

Malaysia

Introduction

Our Location Offer

Malaysia is a country on the move, from a country dependent on agriculture and primary commodities; Malaysia has today become an export-driven economy spurred on by high technology, knowledge-based and capital-intensive industries.

Malaysia, strategically located in the heart of South East Asia, offers a cost-competitive location for investors intending to set up offshore operations for the manufacture of advanced technological products for regional and international markets.

Supported by a market-oriented economy and pro-business Government policies, Malaysia offers investors a dynamic and vibrant business environment with the ideal prerequisites for growth and profits. Malaysia's key strengths include well-developed infrastructure and productive workforce. A politically stable country with a well-developed legal system, Malaysia also provides attractive incentives for investors.

The conducive business environment in Malaysia has made the country one of the world's top investment destinations for offshore manufacturing operations. Malaysia has to date attracted more than 5,000 foreign companies from more than 40 countries to establish their operations in the country. Many of them have also expanded and diversified their operations in the country, reflecting their confidence in Malaysia as a site for their business ventures. Malaysia has also earned a position among the 10 most competitive countries in the world, according to the 2010 World Competitiveness Yearbook (WCY).

Areas of Economic Advantage

Technology

Technological advancement has become an integral part of Malaysia's growth as an industrialised nation. With the help of technology, Malaysia is steadfast in providing for the modern day requirements of investor companies based in the country. Malaysia is one of the most technologically developed countries amongst industrialising nations in the ASEAN region. The nation's persistent drive to engage modern technologies proves to be a great advantage to manufacturers in Malaysia.

Infrastructure

Infrastructure in Malaysia is designed to serve the business community; it is one of the best in Asia. Telecommunications network served by digital and fibre optic technology, five international airports (all with air-cargo facilities), well-maintained highways and seven international seaports make Malaysia an ideal springboard to the Asia-Pacific market.

Industries in Malaysia are predominantly located in over 200 industrial estates and Free Zones developed throughout the country. These zones are categorised as export processing zones, which cater to the requirements of export-oriented industries. There are also specialised parks that have been developed to cater to the needs of specific industries.

Human Resources

One of Malaysia's greatest assets is her human resources. The workforce here is young, educated and productive, proving to be one of the best in the region. The Government's emphasis on human resource development ensures the continuous supply of manpower to meet the needs of the expanding manufacturing and services sectors.

Key Industries for Foreign Investments

Malaysia offers investors a wide spectrum of investment opportunities in services and manufacturing sectors including in resource-based and non-resource-based industries. This include advanced electronics manufacturing, R&D, biotechnology, photonics, logistics, design, innovation and a highly automated manufacturing sector, to name a few. The Government's objective is also to make Malaysia a hub for other value chain activities, such as R&D, design and development (D&D), procurement, logistics, distribution and marketing, business support services and shared services.

Introduction to investment regime

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Malaysia maintains a liberal and conducive environment for investment in the manufacturing and selected services sectors. The investment regime is transparent where up to date information on investment regulations, policies and incentives are accessible through published documents and websites.

Through Malaysian Industrial Development Authority (MIDA), the Investment Promotion Agency (IPA), Malaysia continuously attracts foreign investments through its smart strategic planning, vast promotional activities, follow-up and monitoring on existing investment projects, evaluation on current investment regime, project negotiations as well as through international cooperation.

Investment priority plan/equivalent policy

Following the progress achieved by the First and Second Industrial Master Plans in laying a firm foundation for industrial development and transforming the manufacturing sector to become a major contributor to economic growth, Malaysia launched the Third Industrial Master Plan (IMP3 for 2006-2020) as an important planning instrument in expanding the sources of growth and positioning Malaysia's long-term industrial competitiveness. 12 industries in the manufacturing sector have been targeted for further development and promotion, among others are electrical and electronics, medical devices, textiles and apparels, petrochemicals, pharmaceuticals and wood-based products. 8 services sub-sectors have been targeted such as business and professional services, distributive trade and construction.

The Economic Transform Programme (ETP) is the latest comprehensive effort that will spearhead Malaysia into a high-income nation by 2020. The Programme provides strong focus on a few key growth engines by prioritising investments in the 12 National Key Economic Areas (NKEAs):

- Oil, Gas and Energy
- Palm Oil
- Financial Services
- Tourism
- Business Services
- Improving Electronics and Electrical
- Wholesale and Retail
- Education
- Healthcare
- Communications Content and Infrastructure
- Agriculture; and
- Greater Kuala Lumpur/Klang Valley.

More information

- 1) Ministry of International Trade and Industry (MITI) - www.miti.gov.my
- 2) Malaysian Industrial Development Authority (MIDA) - www.mida.gov.my
- 3) Performance Management and Delivery Unit (PEMANDU) - www.pemandu.gov.my

Regulation of foreign investment

Process for foreign entities/nationals to invest in our economy

Over the years, Malaysia has progressively liberalised her investment measures in order to maintain its competitive edge in attracting and facilitating foreign direct investments. These include :

- Full equity liberalisation in the manufacturing sector to allow 100% foreign equity ownership irrespective of the level of exports.

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- Full equity liberalisation in 27 services subsectors such as computer and related services; health and social services; tourism services; transport services; sporting and recreational services; business services; rental/leasing services without operators; and supporting and auxiliary transport services.
- Further liberalisation in financial services subsector.
- Commitment to further unilaterally progressive liberalisation of the services sector, as well as through FTAs, and in-line with Bogor Goals.
- Deregulation of the Foreign Investment Committee (FIC) guidelines (further information can be obtained from the Economic Planning Unit (EPU) website, www.epu.gov.my).

Approval of Manufacturing Projects

The Industrial Co-ordination Act 1975

Malaysia's Industrial Co-ordination Act 1975 (ICA) was introduced with the aim to maintain an orderly development and growth in the country's manufacturing sector. The ICA requires manufacturing companies with shareholders' funds of RM2.5 million and above or engaging 75 or more full-time paid employees to apply for a manufacturing licence for approval by the Ministry of International Trade and Industry (MITI). Applications for manufacturing licenses are to be submitted to the Malaysian Industrial Development Authority (MIDA), an agency under MITI in charge of the promotion and coordination of industrial development in Malaysia. Further information on the application for manufacturing licenses could be obtained from MIDA website, www.mida.gov.my.

Incorporating A Company

Methods of Conducting Business in Malaysia

In Malaysia, a business may be conducted:

- By an individual operating as a sole proprietor, or
- By two or more (but not more than 20) persons in partnership, or
- By a locally incorporated company or by a foreign company registered under the provisions of the CA 1965.

All sole proprietorships and partnerships in Malaysia must be registered with the Companies Commission of Malaysia (SSM) under the Registration of Businesses Act 1956. In the case of partnerships, partners are both jointly and severally liable for the debts and obligations of the partnership should its assets be insufficient. Formal partnership deeds may be drawn up governing the rights and obligations of each partner but this is not obligatory.

Procedure for Incorporation

To incorporate a company, an application must be made to the SSM at this address:

Menara SSM@Sentral

No 7, Jalan Stesen Sentral 5

Kuala Lumpur Sentral

50623 Kuala Lumpur.

Tel : 03-2299 4400

Fax : 03-2299 4411

Hotline : 03-22995500

Further information on the registration process is available in the following websites:

- 1) Companies Commission of Malaysia - www.ssm.com.my
- 2) Malaysian Industrial Development Authority (MIDA) - www.mida.gov.my

Does this apply to all investment or, are there differential treatment?

Yes, it does apply to all types of investment.

Conditions of investment

A. Mining

Mining activities are subject to state government policies and regulations as these involve utilisation of state land. The State Mineral Enactments of the various states provides details of approval processes for mining activities.

B. Oil and Gas

For oil and gas, the Petroleum Nasional Berhad (PETRONAS), a wholly government-owned corporation is responsible for regulating upstream oil and gas activities. Foreign investment in the upstream oil and gas sector takes the form of production sharing contracts. Companies which want to engage in downstream operations in processing or refining of petroleum or manufacturing of petro-chemical products from petroleum must obtain special permission as stated in the Petroleum Development Act 1974.

C. Environmental Impact Assessment (EIA) for Prescribed Activities

The following activities are among others prescribed under the Environmental Quality (Prescribed Activities) (EIA) Order 1987, which require an EIA before project approval:

i) Agriculture

ii) Airport

iii) Drainage and Irrigation

iv) Land Reclamation

v) Fisheries

vi) Forestry

vii) Housing

viii) Housing

viii) Industries such as chemicals, petrochemicals, non-ferrous, non-metallic tonnes, iron and steel, shipyards; and pulp and paper industry

ix) Infrastructure

x) Ports

xi) Mining

xii) Petroleum

xiii) Power Generation and Transmission

xiv) Quarries

xv) Railways

xvi) Transportation

xvii) Resort and Recreational Development

xviii) Waste Treatment and Disposal

xix) Water Supply

Further information is available in the following websites:

1) Attorney General's Chambers - www.agc.gov.my

2) Malaysian Industrial Development Authority (MIDA) - www.mida.gov.my

3) Department of Environment - www.doe.gov.my

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Investment promotion and facilitation

The Malaysian Industrial Development Authority (MIDA) which was established in 1967 is the government's principal agency for the promotion of the manufacturing and services sectors in Malaysia. With its headquarter in Kuala Lumpur and a global network of 19 overseas offices covering Asia, Europe, United States and Australia, MIDA assists companies which intend to invest in the manufacturing and services sectors, as well as facilitates the implementation of their projects. The wide range of services provided by MIDA include providing information on the opportunities for investments, as well as facilitating companies which are looking for joint venture partners. MIDA also assists companies interested in venturing abroad for business opportunities.

To further enhance MIDA's role in assisting investors, senior representatives from key government agencies are stationed at MIDA's headquarters in Kuala Lumpur to advise investors on government policies and procedures. These representatives include officials from the Department of Labour, Immigration Department, Royal Malaysian Customs, Department of Environment, Tenaga Nasional Berhad and Telekom Malaysia Berhad.

MIDA also evaluates the following applications for projects in the manufacturing and its related services sectors:

- * Manufacturing licenses
- * Tax incentives
- * Expatriate posts
- * Duty exemptions on raw materials, components, machinery and equipment

Investors are encouraged to discuss their project interests with MIDA officers at MIDA's headquarters in Kuala Lumpur or at its overseas or state offices closest to them. Information on investing can also be obtained from the Investors' Guide section. Investors are also invited to visit MIDA's Business Information Centre (BIC) where published information on investment, trade, financing, productivity pertaining to the manufacturing and services sectors are available.

The BIC is located at:

Ground Floor, Block 4, Plaza Sentral

Jalan Stesen Sentral 5, Kuala Lumpur Sentral

50470 Kuala Lumpur

Tel : 03 2267 3633

Fax: 03 2274 7970

More information about the process of investing in our economy

Malaysian Industrial Development Authority (MIDA) - www.mida.gov.my

Investment protection

Protection of property rights and conditions for expropriation

The general principle with regards to expropriation is that expropriation should not be undertaken by either party except under the following circumstances when the measures are:

- (a) taken for a lawful or public purpose and under due process of law;
- (b) non-discriminatory;

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(c) accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investments affected immediately before the measure of dispossession became public knowledge, and it shall be freely transferable in freely usable currencies from the Contracting Party. Any unreasonable delay in payment of compensation shall carry an interest at prevailing commercial rate as agreed upon by both parties unless such rate is prescribed by law.

All measures of expropriation relating to land is as defined in the laws and regulations relating to land acquisition.

More information

Protection of IPRs

Intellectual property protection in Malaysia comprises of patents, trademarks, industrial designs, copyright, geographical indications and layout designs of integrated circuits. The Intellectual Property Corporation of Malaysia (MyIPO), established on 3 March 2003, is the lead agency that regulates IP laws and promotes IP awareness.

Malaysia is a member of the World Intellectual Property Organisation (WIPO) and a signatory to the Paris Convention (for the protection of IP consisting of patent, trademark and industrial designs) and Berne Convention (for the protection of copyright works) which govern these IPR.

Malaysia is also a signatory to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) signed under the auspices of the World Trade Organisation (WTO). Malaysia provides adequate protection to both local and foreign investors. Malaysia's intellectual property laws are in conformance with international standards and have been reviewed by the TRIPs Council periodically.

More information

Intellectual Property Corporation of Malaysia (MyIPO) - www.myipo.gov.my

Flow of funds

Malaysia maintains a "managed float" system based on a basket of currencies. This exchange regime has been in place since 21 July 2005.

And if managed, under what circumstances or purposes does your government/central bank intervene?

The Central Bank of Malaysia (Bank Negara Malaysia-BNM) does not actively manage or maintain the exchange rate at any particular level and economic fundamentals and market conditions are the primary determinants of the level of the ringgit exchange rate. In this regard, BNM only intervenes to minimise market volatility and to ensure that the exchange rate does not become fundamentally misaligned.

Are there any restrictions on the repatriation of funds related to a foreign investment (e.g. profits, dividends, royalties, loan payments)?

Malaysia has a liberal foreign exchange administration regime. Non-residents are free to invest in Malaysia in any form and they are free to repatriate capital, profits and income earned from Malaysia (such as interest, dividends, salaries, wages, royalties, commissions, fees and rental) as well as on loan repayments.

Mechanisms to review decisions, and settle disputes

Malaysia maintains a liberal and conducive environment for investments in the manufacturing and selected services sectors and permits a broad range of investments except for some limited areas which affect national security, public health, morals and where there is excess capacity or shortages of raw material supply.

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What, if any, mechanism do you have for foreign investors to settle disputes?

Malaysia is a signatory and ratified the provisions of the Convention on the Settlement of Investment Disputes. The domestic legal system is open and accessible. Should local administrative and judicial facilities fail to satisfy claimants, the dispute is submitted to the International Centre for Settlement of Investment Disputes (ICSID).

The Kuala Lumpur Regional Centre for Arbitration was established in 1978 under the auspices of the Asian-African Legal Consultative Committee (AALCC) - an inter-governmental organisation in cooperation with and with the assistance of the Government of Malaysia. Any dispute, controversy or claim arising out of or relating to a contract, or the breach, termination or invalidity shall be decided by arbitration in accordance with the Rules for Arbitration of the Kuala Lumpur Regional Centre for Arbitration.

ICSID

Malaysia became a member of the International Centre for Settlement of Investment Disputes (ICSID) where the ICSID Convention entered into force for Malaysia on 14 October 1966.

More information

- 1) The Kuala Lumpur Regional Centre for Arbitration - www.rcakl.org.my
- 2) Attorney General's Chambers (AGC) - www.agc.gov.my

International investment agreements

With;

Albania; Algeria; Argentina; Austria; Bahrain; Bangladesh; Belgium; Bosnia and Herzegovina; Botswana; Burkina Faso; Cambodia; Canada; Chile; China, People's Republic of; Croatia; Cuba; Czech Republic; Denmark; Djibouti; Egypt; Ethiopia; Finland; France; Germany; Ghana; Guinea; Hungary; India; Indonesia; Iran, Islamic Republic of; Italy; Jordan; Kazakhstan; Korea, Republic of; Kuwait; Kyrgyzstan; Lao, People's Democ. Rep.; Lebanon; Luxembourg; Macedonia, FYR; Malawi; Mongolia; Morocco; Namibia; Netherlands; Norway; Pakistan; Papua New Guinea; Peru; Poland; Romania; Saudi Arabia; Senegal; Slovakia; Spain; Sri Lanka (ex-Ceylon); Sudan; Sweden; Switzerland; Syrian Arab Republic; Chinese Taipei; Turkey; Turkmenistan; United Arab Emirates; United Kingdom; United States; Uruguay; Uzbekistan; Viet Nam; Yemen; Zimbabwe;

Please provide a brief description of these IIAs, or your IIAs in general.

Malaysia's readiness to conclude Investment Guarantee Agreements (IGAs) is a testimony of the government's desire to increase foreign investor confidence in Malaysia. IGAs will:

- * **Protect against nationalisation and expropriation**
- * **Ensure prompt and adequate compensation in the event of nationalisation or expropriation**
- * **Provide free transfer of profits, capital and other fees**
- * **Ensure settlement of investment disputes under the Convention on the Settlement of Investment Disputes of which Malaysia has been a member since 1966.**

Malaysia also has concluded Investment Guarantee Agreements with the following groupings:

- * **Association of South-East Asian Nations (ASEAN)**
- * **Organisation of Islamic Countries (OIC)**

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More information

- 1) Ministry of Finance - www.treasury.gov.my
- 2) Central Bank of Malaysia - www.bnm.gov.my
- 3) Malaysian Industrial Development Authority (MIDA) - www.mida.gov.my

Movement of persons

Treatment of foreign nationals or personnel of foreign firms

General

All persons entering Malaysia must possess valid national passports or other internationally recognised travel documents valid for travel to Malaysia. These passports or travel documents must be valid for at least six months beyond the date of entry into Malaysia.

Among APEC economies, only nationals from The People's Republic of China, Chinese Taipei and the holders of Certificates of Identity are required to apply for a visa prior to their arrival in Malaysia.

There are two stages in the employment of expatriates:

- i. Application for an expatriate post from relevant authorised bodies determined by the nature of the business.
- ii. Upon approval of the expatriate posts by the approving bodies, the company must submit an application to the Immigration Department for endorsement of the employment pass.

Work Permit Processing and Requirements (Managerial, Supervisor, Unskilled)

An employment pass is issued to any foreigner who enters the country to take up a contract of employment with a minimum period of 2 years or earn a monthly income of not less than RM3,000. Other types of passes for the purpose of business visits are as follows:

i) Visit Pass (Professional)

This is issued to foreigners who wish to enter the country for the purpose of engaging on short-term contract with any agency.

ii) Visit Pass (Temporary Employment)

This is issued to persons who enter the country to take up employment for less than 24 months or earn a monthly income of less than RM3,000.

iii) Dependent's Pass

This is issued to wives and children of foreigners who have been issued with an employment pass. This pass may be applied for together with the application for an employment pass or after the employment pass is approved. Wives and children of foreigners who enter the country on a visit pass (temporary employment or professional) will be issued a visit pass (social)

More information

- i) Ministry of Human Resource - www.mohr.gov.my
- ii) Malaysian Industrial Development Authority (MIDA) - www.mida.gov.my
- iii) Immigration Department - www.imi.gov.my

Taxation

Taxation of foreign nationals and foreign firms

Company Tax

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A company, whether resident or not, is assessable on income accrued in or derived from Malaysia. Income derived from sources outside Malaysia and remitted by a resident company is exempted from tax, except in the case of the banking and insurance business, and sea and air transport undertakings. A company is considered a resident in Malaysia if the control and management of its affairs are exercised in Malaysia.

Effective from the year of assessment 2009, the corporate tax rate is at 25%. This rate is also applicable to the following entities:

- i. a trust body
- ii. an executor of an estate of an individual who was domiciled outside Malaysia at the time of his death; and
- iii. a receiver appointed by the court

Personal Income Tax

All individuals are liable to tax on income accrued in and derived from Malaysia or received in Malaysia from outside Malaysia. Income remitted to Malaysia by a resident individual is exempted from tax. A non-resident individual will be taxed only on income earned in Malaysia.

The rate of tax depends on the individual's resident status, which is determined by the duration of his stay in the country as stipulated under Section 7 of the Income Tax Act 1967. Generally, an individual who is in Malaysia for at least 182 days in a calendar year is regarded as a tax resident.

A resident individual is taxed on his chargeable income after deducting personal reliefs at a graduated rate from 0% to 26% with effect from the year of assessment 2010.

Effective from year of assessment 2010, a non-resident individual is liable to tax at the rate of 26% without any personal relief. However, he can claim rebates in respect of fees paid to the government for the issuance of an employment work permit.

Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

As at 20 January 2010, Malaysia has signed the Double Taxation Agreements (DTAs) with 71 countries to provide investors with certainty and guarantees in the area of taxation.

More information

- 1) Inland Revenue Board - www.hasil.org.my
- 2) Royal Malaysian Customs - www.customs.gov.my