

RELEVANT TO ACCA QUALIFICATION PAPER P6 (MYS)

The export incentives regime in Malaysia

The Malaysian economy has long depended on exporting agricultural produce and manufactured goods. With the maturation of the manufacturing sector, the export sector has since expanded to include export of services.

Successive gazette orders have thus been introduced to reflect the policy of the day. This article serves to collate and rationalise the various incentive measures. It aims to provide a cogent and holistic view of the prevailing export incentives regime in Malaysia.

Readers are encouraged to peruse the actual gazette orders for a proper understanding and analysis. For this reason, the gazette order references are provided.

Exports incentives are streamed as follows:

A. Export of manufactured goods and agricultural produce

1. Exemption of income for increased exports
 - (a). Malaysian International Trading Company
 - (b). Allowance for Increased Exports
 - (c). Exemption of income for significant increase in export, penetration of new markets, and for Export Excellence Award
 - (d). Exemption of income for increase in export of manufactured motor vehicles, automobile components or parts
2. Double deduction for promotion of exports.

B. Export of services

1. Exemption of income for increased exports of:
 - (a). 16 qualifying services
 - (b). Healthcare services provided in Malaysia to foreign clients
2. Double deduction for qualifying expenses in promoting export of:
 - (a). All services
 - (b). Professional services
 - (c). Higher education
3. Single deduction for hotel accommodation

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A. EXPORT OF MANUFACTURED GOODS AND AGRICULTURAL PRODUCE

At a glance, the incentives available for manufactured goods and agricultural produce are as follows:

Person eligible	Incentive	Other details
Company incorporated in Malaysia, at least 60% Malaysian-owned approved as Malaysian international trading company (MITC)	Tax exemption of 20% of value of increased exports by an MITC	<ul style="list-style-type: none"> • Amount absorbed against 70% of statutory income • Unutilised amount may be carried forward • Exempt account and two-tier exemption
A resident company engaged in manufacturing or agriculture, is eligible for allowance for increased exports (AIE)	Tax exemption of 10% and 15% of the value of increased exports of manufactured goods depending on value added; 10% for agricultural produce	
Local company, resident in Malaysia, carrying on activities in manufacturing and agriculture obtaining: <ol style="list-style-type: none"> i. significant increase in exports ii. penetration of new markets, and iii. export excellence award 	Tax exemption of 30%, 50% and 100% of value of increased exports of manufactured goods and agricultural produce	
Company incorporated and resident in Malaysia, carrying on manufacturing of motor vehicles, auto components and parts	Tax exemption of 30% and 50% of value of increased exports depending on value added	
Resident company is given double deduction in respect of approved outgoings and expenses under the Promotion of Investments Act 1986, Schedule, Income Tax (Promotion of Exports) Rules 1986	Double deduction for qualifying expenses for the export of goods or agricultural produce manufactured, produced, assembled, processed, packed, graded or sorted in Malaysia	
		A pioneer company is eligible, but the accumulated deduction will be allowed immediately after the tax relief period

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The measures are discussed in more detail below.

1. Exemption of income from increased exports

(a). MALAYSIAN INTERNATIONAL TRADING COMPANY

PU (A) 60 – Income Tax (Exemption)(No.12) Order 2002 as amended by the Income Tax (Exemption) (Amendment) Order 2003.

Objective

This incentive aims to encourage the development and growth of large Malaysian trading companies to support the Malaysian export trade.

Malaysian International Trading Company

A company approved as a 'Malaysian International Trading Company' (MITC) is eligible for the tax incentive.

To qualify, the company must produce a letter from the Malaysian External Trade Development Corporation (MATRADE) certifying the following:

- The company is incorporated in Malaysia and at least 60% of the issued share capital of the company is Malaysian-owned
- The company has achieved annual sales of more than RM10m
- Not more than 20% of its annual sales is derived from the trading of commodities
- The company uses local services for purposes of banking, finance and insurance and uses local ports and airports.

Tax incentive: exemption

An MITC is eligible for a tax exemption of 20% of the *value of increased exports* restricted to a maximum of 70% of statutory income for that year of assessment.

For the purpose of this incentive, 'export sales' means sales derived from the export of local and imported goods and commodities, but does not include trading commissions and profits derived from trading at a commodity exchange and sales to Free Industrial Zones and Licensed Manufacturing Warehouses.

'Value of increased exports' means the difference of free on board¹ value of goods and commodities exported in a basis period and that of the immediately preceding basis period.

Incentive period

An MITC is eligible for the tax exemption for five consecutive years, beginning from the year of assessment in which the MITC first qualified for the exemption.

Carry forward

If any amount determined to be exempted is not absorbed because of the restriction to 70% of statutory income or absence of statutory income, such amount may be carried forward to be given to the MITC in the first subsequent year of assessment in which there is statutory income from the business.

Two-tier exempt account and exempt dividend

Any amount exempted under this incentive may be credited to an exempt account from which exempt dividend may be distributed. A corporate shareholder may credit

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the exempt dividend thus received into a second tier exempt account and on-distributes the exempt dividend to its shareholder/s.

Comments

This incentive encourages companies presently engaged in trading of commodities to diversify into international trading of goods as they would likely have the requisite volume of exports to start with. However, such companies must be mindful that it must keep the export of commodities to a maximum of 20% of total annual sales revenue.

Note that there is no exclusion of specific agricultural produce for the MITC incentive.

The RM10m annual turnover threshold renders the MITC status within reach of many companies.

A trading company set up within the group to export the goods manufactured by related manufacturing companies is eligible for MITC status.

There is no mutual exclusion to other incentives.

Worked example

Facts

Bolih Sdn Bhd is owned as follows:

Bolih Holding Bhd:	65%
Foreign Pte Ltd:	35%

Comparative details of its income are as follows:

	Year ended 31 March 2010 RM'000	Year ended 31 March 2011 RM'000
Domestic sales revenue	2,000	2,500
Export sales revenue		
To ASEAN countries	3,600	3,200
To Europe	2,400	3,000
To China	nil	800
To Free Industrial Zones and Licenced Manufacturing Warehouses	<u>1,000</u>	<u>2,000</u>
Total sales revenue	9,000	11,500
Trading commissions and gains from Commodity Exchange	500	300
Statutory income from business	200	250
Statutory income from interest	12	10
Approved donations	5	5

Notes:

1. About 10% of export sales relate to sale of natural rubber and crude palm oil.
2. Sales revenue is stated at free on board value.
3. All exports are shipped through Port Klang and Johor Port.
4. Bolih Sdn Bhd transacts all trade through Malayan Banking Bhd and insures with Malaysian insurance companies.

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Answer

Eligibility

In the year of assessment 2010, Bolih Sdn Bhd does not qualify as an MITC as its annual sales revenue fell short of RM10m.

In the year of assessment 2011, Bolih Sdn Bhd qualifies as an MITC as it fulfils all four of the conditions:

- It is incorporated in Malaysia and more than 60% Malaysian-owned
- For the year of assessment 2011, it has achieved annual sales of RM11.5m (therefore more than RM10m)
- Only 10% (ie not more than 20%) of its annual sales is derived from the trading of commodities (natural rubber and crude palm oil), and
- Malaysian ports, Malaysian bank and insurance companies are used in its business.

Upon obtaining a letter from the Malaysian External Trade Development Corporation confirming the above, Bolih Sdn Bhd is eligible for the MITC incentive in the year of assessment 2011 as it recorded an increase in the export sales over its export sales in the immediately preceding basis period for the year of assessment 2010.

Bolih Sdn Bhd will potentially qualify for the MITC incentive for five consecutive years of assessment – ie year of assessment 2011 until year of assessment 2015, provided that it registers increase in export sales in each year of assessment over its immediately preceding year of assessment.

Computation

	RM'000	RM'000
<i>Year of assessment</i>		
Statutory income		250
FOB value of exports in 2011: 3,200 + 3,000 + 800	7,000	
FOB value of exports in 2010: 3,600 + 2,400	<u>(6,000)</u>	
Value of increased exports	1,000	
20% thereof	200	
Restricted to 70% of statutory income	<u>(175)</u>	
Amount carried forward	25	
MITC income exempted		<u>(175)</u>
Statutory income (after MITC exemption) from business		75
Statutory income from interest		<u>10</u>
Aggregate income		85
Approved donation (lower of 10% of aggregate income or donation amount)		<u>(5)</u>
Total income		80

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(b). ALLOWANCE FOR INCREASED EXPORTS (AIE)

PU (A) 128 – Income Tax (Allowance for Increased Exports) Rules 1999 as amended by PU(A) 309 – Income Tax (Allowance for Increased Exports) (Amendments) Rules 2003.

Objective

The above incentive was introduced to encourage an increase in exports. Resident companies engaged in manufacturing or agriculture, exporting manufactured products or agricultural produce² are eligible for this incentive.

Note that only the manufacturer that exports manufactured products qualifies for the incentive.

Tax incentive

This incentive is given at the following rates:

- (i) Exemption of statutory income equivalent to 10% of the value of increased exports is given to manufacturers provided that the goods exported attain at least 30% of value added.
- (ii) Exemption of statutory income equivalent to 15% of the value of increased exports is given to manufacturers provided that the goods exported attains at least 50% of value added.
- (iii) Exemption of statutory income equivalent to 10% of the value of increased exports of agricultural produce by the company that exports agricultural produce.

The above exemption of statutory income is restricted to a maximum of 70% of the statutory income and subject to the respective rates given under (i), (ii) and (iii).

Any unutilised allowance may be carried forward.

The amount utilised is credited to a tax exempt account from which tax-free dividends can be declared. For corporate shareholders, there is a second tier exempt account from which exempt dividend may be distributed.

Mutually exclusive to other incentives

This incentive is mutually exclusive to other incentives (except for deduction for promotion of exports):

- in the Promotion of Investment Act 1986, and
- under Schedule 7A ie reinvestment allowance.

Exclusion

The allowance does not apply to exports of certain products such as:

- tin ingots or slabs, tin ore and concentrate
- natural rubber sheet and slabs, Standard Malaysian Rubber, crepe natural rubber, natural rubber latex and natural gums
- crude palm kernel oil, palm kernel cakes and crude palm oil
- copra, copra cakes and crude coconut oil

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- logs, sawn timber (ungraded and non-kiln dry) and wood chips (except briquettes)
- petroleum oils (crude and other than crude) and petroleum gases, and other gaseous hydrocarbons (liquefied or in gaseous state) hydrogen, nitrogen and oxygen.

Incentive period

There is no finite period for AIE: a company may qualify for the incentive as long as the requisite conditions are fulfilled.

Worked example

Facts

Kayu Sdn Bhd is a wood-based company resident in Malaysia. It produces plywood slabs (an agricultural produce), manufactures chairs and high-grade paper for security printing. It has been agreed with the tax authorities that sales revenue from all three products constitute a single business source.

Kayu Sdn Bhd has been granted with pioneer status for the manufacturing of security paper but the tax relief period had ended in YA20x0.

Relevant details are as follows:

	YA20x1	YA20x2	YA20x3
	RM'000	RM'000	RM'000
Domestic sales revenue	1,000	1,500	1,200
Export sales revenue:			
Chairs (35% of value added)	550	1,000	800
Security paper (60% of value added)	800	2,000	2,500
Plywood slabs	2,000	3,500	4,200
Sales to Free Industrial Zones and Licenced Manufacturing Warehouse	600	900	800
Statutory income from the business	700	300	400

Answer

Eligibility

Kayu Sdn Bhd is eligible for the AIE in YA20x2 and YA20x3 because:

- it is resident in Malaysia
- it is directly involved in manufacturing chairs and security paper and producing plywood (an agricultural produce)
- for YA20x2 and YA20x3, it does not enjoy any tax incentive: its pioneer status had ended two years earlier
- it has recorded increase in exports of manufactured goods and agricultural produce.

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The rate of AIE is:

- 10% for chairs as the value added is more than 30%
- 15% for security paper as the value added is more than 50%
- 10% for plywood being an agricultural produce.

Computation

	YA20x2		YA20x3	
	RM'000		RM'000	
Statutory income		300		400
Increase in exports				
Chairs	450 x 10%	45	No increase	
Security paper	1,200 x 15%	180	500 x 15%	75
Plywood	1,500 x 10%	<u>150</u>	700 x 10%	70
			AIE b/f	<u>165</u>
AIE		375	AIE	<u>310</u>
Restricted to 70% of SI		<u>(210)</u>	Restricted 70%	<u>(280)</u>
Unabsorbed c/f		165	Unabsorbed c/f	30
Statutory income after AIE		90	Statutory income after AIE	120

(c). EXEMPTION OF INCOME FOR SIGNIFICANT INCREASE IN EXPORTS, PENETRATION OF NEW MARKETS AND EXPORT EXCELLENCE AWARD

PU (A) 158 – Income Tax (Exemption) (No. 17) Order 2005.

Objective

To encourage Malaysian companies to further strive for not just increase but significant increase in the export of manufacture of high-quality goods so as to be able to penetrate new markets, locally owned resident manufacturing or agricultural companies (ie incorporated in Malaysia and at least 60% Malaysian-owned) are eligible for the special enhanced incentives for allowance for increased export.

Export sales

Export sales means direct export sales of manufactured products or agricultural produce from Malaysia, but excludes sales to Free industrial Zones, Free Commercial Zones, Licensed Manufacturing Warehouse, Labuan, Langkawi and Tioman Free Zones.

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The incentive

<p>(a) Achieve significant increase in exports – ie where the value of increased exports of the company in the basis period for a year of assessment is at least 50%</p>	<p>Exemption of 30% of value of increased exports</p>
<p>(b) Succeeds in penetrating new markets. The list of export markets is determined by the MATRADE. Countries <i>not</i> considered as new market are as follows:</p> <ul style="list-style-type: none"> • US • Canada • European Union countries • Hong Kong • Japan • Taiwan • Korea • Singapore • Australia • New Zealand 	<p>Exemption of 50% of the value of increased exports</p>
<p>(c) Achieves the highest increase in exports. Such companies are given 'Export Excellence Award' by the Ministry of International Trade and Industry</p>	<p>Exemption of 100% of the value of increased exports</p>
<p><u>Important note</u></p> <p>If a company is granted the incentive under (a) and (b), it cannot avail itself of the incentive under (c) for the same basis period</p>	

Restriction to 70% of statutory income and carry forward

The amount determined above is absorbed against 70% of statutory income. Any amount unabsorbed may be carried forward to be set-off against the SI in future.

Exempt account and two-tier exemption

The amount absorbed is credited into an exempt account, from which exempt dividend may be distributed. The corporate shareholder may credit such exempt dividend received into a second-tier exempt account and distribute a second round of exempt dividend.

Separate records

The company that claims this incentive must maintain separate records for export sales that qualify for exemption on the value of increased exports.

Exclusions

This incentive is not available to a company in the basis period that has been granted:

- incentives under the Promotion of Investments Act
- reinvestment allowance under Schedule 7A
- allowance for increased exports
- deduction under rules for deduction for cost on acquisition of a foreign-owned company.

This incentive does not apply to exports of certain products such as:

- tin ingots or slabs, tin ore and concentrate
- natural rubber sheet and slabs, Standard Malaysian Rubber, crepe natural rubber, natural rubber latex and natural gums
- crude palm kernel oil, palm kernel cakes and crude palm oil
- copra, copra cakes and crude coconut oil
- logs, sawn timber (ungraded and non-kiln dry) and wood chips (except briquettes)
- petroleum oils (crude and other than crude) and petroleum gases and other gaseous hydrocarbons (liquefied or in gaseous state) hydrogen, nitrogen and oxygen.

**(d). EXEMPTION OF INCOME FOR INCREASED EXPORTS IN MANUFACTURED MOTOR VEHICLES, AUTOMOBILE COMPONENTS AND PARTS
PU (A) 44 of 2011 – Income Tax (Exemption) Order 2011**

This order was introduced on 2 February 2011 to encourage an increase in the direct export of motor vehicles, automobile components and parts manufactured in Malaysia.

The mechanism and provisions of the order are similarly worded as in item (c) above. Candidates are encouraged to peruse this new gazette order for the details.

2. Double deduction for the promotion of exports

Section 41 and Schedule to the Promotion of Investments Act 1986.
PU (A) 14 – Income Tax (Deduction for promotion of exports) Rules 2007.

Eligibility

Every company resident in Malaysia, including a pioneer company, is eligible for this incentive. However, no deduction will be made during the tax relief period (TRP). The deductions instead will be accumulated and allowed against the income of the post-pioneer business immediately after the end of the TRP.

Qualifying expenses

A double deduction is given to eligible companies in respect of approved outgoings and expenses that are incurred:

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- primarily and principally for the purpose of seeking opportunities, or
- in creating or increasing a demand for the export of goods or agricultural produce, manufactured, produced, assembled, processed, packed, graded or sorted in Malaysia.

The Income Tax (Promotion of Exports) Rules 1986 prescribes deductions in respect of outgoings and expenses incurred for the promotion of exports. Only expenses that are of a revenue nature and allowable under Section 33 of the ITA in computing the adjusted income of the company will qualify for deductions.

The approved outgoings and expenses that qualify for these deductions are provided in Paragraph 4(2) of the rules:

- Publicity and advertisement in any media overseas.
- Supply of samples to potential clients abroad, including sample delivery cost.
- Preparation of tenders for the supply of goods or agricultural products for potential clients overseas.
- Fares with respect to travel overseas by company representatives for the purpose of negotiations or signing of contracts, or for the purpose of participating in trade or industrial exhibitions, additional deduction is limited to RM300 per day for accommodation and RM150 per day for sustenance.
- Supply of technical information to potential clients abroad related to the goods or agricultural products that are offered for sale, not including expenses relating to the supply of technical information after purchase.
- Participation in trade or industrial exhibitions overseas approved by minister.
- Cost of maintaining sales office overseas for the promotion of exports from Malaysia.
- Professional service fees for packaging design subject to conditions that the product is of export quality and the company uses local professional services.

Double deduction incentive for the promotion of exports of goods and agricultural produce is extended to the following expenses:

- Participation in virtual trade shows.
- Participation in trade portals for the promotion of local products.
- Cost of maintaining warehouses overseas.
- Cost of registering patent, trademark and product licensing.

B. EXPORT OF SERVICES

1. Exemption of income for increase in exports of services:
 - (a) 16 qualifying services
 - (b) Healthcare service provided in Malaysia to foreign clients
2. Double deduction for qualifying expenses in promoting export in services:
 - (a) General incentive
 - (b) Professional services
 - (c) Higher education
3. Single deduction for hotel accommodation

Below is a closer look at the measures:

1 (a). Exemption of Income in Respect of Value of Increased Exports (Services)

PU (A) 57 – Income Tax (Exemption) (No.9) Order 2002 as amended by PU (A) 275 Income Tax (Exemption) (Amendment) Order 2006.

The exemption incentive is available for persons³ that export services. The qualifying services are as follows:

1. Legal
2. Accounting
3. Architecture
4. Marketing
5. Business consultancy
6. Office services
7. Construction management
8. Building management
9. Plantation management
10. Private healthcare
11. Private education
12. Publishing services
13. Information technology and communication (ICT) services
14. Engineering services
15. Printing services
16. Local franchise services

Companies that export the above services to foreign clients are exempted from the payment of income tax in respect of income equal to 50% of the value of increased exports, but not exceeding 70% of the statutory income.

‘Value of increased exports’ means the difference of the value of the qualifying services exported in the basis period and that of the immediately preceding basis period.

‘Foreign client’ means a company, a partnership, an organisation or a cooperative society that is incorporated or registered outside Malaysia, or an individual who is a non-Malaysian citizen and does not hold a Malaysian work permit, or an individual who is a non-resident Malaysian citizen living abroad.

The services must be provided *from* Malaysia. However, in relation to the provisions of private healthcare and private education, the services can be provided either in Malaysia, or provided from Malaysia – eg foreign students studying in Malaysia.

Non-application

This incentive does not apply to a person who has been granted:

- incentives (other than promotion of exports) under the Promotion of Investments Act
- investment allowance under Schedule 7B
- exemption under Section 127 for an approved service project.

1 (b). Exemption of income for a person resident in Malaysia from a healthcare services business provided in Malaysia to foreign clients.

PU (A) 412 – Income Tax (Exemption)(No.6) Order 2009.

Objective

This incentive is aimed at promoting healthcare services and health tourism by providing enhanced exemption during the period of YA2010 – YA2014. If a person does not qualify for the enhanced incentive, but still qualifies under the general incentive in item 1(a) above, the general incentive of 50% applies.

Incentive

Tax exemption is given to a person resident in Malaysia for healthcare services provided in Malaysia to foreign clients, as defined.

100% of the value of increased exports is set off against a maximum of 70% of the statutory income. In determining the statutory income, capital allowances are compulsorily granted, whether or not a claim had been made.

A 'foreign client' is:

- a company, a partnership, an organisation or a cooperative society that is incorporated or registered outside Malaysia, or
- a non-Malaysian citizen individual.

A 'non-Malaysian citizen individual' does not include:

- a non-citizen participating in the Malaysia My Second Home (MM2H) programme, and his dependants
- a non-citizen holding a Malaysian student pass, and his dependants
- a non-citizen holding a Malaysian work permit, and his dependants
- a citizen who is a non-resident living abroad, and his dependants.

Set-off, exempt account and carry forward

Any amount absorbed may be credited to an exempt account from which an exempt dividend may be distributed. A two-tier exemption applies to the corporate shareholder.

Any amount unabsorbed may be carried forward to be similarly set-off against statutory income in future.

Separate account

Separate accounts must be maintained in respect of healthcare services provided to qualifying foreign clients.

Non-application

This enhanced incentive does not apply to a person who has been granted:

- incentives (other than promotion of exports) under the Promotion of Investments Act
- investment allowance under Schedule 7B
- exemption under Section 127 for an approved service project, or
- exemption under the general incentive under PU (A) 57 [see item 1(a) above].

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Comments

Therefore during YA2010 – 2014, the incentive for increase export of healthcare services is:

- 0% Citizen residents; non-citizens with Malaysian work permits.
- 50% Non-citizens under MM2H programme and dependants;
Non-citizens with student pass and dependants
Citizens living abroad & dependants.
- 100% Other non-citizens not cited above.

2. Double deductions for qualifying expenses

Up to and including YA 1995, the double deduction incentive on expenses incurred for the promotion of exports was available to manufacturing companies, hotels and tour operators. Since 1996, the double deduction incentive has been extended first to the entire services sector, then to specific services follows:

- (a). Deduction for Promotion of Export of Services generally
- (b). Deduction for Promotion of Export of Professional Services
- (c). Deduction for Promotion of Export of Education Services

(a). Export of services generally

PU (A) 193 – Income Tax (Deductions for Promotion of Export of Services) Rules 1999.

PU (A) 114 – Income Tax (Deduction for Promotion of Export of Services) Rules 2002.

PU (A) 262 – Income Tax (Deductions for Promotion of Export of Services) (Amendment) Rules 2003.

Eligibility

Every company resident in Malaysia is eligible for the incentive of double deduction under these rules.

The expenses eligible for double deduction are as follows:

- i. Market research.
- ii. The cost of tender preparations.
- iii. Preparing technical information.
- iv. Fares in respect of travel to a country outside Malaysia by a representative of the company for the promotion of export of services and actual expenses subject to a maximum of RM300 per day for accommodation, and a maximum of RM150 per day for sustenance.
- v. Maintaining sales office overseas for the purpose of promoting the export of services.
- vi. Publicity and advertisement in any media outside Malaysia for the promotion of the export of services.
- vii. Feasibility studies for overseas projects identified for the purpose of tender.
- viii. Participation in a trade or industrial exhibitions in Malaysia or overseas that is approved by the Malaysia External Trade Development Corporation.
- ix. Participation in exhibitions held in a Malaysian Permanent Trade and Exhibition Centre overseas that is approved by the Malaysia External Trade Development Corporation.

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- x. Expenses incurred in preparing models for participating in competitions at international level as verified by the Professional Service Development Corporation Sdn Bhd.

Non-application

A company eligible to claim under the promotion of export of higher education rules [PU (A) 185/2001] is precluded from claiming this incentive.

(b). Deduction for Promotion of Export of Professional Services

PU (A) 124 – Income Tax (Deduction for Promotion of Export of Professional Services) Rules 2003.

The above rules provide that every person resident in Malaysia who incurs expenditure primarily and principally for the purpose of promoting the export of professional services will be eligible for double deduction.

‘Professional service’ means:

- legal
- accounting (including taxation and management consultancy)
- architectural (including town planning and landscaping)
- engineering and integrated engineering services (including valuation and quantity surveying)
- medical and dental.

The expenses that qualify for double deduction are:

- feasibility studies for overseas project identified for the purpose of tender
- tender preparation, including preparation of models made by the person that is used in the bidding of international contracts as verified by the Professional Services Development Corporation Sdn Bhd
- preparation of models for international competition
- payments to Malaysian resident for models as above
- market research
- preparing technical information
- participation in approved overseas or local trade or industrial exhibitions
- participation in approved exhibitions held in Malaysian Permanent Trade and Exhibition Centre overseas
- necessary air fares
- accommodation of maximum RM300 per day and sustenance of maximum RM150 per day overseas
- maintaining sales office overseas
- publicity and advertisement in any media overseas.

Non-application

Companies that qualify for double deduction under this rule the general rule [the Income Tax (Deduction for Promotion of Export of Services) Rules 1999] are not eligible for deduction under this incentive.

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(c). Double deduction for promotion of export of higher education

PU (A) 185 – Income Tax (Deduction for Promotion of Export of Higher Education) Rules 2001

PU (A) 261 – Income Tax (Deduction for Promotion of Export of Higher Education) (Amendment) Rules 2003

Objective

In the year 2001, an incentive was introduced specifically for the higher education sector through the above rules.

Exclusion

A company that is eligible for a deduction under these rules shall not be eligible for a deduction under the promotion of export of services mentioned above.

Qualifying criteria

- (a) The company is resident in Malaysia.
- (b) The company is incorporated under the Companies Act 1965 with the primary purpose of establishing, managing and owning a private higher educational institution that is registered with the Ministry of Higher Education Malaysia.
- (c) The company runs a business of providing higher education in Malaysia.
- (d) The company has made an application to the Ministry of Higher Education Malaysia to obtain approval to undertake programmes and activities in relation to the promotion of export of higher education overseas.
- (e) A company that uses the services of another company that is approved by the Ministry of Higher Education Malaysia to undertake the promotion of export of higher education overseas shall also qualify for this incentive. The company has to obtain certification from the Ministry of Higher Education Malaysia confirming that the payment made to that appointed company is for the purpose of undertaking the promotion of export of higher education overseas.

Qualifying expenditure for further deduction

The expenses that qualify for double deduction are:

- market research
- tender preparations
- preparing technical information
- expenditure in relation to travelling to an overseas destination by a representative of the company must be for the purpose of participation in education fairs approved by the Ministry of Higher Education for the purpose of export of higher education. Maximum of RM300 for accommodation and RM150 for sustenance per day are allowed
- expenditure directly incurred in relation to participation in education fairs overseas approved by the Ministry of Higher Education for the purpose of export of higher education
- maintaining sales office overseas
- publicity and advertisement in any media outside Malaysia.

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3. Single deduction

Single deduction is allowed in respect of expenses of hotel accommodation for a maximum of three nights to companies providing hospitality to potential importers invited to Malaysia as a follow-up to trade and investment missions organised by government agencies or industrial and trade associations. These expenses are otherwise disallowed under Section 39 as entertainment expenses.

Written by a member of the Paper P6 examining team

References

1. Free on board (FOB) means term of sale under which the price invoiced or quoted by a seller includes all charges up to placing the goods on board a ship at the port of departure specified by the buyer. This means the price does not include carriage, freight and insurance from the port to the destination
2. Agricultural produce means fresh and dried fruits, fresh and dried flowers, ornamental plants, ornamental fish, frozen raw prawn or shrimp, frozen cooked and peeled prawn and frozen raw cuttle fish and squid.
3. Note that 'persons' qualify for this incentive. It means that companies, individuals and other persons are eligible