income from other sources for that year. Tax losses may be carried forward indefinitely to set off against future business income only, unless the company is dormant and does not satisfy the continuity of ownership test.

Losses cannot be carried back, although a limited form of carry back was allowed in certain circumstances in the 2009 and 2010 years of assessment.

## Tax Consolidation / Group relief

There are no consolidation provisions in Malaysia. However, resident companies within a 70 percent owned group can surrender up to 70 percent of their current year's adjusted business losses to other related resident companies, provided certain conditions are met.

## Transfer of shares

Stamp duty of 0.3 percent (of the price or value of the shares, whichever is higher) is payable on the transfer of shares.

Stamp duty relief is available in certain circumstances, such as transfers within 90 percent groups, provided certain conditions are met.



<b>Transfer of assets</b>	<p>On the transfer of land and buildings, ad valorem stamp duty at rates from 1 to 3 percent on the transfer consideration or the market value of the property, whichever is higher, is payable.</p> <p>Stamp duty relief is available in certain circumstances, such as transfers within 90 percent groups, provided certain conditions are met.</p>
<b>CFC rules</b>	There is no CFC regime in Malaysia.
<b>Transfer Pricing</b>	<p>Malaysia's transfer pricing regime is largely based on OECD guidelines. Effective from YA 2014, corporate taxpayers are required to declare in their tax returns whether transfer pricing documentation has been prepared. Documents pertaining to transfer pricing do not need to be submitted with a taxpayer's annual income tax return, but they should be made available to the tax authority upon request.</p> <p>Advance pricing agreements (APA) are governed by the Income Tax (Advance Pricing Agreement) Rules 2012. The Rules establish the process and expected timeline for the application of unilateral, bilateral and multilateral APAs.</p>
<b>Thin Capitalisation</b>	Malaysia has thin capitalisation legislation. However, the Ministry of Finance announced that the implementation of the regime has been deferred to the end of December 2015. In view of this, it appears that thin capitalisation may become effective in January 2016.
<b>General Anti-avoidance</b>	There are general anti-avoidance rules in Malaysia which allow the tax authority to disregard, vary or make any adjustment deemed fit, if there is reason to believe that any transaction has the effect of evading, avoiding or altering the incidence of tax.
<b>Anti-treaty shopping</b>	There are no specific anti-treaty shopping provisions. However, the general anti-avoidance provisions can be used.
<b>Other specific anti-avoidance rules</b>	None.
<b>Rulings</b>	Private rulings can be obtained from the Malaysian tax authority.
<b>R&amp;D Incentives</b>	Malaysia's R&D tax incentive scheme includes tax exemptions and double deductions for certain R&D expenditure incurred in Malaysia.

## Other incentives

Tax incentives are available for a wide range of companies in Malaysia, such as Treasury Management Centres and Principal Hubs operating in Malaysia. The incentive for the establishment of a Principal Hub replaces the incentives for International Procurement Centres, Regional Distribution Centres and Operational Headquarters with effect from 1 May 2015.

Additionally, incentives are available in Malaysia for investments in promoted products and activities in the manufacturing, agricultural, hotel and tourism industries as well as training activities and specific business activities promoted by the Malaysian Government. Generally, the incentives provide for partial or total relief from income tax or an incentive based on capital expenditure, for a duration of five or ten years.

## Special tax regimes for specific industries or sectors

Foreign-sourced income received in Malaysia by a resident company (other than a resident company carrying on the business of banking, insurance, shipping, or air transport) is exempt from tax.

## Related business factors

### *Forms of legal entities typically used for conducting business*

An incorporated company limited by shares, partnership, and branch of a foreign company are the most common legal entity used for conducting business in Malaysia.

### *Capital requirements for establishing a legal entity*

There are capital requirements for establishing a legal entity. The amount will vary depending on the percentage of foreign ownership and the existing Government policies, regulations and guidelines which are in force for relevant sectors.

### *Other local requirements for establishing a legal entity*

There are conditions on foreign ownership which are regulated by specific industry sector regulators. The level of restrictions will depend upon the type of operations and the deemed importance of such operations to the Government's socio-economic imperatives of the day.

### *Foreign exchange control rules*

Malaysia maintains a liberal foreign exchange administration policy. This means foreign exchange rules are mainly prudential measures to support the overall macroeconomic objective of maintaining monetary and financial stability while safeguarding the balance of payments position.



## 2 Income Tax Treaties for the Avoidance of Double Taxation

### In Force

Albania	Hong Kong	Morocco	Sri Lanka
Argentina	Hungary	Myanmar	Sudan
Australia	India	Namibia	Sweden
Austria	Indonesia	Netherlands	Switzerland
Bahrain	Iran	New Zealand	Syria
Bangladesh	Ireland	Norway	Taiwan
Belgium	Italy	Pakistan	Thailand
Bosnia & Herzegovina	Japan	Papua New Guinea	Turkey
Brunei	Jordan	Philippines	Turkmenistan
Canada	Kazakhstan	Poland (1978)	United Arab Emirates
Chile	Korea, Republic	Qatar	United Kingdom
China	Kuwait	Romania	United States of America
Croatia	Kyrgyzstan	Russia	Uzbekistan
Czech Republic	Laos	San Marino	Venezuela
Denmark	Lebanon	Saudi Arabia	Vietnam
Egypt	Luxembourg	Seychelles	Zimbabwe
Fiji	Malta	Singapore	
Finland	Mauritius	South Africa	
France	Mongolia	Spain	
Germany			



**Negotiated, not yet in force at time of publication**

Double tax agreements with Poland (2014) and Senegal have been gazetted but at the time of writing are not yet in force.

Protocols which amend limited articles of the treaties with Belgium, Kuwait, Seychelles and Turkey have been gazetted but at the time of writing are not yet in force.

*Source – IRB's website*



## 3 Indirect Tax

### GST Reforms (post 1 April 2015)

Goods and Services Tax (GST) has been implemented with effect from 1 April 2015. GST replaces the service tax and sales tax regime (outlined below).

A person\* must be registered for GST where the annual taxable turnover is in excess of RM 500,000. Businesses below the threshold may register on a voluntary basis.

\*A person includes an individual, sole proprietor, partnership, corporation, Federal Government, State Government, statutory body, local or public authority, society, club, trade union, co-operative, trustee and any other body, organization, association or group of persons whether corporate or unincorporated.

### Standard Rate (prior to 1 April 2015)

GST is levied at a standard rate of 6 percent.

Some supplies are zero rated or exempt

### Indirect Taxes (prior to 1 April 2015)

**Service tax** was chargeable on the value of taxable services provided by a taxable person at a rate of 6 percent.

Examples of taxable services include; operators of hotels, operators of restaurants, bars and coffee houses, insurance companies, telecommunication companies, consultants and professional firms. There is a limited exemption for services provided within a group.

**Sales tax** was a form of consumption tax levied on taxable goods manufactured in Malaysia or imported into Malaysia for local consumption, generally levied at 5 or 10 percent. Exports were exempt.

### Further Information

For more detailed indirect tax information across various countries, refer to:

[KPMG Asia Pacific Indirect Tax Country Guide.](#)



## 4 Personal Taxation

### Income Tax

Personal income tax

### Top Rate

From YA 2015, the maximum income tax rate has been reduced from 26 percent to 25 percent, and applies to an adjusted chargeable income of MYR 400,000 or more. Non-residents are taxed at a flat rate of 25 percent with effect from YA 2015 on gross income from all sources.

### Social Security

There is no general social security framework in Malaysia. However, mandatory contributions are made monthly by both the employer and the employee to the Employees' Provident Fund, which serves as a compulsory savings and retirement plan. In addition, where an employee earns less than MYR 3,000 per month, both the employer and the employee must make monthly contributions to the Social Security Organization which serves to provide certain benefits to employees in cases of employment injury.

### Further information

For more detailed personal taxation information, refer to:

[KPMG's Thinking Beyond Borders](#)



## 5 Other Taxes

### Property taxes

Local councils may impose a levy rate (commonly known as 'assessment tax') on residents in respect of services provided by the local council. The amount varies from council to council and is dependent on the value of the property.

Quit rent is a form of tax imposed by the State Government. It is imposed on owners of landed property (as opposed to units in high-rise buildings). The amount of quit rent imposed varies from state to state and will depend on the locality and category of land use.

### Import Duty

Import duty is generally payable on imported goods at the time of clearance from Customs' control. The rates of import duty generally ranges from 0 percent to 60 percent depending on the category of goods imported.

Malaysia is committed to ASEAN and as such, import duties imposed on most manufactured goods of ASEAN origin have been reduced to a range of 0 percent to 5 percent.

### Export Duty

Export duty is generally imposed on depletable resources to discourage export of such commodities.

### Excise Duty

Excise duty is imposed on a limited range of locally manufactured goods or goods imported into Malaysia. The rate of tax to be levied varies and would depend on the nature of the goods manufactured or imported. Excise duty is generally levied on alcoholic beverages, tobacco products and motor vehicles.

### Inheritance / gift tax

There is no inheritance or gift tax in Malaysia.



## 6 Free Trade Agreements

### In force

#### Bilateral agreements:

- Australia
- Chile
- India
- Japan
- New Zealand
- Pakistan

#### Multilateral agreements:

- ASEAN-Australia and New Zealand
- ASEAN-China
- ASEAN-India
- ASEAN-Japan
- ASEAN-Korea

### In negotiation

- Malaysia-Turkey
- Malaysia-European Union Free Trade Agreement (MEUFTA)
- Trans-Pacific Partnership Agreement (TPP)
- Trade Preferential System-Organisation of Islamic Conference (TPS-OIC)
- Developing Eight (D-8) Preferential Tariff Agreement (PTA)

Source: [Malaysian Ministry of International Trade and Industry \(MITI\)](#)

# 7 Tax Authorities

## Tax Authorities

Inland Revenue Board of Malaysia (IRBM) and Royal Malaysian Customs

[Link to Inland Revenue Board of Malaysia](#)

[Link to Royal Malaysian Customs](#)

## Tax audit activity

Audit cases can be selected based on a number of factors, such as:

- Risk analysis criteria
- Information received from a third party
- Industry type
- A specific issue concerning a certain group of taxpayers
- Location

There are two types of audit – a desk audit which is carried out at the IRBM’s office, and a field audit which is carried out at the taxpayer’s business premise.

A typical tax audit commences with a letter of notification of an audit, which will indicate the records that should be made available for audit, the years of assessment to be audited, and the names of the relevant audit officers. This is followed by an examination of the relevant documents. The IRBM will issue an audit findings report, which will contain details of any proposed tax adjustments and the rationale for those adjustments. If the taxpayer disagrees with the adjustments, an official objection must be submitted. If there are no objections to the adjustments made, the IRBM will issue a notice of additional assessment.

The timeframe for settlement of a tax audit should be three months from the commencement of the audit, but it can take longer to reach a resolution in more complex cases.

Key focus areas for the IRBM in tax audits conducted in recent years have included transfer pricing and tax incentives.

## Appeals

A taxpayer can appeal against an assessment as a result of a tax audit. The appeal must be made within 30 days after the service of the notice of additional assessment.



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