Malaysia
Tax Profile

Produced in conjunction with the KPMG Asia Pacific Tax Centre

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# Corporate Income Tax

**Income Tax**

Corporate tax rates for companies resident in Malaysia:

- 25 percent (24 percent from YA 2016)

Special tax rates for companies resident in Malaysia with 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 1 month before the commencement of a year of assessment
- Monthly instalments must be paid based on the estimate of tax payable

Filing due date – 7 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 lowered 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 lowered by the relevant DTA.
**Holding rules**

There are currently transitional rules in place prior to the full implementation of the 'single tier dividend system', which is to have full effect from January 1, 2014. The transitional rules affect franked dividends paid by a resident company to its shareholders. The dividends will be regarded as franked dividends provided:

- They are paid in cash on ordinary shares; and
- The ordinary shares have been held continuously for 90 days or more (this condition does not apply to dividends paid by publicly listed companies).

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). An RPC is a controlled company which owns real property or 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.

**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.

**Transfer of assets**

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.

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

**CFC rules**

There is no CFC regime in Malaysia.
Transfer Pricing

Malaysia’s transfer pricing regime is largely based on OECD guidelines. 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.

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.

Thin Capitalisation

Malaysia has thin capitalisation legislation. However, the implementation of the regime has been deferred to the end of December 2015.

General Anti-avoidance

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.

Anti-treaty shopping

There are no specific anti-treaty shopping provisions. However, the general anti-avoidance provisions can be used.

Other specific anti-avoidance rules

There are specific transfer pricing provisions.

Rulings

Private rulings can be obtained from the Malaysian tax authority.

R&D Incentives

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 Operational Headquarters, International Procurement Centres, Regional Distribution Centres and Treasury Management Centres operating in Malaysia.

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

**In Force**

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

Double tax agreements with Bosnia & Herzegovina 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, China, Kuwait, Seychelles, and Turkey have been gazetted but at the time of writing are not yet in force.
3 Indirect Tax

Indirect Taxes

Service tax is chargeable on the value of taxable services provided by a taxable person. 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 is a form of consumption tax levied on taxable goods manufactured in Malaysia or imported into Malaysia for local consumption. Exports are exempt.

Standard Rate

Service Tax: 6 percent
Sales Tax: Generally 5 percent or 10 percent

GST Reforms

A goods and services tax (GST) is to be introduced in Malaysia from 1 April 2015, and will replace the existing sales and service taxes.

The standard rate of GST will be 6 percent, although some supplies will be zero-rated or exempt.

Businesses with an annual taxable sales value of MYR 500,000 and above will be required to register for GST purposes. Businesses below the threshold may register on a voluntary basis.

Further Information

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

KPMG’s VAT/GST Essentials
## 4 Personal Taxation

### Income Tax

Personal income tax

### Top Rate

The top rate of personal income tax in Malaysia is 26 percent and applies to income greater than MYR 100,000. From YA 2015, the maximum income tax rate will reduce to 25 percent, and it will apply to chargeable income of MYR 400,000 or greater.

Non-residents are taxed at a flat rate of 26 percent (pending issuance of the Finance Bill) 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 ‘land 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 building). 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 a domestic tax 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 Trade and Industry (MITI)
7 Tax Authorities

Tax Authorities

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

[Link to Inland Revenue Board 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 then 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 3 months from the commencement of the audit, but 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

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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