



Doing business in Malaysia 2016

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Contents

Introduction	3
– Country profile	4
Legal overview	5
Conducting business in Malaysia	11
Tax system	15
Labour	21
Audit	24
Trade	26
Finance	28
Infrastructure	30

Introduction

This guide to doing business in Malaysia will provide foreign investors with an insight into the key aspects of undertaking business and investing in Malaysia. The country's increasingly liberal market, strong economic outlook and significant infrastructure investment programmes make it especially attractive for overseas investors.

Malaysia is a multi-ethnic, multicultural and multilingual society. It is a fast growing state-oriented and newly-industrialised economy with liberal market policies aimed at promoting trade, entrepreneurship and industrial and economic development. Initiatives undertaken by the government and the private sector are investor-centric and business-friendly with the primary aim of encouraging market development. This has transformed Malaysia into one of the most dynamic business environments in South East Asia.

Malaysia has a mixed economy with active participation in business by both the private and public sector. Although traditionally a commodities-led economy, services have contributed to the country's recent economic growth and now comprise the largest sector of the economy. Primary economic activities in Malaysia include manufacturing, export trade, services, tourism, and commodities such as petroleum,

palm oil, natural rubber and timber. Information technology is also a growing industry.

Malaysia's economy has posted strong growth rates over the past few years, averaging 5.7 per cent since 2010 and its near-term economic outlook remains overall favourable. The Malaysian economy registered a growth of 4.7 per cent in the third quarter of 2015 and is predicted to grow at 4.5 per cent in 2016. The major trading partners of Malaysia are United States, Singapore, Japan, People's Republic of China, Thailand, Hong Kong, South Korea, Germany, and Indonesia.

Alongside a number of government incentives for investment, Malaysia offers the following competitive advantages for investors:

- A number of liberalisation programmes welcoming more foreign investment across a large number of sectors

- An highly developed transport and telecommunications infrastructure
- A skilled labour force with relatively low wage costs
- Fully- developed industrial parks, including free industrial zones, technology parks and Multimedia Super Corridor
- The Labuan International Business and Financial Centre offering an attractive offshore location for financial services activities

While this guide makes reference to some of the most common issues investors might face, it must be noted that certain industries, such as the financial services sector, are subject to special regulations. For the avoidance of doubt, the content of this guide shall not be construed as, and is not meant to constitute, professional advice. Should you require any professional advice, please consult your own adviser/consultant.

The information in this publication is current at December 2015.

Country profile

Capital City	Kuala Lumpur
Area	330,000 sq. km
Population	30,513,848 (approx.)
Language	Bahasa Malaysia (official language), English, Mandarin, Tamil
Currency	Ringgit Malaysia (RM)
International dialling code	+60
National Holidays 2016	1 January – New Year 8 & 9 February – Chinese New Year 1 May – Labour Day 21 May – Wesak Day 4 June – Malaysian King's Birthday 6 & 7 July – Hari Raya Puasa 31 August – National Independence Day 12 September – Hari Raya Haji 16 September – Malaysia Day 2 October – Awal Muharram 29 October – Deepavali or Diwali 12 December – Prophet Muhammad's Birthday 25 December – Christmas *Other state holidays will be applicable
Business and Banking hours	09:00 to 17:00
Stock exchanges	Bursa Malaysia
Political structure	A federation with 13 states and three federal territories
Doing Business rank 2016	18

Ease of Doing Business

Topics	2016 rank	2015 rank	Change in rank
Starting a business	14	12	-2
Licenses and Permits	15	15	No change
Getting Electricity	13	13	No change
Registering property	38	36	-2
Financing	28	24	-4
Protecting Investors	4	4	No change
Paying Taxes	31	32	1
Trading Across Borders	49	48	-1
Enforcing Contracts	44	44	No change
Resolving Insolvency	45	43	-2

Source: World Bank Group (Doing Business)

Legal overview

Political and legal system

The political system of Malaysia follows the framework of a federal representative democratic constitutional monarchy. Malaysia comprises 13 states and three federal territories, Kuala Lumpur, Putrajaya and Labuan. Nine of the 13 states are governed by hereditary rulers, the Sultans, who serve as constitutional heads of state. From these states (Perak, Perlis, Kedah, Kelantan, Terengganu, Pahang, Selangor, Negeri Sembilan and Johor), the Head of State of Malaysia, the King or (*'Yang Di-Pertuan Agong'*), is elected every five years. The remaining states are overseen by governors (*'Yang di Pertua Negeri'*) who are appointed for fixed terms of office, serving as constitutional heads of state. Each state has its own Constitution and a Chief Minister (*'Menteri Besar'*) who is elected to office, together with a State Assembly. Each state has a legislature that deals with matters that are not reserved for the federal parliament.

Executive power is exercised by the federal government and the 13 state governments. The division of powers between the federal government and the state governments is defined in the Federal Constitution.

The government is a parliamentary democracy based upon universal suffrage. The Parliament is comprised of two houses. The Dewan Rakyat (the House of Representatives), which is a fully elected body of 222 members, and the Dewan Negara (Senate), whose members are appointed by the King, on advice of the Prime Minister. The head of government, the Prime Minister, is appointed by the members of parliament and selects cabinet ministers from the Dewan Rakyat and the Dewan Negara.

Senate members are citizens who have given distinguished public service, have distinguished professional careers, or who represent the interests of racial minorities and aboriginal peoples.

The governing Barisan Nasional (National Front) coalition comprises the United Malays National Organisation (UMNO), the Malaysian Chinese Association, the Malaysian Indian Congress, plus a number of other parties including some based in East Malaysia. This coalition, in which UMNO is the dominant party, has been in power at the federal level since the first elected government in 1955.

The Malaysian legal system is predominately based on the British legal system and the principles of common law. The supreme law of the land is the Constitution of Malaysia, which sets out the legal framework and rights of Malaysian citizens.

The legal system comprises federal laws enacted by the Parliament of Malaysia and state laws enacted by the State Legislative Assemblies.

The Constitution provides for a dual justice system, based on secular laws and Shariah laws. Matters of secular law can be brought to before the High Court, after which they can be appealed to the Court of Appeal and later to the Federal Court which is the final court of appeal in the country. Offences against Islamic law are tried by Sharia Courts.

Data protection

The Personal Data Protection Act 2010 (PDPA) came into force on the 15 November 2013 with the purpose of regulating the processing of personal data, including sensitive personal data, by providing safeguards to protect the interests

of data subjects.

Personal data is defined as any information in respect of commercial transactions that relates directly or indirectly to a data subject, who can be identified from that information. This may include: name, address, gender, date of birth and telephone number. Sensitive personal information may also refer to: physical or mental health, political opinions or religious beliefs.

Personal Data Protection Act 2010 is applicable to all individuals and businesses that process personal data in respect of commercial transactions. The Federal Government and State Governments are exempted.

The PDPA sets out seven Personal Data Protection principles which must be complied with when processing personal data. Certain principles are qualified by exceptions and exemptions.

General Principle: The General Principle stipulates that any data user that processes a data subject's personal data must obtain their consent to do so. While implied consent may be sufficient for the processing of personal data, explicit consent must always be obtained for sensitive personal data. Furthermore, personal data must only be processed if it is for a lawful purpose.

Notice and Choice Principle: The data user must notify a data subject if their data is to be processed. Information that must be included in this notification includes: the purpose of the data collection and which data will be processed, the source of the personal data, the data subject's right to access and correct the data, the class of third parties to whom the data may be disclosed,



the choices that the data subject has in limiting the processing of the data and whether it is obligatory or not for the data subject to supply the data.

Disclosure Principle: This Principle prohibits the disclosure of the personal data, without the data subject's consent, for any purpose other than that declared to the data subject.

Security Principle: The data user must take reasonable steps to protect the personal data from any loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or destruction.

Retention Principle: Personal data should not be kept longer than is necessary for the fulfilment of the purpose for which it was collected.

Data Integrity Principle: Reasonable steps taken to ensure that the data should be kept accurate, complete, up-to-date and not misleading with regard to the purpose for which it was collected and processed.

Access Principle: The data subject has the right to access and correct their own data where it is inaccurate, incomplete, misleading or out-dated.

Exemptions exist for the above principle for data that is processed for the prevention of crime, the purpose of investigations, the

apprehension of offenders, in connection with any court judgment or the purpose of discharging regulatory functions.

Under the PDPA, the following classes of organisations must register as data users: Communications service providers, Banking & Financial institutions, Insurers, Health, Tourism & Hospitality, Transportation, Education, Direct Selling, Services, Real Estate and Utilities. There are fees associated with registration and the registration is valid for 24 months, after which renewal is required.

Penalties for non-compliance range from RM100,000 - 500,000 and/or imprisonment of between one and three years. For further details of the PDPA, please refer to the link below.

http://www.pdp.gov.my/images/LAWS_OF_MALAYSIA_PDPA.pdf

Foreign exchange controls

Malaysia maintains a liberal system of foreign exchange controls which are regulated by the Bank Negara Malaysia (Central Bank of Malaysia), under the Financial Services Act 2013 and Islamic Financial Services Act 2013. The Foreign Exchange Administration (FEA) Rules in Malaysia are aimed at providing an appropriate framework to influence capital flows and facilitate currency risk management to promote

financial and economic stability. The rules complement the overall macroeconomic policies and are reviewed regularly, in line with the changing environment. All rules are applied uniformly to transactions with all countries, except the State of Israel for which special restrictions apply. Currently, the rules allow:

- The extension of a domestic credit facility by residents and licensed onshore bank to non-resident companies through or based on purposes/limit prescribed under the Notices on FEA Rules
- Foreign currency payments to non-residents for the importation of goods and services
- The repatriation of a foreign direct investor's investments (provided it is made in foreign currency), including:
 - Capital
 - Profits
 - Dividends
 - Interest

Money laundering regulations

Malaysia has a well-developed Anti-Money Laundering (AML) and Counter Terrorist Financing (CFT) framework in place. Anti-money laundering is primarily governed by the Anti-Money Laundering and Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA).

Within this legislation, money laundering is generally defined as the act of any person who engages in a transaction that involves the proceeds of any unlawful activity or deals, conceals, disguises or impedes the establishment of the true nature, origin or other critical details of the proceeds of unlawful activities. 'Unlawful activities' are activities that are related, directly or indirectly, to any serious offence. This may include: accepting gratification, giving or accepting gratification by an agent, bribery of an officer of public body or using office or position for gratification.

Under AMLA, reporting institutions must implement AML/CFT risk management that is commensurate with the level of money laundering and terrorism financing risks including an AML/CFT compliance programme. The institutions must keep a record of any transactions involving domestic or foreign currency, exceeding the amount specified by the Competent Authority and report such transactions to the Competent Authority. The institutions must also report transactions where there is a suspicion that these have been involved in an unlawful activity or in terrorism financing. All financial institutions must report all cash transactions above RM50,000. Reporting institutions include financial institutions and designated non-financial business and professions, such as lawyers, accounts, casinos and dealers in precious metals and stones.

Institutions must conduct client due diligence measures in the following cases:

- When establishing a business relationship
- When conducting any transaction with or on behalf of a customer
- When a transaction exceeds the amount specified by the Competent Authority

- When there is suspicion of money laundering or terrorism financing
- When the reporting institution doubts the veracity or adequacy of the customer's holder's information

Enhanced due diligence measures exist for higher risk customers. The organisation must then obtain more detailed information from the customer and obtain senior management approval before establishing the relationship with the customer. Higher-risk customers may include: high net worth individuals, non-resident customers, politically exposed persons and customers from locations with high crime rates or inadequate AML/CFT laws.

Simplified due diligence measures exist for companies listed on recognised stock exchanges, government linked companies in Malaysia, state-owned corporations, financial institutions and prescribed institutions under the Development Financial Institutions Act 2002.

Organisations are also obliged to conduct on-going due diligence on all their business relationships with any customer.

Non-compliance with AML/CFT provisions may result in a fine of not less than five times the sum or value of the proceeds of an unlawful activity and/or imprisonment for a term up to 15 years.

The Bank Negara Malaysia is the Competent Authority under the AMLA. The Financial Intelligence and Enforcement Department within the Bank is mandated to receive suspicious transaction reports and cash transaction reports from reporting institutions. It also holds the role of reviewing and updating the relevant AML/CFT laws.

Intellectual Property Rights

Malaysia recognises the importance of protecting Intellectual Property Rights (IPR), which include patents, trade marks and service marks, copyright, industrial designs and geographical indications. Malaysia's IPR laws are in line with international standards and provide protection for both local and foreign investors. The primary legislation for the protection of IPR includes:

- Patents Act 1983
- Patents Regulations 1986
- Trade Marks Act 1976
- Trade Marks Regulations 1997
- Industrial Designs Act 1996
- Industrial Designs Regulations 1999
- Copyright Act 1987
- Copyright Regulations 1999
- Geographical Indications Act 2000
- Geographical Indications Regulations 2001

The Intellectual Property Corporation of Malaysia (MyIPO) is the authority responsible for the administration of intellectual property rights. MyIPO is an agency that operates under the Ministry of Domestic Trade, Cooperatives and Consumerism. Its primary roles include: strengthening IPR laws, providing information and advice on intellectual property and establishing an effective administration regime.

Malaysia is also a member of the World Intellectual Property Organisation (WIPO), a signatory to the Trade Related Aspects of Intellectual Property Rights (TRIPS) and a signatory to the Paris Convention and Berne Convention on intellectual property rights. Furthermore, it completed its accession to the Patents Cooperation Treaty in 2005, allowing for firms to register PCT International Applications in Malaysia.

COPYRIGHT

Copyright can protect: literary works, musical works, artistic works, films, sound recordings, broadcasts and derivative works. Copyright works receive statutory protection automatically once they are placed in the public domain, providing: sufficient effort has been expended to make the work original in character, the work has been written down, recorded or reduced to a material form and the author is a qualified person and the work is made or first published in Malaysia.

Protection granted	<p>Copyright arises upon the creation or performance of any work that is capable of being copyrighted.</p> <p>Copyright provides the copyright owner an exclusive right to control the reproduction, communication, performance, commercial rental and distribution of any copyrighted work in Malaysia.</p> <p>As Malaysia is a signatory of the Berne Convention for the Protection of Literary and Artistic Works, any copyrights arising in Malaysia will provide the owner the same rights in all applicable countries.</p> <p>Since 1 March 2012, legislation has allowed the registration of copyrights in a copyright system, controlled by MyIPO.</p>
Infringement	<p>In the case of infringements, whereby a person themselves, or causes any other person, without consent or license from the copyright owner, reproduces, distributes, displays or performs the protected work, the owner can initiate court proceedings against any person who infringes the copyright.</p> <p>A court may then order: the infringer to provide damages, an injunction, an account of profits, statutory damages of a maximum RM500,000 to the copyright holders or any other order as the court deems fit.</p>
Duration	<p>Protection for literary, musical or artistic work lasts for the life of the author plus 50 years after his death.</p> <p>Protection for films, sound recordings, broadcasts, performances etc, lasts for 50 year from the beginning of the calendar year after which it was first published or performed.</p>

PATENTS

Patents protect inventions which can be applied in an industrial environment. For a patent to be granted, the invention must be new and not disclosed anywhere in the world, have an inventive step which is not obvious to someone with experience in the subject and capable of being used in some kind of industry.

It cannot fall under any excluded categories; these include scientific theories and mathematical models, plant or animal varieties or essentially biological processes for the production of plants or animals, other than man-made living micro-organisms, micro-biological processes and the products of such micro-organism processes, schemes, rules or methods for doing business, performing purely mental acts or playing games, methods for the treatment of human or animal body by surgery or therapy, and diagnostic methods practiced on the human or animal body.

Protection granted	<p>A patent gives its owner the ability to take legal action to stop others from: the making of a product or the use of a process which is the subject-matter of the patent, selling anything incorporating the subject-matter of the patent or inducing third parties into any of the above, without the inventor's permission.</p> <p>Patents must be registered with MyIPO; the right is then protected by registration. Furthermore, as Malaysia has acceded to the Patent Cooperation Treaty (PCT), this application provides a unified procedure for filing patent applications to protect inventions globally.</p>
Infringement	<p>Infringing a patent means manufacturing, using, selling or importing patented products or processes without the owners' permission.</p> <p>In the case of infringement, the owner of a trade mark can initiate court proceedings against any person who infringes the patent. They may then receive damages, an account of profits, an injunction or any other applicable remedies.</p>
Duration	<p>A patent application filed before 1 August 2001 and pending on that date or patents granted after 1 August 2001 are protected for 20 years from the filing date; this is subject to an annual renewal fee.</p> <p>Patents granted before 1 August 2001 are protected for either 20 years from the filing date or 15 years from the date the patent is granted, whichever is the longest.</p>

TRADE MARKS

A trade mark must be a sign capable of distinguishing goods and services of one undertaking from those of another undertaking. A mark includes words, logos, pictures, names, letters, numbers or a combination of these.

Protection granted	<p>The owner can obtain protection in Malaysia by registering the trademark at MyIPO. To register a trade mark, the trade mark must be a name of an individual company or firm, be the signature of the applicant, be an invented word, not have any reference to the quality of the goods or services and be sufficiently distinctive.</p> <p>Trade marks cannot be registered if they are illegal, inappropriate, prejudicial to national interest or likely to cause confusion.</p> <p>Registration provides the owner with exclusive use over the trade mark.</p>
Infringement	<p>Some examples of infringement of a trade mark are:</p> <ul style="list-style-type: none"> • Using an identical or similar trade mark for identical or similar goods and services to a registered trade mark creating a likelihood of confusion on the part of the public • Where a mark has a reputation, infringement may arise from the use of the same or a similar mark which damages or takes unfair advantage of the registered mark <p>In the case of infringement, the owner of a patent can instigate court proceedings against the infringer. They may then receive damages, an account of profits, an injunction or any other applicable remedies.</p>
Duration	10 years (registration can be renewed for further periods of 10 years, subject to renewal fees).

DESIGNS

An industrial design, the external appearance of a product embodied in three dimensional configurations, lines, colours or a combination of the aforementioned element, can be protected if it is new, has features of a shape, configuration, pattern or ornamentation, and can be applied to an article by industrial process and be appealing to the eye.

Protection granted	<p>Registering a design gives the owner a property right over the design. Holding a design right provides the owner the exclusive right to:</p> <ul style="list-style-type: none"> • Make, import, or sell any article to which the design has been applied • Assign, transfer or license the right to the design • Prevent third parties from using the design without permission <p>Registration must be made with MyIPO to obtain a design right. A design cannot be registered if it is embodied by the function that the good performs, dependent on the appearance of another article or differs only in immaterial details.</p>
Infringement	<p>A design right is infringed by an unauthorised person making an article exactly or substantially similar to the protected design or by making a design document for the purpose of making unauthorised copies.</p> <p>The design right holder can instigate civil proceedings against anyone who infringes the design right; proceedings must be started within five years of an act of infringement. Remedies may include: damages, an injunction, an account of profits or any other applicable remedies.</p> <p>The damages may not be awarded if the defendant was not aware that the industrial design was registered and has taken all reasonable steps to ascertain whether this was the case.</p>
Duration	Once obtained, a design right is protected for a period of five years from the date of filing of the application. It can then be renewed for four further consecutive terms of five years each; amounting to a maximum protection period of 25 years.

GEOGRAPHICAL INDICATION

A geographical indication is an indication which identifies any goods as originating in a country or territory, or a region or locality in that country's territory, where a given quality, reputation or other characteristic of the good is attributable to their geographical origin, eg champagne.

Protection granted

Geographical indications are protected regardless of whether or not they have been registered. However, producers of products within a geographical area, competent authorities and trade organisations or associations may wish to register the geographical indication to obtain a certificate of registration. This provides the producers in the specified geographical area with exclusive rights to use a registered geographical indication in the course of trade (providing they carry on their activity in the geographical area specified).

Infringement

Infringement of a geographical indication includes if it is used in the course of trade which misleads or falsely represents to the public as to the origin of the goods produced or constitutes an act of unfair competition.

In the case of infringement, any interested person can instigate court proceedings against the infringer. The Court may grant an injunction to prevent any unlawful use of the geographical indication and award any damages and any other legal remedy or relief as it deems fit.

Duration

10 years (registration can be renewed for further periods of 10 years, subject to renewal fees).

Conducting business in Malaysia

There are several options for setting up business in Malaysia.

- A company (legal entity) (limited by shares, guarantee or unlimited)
- A Limited Liability Partnership
- A branch
- A Representative Office/ Regional Office
- An Association (Under the Registrar of Society)

Companies incorporated in Malaysia are regulated by the Malaysian Companies Act 1965. Foreign investors cannot set up partnerships or sole proprietorships in Malaysia unless they have permanent residency.

The most common business form for foreign investors has been the private limited company. It takes the form of a legal entity and is thus more favourable for businesses. This can be wholly owned or set up with local participation. 100 per cent foreign ownership is allowed, particularly in the encouraged sectors such as ICT, health, manufacturing, hotel and tourism, with exception of certain regulated industries; such as oil and gas.

Company

Under the Malaysia Companies Act 1965, investors wishing to set up a company in Malaysia can choose one of the following forms: company limited by shares, company limited by guarantee, unlimited company.

Companies limited by shares are companies where the liability of members is limited to the amount paid on their shares. Companies limited by guarantee comprise members whose liability is limited, as part of the Memorandum, to the amount agreed to be contributed to the company in the event that

the company is wound up. This is typically not used for commercial undertaking; generally, almost all companies are limited by shares.

Formation

Companies can be formed as either private companies or public companies. Private companies cannot issue an invitation to the public to subscribe for shares or debentures of the company. A private company cannot have more than 50 shareholders and the shareholders are restricted in their right to transfer shares.

In contrast, public companies are allowed to invite the public to subscribe for shares or debentures in the company. These companies will typically list their shares on the Malaysian stock exchange.

A private company can qualify as an exempt private company if:

- It has no more than 20 shareholders
- Beneficial interest is not held by a corporation
- If it is a solvent company

An exempt private company is relieved of certain obligations under the Companies Act, such as the requirement to file annual accounts with the Companies Commission Malaysia (CCM), where they would be available for public inspection. Also, the prohibition of loans to directors and to companies connected with the directors does not apply to an exempt private company.

Companies can be incorporated in Malaysia with a minimum of two subscribers to the shares of the company, two directors and a company secretary. The directors do not need to be Malaysian citizens,



Foreign investors cannot set up partnerships or sole proprietorships in Malaysia unless they have permanent residency.

but they must have a principle place of residence within Malaysia. There can be foreign directors in addition to the minimum two resident directors. The resident directors can be foreigners who reside principally in Malaysia. An application must be submitted to the CCM to approve the proposed name of the company. This application must also include a fee of RM30 and a photocopy of the identity card or passport of the promoters. The name search is done online. The CCM will take only one working day to process the application for the availability of the proposed name search. Upon approval of the proposed name search, the name is automatically reserved for registration up to three months from the date of approval.

Following this approval, all documents of incorporation, alongside a registration fee must be lodged with the CCM. This fee is dependent on the amount of the company's authorised share capital; it ranges from RM1,000 for share capital of less than RM400,000, to RM70,000 for companies with share capital of over RM100 million. Once this is paid, the company will be issued with a Certificate of Incorporation. The incorporation process usually takes around two working days.

Capital requirement

Typically, the minimum authorised capital is RM400,000 and paid-up capital is RM2. However, in some sectors a company must also be able to meet certain capital threshold requirements before they are permitted to start business.

Constitution

Memorandum and Articles of Association must be submitted to the CCM upon the registration of a company.

The Memorandum of Association will include:

- The company name
- Location of the company's registered office
- Object clauses
- Powers of the company
- Liability of the members if the company is limited
- The amount of authorised capital that has been registered with the CCM

The Article of Association will generally comprise an outline of the rules and regulations that shall govern the internal management of the affairs of a company and the conduct of its business. The Article of Association can be simplified by adopting the Fourth Schedule Table A of the Companies Act.

Management

A company incorporated within Malaysia must have at least two natural persons above the age of 18, with their principle place of residence as Malaysia, as directors. Foreign directors who do not reside in Malaysia may only be appointed in addition to the minimum two resident directors who principally reside in Malaysia. Once a foreign director has secured an employment pass and has resided in Malaysia for 182 days or more in year, they will be considered a resident director. Company directors are responsible for the day-to-day management of the company and are subject to a number of statutory duties. These include: the requirement to act within the company's constitution, to only exercise powers to which they were conferred and to act in a manner which promotes the success of the company.

Filing requirements

Every company established in Malaysia must appoint a qualified company secretary and comply with the reporting provisions found in the Malaysian Companies Act. This includes filing annual audited



profit and loss accounts at the CCM, following their presentation at the annual AGM. Companies must also lodge the relevant statutory forms and documents, for example, if there is a change of directors or an increase in share capital.

Limited Liability Partnership

The Limited Liability Partnership (LLP) is a new type of business vehicle introduced by the CCM in 2012. LLPs are a hybrid between a company and a conventional partnership. The primary legislation governing LLPs is the Limited Liability Partnerships Act 2012.

A Limited Liability Partnership is a separate entity from its partners; the liability of the partners is limited while the LLP has unlimited capability in conducting business and holding property; any debts or obligations are borne by the assets of the LLP and not that of its partners. An LLP has perpetual succession; therefore, any change in partners will not have any effect on the LLP itself.

Formation

An LLP can be incorporated with two or more individuals, in accordance with the terms of the LLP Agreement. LLPs may also be formed for the purpose of performing professional services, whereby the partners are natural persons of the same professional practice and hold a form of professional indemnity insurance.

An LLP must be registered by a compliance officer. The compliance officer will submit a registration form to the CCM, which must contain:

- The name of the proposed entity
- The nature of the business of the LLP
- The registered office of the LLP
- The name and details of all of the partners

- The name and details of the compliance officer
- Any relevant approval letters from governing bodies permitting the partners to undertake their trade

Following this, the CCM will issue the partners with a notice of registration.

Capital requirement

There is no minimum capital requirement for an LLP.

Constitution

There is no requirement for a formal constitution for an LLP. All relevant details regarding the management of the entity and obligations of the partners will be set out in the LLP agreement.

Management

The management structure will comprise the partners and the compliance officer(s). As above, the compliance officer must submit the registration form to the CCM before the LLP can begin trading.

Partners hold a number of key roles, such as:

- Appointing a compliance officer: a natural person who is a Malaysian resident (either a citizen of Malaysia or a person holding permanent residence in Malaysia) and is either a partner of the LLP or a person qualified to be company secretary
- Holding the notice of registration, details of the partners, compliance officer and chargers
- Notifying the CCM of any changes in the structure of the LLP, eg. partner changes
- Filing an annual declaration and solvency statement
- Keeping accounting records within Malaysia for a minimum of seven years

Filing requirements

Partners are responsible for filing an annual declaration of their accounts, as well as a solvency statement.

Branch

Foreign branches must be formally registered with the CCM before commencing business in Malaysia. Branches are not allowed to engage in any form of trading. The branch form is therefore more suitable for consultancy services.

Registration of a Foreign Branch

Foreign companies can register a branch in Malaysia by filing the required documentation. The foreign investor must first submit an application for the availability of the name, together with a fee and a copy of the certificate of incorporation of the foreign company, to the CCM. The proposed name must be the parent company's name. Once this approval has been obtained, all documents for registration must be filed with the CCM within three months of the date of approval of the proposed name, together with a registration fee; this fee is dependent on the authorised share capital of the foreign company. The documents that must be filed include:

- A copy of the certificate of incorporation of the foreign company
- A copy of the foreign company's constitution
- A list of its directors and their relevant details
- A memorandum stating the powers of the local directors
- A power of attorney stating the name and address of one of more resident Malaysians authorised to accept service of process and any notices required to be served to the company
- Form 80 which outlines the statutory declaration by the agent of the foreign company



Following this, the CCM will issue a certificate of registration. The entire process for the registration of a branch will take approximately two weeks.

Capital requirement

There is no minimum capital requirement for a branch.

Constitution

A branch will operate under the foreign parent company's constitution. A copy of this must be filed with the CCM in order to obtain a registration certificate.

Management

A branch must appoint an agent who is resident in Malaysia.

Filing requirements

Branches must comply with a number of reporting provisions under the Companies Act 1965. This includes:

- Filing annual return within one month of the AGM
- Notifying the CCM if there is a change in share capital or management structure
- Filing annual balance sheets and audited accounts of both the parent company and the branch
- Keeping accounting records in Malaysia for a minimum of seven years

Foreign representative/ regional offices

For foreign investors that do not have any intention to undertake commercial activities in Malaysia, and only wish to represent the head office, representative or regional offices may be the most suitable business form. The Representative/ Regional office is under the purview of the Malaysian Investment Development Authority (MIDA).

Upon approval, MIDA will normally grant the establishment of the Representative/Regional office for five years, subject to review and extension. Regional/Representative Offices are not allowed to do business. Hence, no revenue can be derived from the establishment. The entire cost is borne by the parent company. The establishment can apply for expatriate employment passes. A representative office is an office of a foreign company that is approved to collect information on investment opportunities in Malaysia; this is typically found in the manufacturing and services sector. It may also exist to enhance bilateral trade relations and carry out research and development activities.

A regional office is an office of a foreign company that is set up as a coordination centre for the company's affiliates, subsidiaries and agents in Southeast Asia and Asia Pacific. The regional office will be responsible for the designated activities of the company within the region that it operates.

Formation

Foreign representative/regional offices do not need to be incorporated under the Companies Act. Instead, the setup of such business forms requires the approval of the Malaysian government. The following documents must be submitted to the government:

- Application Form RE/RO-1
- A certified copy of the certificate of incorporation of the parent company
- Relevant information that may support the company's application
- A copy of the passport containing particulars of the expatriate who will manage operations in the country

- The CV of the expatriate to be employed
- Certified academic qualifications of the expatriate

Following this submission, the government will issue either a letter of approval or rejection. Certain industries may require additional applications or permissions.

It is not a permanent establishment. Normally, it will be granted for a period of two to three years, subject to further review and extension. It is ideal to conduct a market study and obtain professional advice before deciding whether to venture into business by incorporating a legal entity in Malaysia.

Capital requirement

There is no minimum capital requirement for foreign representative/regional offices. The operations will be completely funded from sources outside Malaysia.

Management

Representative/regional offices are permitted to employ expatriates at a managerial and technical level.

Filing requirements

Representative/regional offices must file semi-annual reports summarising the activities undertaken by the office. The reports, for the period ending 30 June and 31 December each year, must be submitted within 14 days from the reporting dates. If there are no activities undertaken by the offices, a nil return must be submitted.

Representative/regional offices must also submit a copy of the foreign company's annual report, within one month of its publication.

Tax system

Malaysia's taxes are assessed on a current year basis and are under the self-assessment system for all taxpayers. There are two types of taxes: direct and indirect.

Direct taxes:

- Income Tax
- Real Property Gains Tax
- Petroleum Income Tax
- Others

Indirect taxes:

- Excise Duty
- Import and Export Duty
- Stamp Duty
- Goods & Services Tax
- Others

Malaysia's taxation system is territorial in scope. All income accrued in, derived from or remitted to Malaysia is liable to tax. However, income of any person (other than a resident company carrying on the business of banking, insurance or sea or air transport) derived from sources outside Malaysia and received in Malaysia is exempted from tax.

Corporate Income Tax (CIT)

Scope

Resident and non-resident organisations conducting business and earning taxable income in Malaysia are taxed on income accrued in or derived from Malaysia. Resident organisations carrying out the business of air/sea transport, banking and insurance are taxable on their worldwide income. There are exemptions available for resident banks, insurance companies and Takaful companies (type of Islamic insurance) subject to specified conditions.

Currently, the CIT rate for resident and non-resident companies is

24 per cent. A reduced rate of 19 per cent is applicable to the first RM500,000 of chargeable income, the balance is taxed at 24 per cent. This concessionary rate is applicable to resident companies with a paid-up share capital of RM2.5 million or less. This is provided that the company is not controlled directly or indirectly by a related company which has a paid up ordinary capital exceeding RM2.5 million in respect of ordinary shares. A company is resident if its management and controls are exercised in Malaysia, irrespective of its place of incorporation. The concessionary rate is also applicable to a limited liability partnership with total contribution of capital of up to RM2.5 million.

For resident and non-resident companies carrying out petroleum operations, petroleum income tax is charged at a rate of 38 per cent instead of the CIT rates mentioned above.

The tax year/basis period for a business normally follows the financial year ending in that particular year of assessment. For example, the basis period for YA 2015 for a business that closes its accounts on 31 December 2015 is the financial year ending 31 December 2015.

Malaysia has an extensive number of double tax treaties available for the avoidance of Double Taxation.

Taxable income

Taxable income is based on the audited financial statements of the company. Taxable income is computed from the net profit, following the adjustments for allowable expenses incurred wholly and exclusively in the production of gross income, capital allowances and incentives.

The sources of income subject to tax include:

- Revenue from any trade, business, profession
- Interest and discounts
- Rents, royalties and premiums
- Pensions, annuities and other periodic payments
- Amounts received by a non-resident person for provision of technical advice, assistance or services, or the provision of services relating to the installation or operation of any apparatus or plant. (Such income is only taxable if the services are performed in Malaysia.)
- Rent or other payments for the use of movable property received by a non-resident

Taxpayers are allowed to deduct from their taxable income such reasonable and valid business expenses that are revenue in nature as provided under the applicable laws. In general, a business expense will be deductible if it is not on the list of prohibited deductions and was incurred wholly and exclusively in the production of gross income. There are also specific provisions in the tax laws regulating the deductions (via special deduction) of expenditure and double deduction of certain categories of expenditures.

Some examples of non-deductible expenses include:

- Start-up costs
- Capital expenditure or costs of flotation
- Registration costs
- Liquidation costs

A single tier tax system was implemented in Malaysia in 2008, replacing the tax imputation system.

All dividends, paid, credited or distributed by a company are exempt from tax in the hands of the shareholders.

Capital allowances

While Malaysian tax law does not allow for the deduction of the book depreciation of fixed assets, statutory depreciation (capital allowances) is granted. Capital allowances are provided for qualifying capital expenditures, and vary dependent on the type of expenditures for the purposes of the business. The broad categories include: industrial building, plant and machinery, child care centres, employee housing, educational institutions, motor vehicles, office equipment, computer equipment, small value assets, agriculture and forestry. The initial allowance of 10 per cent to 20 per cent is granted for new qualifying expenditure. The annual allowance rates vary between 3 and 20 per cent, although some plant and machinery can attract rates of 40 per cent and some IT expenditures qualifies for a rate of 80 per cent.

For qualifying expenditures, initial allowances are provided once and annual allowances are provided annually, using the straight-line method. Small value assets with a value not exceeding RM1,300, a 100 per cent allowance is given in the year of acquisition. The total value of small value assets is capped at RM13,000 per assessment year. The maximum limit of RM13,000 per year of assessment on small value assets does not apply to small and medium enterprises (SMEs).

Capital allowances on qualifying assets can only be used within the same business source and this is based on the rates set by the Malaysian Inland Revenue Board. Unabsorbed capital allowances can be carried forward except

in the cases where there is a substantial change of ownership in dormant companies.

If an asset is disposed of within two years of purchase, capital allowances may be withdrawn.

Administration

Malaysia operates a self-assessment regime; companies must file their tax returns within seven months after the end of their accounting period subject to any extension of time provided by the Malaysian Inland Revenue Board. This submission must be made with the Malaysian Inland Revenue Board. A tax return is deemed to be an assessment made on the date of its submission.

Companies must provide an estimate of their tax payable no more than 30 days before the beginning of their basis period. The estimated tax is payable in 12 equal monthly instalments by the 15th day of each month. Monthly instalments begin on the second month of the basis period (financial year) for the relevant year of assessment. Companies can revise the estimate of their tax payable in the sixth and ninth months of the basis period. Companies must then pay any balance of tax by the tax filing deadline.

Resident companies with paid-up capital of RM2.5 million or less which commence operation in a year of assessment do not need to submit an estimate of tax payable for that year and the immediate following year of assessment.

Failure to file a return or provide notice of a tax liability is a punishable offence. Companies may also be subject to tax audits by the Malaysian Inland Revenue Board to ensure that the self-assessment scheme is complied with.

Capital gains

There is no capital gains tax in Malaysia levied on the disposal of investments or capital assets. Nevertheless, Real Property Gains Tax is charged on gains arising from the disposal of real property, which includes land, buildings or shares of a Real Property Company.

Groups

Malaysia provides group relief to all locally incorporated resident companies, subject to certain conditions being fulfilled. A company may surrender no more than 70 per cent of its adjusted (current year) loss to one or more related companies in the group under the group relief provision. To be eligible for group relief, the claiming and surrendering companies must meet the following conditions:

- The company is resident and incorporated in Malaysia
- Each company has a paid-up capital of more than RM2.5 million at the beginning of the basis period
- Both companies operate the same (12 month) accounting period
- The companies are members of the same group: one company is at least 70 per cent owned by the other, or both are at least 70 per cent owned by a third Malaysian-incorporated company

Any companies that are receiving certain investment incentives such as pioneer status, investment tax allowance, reinvestment allowance or exemption of shipping profits are not eligible for group relief.

Losses

Adjusted business losses can be off-set against income from all sources in the current taxation year. Any unabsorbed losses may be carried forward indefinitely, except where there is a substantial change in ownership of a dormant

company. Any losses carried forward can be offset against chargeable income from all business sources. The carry-back of losses is not permitted.

Withholding tax

Withholding tax is imposed on payments to non-residents in respect of the following:

Interest	15%
Royalties	10%
Payments to non-resident contractors, consultants or professionals having a permanent establishment (PE) in Malaysia	13%
Remuneration of a public entertainer	15%
Payment for use of property or installation or operation of plant and machinery	10%
Technical fees	10%
Rent on moveable property	10%
Other income under Section 4 (f) Public Ruling No 1/2010	10%

This tax withheld must be paid to the Malaysian Inland Revenue Board within one month after paying or crediting such payments.

The tax rates above may be lower if there is a relevant double taxation agreement in place.

*The tax applies to payments made to a non-resident for services rendered in Malaysia. The 13 per cent withholding tax is comprised of 10 per cent of the contract payment to the non-resident contractor's tax liabilities and three per cent for the non-resident contractor's employees.

Transfer pricing

Related party transactions must be conducted at arm's length and

must comply with the transfer pricing rules and documentation requirements. Malaysia's transfer pricing rules generally adopted the revised Organisation for Economic Co-operation and Development (OECD) transfer pricing guidelines. This included the acceptable methods of determining the "arm's length principle", such as, comparable uncontrolled price, cost plus, resale price, transactional net margin method and profit split. The Guidelines provide that the traditional transactional methods should be considered first, before the profit-based method.

The Transfer Pricing Guidelines stipulate that contemporaneous documentation is required to be prepared and maintained, and has to be provided to the Malaysian Inland Revenue within 30 days upon request. A full transfer pricing documentation is required to be prepared if:

- Gross income exceeds RM25 million and total amount of related party transactions exceeds RM15 million
- Financial assistance exceeds RM50 million (not involving financial institutions)

Alternatively, limited transfer pricing documentation can be prepared if the above requirements are not met.

Any transaction which is not at arm's length price can be adjusted by the Malaysian Inland Revenue Board. Furthermore, non-compliance with the principle may result in additional taxes and penalties as follows:

- 35 per cent penalty on tax adjustment if documentation is not prepared
- 25 per cent penalty on tax adjustment if documentation is prepared but does not fully comply with the requirements of the Transfer Pricing Guidelines 2012

Companies can apply for an advance pricing arrangement from the Malaysian Inland Revenue Board in advance of carrying out cross-border transactions with associated persons.

There is a seven year statute of limitations for tax adjustments and documentation must be kept for seven years. There is no statute of limitation in cases of fraud, wilful default or negligence.

Thin capitalisation rules

As present, there are no thin capitalisation rules. A provision for thin capitalisation had been introduced in 2009, but the implementation was deferred several times. The Malaysian Inland Revenue has recently announced that the new implementation date would be effective 1 January 2018.

Controlled foreign companies (CFC)

There is no anti-controlled foreign company legislation in place.

Tax incentives

Malaysia offers a wide range of incentives to promoted investments in selected industry sectors and/or promoted areas. This includes:

- Pioneer Status
- Investment tax allowance
- Reinvestment allowance
- Infrastructure allowance
- Industrial adjustment allowance
- Allowance for increased exports
- Approved agricultural projects incentives
- Research and development incentives
- In bound tour operators incentives
- Incentive for approved overseas investments
- Incentives for overseas construction projects
- Principle Hub
- Treasury management centres
- Green incentives
- Double deductions/special deductions.

- Pre-packaged incentives for approved businesses.
- Import duty exemption

These incentives are available for investment in industries such as: manufacturing, biotechnology, environmental management, tourism, agriculture, research and development, environmental protection and Islamic financial services. The Malaysian government has recognised the growth potential in the services sector so has liberalised a number of the sub-sectors, with no equity condition imposed. It also offers extensive incentives across these sub-sectors. The extent of exemption varies under each type of incentive.

Personal Income Tax (PIT)

Income tax in Malaysia is imposed on income accruing in or derived from Malaysia. As such, every individual is subject to tax on income earned in Malaysia or received in Malaysia from outside Malaysia. Income earned overseas, remitted to Malaysia by a resident or individual is exempted from tax. Income is assessed on a current year basis and individuals must comply with the self-assessment scheme. The year of assessment is the year coinciding with the calendar year.

Individuals liable to Malaysian tax

Resident individuals and non-resident individuals are subject to different tax rates. An individual is resident in Malaysia for the year of assessment if:

- They are in Malaysia for a period or periods amounting to 182 days or more
- They are in Malaysia in that basis year for a period of less than 182 days and that period is linked by, or to, another period of 182 or more consecutive days in the basis year for the year of assessment immediately preceding that particular year

of assessment or in that basis year for the year of assessment immediately following that particular year of assessment. Temporary absence from Malaysia is considered part of that period(s) if the absence is related to services in Malaysia, personal illness or members of his immediate family or social visits not exceeding 14 days

- They are in Malaysia for 90 days or more during the year, having been a resident in Malaysia, or present in Malaysia for a period amounting to 90 days or more, in any three of the preceding four years of assessment immediately preceding that particular year of assessment
- They are resident in Malaysia for the year following the year of assessment and for each of the three immediately preceding years

There is an exemption from income tax for non-residents who engage in short-term employment in Malaysia if:

- The aggregate period of employment in Malaysia does not exceed 60 days in a single calendar year or continuous period(s) spanning over two calendar years

Further income tax exemptions exist for tax payable relating to:

- Individuals exercising employment in a Labuan company
- A qualified person who is a knowledge worker residing in Iskandar Malaysia
- An approved individual under the Returning Expert Programme
- Expatriates working in approved Operational Headquarters, Regional offices, International Procurement Centres, Regional Distribution Centres or Treasury Management centres

A number of conditions must be fulfilled in order to qualify for these exemptions.

Taxable income

An individual is liable to tax on any income that is sourced from Malaysia. Gross income comprises gains or profits from any trade, business or profession, wages, dividends, interest or discounts and rent from property. Exemption is allowed for interest income received from banking and financial institutions, alongside any single-tier dividends received. Capital gains are not taxed in Malaysia; any gains from the disposal of real property are taxed under the real property tax regime.

Any benefits in kind provided by an employer are also liable to income tax, eg value of any living accommodation, motorcar, household furnishings, apparatus and appliances. Exemptions from this obligation include: medical, dental or childcare benefits, leave passage and food or drinks provided free of charge.

Taxpayers are provided with personal tax reliefs that can be deducted from total gross income. At present, this is RM9,000 for the taxpayer, RM4,000 for a non-working spouse and RM2,000 for each unmarried child below the age of 18 or RM8,000 for each child above the age of 18 but in full-time study in a higher learning institution. Malaysian tax law provides further tax reliefs from: life-insurance premiums, medical insurance premiums, Private Retirement Scheme, medical expenses for serious diseases, approved education fees, etc.

Individual responsibilities in relation to Malaysian personal income tax

Any individual liable to personal income tax must comply with the self-assessment scheme. The taxpayer is responsible for calculating their own income and any tax payable, as well as making payments of tax to the authorities. Individuals must file a tax return and settle any balance owed by 30 April

or 30 June, dependent on where their income is sourced from, in the following calendar year.

The Monthly Tax Deduction Scheme (MTD) applies to all wages and salaries paid in Malaysia. Employers have the following obligations:

- Withhold any tax due from their employees and remit this to the Malaysian Inland Revenue Board by the 15th of the following month
- Prepare an Annual Statement of Remuneration (Form EA) to be given to each employee on or before the last day of February of the following year
- Submit an annual employer's return of remuneration (Form E) which provides a summary of the salary paid and tax deducted; this must be submitted no later than 31 March in the year following the year of assessment
- Notify the Malaysian Inland Revenue Board of any employees who are no longer employed and leaving the country, enabling the authorities to facilitate the tax clearance procedure

Taxpayers who fulfil the criteria of MTD as Final Tax may elect not to furnish a tax return to the Malaysian Inland Revenue Board provided the following criteria are fulfilled:

- The individual has income only in respect of gains and profits from an employment other than gains or profits in respect of the use or enjoyment of benefits provided by his employer under paragraph 13 (1)(b) or (1)(c)
- MTD have been made by his employer in respect of such gains or profits
- The individual has worked for 12 months in the basis period with the same employer
- Employee whose MTD are not borne by the employer
- The individual has not opted for joint/combined assessment with the spouse

Tax rates and bands – 2016 (residents)

Taxable Income	Tax Rate (%)
First 5,000	0
Next 15,000	1
Next 15,000	5
Next 15,000	10
Next 20,000	16
Next 30,000	21
Next 150,000	24
Next 150,000	24.5
Next 200,000	25
Next 400,000	26
Above 1,000,000	28

Non-resident individuals are not entitled to personal tax reliefs and are taxed at a flat rate of 28 per cent from the year of assessment 2016 onwards.

Tax returns

Tax returns are to be submitted by 30 April of the following year for individuals without business income, and 30 June of the following year for individuals with business income. Taxpayers have the option of submitting the assessment manually or by 'e-filing'. Once this Return Form is submitted, the taxpayer is deemed served with a final notice of assessment for which the tax declared is due and payable.

A married couple living together have the option to file a joint or separate assessment.

Other taxes

Goods and Services Tax

Malaysia has introduced the Goods and Services Tax (GST), repealing the sales tax and services tax of Sales Tax Act 1972 and Service Tax Act 1975, effective from 1 April 2015 at a rate of six per cent generally, and zero per cent on selected items. GST is chargeable on all taxable supplies of goods and services made in the course of furtherance of a business in Malaysia by a taxable person.

A taxable person is a person who makes taxable supplies in Malaysia with an annual turnover exceeding RM500,000. Such person is required to be registered for GST. A person who makes taxable supplies below the threshold is not required to register but may do so on a voluntary basis.

For a person who makes an annual turnover of all taxable supplies exceeding RM5,000,000, the person is required to furnish its GST03 return on a monthly basis while those who make less than RM5,000,000 are required to furnish the return on a quarterly basis.

GST is also chargeable on the importation of goods and services from overseas. Certain goods are given relief from payment of GST upon importation. However, for most goods, the GST will be charged based on the value of the imported goods, which includes value determined for customs purposes, customs duty paid or to be paid, and excise duty paid or to be paid. The GST amount will be shown in a K1 Form, and will be charged during importation of the goods.

For importation of services, the GST liability shifts from the supplier to the recipient of the imported services. The recipient is liable to account for GST output tax based on the date of the invoice or the date of payment, whichever is earlier, if such imported services are for business purposes and consumed in Malaysia. If the recipient is making taxable supplies, he is entitled to claim input tax on the services. However, if the recipient is making exempt supplies, output tax accounted for and paid by the person is not eligible for input tax credit.

In the case that the recipient is not a GST registered person, he is still required to account for GST output tax in a prescribed GST04 form.

Group registration

Companies making wholly taxable supplies including incidental exempt supplies are eligible for group registration. Each company must register individually before they can register as a group. Companies have controlling power over other companies either directly or indirectly and holding more than 50 per cent of the issued shares capital of the other companies can also apply for group registration. However, members of the GST Group cannot be members of another GST Group.

Upon registration as a GST Group, they are treated as a single taxable person and submit a single GST return. Supplies made between group members are disregarded for GST purposes. GST members are jointly and severally liable for all GST liabilities.

Exemption from registration

Companies making wholly-exempt supplies are not required to apply for GST registration.

Real Property Gains Tax

Real Property Gains Tax is levied on any capital gains derived from the disposal of real property which includes land, buildings and shares of a Real Property Company.

Disposal Period	Rates (%)		
	Companies	Individual (citizen & permanent resident)	Individuals (non-citizen)
Within three years from date of acquisition	30	30	30
In the fourth year	20	20	30
In the fifth year	15	15	30
In the sixth year and thereafter	5	0	5

Individuals may claim a standard exemption of RM10,000 or 10 per cent of the chargeable gain, whichever is higher, on each sale of any type of property. A citizen or a permanent resident is also entitled to a one-time full exemption on the sale of a private residence.

An acquirer of real property located in Malaysia or shares in a Real Property Company is required to withhold tax at the rate of three per cent of the purchase price. Losses incurred on disposal of real property may be carried forward indefinitely to offset future real property gains. Losses incurred on disposal of shares in real property companies are not regarded as an allowable loss. No relief is available for such a loss.

Import and export duties

Customs duties are levied on imports and exports. Import duties are levied on an ad valorem basis but may also be imposed on a specific basis. The values of goods are calculated in accordance with the World Trade Organisation principles. Import tax rates range from 0 - 40 per cent, although higher rates apply to luxury goods, tobacco, alcohol and processed and high-value food products. Export duties are usually imposed on Malaysia's main commodities such as crude petroleum and palm oil.

Customs duties for certain persons may be exempted subject to the fulfilment of conditions. A certificate signed by a designated person is required to be produced for the exemption.

Excise Duty

Excise duties are imposed on tobacco, liquor and motor vehicles, playing cards and mahjong tiles which are imported or manufactured in Malaysia. The rates levied range from 5 – 105 per cent and a sum of money ranging from RM0.10 – RM220, depending on the category of goods. No duty is liable on dutiable goods that are exported.

Stamp Duty

Stamp Duty is levied on instruments of transfers; this may include the transfer of real property, mortgages on real property and transfers of marketable securities. Rates vary from 1- 3 per cent of the value of a property and 0.3 per cent on non-listed share transaction documents.

Anti-avoidance measures

Alongside Malaysia's transfer pricing rules, legislation exists that allows authorities to disregard tax schemes that have been set up for the primary purpose of obtaining a tax benefit.

Furthermore, the tax authorities are set up to conduct regular tax audits, of both companies and individuals, to ensure compliance with the self-assessment scheme. Tax evasion is a serious offence in Malaysia; anyone convicted is liable for a fine and/or a term of imprisonment, depending on the severity of the infringement.

Labour

The Employment Act, 1955 is the main legislation governing labour in Malaysia. The Employment Act is applicable to Malaysian employees and foreign nationals employed in West Malaysia, with an income of up to and including RM2,000 a month or certain prescribed categories of employment. Equivalent legislation exists for employees in East Malaysia, although provisions differ slightly. It is important to note that employees earning more than RM2,000 are not under the scope of Employment Act, 1955 and are normally governed as per the agreed terms and conditions of the employment contract.

The Industrial Relations Act 1967 and Trade Unions Act 1959 play a key role in maintaining a harmonious environment in the labour market, helping to avert industrial action through active intervention and consultation between parties of employment.

A number of other pieces of legislation exist to regulate social security contributions, part time work and health and safety obligations. All employers are bound by the provisions within the legislation and cannot contract out of them.

Employment contract

In Malaysia, alongside the above legislation, employment relationships are governed by the contractual agreement entered into between employer and employee.

For any employment period that lasts longer than one month, a written contract must be provided. Oral contracts are sufficient for employment lasting less than one month. However, failure to provide a written contract does not invalidate

the employment relationship or contract terms. Written employment contracts must include:

- Names of both employee and employer
- Date of employment commencement
- Place of work
- Job title and job description
- Salary, including details relating to bonuses
- Terms and conditions of employment (holiday entitlements, sick pay, overtime, probation, working hours)
- Employees Provident Fund contribution
- Social Security Organization (SOCSO) contribution
- Required notice period
- Retirement age

Some terms may be implied by law or custom.

Minimum wage

Malaysia implemented its minimum wage policy on 1 January 2013. In the 2016 budget, the government stipulated that it would increase the minimum wage to RM1,000 per month for Peninsular Malaysia and RM920 per month for Sabah, Sarawak and the Federal Territory of Labuan. The minimum wage covers both local and foreign workers.

Working time and leave

Under the Employment Act, normal working hours are eight hours per day or 48 hours per week.

If an employee, covered under the Employment Act, must work overtime, they should be paid no less than 1.5 times the hourly rate of normal pay on normal working days, two times the hourly rate for rest days and three times the hourly rate for public holidays. A maximum of

104 hours per month is allowed for overtime.

There are at least 10 gazetted public holidays each year, including four compulsory public holidays: National Day, birthday of the Yang Di-Pertuan Agong, Birthday of Rule of the Yang di-Pertua Negeri or Federal Territory Day and Labour Day.

Employees are entitled to paid annual leave of no less than the following:

- Eight days per calendar year for workers with less than two years' service
- 12 days per calendar year for workers with more than two but less than five years' service
- 16 days per calendar year for workers with more than five years' service

Employees are entitled to paid sick leave of no less than the following:

- 14 days per calendar year for workers with less than two years' service
- 18 days per calendar year for workers with more than two but less than five years' service
- 22 days per calendar year for workers with more than five years' service

If hospitalisation is required, paid medical leave is extended to a total of 60 days per year.

Female employees are guaranteed 60 days of paid maternity leave at the employee's normal rate of pay or RM6 per day, whichever is higher.

Benefits

Health care

Most companies provide medical coverage for employees and their dependents. Health care benefits

are normally based on the terms of the employment contract.

Other benefits

Besides health care, the employer also provides other benefits to employees such as rest day, public holidays, annual leave, medical leave and other perks. The extent of the benefits normally depends on the industry and is based on the terms of the employment contract.

Dismissal

Employment contracts must include a clause stating the procedures for termination by either party. Typically, the termination of an employment contract will be subject to a specified notice period. This is determined under the Employment Act and is as follows:

- Employees with less than two years of service – four weeks
- Employees with between two and five years of service – six weeks
- Employees with more than five years of service – eight weeks

Under the Industrial Relations Act, an employee may also be dismissed for just cause or excuse, such as poor performance, redundancy or misconduct. There is no statutory minimum notice period of severance payment for termination on the grounds of poor performance or misconduct.

If an employee believes they have been dismissed without just cause or excuse, they can seek reinstatement with back pay or back pay plus compensation of one month's salary for each year of service.

Either party is permitted to end a contract without notice if an indemnity is paid equal to the amount of wages involved.

Severance payments

Under the Employment Act, if an employee or employer terminates a

contract under which the employee has worked for more than 12 months, save for grounds of poor performance or misconduct, a severance payment is payable to the employee. Severance payments are strictly regulated by Malaysian labour law.

Typically severance payments are as follows:

- Employees with less than two years of service – 10 days' wages
- Employees with between two and five years of service – 15 days' wages
- Employees with more than five years of service – 20 days' wages

Collective redundancies

Redundancies are regulated by the Code of Conduct for Industrial harmony 1975 and case law. An employer is obliged to ensure that redundancy is their last resort; carefully considering and carrying out alternatives to assist the situation. In order to select employees for redundancy, employers must comply with the following principles:

- Employees who are above the retirement ages must be selected over other employees
- Casual workers and fixed term employees must be selected over permanent employees
- Within the same job scope, foreign workers must be selected over local employees
- The employee with the least years' service must be selected first ('last in-first out principle')

Employees that are terminated on grounds of redundancy are entitled to the notice periods and severance payments, as listed above, provided they fall under the purview of the Employment Act.

Social security

A compulsory social insurance scheme applies to all enterprises, bodies and organisations in Malaysia. The social security scheme comprises two funds:

The Employment Provident Fund (EPF)

The Employee Provident Fund is a social security institution formed under the Employment Provident Fund Act 1991 (Act 452) which seeks to provide lump-sum payments to employees at retirement, or earlier in the case of incapacity, or upon permanent departure from Malaysia.

Employers and employees must make monthly contributions to the fund; this is compulsory for all employers operating in Malaysia and all employees who are Malaysian citizens or permanent residents. Expatriates and foreign workers can also elect to contribute to the EPF.

The minimum mandatory contribution is 23 per cent; 11 per cent is withheld from the employee's monthly wage and 12 or 13 per cent is contributed by the employer, depending on whether the employee's monthly wage is more than RM5,000 or RM5,000 and less, respectively.

The monthly contributions are invested in a number of approved financial instruments to generate income. They include Malaysian Government Securities, Money Market Instruments, Loans & Bonds, Equity and Property. The EPF ensures that the savings are secure and receive reasonable dividends. A minimum of 2.5 per cent dividend is guaranteed annually.

Social Security Organisation (SOCSO)

The Social Security Organisation is responsible for the administration of the Employment Injury Insurance Scheme and the Invalidity Pension



Scheme; these are provided for workers earning RM3,000 or less per month. Employees that initially qualify for the scheme will remain in it, irrespective of whether their monthly wage then exceeds the threshold.

The SOCSO protects workers against industrial accidents, including any accident which occurred while working, occupational diseases invalidity or death due to any cause. It also provides vocational and physical rehabilitation benefits.

Under the Injury Insurance Scheme, employers typically contribute 1.25 per cent, whereas employees do not make contributions. Under the Invalidity Pension Scheme, one per cent is contributed; shared equally by the employer and employee.

Employment of resident and non-resident employees

All foreign nationals must obtain a work permit from the Immigration Department before they can take up employment in Malaysia. This application is typically made by the prospective employer. Depending on their country of origin, foreign nationals may also require visas to enter Malaysia.

The type of work permit required will depend on the employee and the work they intend to do. Expatriates or skilled foreign workers require an employment pass. The processing fee for this application is RM125, and the fees

for the pass itself are up to RM300 per annum. Employment passes are typically issued for a period of between two to three years and are subject to renewal. The spouse and any dependants (under the age of 18) of expatriates that earn a monthly salary of RM5,000 and above, can apply for a dependant pass that will be valid for the same period as an employment pass. Dependants above the age of 18 that are at college must apply for a Student pass.

Foreign nationals who enter Malaysia to take up professional work for a period of less than 12 months require professional visit passes. These cost RM90 for a period of three months.

The application for a work permit can take one to two months to process; it is advised to begin the application before entering Malaysia. Alongside the application, a copy of the prospective employee's CV, qualifications, declaration of authenticity of such qualifications and prospective employment contract must be submitted. Approval for expatriate posts is provided by different authorities depending on the industry.

All Malaysian companies are obliged to fulfil a minimum paid-up capital before submitting an application for a work permit for a foreign national:

- Wholly local owned company: RM250,000

- Local and foreign owned company: RM350,000
- Wholly foreign owned company: RM500,000

The Malaysian government's policy is that jobs should primarily be filled by Malaysians; their aim is that Malaysians are eventually trained and employed at all levels of employments. Notwithstanding this, foreign companies are allowed to hire the required foreign personnel in areas where there is a shortage of trained Malaysians to do the job. In addition, foreign companies are also allowed certain "key posts" to be permanently filled by foreigners.

However, foreign-invested firms should set up training programmes for their Malaysian staff with the aim of gradually replacing expatriates, particularly in managerial positions. As part of the application for certain investment incentives, firms may be required to present a localisation schedule to the authorities.

Trade unions

Within Malaysia, the formation of omnibus or general workers' unions is prohibited. However, unions operating in the same industry can apply to form a federation of trade unions or become affiliated with the Malaysian Trade Unions Congress. Unions must be registered with the Trade Union Affairs Department and comply with the Trade Unions Act. This contains provisions for the election of representatives, strike ballots and the use of union funds.

Audit

Accounting standards

The Malaysian Accounting Standards Board (MASB) uses the International Financial Reporting Standards (IFRS) as a basis for Malaysia's accounting standards. All financial statements prepared in pursuant to any law administered by the Securities Commission, the Bank Negara Malaysia and the Registrar of Companies must comply with MASB-approved accounting standards.

The MASB's mission is to develop and promote high quality accounting and reporting standards that are consistent with the international best practices for the benefits of users, preparers, auditors and the public in Malaysia. In a wider context, the MASB seeks to contribute directly to the international development of financial reporting for the benefits of users, preparers and auditors of financial reports.

In accordance with the varying needs of different companies, there are three sets of accounting standard frameworks in Malaysia:

- Entities other than Private Entities shall apply the Malaysian Financial Reporting Standards (MFRS) for annual periods beginning on or after 1 January 2012, with the exception of entities that are permitted in the alternative to apply the Financial Reporting Standards (FRS). MFRS Framework is an International Financial Reporting Standards compliant framework
- Transitioning Entities which are Entities Other Than Private Entities within the scope of MFRS 141 Agriculture and IC Interpretation 15 Agreements for Construction of Real Estate shall apply the FRS. These entities are allowed to defer the migration

to MFRS framework until the annual periods beginning on or after 1 January 2018

- Private Entities shall apply Malaysian Private Entities Reporting Standards (MPERS) for the financial statements with annual periods beginning on or after 1 January 2016. Private Entities also have the option to adopt MFRS framework

A private entity is a private company incorporated under the Companies Act 1965 that satisfies the following conditions:

- It is not itself required to prepare or lodge any financial statements under any law administered by the Securities Commission or the Bank Negara Malaysia
- It is not a subsidiary or associate of, or jointly controlled by, an entity which is required to prepare or lodge any financial statements under any law administered by the Securities Commission or the Bank Negara Malaysia

Accounting records

Companies incorporated in Malaysia under the Companies Act 1965 must keep accounting records that sufficiently detail their financial transactions and overall financial position. The records should enable the production of financial statements that show a true and fair view of the company's accounts. Transactions must be documented in the companies' accounting records within 60 days of completion.

All accounting records must be held at the company's registered office in Malaysia; it is also permitted to keep the records in another location if the Directors determine this to be most suitable. Accounting records must be held for at least seven

years following the initial transaction dates that they represent. Primary responsibility for accounting records lies with the company's Directors.

Foreign companies that operate in Malaysia must keep financial statements that detail any assets and liabilities arising from their operations in Malaysia. They must also keep an income statement that complies with provisions in the Companies Act 1965, which primarily provides a true and fair view of the profit and loss arising from the company's operations in Malaysia.

All statements must be presented in Malaysian Ringgit and audited by an approved auditor.

Filing and submission of statutory financial statements

A company incorporated in Malaysia must present financial statements to its shareholders at the annual general meeting, to be held once in every calendar year and not more than 15 months apart. The statements that must be presented include: Directors' Report, Statutory declaration by the director responsible for financial management, financial statements and an auditor's report. These reports must be sent to shareholders at least 14 days prior to the AGM for private companies and 21 days prior for public companies. A copy of all statements and reports must be filed with the Registrar of Companies where they will be available for public inspection.

Foreign companies operating in Malaysia must file their balance sheet, and any other documents that must be attached according to the law of their home country, to the Registrar of Companies within two months of their AGM. In the case that this is not required in its home

country, the company must prepare a balance sheet according to the laws governing public companies incorporated in Malaysia. The requirements of financial statements are very similar to that of companies incorporated in Malaysia.

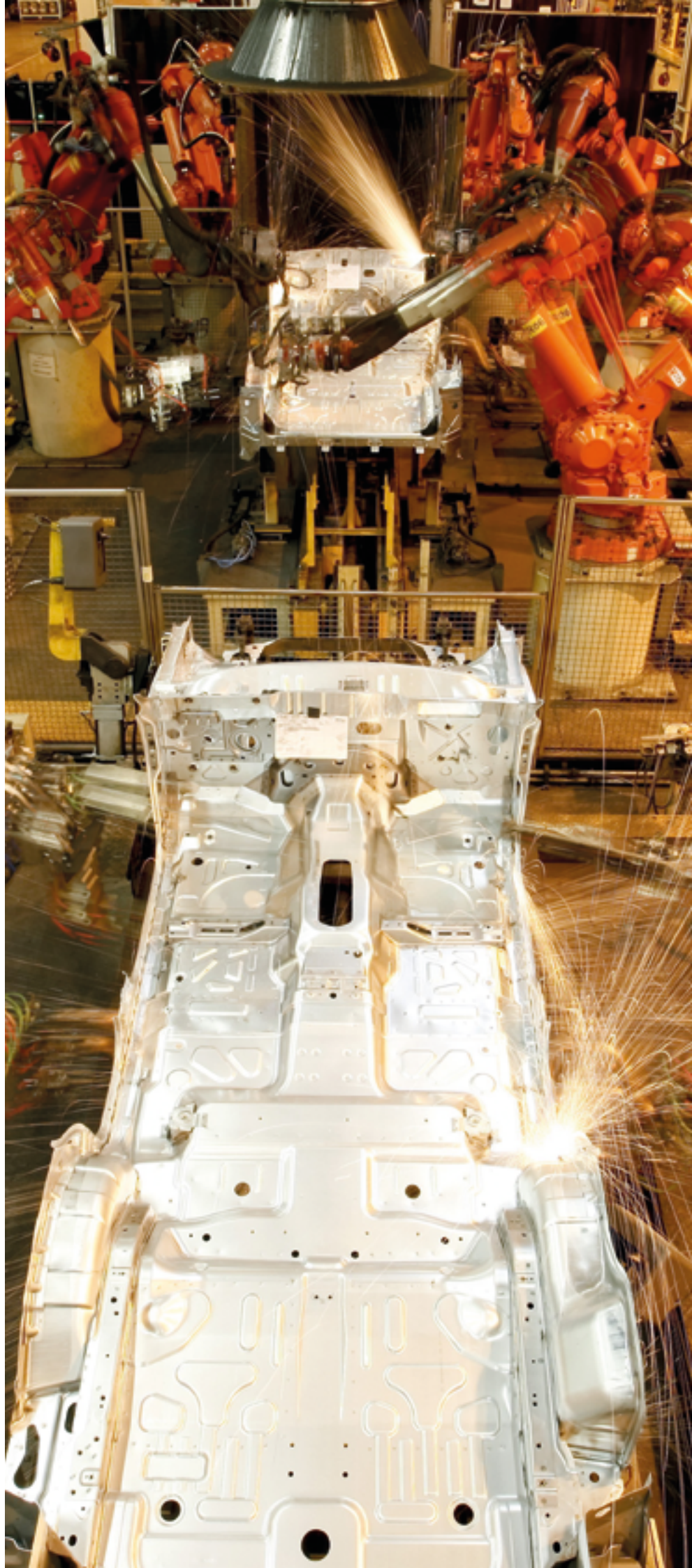
Public listed companies must also comply with a number of disclosure requirements, as set out by the Bursa Malaysia Securities Berhad. These include providing quarterly reports on income statements, balance sheet and explanatory notes to their shareholders within two months of the end of each quarter and audited statements within four months of the year end.

Audit requirements

Under the Companies Act 1965, every private limited company operating in Malaysia must appoint an approved auditor to perform an audit of its accounts; this audit must be undertaken and reported to the members of the company, irrespective of the company's size.

Auditors are typically appointed by the shareholders at each annual general meeting. The auditor must be an 'approved auditor', as designated by the Minister of Finance. No auditor can be approved if they are not a member of the Malaysian Institution of Accounts or their principal residence is not in Malaysia.

All auditing activities in Malaysia should follow the International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB) and that have been adopted in Malaysia by the Malaysian Institute of Accountants.



Trade

Foreign Direct Investment

Malaysia welcomes and encourages foreign direct investment, offering a number of incentives for investors, without any restrictions on the repatriation of capital and profits. In line with the 'New Economic Model', the Malaysian government has initiated a liberalisation programme across the services sector, the financial services sector and the capital market sector. In order to implement the New Economic Model, the government identified eight Strategic Reform Initiatives (SRIs) to create an efficient, competitive and business-friendly environment that attracts valued foreign investment. This will provide further impetus for foreign investors, primarily through the promotion and protection of the process of competition, the adoption of internal standards and best practices and the liberalisation of certain sectors to foreign investment.

Accordingly, foreign investment and ownership restrictions have been relaxed in Malaysia. Apart from certain restricted industries, foreign investors are permitted to hold 100 per cent equity in all investments; this is across new investments or investments in existing companies. Industries that are subject to restrictions include: financial services, capital markets, insurance and Islamic insurance industry, petroleum industry, communications and multimedia, wholesale trade, education, energy supply and water.

There are no restrictions on the repatriation of profits, dividends, capital or interest. Malaysia has also entered into Investment Guarantee Agreements (IGAs), which aim to promote a conducive environment for investments. These IGAs typically include the principle of fair and equitable treatment, the principle of non-discrimination and

the provision of compensation in the event of expropriation.

Labuan

Labuan, a Federal Territory of Malaysia, is an international financial business centre that was established to provide the development of offshore activities in banking and insurance, trust and fund management, investment holding and other activities carried out by multinational companies.

The Labuan Companies Act 1990 provides for the incorporation of Labuan companies and registration of foreign companies. If a foreign investor wishes to incorporate a company, the applicant must be aware of the legislation of Labuan and the powers and duties of a Labuan company and appoint a licensed Labuan trust company to conduct due diligence on the prospective client. An application must be made for the approval, and consequential reservation of the company name. Following this a number of documents must be filed with the payment of administrative and incorporation fees.

A Labuan company may be limited by shares or by guarantee or form an unlimited company. Only Labuan banking or Labuan insurance companies have minimum capital requirements. Various classes of shares and different rights may be issued. A Labuan company has the power to issue different classes of shares valued in a currency other than Malaysian Ringgit.

Foreign companies do not have to maintain accounting records in Labuan but must submit an annual return, no later than 30 days prior to the anniversary of the date of registration.

Under the Labuan Business Activity Tax 1990, all entities

operating in Labuan are provided with preferential tax treatment; companies may be exempt from income tax or subject to low income tax, depending on the type of business conducted in Labuan.

Labuan business activity is defined as a Labuan trading or Labuan non-trading activity carried on, in, from or through Labuan in a currency other than the Malaysian Ringgit by a Labuan entity with non-residents or another Labuan entity. Labuan trading activities include banking, insurance, trading, management, licensing, shipping operations or any other activities not considered as a Labuan non-trading activity. Labuan non-trading activities refer to the holding of investments in securities, stocks, shares, loans, deposits or any other by a Labuan entity on its behalf.

Labuan IBFC Incorporated Sdn Bhd is the sole official Malaysian agency authorised to promote, market and develop the benefits of Labuan as the premier international business and financial centre in Asia Pacific.

Government incentives

The Malaysian government provides a number of incentives for foreign investors. These are predominately targeted at the manufacturing, agricultural, tourism, biotechnology, research and development and Islamic financial services sectors.

Tax incentives are extensively outlined as part of the tax section. These incentives comprise a number of different direct and indirect tax incentives, including: investment tax allowance, double deduction of expenses and industrial adjustment allowance.

In addition to tax incentives, further incentives are available to foreign investors setting up any of the following:

- **Principal hub** – A principal hub is a company incorporated in Malaysia that uses Malaysia as its base for conducting regional and global operations to manage, control and support its key functions. Depending on which tier the business qualifies for, approved principal hubs are eligible for zero, five or 10 per cent corporate income tax rates. The principal hub company is also eligible for customs duty suspensions, more flexibility in hiring foreign nationals and no local equity participation requirement
- **Pioneer status industries** - companies granted pioneer status may be eligible for a five year total or partial exemption from income tax

Special investment zones and economic growth corridors

The Malaysian government has introduced a number of measures to facilitate economic growth, investments and narrow the rural-urban divide in the country.

This has included the implementation of a number of growth corridors: Iskandar Malaysia; Southern Johor; Northern Corridor Economic Region (NCER), East Coast Economic Region (ECER), Sabah Development Corridor; Sarawak Corridor of Renewable Energy and the Multimedia Super Corridor. Businesses investing in these areas will be entitled to incentives, in addition to those listed above. These incentives are customised to the purpose of each corridor.

The Malaysian government, alongside private developers, continues to develop new industrial parks which are fully serviced with infrastructure such as roads, electricity, water supplies and telecommunications. Examples of these parks include: Technology

Park Malaysia in Bukit Jalil, Kuala Lumpur and Halal Parks which features communities of Halal-oriented businesses.

Free industrial zones have been designated to cater to the needs of export-oriented industries. Companies located in these zones are provided with duty-free imports of raw materials, components, parts, machinery and any equipment necessary in the manufacturing process. Furthermore, companies located in free industrial zones are not required to pay excise duty.

Where there are no free industrial zones present, manufactures may be permitted to set up 'licensed manufacturing warehouses' which allows them to obtain the same exemptions as found in free industrial zones.

Imports

The provisions regulating importation and exportation are stipulated in the Malaysian Customs Act 1967 and the Customs Regulations 1977.

Although Malaysia has committed to liberalise its trade restrictions, a number of import restrictions are still in place. Knives, radio communication equipment, and firecrackers are prohibited for security reasons, and pornographic materials are also banned. Special permits are needed for the import of munitions, automobiles, chemicals, certain pharmaceuticals, plants, soil, tin ore and certain essential foodstuffs. There are severe penalties for importing illegal narcotics.

In Malaysia, customs duties must be paid on imports and exports. Import duty is typically imposed ad valorem, although some specific duties are imposed on a number of items. Nevertheless, in line with trade liberalisation, import duties

on a wide range of raw materials, components and machinery have been abolished, reduced or exempted. Most goods are subject to duties ranging from 0 - 30 per cent. Furthermore, Malaysia is committed to the ASEAN Common Effective Preferential Tariffs (CEPT) scheme under which all industrial goods traded within ASEAN are imposed import duties of 0 - 5 per cent. Export duties are generally imposed on the country's main commodities that are exported.

Malaysia continues to participate in the negotiation of free trade arrangements, with regard to trade in goods, rules of origin, and investments. While many are still under negotiation, to date, Malaysia has concluded the following free trade agreements:

- ASEAN Free Trade Agreement
- ASEAN China Free Trade Agreement
- ASEAN Korea Free Trade Agreement
- Malaysia-Pakistan Closer Economic Partnership
- Malaysia-Japan Economic Partnering Agreement
- Malaysia-New Zealand Free Trade Agreement
- ASEAN-Australia-New Zealand Free Trade Agreement
- ASEAN-Japan Comprehensive Economic Partnership
- ASEAN-India Trade in Goods Agreement.
- Malaysia-Chile Free Trade Agreement
- Malaysia-India Comprehensive Economic Cooperation Agreement
- Malaysia-Australia Free Trade Agreement (MAFTA)

The preferential tariffs and rule of origin vary across the agreements.

Finance

Capital markets

Malaysia has enacted major changes to its capital markets to boost foreign investments, cutting Bumiputera equity quotas for share offerings and in fund management firms.

The Malaysian capital market is recognised as an advanced emerging market. The market expanded to RM2.76 trillion in 2014 underpinned by steady growth in all key markets. Furthermore, it continued to be a major source of financing with RM91.9 billion raised through private debt securities and initial public offerings.

The Bursa Malaysia, the primary stock exchange, offers two markets for companies wishing to list securities:

- The Main Market, for companies with a profit track record of three to five financial years
- The ACE Market, for companies from all business sectors with promising growth potential

Malaysia also has a significant Islamic Capital Market (ICM) which has contributed to the development of the overall sector through further broadening of the market by providing alternative sources of fund raising and investment. The enactment of a comprehensive legislative, regulatory, legal, tax and Shariah framework for the industry has facilitated the development and growth of ICM. Consequently, Malaysia offers a wide range of products including: Shariah-compliant securities, sukuk, Islamic unit trusts, exchange traded fund and real estate investment trusts. The government launched the second Capital Market Masterplan 2 in 2011, outlining a number of growth strategies for the industry; this is predicted to

contribute to a cumulative annual growth rate of 10.6 per cent, in the years preceding 2020.

Capital markets are regulated by the Securities Commission, which is a self-funded statutory body that reports to the Minister of Finance, Malaysia. It has a number of functions but its ultimate responsibility is to protect the investor. It is also obliged to encourage and promote the development of the securities and derivatives market in Malaysia.

Banking system

The banking system consists of Bank Negara Malaysia (Central Bank of Malaysia) and banking institutions (commercial banks, Islamic banks, International Islamic banks, investment banks and other financial institutions).

Bank Negara Malaysia is a statutory body which started operations on 26 January 1959. Bank Negara Malaysia is governed by the Central Bank of Malaysia Act 2009. The principal role of Bank Negara Malaysia is to promote monetary and financial stability. This is aimed at providing a conducive environment for the sustainable growth of the Malaysian economy.

The banking sector is regulated, under the Financial Services Act 2013 and Islamic Financial Services Act 2013 by Bank Negara Malaysia.

Bank Negara Malaysia reports to the Minister of Finance, Malaysia and keeps the Minister informed of matters pertaining to monetary and financial sector policies. The primary functions of Bank Negara Malaysia are:

- To formulate and conduct monetary policy in Malaysia

- To issue currency in Malaysia
- To regulate and supervise financial institutions which are subject to the laws enforced by the Bank
- To provide oversight over money and foreign exchange markets
- To exercise oversight over payment systems
- To promote a sound, progressive and inclusive financial system
- To hold and manage the foreign reserves of Malaysia
- To promote an exchange rate regime consistent with the fundamentals of the economy
- To act as financial adviser, banker and financial agent of the Government

A number of liberalisation measures have been introduced in the banking sector since 2009, including issuing new licenses and increasing the foreign equity limits. This has significantly increased foreign interest in establishing banking institutions in Malaysia.

Malaysia also has a strong Islamic banking sector which offers a range of Islamic banking products and services based on Shariah principles. The government has provided a great deal of support to develop Kuala Lumpur as the leading centre for Islamic finance in Asia. The Islamic banking sector is regulated under the Islamic Financial Services Act 2013, which covers areas such as licensing, ownership, capital requirements and management issues.

Malaysia continues to operate a number of equity restrictions for foreign investment in banking institutions:

- Commercial banks – 30 per cent
- Foreign-owned banks – 100 per cent



- Domestic Islamic banks – 70 per cent
- Foreign Islamic banks – 100 per cent
- Investment banks – 70 per cent

All acquisition or disposal of shareholdings of a licensed institution of five per cent and above requires written approval from the Minister of Finance, Malaysia. Exceptions to the maximum permissible holdings in financial institutions can be granted by the Minister of Finance, Malaysia.

Under the Financial Services Act 2013 and Islamic Financial Services Act 2013, no person shall carry out banking or Islamic banking business in Malaysia without prior written approval from Bank Negara Malaysia.

The non-bank financial intermediaries, including development financial institutions, provident and pension fund, insurance companies, and Takaful operators, complement the banking institutions in mobilising savings and meeting the financial needs of the economy.

There are more than 10 development financial institutions in Malaysia that were set up with the specific mandate to develop and promote key strategic sectors of importance to the overall socio-economic development objectives of the country such as: agriculture, small and medium enterprises (SMEs), infrastructure, maritime, export-oriented sector as well as capital-intensive and high-technology industries. These organisations typically provide medium to long-term loans, equity capital, guarantees for loans and supplementary advisory services.

Foreign investor banking and financing options

Businesses operating in Malaysia can freely access a number of local financing options. This includes normal banking loans and facilities, development finance, export credit, refinancing, private debt securities and venture capital.

Insurance industry

The insurance industry was liberalised in 2009, where it began allowing foreign investors to hold equity in insurance or Takaful companies of up to 70 per cent. Further changes have stemmed from the enactment of the Financial Services Act 2013 and Islamic Financial Services Act 2013. These Acts introduced the mandatory conversion of composite Insurers and Takaful Operators to a single Insurance or Takaful businesses as well as prohibiting insurers from operating both life and general insurance under one license. Furthermore, the Malaysian regulator is continuing to implement tighter capital requirements and more enhanced risk management practices in the insurance and Takaful sectors. Consequently, there has been a large amount of consolidation in the sector. In order to set up an insurance and/or Takaful business in Malaysia, insurers or Takaful operators must have a minimum paid-up capital investment of RM100 million. Reinsurers or Retakaful businesses require RM10 million.

The insurance and Takaful market is highly regulated in Malaysia. Insurance and Takaful companies are supervised by Bank Negara Malaysia, under the Financial Services Act 2013 and Islamic Financial Services Act 2013.

Investment management industry

The asset management industry is growing rapidly in Malaysia. As at 30 June 2015, the total assets under management for the industry were RM657.40 billion. These assets are comprised of but not limited to unit trust funds, corporate bodies, Employee Provident Fund (EPF), private pension funds and charitable bodies. The industry is comprised of a regular capital market and an Islamic Capital Market that is compliant with Shariah laws.

In line with Malaysia's aspiration to become a vibrant, regional asset management hub, the government has prioritised 'accelerating and sustaining a significant asset management industry' as one of its key areas of improvement under its Economic Transformation Programme. In line with this, the project is targeting assets under management (AUM) of RM1.6 trillion by 2020, representing a compounded annual growth rate of 17 per cent. It is expected to encourage the growth of the retail market and develop a niche in the area of Islamic asset management.

To achieve its target, mandates from Government-linked Investment Companies (GLIC) to external fund managers will be increased from five per cent to 15 per cent of AUM, with an allocation of RM1 billion to RM2 billion for management by top fund managers. The government has also announced further measures to open up the asset management industry to foreign investors.

The industry is regulated by the Securities Commission, which supervises the securities market, provides licenses to market participants and regulates the market's activities.

Infrastructure

The overall quality and reliability of infrastructure is a critical factor for businesses across all sectors.

The ICT industry has become an important sector in Malaysia's economic development having been incorporated in the government's strategies towards creating an industrial-based economy (1991 - 2001), a knowledge-based economy (2001 - 2010) and now a strategic enabler for the Government and Economic Transformation Programme. The government's two primary aims comprise: improving communications infrastructure and improving the uptake of services and enriching content space in terms of value and quality of content produced.

ICT Entry Point Project goals identified by the government for completion in 2020 include:

- Four identified business opportunities, focused on fixed services, mobile services, courier, post and broadcast services, as well as regional operations, are expected to provide RM11.7 billion in incremental GNI
- Improve broadband access for 80 per cent of the populated areas in Greater KL and 30 per cent of seven states capital; targeting a minimum speed of 2Mbps in those areas.
- Address the 15 per cent of Malaysia's 700,000 small and medium-sized enterprise that do not have an online presence
- Achieve an annual growth rates of 13 per cent in the creative content industry

Malaysia's infrastructure is well-developed, excluding a few shortcomings in its remote areas. Typically, roads, railways

and ports are well maintained and the government continues to provide investment to meet the growing demand for infrastructure. Furthermore, the Government Transformation program has included 'upgrading basic rural infrastructure' as one of its key initiatives. This is alongside the prioritisation of Greater Kuala Lumpur, Klang Valley for infrastructure improvements, as part of the Economic Transformation Program. The overall aim is to transform the region into a world-class metropolis that will boast top standards in every area from business infrastructure to liveability.

Key features of Malaysia's transportation infrastructure include:

- 144,403 kilometres of primary and secondary roads; this includes 1,821 kilometres of superior quality expressways, connecting Kuala Lumpur with Singapore, major seaports and other critical destinations
- Eight international airports, including Malaysia's biggest airport, the KLIA (1&2) which has an initial capacity of 35 million passengers and 750,000 tonnes of cargo per year
- 1,849 kilometres of state owned railways; major tracks run from Singapore to Kuala Lumpur, and further to Penang and Bangkok
- Seven major Federal ports; Port Klang is the largest port in the country, and is the 13th busiest port in the world



The Government Transformation program has included 'upgrading basic rural infrastructure' as one of its key initiatives.

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