Malaysia Highlights 2015

**Investment basics:**

**Currency** – Malaysian Ringgit (MYR)

**Foreign exchange control** – Malaysia maintains a liberal system of exchange controls. The repatriation of capital, profits, dividends, royalties, rents and commissions is freely permitted.

**Accounting principles/financial statements** – IFRS, except for private entities that continue to adopt Private Entity Reporting Standards (PERS)

**Principal business entities** – These are the public and private limited company, business trust, limited liability partnership, partnership, sole proprietorship and branch of a foreign corporation.

**Corporate taxation:**

**Residence** – A corporation is resident in Malaysia if its management and control are exercised in Malaysia.

**Basis** – Corporations are taxed on income derived from Malaysia. Foreign-source income is exempt unless the corporation is carrying on a business in the banking, insurance, air transport or shipping sectors.

**Taxable income** – Taxable income comprises all earnings derived from Malaysia, including gains or profits from a trade or business, dividends, interest, rents, royalties, premiums or other earnings.

**Taxation of dividends** – As from 1 January 2014, all corporations in Malaysia are required to adopt the single-tier system (STS). Dividends paid by companies under the STS are not taxable.

**Capital gains** – Capital gains are not taxed in Malaysia, except for gains derived from the disposal of real property or on the alienation of shares in a real property company. The rate is 30% for such disposals of property made within three years after the date of acquisition. The rates are 20% and 15% for disposals in the fourth and fifth years after acquisition, respectively, and 5% for disposals in the sixth year after acquisition and thereafter.

**Losses** – Losses may be carried forward indefinitely (except where there is a substantial change in corporate ownership of a dormant company). The carryback of losses is not permitted.

**Rate** – The standard corporate tax rate is 25% (which will reduce to 24% with effect from year of assessment (YA) 2016), while the rate for resident small and medium-sized companies (i.e. companies capitalized at MYR 2.5 million or less and not part of a group containing a company exceeding this capitalization threshold) is 20% (which will reduce to 19% with effect from YA 2016) on the first MYR 500,000, with the balance being taxed at the 25% rate (which will reduce to 24% with effect from YA 2016).

**Surtax** – No

**Alternative minimum tax** – A Labuan company carrying on a Labuan business activity may elect to pay MYR 20,000, or to be taxed at 3% of the audited accounting profit.

**Foreign tax credit** – Foreign tax paid may be credited against Malaysian tax on the same profits (limited to 50% of foreign tax in the absence of a tax treaty), but the credit is limited to the amount of Malaysian tax payable on the foreign income.

**Participation exemption** – No, but foreign-source income is not taxable and domestic dividends are tax-exempt.

**Holding company regime** – An investment holding company (IHC) is a company whose activities consist mainly of the holding of investments and that derives no less than 80% of its gross income (other than gross income from a source consisting of a business of holding of an investment) from such investments. Generally, only expenses falling within the definition of “permitted expenses” in the tax legislation qualify for a tax deduction in respect of an IHC.

**Incentives** – A wide range of incentives are available for certain industries, such as manufacturing, information technology services, biotechnology, Islamic finance, energy conservation and environmental protection. Incentives include tax holidays of up to 10 years (pioneer status); investment tax allowances (i.e. a 60% to 100% allowance on capital investments made up to 10 years); accelerated capital allowances; double deductions; and reinvestment allowances (i.e. a 60% allowance on capital investments made in connection with qualifying projects).

**Withholding tax:**

**Dividends** – Malaysia does not levy withholding tax on dividends.

**Interest** – A withholding tax of 15% applies to interest paid to a nonresident, unless the rate is reduced under a tax treaty.

**Royalties** – A withholding tax of 10% applies to royalties paid to a nonresident, unless the rate is reduced under a tax treaty.

**Technical service fees** – A 10% withholding tax applies to technical service fees paid to a nonresident, unless the rate is reduced under a tax treaty.

**Branch remittance tax** – No

**Other** – A 10% withholding tax applies to the rental of movable property, installation fees for services rendered in Malaysia and certain one-time income paid to nonresidents, unless the rate is reduced under a tax treaty.

**Other taxes on corporations:**

**Capital duty** – Capital duty is levied at rates ranging from MYR 1,000 to MYR 70,000.

**Payroll tax** – Tax on employment income is withheld by the employer under a pay-as-you-earn (PAYE) scheme and remitted to the tax authorities.

**Real property tax** – Individual states in Malaysia levy “quit” rent and assessments at varying rates.

**Social security** – Both the employer and the employee are required to make contributions to the Social Security Organization (SOCSO). The employer generally contributes between MYR 0.40 and MYR 51.65 for each employee registered with SOCSO. The employer and
the employee also contribute to the Employees Provident Fund (EPF) at a rate of 12%/13% and 11% of the employee’s remuneration, respectively.

**Stamp duty** – Stamp duty is levied at rates between 1% and 3% of the value of property transfers, and 0.3% on share transaction documents.

**Transfer tax** – No, except for stamp duty.

**Other** – Equity requirements have been substantially relaxed.

**Anti-avoidance rules:**

**Transfer pricing** – Transfer pricing rules apply. Taxpayers can request an advance pricing agreement.

**Thin capitalization** – There are no specific thin capitalization rules, but legislation has been amended to allow for such rules.

**Controlled foreign companies** – No

**Other** – Malaysia has a general anti-avoidance rule that allows tax schemes that are entered with a primary or dominant purpose of obtaining a tax benefit to be disregarded. There also are several specific anti-avoidance rules.

**Disclosure requirements** – Transactions with related companies within or outside of Malaysia must be disclosed on the annual income tax return, including purchases, loans, other expenses and other income.

**Compliance for corporations:**

**Tax year** – Fiscal year (generally the accounting year)

**Consolidated returns** – Consolidation is not permitted; each company is required to file a separate tax return. However, subject to certain conditions, 70% of a company’s adjusted loss may be used to offset profits of a related entity.

**Filing requirements** – Malaysia operates a self-assessment regime. Advance corporate tax is payable in 12 monthly installments. A tax return must be filed within seven months of the company’s year end.

**Penalties** – Penalties apply for failure to comply with the tax law.

**Rulings** – Taxpayers may request an advance ruling on the tax treatment of a specific transaction. Public rulings also are issued by the authorities from time to time.

**Personal taxation:**

**Basis** – Individuals are taxed on income derived from Malaysia. Foreign-source income is exempt in Malaysia.

**Residence** – An individual is considered tax resident if he/she is in Malaysia for 182 days or more in a calendar year. Alternatively, residence may be established by physical presence in Malaysia for a mere day if it can be linked to a period of residence of at least 182 consecutive days in an adjoining year.

**Filing status** – A married couple living together may opt to file a joint or separate assessment.

**Taxable income** – Taxable income comprises all earnings derived from Malaysia, including gains or profits from a trade or business, employment, dividends, interest, rents, royalties, premiums or other earnings. Employment income includes most employment benefits, whether in cash or in kind.

**Capital gains** – Capital gains are not taxed in Malaysia, except for gains derived from the disposal of real property or on the alienation of shares in a real property company. The rate is 30% for such disposals of property made within three years after the date of acquisition. The rates are 20% and 15% for disposals in the fourth and fifth years after acquisition, respectively, and an exemption applies for disposals after five years. For disposals by an individual who is not a citizen or a permanent resident, the rates are 30% and 5% for disposals within and after five years after acquisition, respectively.

**Capital acquisitions tax** – No

**Real property tax** – Individual states in Malaysia levy “quit” rent and assessment at varying rates.

**Inheritance/estate tax** – No

**Net wealth/net worth tax** – No

**Social security** – Both the employee and the employer are required to make contributions to the EPF at a rate of 11% and 12%/13% of remuneration, respectively, as well as to the SOCSO.

**Compliance for individuals:**

**Tax year** – Calendar year

**Filing and payment** – Tax on employment income is withheld by the employer under a pay-as-you-earn (PAYE) scheme and remitted to the tax authorities. Malaysia imposes a self-assessment regime. An individual deriving employment income or business income must file a tax return and settle any balance owed by 30 April or 30 June, respectively, in the following calendar year.

**Penalties** – Penalties apply for failure to comply with the tax law.

**Sales tax and service tax/goods and services tax:**

**Taxable transactions** – Malaysia levies sales tax and service tax on certain goods and services, which will be replaced by goods and services tax (GST) on 1 April 2015.

**Rates** – Sales tax rates are 5%-10%; the service tax rate is 6%. GST of 6% will be imposed with effect from 1 April 2015.

**Registration** – Effective from 1 April 2015, the threshold for GST is MYR 500,000. Existing businesses were required to register by 31 December 2014.

**Filing and payment** – Any sales or service tax due during a taxable period (two calendar months) must be paid to the authorities within 28 days of the end of the taxable period. Effective from 1 April 2015, GST is to be paid to the authorities within one month of the end of the taxable period (which is one month if taxable supplies total MYR 5 million or more,
or three months if taxable supplies are less than MYR 5 million).


**Tax treaties:** Malaysia has concluded over 70 income tax treaties.

**Tax authorities:** Inland Revenue Board, Royal Customs Department

**International organizations:** UN, Organization of Islamic Conference, World Bank, IMF