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THE MALAYSIAN TAX LANDSCAPE: A MODEL OF ITS OWN

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Taxation in Malaysia is **defined under the Income Tax Act 1967 and includes taxes imposed under this Act.** It is governed by several other acts, which are as follows:

- **Income Tax Act 1967**
- **Petroleum (Income Tax) Act 1976**
- **Real Property Gains Tax Act 1976**
- **Promotion of Investments Act 1986**
- **Stamp Act 1949**
- **Labuan Business Activity Tax Act 1990**

Malaysia is a country that imposes taxes based on residency, which may be determined as follows:

a) Resident:

1. **Individual residency** may be determined under Section 7 of Income Tax Act 1967
2. **Company residency** may be determined under Section 8 of Income Tax 1967
3. **Trusts residency** may be determined under Section 61(3) of Income Tax 1967
4. **Labuan residency** may be determined under Section 3B of the Labuan Business Activity Tax Act 1990

b) Non-resident: means other than resident in Malaysia by **virtue of Section 7, 8, 61(3) of the Income Tax Act 1967 and Section 3B of the Labuan Business Activity Tax Act 1990.**

This article will focus on the tax imposed on non-resident corporate bodies, which means staying less than 182 days in Malaysia in a year.

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Malaysian tax laws are imposed on a territorial basis, meaning income tax is calculated on income accrued in or derived from Malaysia.

There are several differences in the tax treatment of a resident and non-resident company as follows:

Item	Resident	Non-Resident
Scope of charge	a) Companies carrying on business of banking, insurance, shipping and air transport - income is taxable on a world income scope. b) Other companies - income accrued in or derived from Malaysia.	Income accrued in or derived from Malaysia.
Business income	Taxable if deemed derived from Malaysia.	Taxable on business income accruing in or derived from Malaysia if there is a permanent establishment in Malaysia.
Able to enjoy tax treaty benefits	Applicable.	Applicable.
Double taxation relief	Applicable	Not Applicable

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Corporate Income Tax in Malaysia

According to the latest rate for Year Assessment 2024 and onwards, company tax rates are categorized as followed:

- Companies with **paid-up capital of RM 2.5 million or less at the beginning of the basis period**, and having gross business income from one or more sources from the relevant year of assessment of not more than RM50 million
  - On the first RM 150,000 chargeable income – 15%
  - RM 150,001 to RM 600,000 chargeable income – 17%
  - RM 600,001 and above: 24%

- Companies with paid-up capital of RM 2.5 million and above at the beginning of the basis period: 24%

- Non-resident company/branch: 24%

- New rules added in Year Assessment 2024, if equal or more than 20% of paid-up share capital owned by **a foreign company or non-Malaysia citizen, the SME will not be entitled to the 15% and 17% preferential tax rates.** Simply put, the tax charged is 24%.

Chargeable Income	Percentage (%)
First RM 150,000	15
RM 150,001 to RM 600,000	17
RM 600,001 and above	24
Non-resident company equal/more than 20% paid-up share capital	24

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The calculation would be:

Chargeable Income	Percentage (%)	Calculation
First RM 150,000	15	RM22,500
RM 150,001 to RM 600,000	17	RM102,000
RM 600,001 and above	24	RM144,000.24
Non-resident company equal to or more than 20% paid-up share capital	24	According to the shares calculation

Comparison on Corporate Income Tax in United Kingdom

Corporation Tax in the United Kingdom **is 25% for all limited companies**. Corporate tax levied on the annual profits of United Kingdom resident companies and branches of overseas companies.

The 25% main rate is payable by companies with **taxable profits above £250,000**. A small profit rate (SPR) applies for companies **with profits of £50,000** or below, meaning they **will pay 19%.**

Companies with taxable profits between £50,000 and £250,000 pay the main rate reduced by marginal relief, which provides a gradual increase in the average corporation tax rate.

In the United Kingdom, businesses **may apply for marginal relief (between £50,000 and £250,000)** in order to qualify to pay a lower tax rate than the standard rate of 25%.

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The calculation would be:

Year to 31st March 2025	Profits band £	Percentage (%)
Small profits rate	0 - 50,000	19
Main rate	Over 250,000	25

The calculation would be:

Year to 31st March 2025	Profits band £	Percentage (%)	Calculations
Small profits rate	0 - 50,000	19	9,500 (RM53,381.84)
Main rate	Over 250,000	25	62,500(RM351,196.34)

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Tax Incentives in Malaysia

Malaysia offers various tax incentives to attract both foreign and domestic investments, including exemptions, allowances, deductions, and reduced tax rates to alleviate the tax burden.

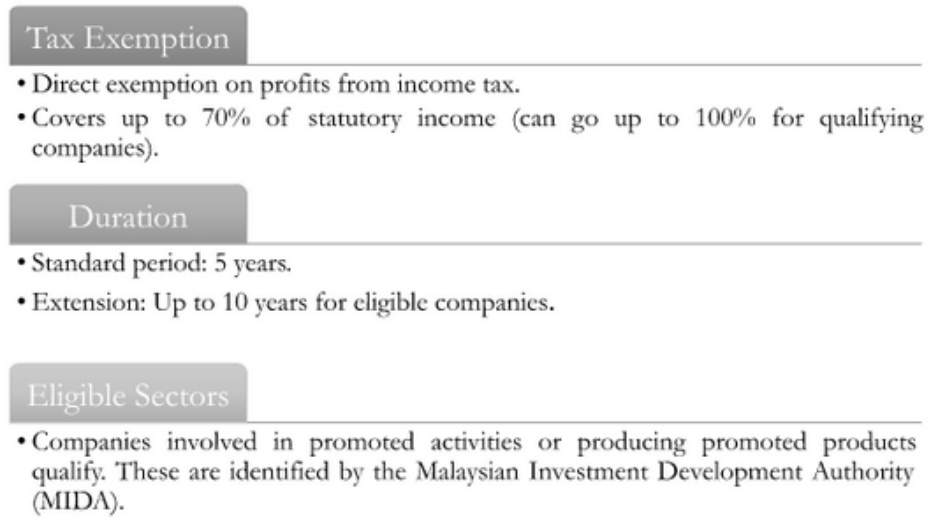
The said incentives are governed under several Act as follows:

- Promotion of Investments Act 1986
- Income Tax Act 1967
- Customs Act 1967
- Excise Act 1976
- Free Zones Act 1990

Several major schemes of the incentives are as follows:

a) Pioneer Status (PS) Incentive

The Pioneer Status (PS) is a key tax incentive designed to encourage investments in promoted industries and activities in Malaysia.



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b) Investment Tax Allowance (ITA)

The Investment Tax Allowance (ITA) is a Malaysian government initiative to attract investments in capital-intensive projects, particularly for companies engaged in promoted activities or products.

Allowance Form

- Provides an additional tax allowance on qualifying capital expenditures (e.g., plant, equipment).
  Offered alongside normal capital allowances.

Duration

- Standard period: 5 years.
- Extension: Up to 10 years for eligible projects.

Allowance Rates

- Standard: 60% of qualifying expenditures.
  High-priority sectors: Up to 100% (e.g., high technology, renewable energy, advanced manufacturing).

Utilization

- The allowance can offset up to 70% of statutory income.
  Unused allowances can typically be carried forward.

c) Infrastructure Allowance (IA)

The Infrastructure Allowance (IA) is a targeted tax incentive aimed at encouraging infrastructure development in specific regions of Malaysia, promoting economic growth and industrial expansion.

Coverage

- Manufacturing
  Agriculture
  Hotels and Tourism
  Other industrial or commercial activities

Eligible Regions

- Sabah
  Sarawak
  Eastern Corridor of Peninsular Malaysia.

Allowance Rates:

- 100% allowance on qualifying capital expenditure for infrastructure projects.
  Examples include building or improving bridges, roads, ports, and jetties.

Tax Offset

- Can be used to offset up to 85% of statutory income in a given year.
  Remaining income is taxed at the prevailing corporate tax rate.

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Additional Information

Exemptions for tax (non-resident individual)

A foreigner would not be taxable in these situations:

- Employed in Malaysia for less than 60 days
- Employed on board a Malaysian ship
- Age 55 years old and receiving pension from Malaysian employment
- Receiving interest from banks
- Receiving tax-exempt dividends

A foreigner who is indeed taxable may fill in **Form M** as follows: **Link for form M: https://phl.hasil.gov.my/pdf/pdfborang/Form_M2006_2.pdf**

Non-resident individuals may qualify for exemptions on Malaysian employment income under certain conditions:

a. **Employment of 60 Days or Less:**

- If a non-resident individual works in Malaysia for **60 days or less** in a calendar year (or overlapping two calendar years), the income from such employment is **exempt from tax**.

b. **Employment Between 60 and 183 Days:**

- If the individual works in Malaysia for **more than 60 days but less than 183 days** and is a tax resident of a country with which Malaysia has a **Double Taxation Agreement (DTA)**, they may be eligible for tax exemption on Malaysian income, provided:
- The income is paid by a **foreign employer** or on behalf of a foreign employer.
- The income is not borne by a **permanent establishment (PE)** or fixed base in Malaysia.

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c. Key Notes:

- The **60-day rule** applies unconditionally, while exemptions under the DTA depend on meeting specific conditions outlined in the treaty.
- Non-residents must review the relevant DTA to confirm eligibility and compliance with its provisions.

This allows temporary workers or short-term visitors to avoid double taxation and limits their tax burden in Malaysia.

In summary, Malaysia and the United Kingdom have distinct corporate tax systems that reflect their economic goals. Malaysia's lower tax rates and incentives focus on attracting foreign investment and boosting growth, especially in sectors like manufacturing and technology. Malaysia also offers three tax rates imposed on the company, and more importantly, it is designed to support and facilitate small startup businesses.

While the United Kingdom, with its structured tax policies and support for innovation through incentives like R&D credits, emphasises global competitiveness and transparency.

Businesses should weigh these tax differences alongside factors like market potential and regulations to choose the best location for their needs.

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