



## **GUIDELINES ON MSC MALAYSIA FINANCIAL INCENTIVES (SERVICES INCENTIVE – INCOME TAX EXEMPTION)**

### **1. ELIGIBILITY CRITERIA**

1.1 To be eligible to apply for the award of MSC Malaysia Status and the financial incentives, a company is required to meet the following criteria:

- (a) a company incorporated under the Companies Act 2016 and resident in Malaysia;
- (b) proposing to carry out one or more of the MSC Malaysia promoted activities as listed in **Appendix 1** and has not issued any invoice for such proposed activities in Malaysia on the date of application

(A company which has issued an invoice may be eligible if it has at least 60% Malaysian equity ownership and has issued its first invoice for such proposed activities in Malaysia not more than 12 months prior to the date of application.<sup>1</sup>);

and

- (c) not granted by the Government of Malaysia tax exemption in respect of the income from any activity on the date of application.

1.2 If a company has a related company<sup>2</sup> which has been granted tax exemption in respect of the income from an activity which falls under any of the items of the MSC Malaysia promoted activities, such company shall not be eligible to apply for the financial incentives under MSC Malaysia in respect of a proposed activity which falls under the same item.

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<sup>1</sup> The company is required to maintain at least 60% Malaysian equity ownership during the exemption period.

<sup>2</sup> "Related company" shall have the same meaning as the definition of "related company" under the Promotion of Investments Act 1986.

## 2. INCOME TAX EXEMPTION: SCOPE AND CONDITIONS<sup>3</sup>

MSC Malaysia Status Company	Category 1 (Tier 1)	Category 2 (Tier 2)	Category 3 (Tier 3)
Percentage of income tax exemption	100%		70%
Exemption period	5 years		5 years
Extension of exemption period	5 years		May apply for extension provided that the company changed to Category 1 or Category 2 and fulfills the conditions imposed
<b>Conditions:</b>	<b>Category 1 (Tier 1)</b>	<b>Category 2 (Tier 2)</b>	<b>Category 3 (Tier 3)</b>
To be met <b>within 24 months</b> from the date of award of MSC Malaysia Status and need to be complied with during the exemption period:			
(1) Location of approved MSC Malaysia promoted activities	<b>Designated Premises within MSC Malaysia Cybercities or Cybercentres<sup>4</sup></b>	<b>Other Commercial Premises within MSC Malaysia Cybercities or Cybercentres</b>	<b>Not subjected to location requirement</b>
(2) Commencement of operation and undertaking of the approved MSC Malaysia promoted activities in Malaysia			
<b>Minimum KPI Numbers</b>			
To be complied with in <b>Year 1 and Year 2</b> of the exemption period:			
(3) <b>Full time employees</b> (comprising Knowledge Workers) with <b>monthly base salary</b>	<b>2 full time employees with monthly base salary of RM5k</b>		
(4) <b>Annual operating expenditure</b>	<b>RM50k</b>		
To be complied with in <b>Year 3, Year 4 and Year 5</b> of the exemption period:			
(5) <b>Full time employees</b> (comprising Knowledge Workers) with <b>monthly base salary</b>	(i) <b>50 full time employees with monthly base salary of RM5k; OR</b> (ii) <b>30 full time employees with monthly base salary of RM10k</b>	(i) <b>30 full time employees with monthly base salary of RM5k; OR</b> (ii) <b>20 full time employees with monthly base salary of RM8k</b>	
	<b>data centre: 5 full time employees with monthly base salary of RM5k</b>		
(6) <b>Annual operating expenditure and investment in fixed asset</b>	<b>RM3.5mil</b>		
	<b>data centre: RM10mil</b>		

<sup>3</sup> The incentive is designed to be consistent with the minimum standards of the *Organization for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) Action 5 Report*.

<sup>4</sup> List of MSC Malaysia Cybercities or Cybercentres is available at MDEC's website ([www.mdec.my](http://www.mdec.my)).

(7) % of Malaysian Knowledge Workers (for the full time employees in (5) above)	70%	50%
(8) Paid-up capital	RM500k <sup>5</sup>	RM250k

- 2.1 The company is required to determine the category at the time of application. Once the category is determined and approved, the company will not be able to change the category during the exemption period. However, category 1 and category 2 are interchangeable without the need for approval.
- 2.2 Each application will be assessed and approved by the approval committee based on the value proposition of each application. The applicable KPI Numbers for items (5) to (8) in the table under paragraph 2 for each application will be determined and approved by the approval committee and specified in the approval letter for the award of MSC Malaysia Status.
- 2.3 **Knowledge Workers** means workers as defined in Appendix 2.
- 2.4 The tax exemption is granted on statutory income derived from the approved MSC Malaysia promoted activities and shall exclude any royalty or other income derived from an intellectual property right (“IPR”)<sup>6</sup>.
- 2.5 Where the company is an existing company which has engaged in MSC Malaysia promoted activities prior to the date of application, the income to be exempted shall be the value added income and the exemption period shall be for a period of 5 years only (with no extension of exemption period):
- (a) “value added income” means statutory income for the basis period for the year of assessment less the “inflation adjusted base income”; and
  - (b) “inflation adjusted base income” shall be determined in accordance with the following formula:
    - (i) for the first year of assessment of the company’s operation<sup>7</sup>:  
  
A (1+B) where:  
A is the average statutory income for up to three years prior to the first year of assessment; and  
B is the rate of inflation for the basis year;

<sup>5</sup> This minimum amount will be increased to RM2.5mil for extension of the exemption period for the second 5 years.

<sup>6</sup> IPR means a right arising from any patent, utility innovation and discovery, copyright, trade mark and service mark, industrial design, layout-design of integrated circuit, secret processes or formulae and know-how, geographical indication, the grant of protection of a plant variety, or other like rights, whether or not registered or registrable.

<sup>7</sup> “The company’s operation” refers to the commencement of the approved MSC Malaysia promoted activities.

(ii) for the second year of assessment of the company's operation onwards:

C (1+B) where:

C is the inflation adjusted base income for the preceding year; and

B is the rate of inflation for the basis year.

### **3. MECHANISM**

- 3.1 The tax exemption is granted under Income Tax (Exemption) (No. 10) Order 2018 [P.U.(A) 389/2018].
- 3.2 Applications for the award of MSC Malaysia Status and the tax exemption are to be submitted together in one application to MDEC.
- 3.3 Each application for the award of MSC Malaysia Status and the tax exemption will be evaluated and presented to the approval committee for deliberation, consideration and approval.

### **4. COMMENCEMENT DATE OF EXEMPTION PERIOD**

- 4.1 The company must fulfill the conditions on location (if applicable) and commencement of operation within 24 months from the date of award of MSC Malaysia Status, in order to request for the determination of the commencement date of the exemption period. The request is to be made to MDEC. **No extension of time shall be granted.**
- 4.2 The commencement date of the exemption period shall be the date of first invoice issued by the company after the award of MSC Malaysia Status for the approved MSC Malaysia promoted activities. For the avoidance of doubt, the company must fulfill the condition on location (if applicable) on the commencement date.

### **5. EXTENSION FOR SECOND 5 YEARS**

- 5.1 Application for extension of the exemption period for the second 5 years must be submitted by the company to MDEC no later than 30 days before the expiry of the exemption period for the first 5 years. **No extension of time shall be granted.**
- 5.2 The extension will only be granted if the company has complied with all the conditions in the first 5 years.
- 5.3 The extension is subject to the approval of the approval committee.
- 5.4 The conditions for Year 5 of the exemption period will apply for the second 5 years, except for the condition on paid-up capital where the minimum amount shall be increased to RM2.5mil on the first day of the second 5 years.

**6. APPLICATION TO ADD NEW ACTIVITIES**

- 6.1 During the exemption period of first 5 years or second 5 years, the company may apply to add new proposed MSC Malaysia promoted activities (“Application”), provided that it has not issued any invoice for such proposed activities in Malaysia on the date of Application.
- 6.2 The Application(s) has to be submitted to MDEC no later than 18 months before the expiry of the first 5 years or the second 5 years, whichever is applicable.
- 6.3 The Application(s) is subject to the approval of the approval committee. The company is required to commit to a new set of KPI Numbers for full time employees, monthly base salary, investment and percentage of Malaysian Knowledge Workers, in respect of the new approved MSC Malaysia promoted activities. The approved new KPI Numbers must be achieved by end of Year 1 from the date of approval of the Application.
- 6.4 Where the company is granted tax exemption on “value-added income” for the initial approved MSC Malaysia promoted activities, the tax exemption for the new approved MSC Malaysia promoted activities will also be granted on “value-added income”.
- 6.5 The commencement date of the exemption period for the new approved MSC Malaysia promoted activities shall be the date of approval of the Application.
- 6.6 The exemption period for the new approved MSC Malaysia promoted activities shall expire on the same date as the exemption period for initial approved MSC Malaysia promoted activities.

**7. SEPARATE ACCOUNT**

The company is required to maintain a separate account for the statutory income derived from the approved MSC Malaysia promoted activities.

**8. REPORTING AND MONITORING**

- (a) The company is required to submit to MDEC annually all true, correct and complete information and/or documents for purpose of reporting on the progress of the approved MSC Malaysia promoted activities and/or determining compliance of the applicable conditions, failing which the tax exemption granted may be withdrawn.
- (b) The submission is to be made through a self-declaration form and verified by an independent external auditor; or in such other manner as may be specified.
- (c) The compliance of conditions by the company is subject to Inland Revenue Board’s approval.
- (d) The company is also required to provide the necessary information to MDEC, within specified timeline, for purpose of fulfilling the Government of Malaysia’s commitment to international standards.

**9. WITHDRAWAL**

The tax exemption<sup>6</sup> granted may be withdrawn in the event of non-compliance of any of the applicable conditions and/or provisions under the applicable legislations.

**10. AMENDMENT OF GUIDELINES**

The Government of Malaysia reserves the right to amend these Guidelines from time to time without prior notice to the companies.

**ISSUED BY MALAYSIA DIGITAL ECONOMY CORPORATION (MDEC)**

**EFFECTIVE DATE: 1 JANUARY 2019**

Disclaimer: The information contained in these Guidelines is to provide details, explanations and/or clarifications on the financial incentives granted under MSC Malaysia. You are advised to refer to the applicable legislations. MDEC cannot accept responsibility for any action or decision made in reliance of these Guidelines or any liability incurred or loss suffered as a consequence of relying on these Guidelines. These Guidelines are not intended to address all possible tax issues that may arise and you are advised to seek professional advice in respect of the tax issues. MDEC reserves the right to amend or update these Guidelines from time to time, based on approval of the Government of Malaysia.

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<sup>6</sup> The MSC Malaysia Status may also be withdrawn in the event of non-compliance of applicable conditions.

## **APPENDIX 1**

### **MSC MALAYSIA PROMOTED ACTIVITIES**

**Provision of services in relation to any of the following:**

- 1. big data analytics (BDA);**
- 2. artificial intelligence (AI);**
- 3. financial technology (FinTech);**
- 4. internet of things (IOT);**
- 5. cybersecurity (technology/software/design and support);**
- 6. data centre and cloud (technology/software/design and support);**
- 7. blockchain;**
- 8. creative media technology;**
- 9. sharing economy platform;**
- 10. user interface and user experience (UI/UX);**
- 11. integrated circuit (IC) design and embedded software;**
- 12. 3D printing (technology/software/design and support);**
- 13. robotics (technology/software/design);**
- 14. autonomous (technology/software/design and support);**
- 15. systems/network architecture design and support; or**
- 16. global business services or knowledge process outsourcing excluding non-technical and/or low value call center; data entry; and recruitment process outsourcing.**

**NOTE:**

The following activities do not fall under the MSC Malaysia Promoted Activities:

- (a) Trading
- (b) Manufacturing
- (c) Provision of telecommunication services

**<End>**

**APPENDIX 1A**

**DESCRIPTION OF MSC MALAYSIA PROMOTED ACTIVITIES**

The following is a further description of what may be considered as MSC Malaysia promoted activities, which can be undertaken by a company as a component of their service offerings or on a project delivery model basis:

No.	Description of core income generating activities	Corresponding items in Appendix 1
1	Remote operations monitoring services: Monitoring of commercial assets, movable or non-movable, to achieve operational efficiency. Such services may utilize various forms of communication including the internet to collect data from the assets, and to perform analyses in order to determine current state of performance, problem detection and/or next course of action. Assets are equipped with sensors and other equipment to relay data back to the server via the internet or other means of electronic communication.	<ul style="list-style-type: none"> <li>• Big data analytics</li> <li>• Internet of things</li> <li>• Robotics</li> <li>• Artificial intelligence</li> <li>• Autonomous</li> <li>• Financial technology</li> </ul>
2	Design and simulation services: Provision of product design, engineering and simulation services to various industries that require the use of high-end workstations, cloud platforms and sufficient bandwidth.	<ul style="list-style-type: none"> <li>• Big data analytics</li> <li>• User interface and user experience</li> <li>• 3D printing</li> <li>• Robotics</li> <li>• Blockchain</li> <li>• Autonomous</li> </ul>
3	Cybersecurity services: Provision of cybersecurity services including threat alert, threat research, technical support, remote diagnostics and remedy.	<ul style="list-style-type: none"> <li>• Artificial intelligence</li> <li>• Big data analytics</li> <li>• Cybersecurity</li> <li>• Blockchain</li> <li>• Financial technology</li> </ul>
4	Software design and development services.	<ul style="list-style-type: none"> <li>• Artificial intelligence</li> <li>• User interface and user experience</li> <li>• Blockchain</li> <li>• Creative media technology</li> <li>• Autonomous</li> <li>• Financial technology</li> <li>• Internet of things</li> </ul>



		<ul style="list-style-type: none"> <li>• Sharing economy platform</li> <li>• Robotics</li> <li>• 3D printing</li> <li>• Systems or network architecture design and support</li> </ul>
5	Integrated circuit and embedded software design services.	<ul style="list-style-type: none"> <li>• Integrated circuit design and embedded software</li> <li>• Internet of things</li> <li>• Systems or network architecture design and support</li> <li>• Autonomous</li> </ul>
6	Data analytics services: Provision of large-scale data-analytics services for various industries through the use of cloud, artificial intelligence and other related infrastructure and tools.	<ul style="list-style-type: none"> <li>• Big data analytics</li> <li>• Artificial intelligence</li> <li>• Sharing economy platform</li> <li>• Financial technology</li> <li>• Data centre and cloud</li> </ul>
7	Creative content and media development services: Provision of creative content development services through the use of design, simulation, virtual reality and other related technologies.	<ul style="list-style-type: none"> <li>• Creative media technology</li> <li>• Robotics</li> <li>• 3D printing</li> <li>• Artificial intelligence</li> <li>• User interface and user experience</li> </ul>
8	Hosting of data centre operations and cloud services.	<ul style="list-style-type: none"> <li>• Data centre and cloud</li> </ul>
9	<p>Global business services: Provision of business services, either to entities within the group of companies or external customers, with or without utilizing any of the technologies listed in Appendix 1, to undertake activities such as:</p> <p><b>(a) IT technical support</b></p> <ul style="list-style-type: none"> <li>• IT helpdesk / technical support, hosting services</li> <li>• system integration</li> <li>• application development / maintenance management</li> <li>• business applications / integration / management</li> </ul>	<ul style="list-style-type: none"> <li>• Global business services</li> </ul>

	<ul style="list-style-type: none"> <li>• disaster recovery</li> <li>• technology infrastructure</li> <li>• testing and quality assurance</li> <li>• product development and solutions</li> <li>• security design</li> <li>• data warehouse design</li> </ul> <p><b>(b) Global support functions</b></p> <ul style="list-style-type: none"> <li>• finance and accounting support</li> <li>• human resources</li> <li>• procurement</li> <li>• legal</li> <li>• marketing</li> <li>• media process</li> <li>• business analytics</li> </ul>	
10	<p>Knowledge process outsourcing: Outsourcing of core, information-related business activities, either to entities within the group of companies or external customers, with or without utilizing any of the technologies listed in Appendix 1, involving highly complex value-added processes and requiring talent or professionals with degree, specific or advanced knowledge of domain or specialty, to undertake services not limited to those shown below under the following categories:</p> <p><b>(a) Corporate support</b></p> <ul style="list-style-type: none"> <li>• investment research services</li> <li>• market research services</li> <li>• business research services</li> </ul> <p><b>(b) Financial</b></p> <ul style="list-style-type: none"> <li>• global / regional tax support</li> <li>• treasury and risk management</li> <li>• statistical and econometric modeling</li> </ul> <p><b>(c) Engineering</b></p> <ul style="list-style-type: none"> <li>• engineering and design services (e.g. 3D modeling)</li> <li>• stereoscopy services (e.g. 2D to 3D conversion)</li> <li>• computational physics analysis (e.g. finite and computational fluid dynamics analysis)</li> </ul> <p><b>(d) Healthcare</b></p> <ul style="list-style-type: none"> <li>• pharmaceutical research and medical services</li> <li>• clinical data management and disease management</li> <li>• remote healthcare services (e.g. telemedicine)</li> </ul>	<ul style="list-style-type: none"> <li>• Knowledge process outsourcing</li> </ul>

## **APPENDIX 2**

### **KNOWLEDGE WORKER**

A “knowledge worker” is an individual who holds one of the following:

- Tertiary qualification from an institution of higher learning (in any field); or
- Diploma in ICT, engineering, technology or specialized certification plus at least 2 years’ relevant experience in a field that is a heavy user of technology; or
- Professional, executive, management and technical work categories in information technology enabled services eg. Information Technology / IS Professionals, Finance / Accounting, Business Administration, Engineering, Medical, Legal,

and also includes:

- foreign workers with knowledge-based skills that are not prevalent in Malaysia and required by MSC Malaysia Status companies.
- workers who are utilised for their creative talent to produce value-added creative work for MSC Malaysia Status companies.

**<End>**