

SPECIAL ALERT
TAX PULSE



TAX, CUSTOMS & TRADE

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Empowering the Digital Future: Malaysia's Tax Incentives for Investors

The Malaysian government has consistently promoted the digital agenda, offering various incentives to position Malaysia as an attractive destination for digital investments. Since its inception in 1996, the Multimedia Super Corridor (“MSC”) status initiative has played a pivotal role in this effort, attracting RM486 billion in cumulative investments as of December 2022¹.

In the second decade of this century, the focus on digital investments and activities has only intensified. Foreign investments in Malaysia have surged in the digital sector, with data centres being a particularly notable area of growth. Malaysia has become one of Asia's fastest-growing data centre markets.

Correspondingly, the host of available measures have also evolved to better support these activities. In this alert, we summarise the available incentives for entities

¹ <https://mdec.my/media-release/news-press-release/318/Malaysia%E2%80%99s-New-MD-Tax-Incentive%3A-Fueling-Digital-Growth>

looking to engage in digital-related activities in Malaysia. These are:

- a) The Malaysia Digital (“**MD**”) status (previously known as the MSC Malaysia Status), under the Malaysia Digital Economy Corporation (“**MDEC**”), and the accompanying MD Bill of Guarantees (“**BoGs**”).
- b) The MD Tax Incentive available for MD Status companies under MDEC.
- c) The Digital Ecosystem Acceleration Scheme (“**DESAC**”) under the Malaysian Investment Development Authority (“**MIDA**”).

A. MD Status (previously MSC Malaysia Status)

1. What is the MD Status?

As announced by the Prime Minister on 4.7.2022, MSC Malaysia Status has been rebranded as MD Status². MD status is awarded to encourage and attract companies, talents, and investment to play a leading part in the global digital revolution and digital economy.³

2. Automatic Transition to MD Status for MSC companies

According to the MSC Transition Guidelines, MSC Status companies will automatically transition to become MD Status companies⁴. However, they are required to adhere to the conditions of their approval for MSC Status. In the event of non-compliance, MSC / MD Status may be revoked, with the effective date of revocation to be determined by an approval committee.⁵

² Paragraph 1.1 of the Guideline on Transition of MSC Malaysia to Malaysia Digital (“**MSC Transition Guidelines**”), available here: <https://mdec.my/static/pdf/malaysiadigital/Guidelines%20on%20Transition%20of%20MSC%20Malaysia%20Status%20Company%20to%20Malaysia%20Digital%20Company.pdf>

³ <https://mdec.my/malaysiadigital>

⁴ Paragraph 4.1 of the MSC Transition Guidelines

⁵ Paragraph 4.3 of the MSC Transition Guidelines

3. Conditions and Period for MD Status Application and Approval

a. Eligibility criteria for a company to apply for MD Status⁶

Status	Incorporated under the Companies Act 2016.
Residency	Resident in Malaysia.
Activities	Proposing to carry out or currently carrying out one or more MD activities.

b. MD Status Conditions to be complied with within 12 months from date of award of MD Status⁷

Status	Incorporated under the Companies Act 2016.
Residency	Resident in Malaysia.
Activity	Commencement of operation and undertaking of MD Approved Activities in Malaysia.
Knowledge Workers	A minimum of 2 full-time employees, with a minimum average monthly base salary of RM5,000, employed for MD Approved Activities.

⁶ Paragraphs 2.0 of the Guidelines on Malaysia Digital Status (“**MD Status Guidelines**”), available here: https://mdec.my/static/pdf/expats/Malaysia-Digital-MD-Status-Guidelines_Effective-30-June-2022.pdf

⁷ Paragraphs 3.0 of the MD Status Guidelines

Operating Expenditure	Annual operating expenditure should be RM50,000 incurred for the MD Approved Activities.
Paid up Capital	Minimum of RM1,000.

c. MD Status Period

The grant of MD Status is perpetual upon successful application, subject to continued compliance with all approved conditions.⁸

4. MD Guarantees for MD Status Companies

MD Status Companies are entitled to a set of incentives, rights, and privileges promised by the Malaysian Government, i.e., the MD Guarantees.

The benefits under the BoGs are subject to separate approvals, applicable eligibility criteria and conditions. Amongst others, BoGs provide MD Status companies with the eligibility to access or apply for:⁹

- a. Foreign knowledge worker quota and passes;
- b. Tax incentives;
- c. Multimedia/ICT equipment import duty and sales tax exemptions;
- d. Competitive and ready infrastructure for business available at MD Cybercities/ Cybercentres;
- e. Freedom of ownership by exempting local ownership requirements;
- f. Flexibility to source capital and funds globally; and/or
- g. MDEC as the one-stop agency for MD Status companies.

B. MD Tax Incentives for MD Status Companies

1. What are the MD Tax Incentives?

⁸ Paragraph 7.7 of the MD Status Guidelines

⁹ Paragraph 5.1(b) of the MD Status Guidelines

MDEC introduced the MD Tax Incentives on 31.5.2024¹⁰. These new outcome-based tax incentives are available for MD Status Companies that undertake activities utilising MD-promoted tech enablers. There are two types of MD Tax Incentives currently available, namely:

- a. New Investment Incentive; and
- b. Expansion Incentive.

2. What are the Promoted Tech Enablers and Activities for MD Tax Incentives?

MD Tax Incentives may be available for companies utilising the following tech enablers¹¹:

- a. Artificial Intelligence
- b. Internet of Things
- c. Cybersecurity
- d. Cloud
- e. Blockchain
- f. Drone Technology
- g. Creative Media Technology, including Extended Reality (XR) and/or Mixed Reality
- h. Integrated Circuit (IC) Design with Embedded Software
- i. Robotics and/or Automation
- j. Advanced Network Connectivity and/or Telecommunication Technology

3. What is available under the MD Tax Incentives?

Both the New Investment Incentive and Expansion Incentive offer either of the following:

- a. Reduced Tax Rate (“**RTR**”); or
- b. Investment Tax Allowance.

¹⁰ Announcement on the Official Launch of MD Tax Incentive by MDEC dated 31.5.2024, available here: <https://mdec.my/announcement/md-tax-incentive>

¹¹ See Appendixes 1 of MDEC’s Guidelines on MD Tax Incentive (New Investment Incentive) (“**MD New Tax Incentive Guidelines**”), available here: <https://mdec.my/static/pdf/malaysiadigital/20240419%20Published%20Guidelines%20on%20MD%20Tax%20Incentive%20New%20Investment.pdf>; and MDEC’s Guidelines on MD Tax Incentive (Expansion Incentive) (“**MD Expansion Tax Incentive Guidelines**”), available here: [https://mdec.my/static/pdf/malaysiadigital/20240419%20Published%20Guidelines%20on%20MD%20Tax%20Incentive%20\(Expansion\).pdf](https://mdec.my/static/pdf/malaysiadigital/20240419%20Published%20Guidelines%20on%20MD%20Tax%20Incentive%20(Expansion).pdf)

These Incentives are mutually exclusive. A company that has been granted either of these incentives will not be allowed to switch to the other incentive.

The available rate and period for each Incentive differs as follows:

a. New Investment Incentive

RTR¹²	Investment Tax Allowance¹³
0% RTR on qualifying intellectual property (“IP”) income AND 10% or 5% RTR on qualifying non-IP income For up to 10 years.	60% or 100% of qualifying capital expenditure against up to 100% of statutory income For up to 5 years.

b. Expansion Incentive

RTR¹⁴	Investment Tax Allowance¹⁵
15% RTR on qualifying IP income and non-IP income For up to 5 years.	30% or 60% of qualifying capital expenditure against up to 100% of statutory income. For up to 5 years.

For details on the specific conditions, available rates, and periods for each incentive, please refer to the MD New Tax Incentive and MD Expansion Tax Incentive Guidelines published by MDEC.

¹² Paragraph 3 of the MD New Tax Incentive Guidelines

¹³ Paragraph 4 of the MD New Tax Incentive Guidelines

¹⁴ Paragraph 3 and 4 of the MD Expansion Tax Incentive Guidelines

¹⁵ Paragraph 4 of the MD Expansion Tax Incentive Guidelines

4. What are the general eligibility criteria for the New Investment Incentive and Expansion Incentive?

	New Investment Incentive¹⁶	Expansion Incentive¹⁷
Status & Residency	Company incorporated or deemed to be registered under the Companies Act 2016 and resident in Malaysia.	
Minimum Paid Up Capital	RM50,000.	RM250,000.
MD Status	Applied.	MD or MSC Status.
Past operating period	N/A	At least 36 months.
Qualifying Activity	Is proposing to undertake the qualifying activity in Malaysia.	
Issuance of sales invoice	<ul style="list-style-type: none"> • Has not issued sales invoice for the qualifying activity prior to the date on which the tax incentive application is received; or • Has 60% direct or indirect Malaysian equity ownership and has not issued any sales invoice for the 	Has not issued sales invoice for the qualifying activity in Malaysia prior to the date the tax incentive application is received.

¹⁶ Paragraph 2 of the MD New Tax Incentive Guidelines

¹⁷ Paragraph 2 of the MD Expansion Tax Incentive Guidelines

	qualifying activity more than 12 months prior to the date on which the tax incentive application is received.	
Past tax incentives	N/A	Where this has been granted for an existing activity, the company has met all conditions or surrendered the tax incentive.
Other Incentives for the Qualifying Activity	<ul style="list-style-type: none"> • Has not been granted any tax incentive by the Government of Malaysia in relation to the qualifying activity. • Does not have any related company¹⁸ that has been granted tax incentives in respect of the same qualifying activity. 	

C. DESAC (Digital Ecosystem Acceleration) Scheme

1. What is the DESAC Scheme?

DESAC is a MIDA led initiative to strengthen the Malaysian digital ecosystem by attracting technology and digital investments to Malaysia. Publicly available information on the DESAC Scheme is limited, as MIDA has not issued any formal guidelines. However, based on the available information from MIDA¹⁹, companies under the scheme may qualify for either:

¹⁸ Related company shall have the same meaning as the definition of “related company” under the Promotion of Investments Act 1986. See paragraphs 5.6 of the MD New Tax Incentive and MD Expansion Tax Incentive Guidelines.

¹⁹ See, amongst others MIDA e-Newsletter titled “Malaysia All Geared Up To Become a Hub for Digital Investments”, available here: <https://www.mida.gov.my/malaysia-all-geared-up-to-become-a-hub-for-digital-investments/>

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- a. Investment Tax Allowance; or
- b. Preferential Tax Rates.

2. Who may be eligible for the DESAC Scheme?

DESAC targets two types of digital providers, namely:

- a. Digital Technology Providers (“DTPs”)

Providers of digital services based on IR4.0 and digitalisation technology related to manufacturing and manufacturing-related services; and

- b. Digital Infrastructure Providers (“DIPs”)

Such as data centres and submarine cables.

D. Differences and Potential Overlap between the MD Tax Incentives and the DESAC Scheme: The Role of the Digital Investment Office (“DIO”)

Based on information obtained from MIDA, the DESAC Scheme is generally intended for digital infrastructure-related activities, whereas MD Tax Incentives are aimed at digital technologies-related activities.

However, there may be circumstances in which an applicant’s business model could fall within the scope of both the MD Tax Incentives as well as the DESAC Scheme. The Government is cognizant of this possibility and has set up the DIO. The DIO is a collaborative platform between MIDA and MDEC to coordinate and facilitate all digital investments (both foreign and local) into the country.

If you have any questions relating to applications for digital incentives, please contact the authors, Partner **[Chris Toh Pei Roo](mailto:tpr@lh-ag.com)** (tpr@lh-ag.com) or Associate **[Chang Jin Yee](mailto:cjy@lh-ag.com)** (cjy@lh-ag.com).