



## TAX FLASH

October 2023

### In this Issue

- [Guidelines and Procedures for the Application of Special Tax Incentive \(Relocation\) for the Manufacturing Sector](#)
- [Guidelines and Procedures for the Application of Tax Incentive for Manufacturer of Electric Vehicle Charging Equipment](#)
- [FAQ on Equity Crowdfunding Tax Exemption](#)
- [Synthesised Texts of the MLI and the Agreement Between Malaysia and Albania, Bosnia & Herzegovina, Chile, China, Croatia, Denmark, Egypt, Finland, France and Hong Kong for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income](#)
- [Appointment of New Director General of Royal Malaysian Customs Department](#)

### Guidelines and Procedures for the Application of Special Tax Incentive (Relocation) for the Manufacturing Sector

The following gazette orders have been issued to provide tax exemption / special tax rates for relocation of manufacturing activities to Malaysia:-

- Income Tax (Exemption) Order 2023 – 100% investment tax allowance ["ITA"] for 5 years for existing companies;
- Income Tax (Relocation of Manufacturing Business Incentive Scheme) Rules 2023 – tax rate of 0% for 10 years [with capital investment (excluding land) of RM300 million to RM500 million] or 15 years [with capital investment (excluding land) of above RM500 million] for new companies; and
- Income Tax (For an Individual Resident Who is Not a Citizen and Holds C Suite Position in an Approved Company) Rules 2023 – tax rate of 15% for 5 consecutive years for non-Citizen individuals holding C Suite Positions.

- [Moore Malaysia](#)
- [Moore Global](#)
- [Inland Revenue Board](#)

In relation to the above, the Malaysian Investment Development Authority ["MIDA"] has recently uploaded in its website the updated [Guidelines and Procedures for the Application of Special Tax Incentive \(Relocation\) for the Manufacturing Sector](#) dated 14<sup>th</sup> August 2023.

Among others, the salient points of the abovementioned Guidelines include:-

**i. Eligible Applicants**

- New Company
  - A company relocating its manufacturing facility for qualifying activities from any country to Malaysia or a company establishing a new operation in Malaysia; and
  - does not have an existing manufacturing operation in Malaysia.
- Existing Company
  - A foreign or locally owned company that has an existing manufacturing operation in Malaysia and relocates its manufacturing operation from outside Malaysia for a new business segment. The products from the new business segment are not expansion projects for existing products.

**ii. Eligibility Criteria for Special Tax Incentive (Relocation – for Existing/New Companies)**

- Must be incorporated under the Companies Act 2016 and resident in Malaysia.
- Must undertake manufacturing activities (i.e. other than the non-qualifying activities listed in Appendix A of the Guidelines).
- Must have a paid-up capital of RM2.5 million and above.
- The new company is to incur the first qualifying capital expenditure ["QCE"] within 1 year from the date of the approval letter and the minimum QCE (excluding land) as listed below shall be completed within 3 years from the date of the first QCE incurred:-
  - RM300 million – to be eligible for 0% tax rate for 10 years; and
  - Above RM500 million – to be eligible 0% tax rate for 15 years.
- The existing company is to incur the first QCE which can be backdated up to 3 years but shall not be earlier than 1<sup>st</sup> July 2020 and the minimum QCE of RM300 million must be completed within 3 years from the date of the first QCE incurred.
- The company's full-time employees shall comprise at least 80% Malaysians on or before the third year of the date of commencement of operation.

**iii. Eligibility Criteria for Special Income Tax Treatment (For Individual)**

- Limited to a maximum of 5 non-citizen individuals employed in each company that has been granted the Special Tax Incentive for relocation.
- The non-citizen individual:-
  - holds a key position (i.e. C-Suite);
  - must receive a basic monthly salary of not less than RM25,000; and
  - is a Malaysian tax resident for each year of assessment throughout the 5 consecutive years of assessment.

**iv. Effective Date of Incentive**

- Application for Special Tax Incentive (Relocation) must be received by MIDA from 1<sup>st</sup> July 2020 until 31<sup>st</sup> December 2024.
- Application for Special Tax Income Tax Treatment (Individual) must be received by MIDA from 7<sup>th</sup> November 2020 until 31<sup>st</sup> December 2024.

**Note:** For further information on the tax incentives for relocating manufacturing activities to Malaysia, kindly refer to our [Tax Flash – September 2023 issue](#).

## **Guidelines and Procedures for the Application of Tax Incentive for Manufacturer of Electric Vehicle Charging Equipment**

Following the Budget 2023 (retabled) announcement, MIDA has issued the *Guidelines and Procedures for the Application of Tax Incentive for Manufacturer of Electric Vehicle [“EV”] Charging Equipment* dated 14<sup>th</sup> August 2023 to provide guidance on the application for tax incentive for companies undertaking expansion and/or diversification activity for the manufacturing of EV charging equipment.

Salient points of the abovementioned Guidelines include:-

### **i. Types of Incentives**

New company and existing company undertaking expansion and/or diversification activity for the manufacturing of EV charging equipment will be eligible for:-

- 100% income tax exemption on the statutory income
  - The exemption is for a period of 10 years from the year of assessment [“YA”] 2023 to YA 2032.
  - Companies that make investments after YA 2023 are eligible to enjoy the remaining exemption period only i.e. until YA 2032.
  - Unabsorbed losses can be carried forward for 7 consecutive years of assessment.
  - This incentive will be granted under the Income Tax (Exemption) (No. 11) Order 2006.

or

- Income tax exemption equivalent to ITA of 100% on QCE
  - The ITA of 100% is given on QCE incurred within 5 years.
  - The allowance can be off-set against 100% of statutory income for each year of assessment.
  - Unabsorbed ITA can be carried forward until fully utilised.
  - This incentive will be granted under the Income Tax (Exemption) (No. 12) Order 2006.

“Expansion” refers to a company in the similar sector which expands its current products into manufacturing of EV charging equipment. The EV charging equipment manufacturing activity must not be similar to the company existing product.

### **ii. Eligibility Criteria**

- The manufacturing company must be incorporated under the Companies Act 2016.
- The company has a manufacturing licence from the Ministry of Investment, Trade and Industry [“MITI”] or Confirmation Letter of Exemption from Manufacturing Licence from MIDA (whichever applicable).
- The company to incur an adequate investment level and operating business expenditures for the proposed project.
- The company’s full-time employees shall comprise of at least 80% Malaysians.
- Value added for company’s product(s) must be at least 20%.
- Science and Technical staff index (S&T Index) must be at least 15% of the company’s full-time workforce.
- Nurture/collaborate with local vendors in the sector in terms of technologies, capabilities, certification, human capital development etc.
- Must have adequate number of Malaysian internships at technical and vocational education and training level or at least diploma level; or to collaborate with technical and vocational education and training institution or institution of higher learning in relevant fields, as proposed.

### **iii. Effective Date of Application**

- Application for the above tax incentive must be received by MIDA from 25<sup>th</sup> February 2023 until 31<sup>st</sup> December 2025.

## FAQ on Equity Crowdfunding Tax Exemption

The Income Tax (Exemption) (No. 4) Order 2022 provides for exemption on the aggregate income of a qualifying individual for investment made in an investee company through an equity crowdfunding platform or a nominee company, effective YA 2021. This tax exemption is given to the qualifying person on his aggregate income in the second year of assessment following the initial year of assessment in which an investment is made. The amount exempted is equivalent to 50% of the investment amount (restricted to RM50,000) for each year of assessment and is limited to 10% of the aggregate income of the qualifying individual for the year of assessment in which the exemption is granted.

Following the above, the Securities Commission Malaysia has recently issued the [Frequently Asked Questions – Equity Crowdfunding Tax Exemption](#) to provide further clarifications on issues relating to the tax exemption given to qualifying individuals for investing through equity crowdfunding.

**Note:** For further information on the Income Tax (Exemption) (No. 4) Order 2022, kindly refer to our [Tax Flash – June 2022](#) issue.

## Synthesised Texts of the MLI and the Agreement Between Malaysia and Albania, Bosnia & Herzegovina, Chile, China, Croatia, Denmark, Egypt, Finland, France and Hong Kong for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

The Inland Revenue Board has recently uploaded on its website the Synthesised Texts of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting [“MLI”] and the Agreement Between Malaysia and [Albania, Bosnia & Herzegovina, Chile, China, Croatia, Denmark, Egypt, Finland, France](#), and [Hong Kong](#) for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income [“DTA”]. These documents represent the synthesised texts for the application of the Malaysia’s DTA with these countries as modified by the MLI which have effect as set out in the following table:-

| Synthesised Texts of Malaysia’s DTA with | Entry into Effect of the Modifications Made by MLI (in Synthesised Texts) with Respect to |  |
|--|---|--|
|  | Withholding Tax   | All Other Taxes  |
|  | Where the event giving rise to such taxes occurs on/after:                                | For taxes levies with respect to taxable period beginning on/after:                  |
| Albania                                  | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021  |
| Bosnia & Herzegovina                     | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021  |
| Chile                                    | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021 (Malaysia)<br>1 <sup>st</sup> January 2022 (Chile)     |
| China                                    | 1 <sup>st</sup> January 2023  | 1 <sup>st</sup> March 2023   |
| Croatia                                  | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021  |
| Denmark                                  | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021 (Malaysia)<br>1 <sup>st</sup> January 2022 (Denmark)   |
| Egypt                                    | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021  |
| Finland                                  | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021 (Malaysia)<br>1 <sup>st</sup> January 2022 (Finland)   |
| France                                   | 1 <sup>st</sup> January 2022  | 1 <sup>st</sup> December 2021  |
| Hong Kong                                | 1 <sup>st</sup> January 2024 (Malaysia)<br>1 <sup>st</sup> April 2023 (Hong Kong)         | 23 <sup>rd</sup> September 2023 (Malaysia)<br>1 <sup>st</sup> April 2024 (Hong Kong) |

**Note:** The above effective dates apply unless it is stated otherwise elsewhere in the Synthesised Texts.

## Appointment of New Director General of Royal Malaysian Customs Department

Yang Berbahagia Dato' Anis Rizana Mohd Zainudin @ Mohd Zainuddin has been appointed as the first female Director General of Customs and Excise. Her appointment took effect from 25<sup>th</sup> September 2023.

For other issues of our Tax Flash, please go to:  
[www.moore.com.my/publications](http://www.moore.com.my/publications)



[www.moore.com.my](http://www.moore.com.my)

---

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Moore Advent Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team at [tax@moore.com.my](mailto:tax@moore.com.my).