



# Malaysia's Tax Advantage: **Boosting Manufacturing Relocation Opportunities**

**September 2023**



## Introduction

The Malaysian government offers a range of special tax incentives to companies in various industries in order to combat the effects of the volatile economy during the global Covid-19 pandemic.

One of the most attractive special tax incentives is for new and existing companies to relocate their manufacturing businesses to Malaysia. This special tax incentive is also extended to certain non-citizen individuals who hold C-suite positions in the manufacturing companies in Malaysia.

This special tax incentive may encourage manufacturing businesses in overseas to relocate their manufacturing operations to Malaysia for capacity expansion or tap into Malaysia's highly skilled workforce to enhance their business operations.

Through this special tax incentive, the Malaysian government seeks to enhance Malaysia's competitiveness as an investment destination and to stimulate job creation opportunities and overall industrial development.

In this article, we shall discuss the rules and guidelines in relation to the special tax incentives for relocation of new and existing manufacturing companies to Malaysia and for non-citizen individuals who hold C-suite positions in the manufacturing companies.

# The special tax incentive for relocating manufacturing businesses into Malaysia

The special tax incentive (i.e. STI) for relocating manufacturing businesses into Malaysia was announced by the Government through the announcement of PENJANA on 5 June 2020 which aims to address the economic challenges of Covid-19. The STI is intended to promote high-quality investments that align with the following investment priorities:

1. Vendor Development Programs [i.e. to develop Small and Medium Enterprises (“SME”) entrepreneurs to become competitive suppliers and manufacturers of component / services at domestic and global markets];
2. Fostering job creation;
3. Business operating expenditures, including local auxiliary services;
4. Facilitating internship opportunities for Malaysian graduates;
5. Encouraging collaboration with local universities in relevant fields.

Companies interested in applying for the STI should consider sharing and discussing their commitment level in Malaysia with the Malaysian Investment Development Authority (“MIDA”) during the application phase. Specific conditions related to the agenda shall be imposed upon the incentive approval.

However, in order for a company to enjoy the STI, the relevant application has to be approved by the National Committee of Investment (“NCI”) and subsidiary legislation under the Malaysia Income Tax Act, 1967 (“MITA”) has to be gazetted.

In view of this, subsidiary legislation or the *Pemberitahu Undanguan* (“PU”) Order, needs to be gazetted as part of the STI mechanism. On 15 August 2023, the relevant PU Orders have been published by the Attorney General’s Chambers as follows:

- P.U. (A) 240 – Income Tax (Exemption) Order 2023 (For existing manufacturing companies)
- P.U. (A) 241 – Income Tax (Relocation of Manufacturing Business Incentive Scheme) Rules 2023 (For new manufacturing companies)

The MIDA has also published an updated guideline on the STI dated 14 August 2023 – Guidelines and Procedures for the Application of STI (Relocation) for the Manufacturing Sector (i.e. MIDA Guideline).

We have summarised the salient points of the PU Orders 240 and 241 for ease of reference.

## Summary of PU Orders 240 and 241

Reference	P.U. (A) 240	P.U. (A) 241
<b>Type of Company</b>	Existing Company	New Company
<b>Qualifying Company ("QC")</b>	<p>An existing company which qualifies for exemption (i.e. fulfilling all the Conditions imposed by the Minister). An existing company means a company that:</p> <ul style="list-style-type: none"> <li>• is incorporated under the Companies Act 2016 and a resident in Malaysia;</li> <li>• has an existing manufacturing operation in Malaysia; and</li> <li>• relocates its manufacturing operations to Malaysia for a new business where the product from the new business is not an expansion project for the existing product.</li> </ul>	<p>Refers to a new company:</p> <ul style="list-style-type: none"> <li>• which fulfils all the Conditions imposed by the Minister;</li> <li>• is incorporated under Companies Act 2016 and a resident in Malaysia;</li> <li>• that does not have existing manufacturing operations in Malaysia;</li> <li>• that relocates a manufacturing facility for a QA into Malaysia / establishes new operations to carry on QA in Malaysia.</li> </ul>
<b>Qualifying Activity ("QA")</b>	A new manufacturing activity (not an expansion of existing project of existing product) undertaken by a QC but does not include any activity specified in Appendix A.	A manufacturing activity undertaken by the QC but does not include any activity specified in Appendix A.
<b>Qualifying Capital Expenditure ("QCE")</b>	QCE may refer to factory (excluding living accommodation), machinery or plant (excluding any machinery or plant provided wholly or partly for the use of a director, management / administration of the company or clerical staff) used in Malaysia. The date of first QCE made by the QC shall not be earlier than 1 July 2020. QCE may be withdrawn in the basis period of disposal, if the QCE is disposed of at any time within the period of 5 years from the date of acquisition.	The Order did not specify the meaning of QCE.
<b>Conditions</b>	<p>Including but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Incurs a minimum amount of investment in fixed asset excluding land of more than RM300,000,000 within 3 years from the date of the first QCE.</li> <li>• Employs at least 80% full-time Malaysian employees on or before the third year from the date of the first invoice in relation to the QA issued by the QC until exemption period ends.</li> </ul>	<p>Including but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Incurs a minimum amount of investment in fixed assets excluding land of RM300,000,000 to RM500,000,000 within 3 years from the date of the first QCE.</li> <li>• Incurs investment in fixed assets excluding land of more than RM500,000,000 within 3 years from the date of the first QCE.</li> <li>• Employs at least 80% full-time Malaysian employees on or before the third year from the date of the first invoice in relation to the QA issued by the QC until the end of specified years of assessment (i.e. 10 or 15 years of assessment).</li> </ul>



## Summary of PU Orders 240 and 241 (cont.)

Reference	P.U. (A) 240/2023	P.U. (A) 241/2023
<b>Type of Company</b>	Existing Company	New Company
<b>Tax Exemption</b>	QCE incurred in the year used to offset against the statutory income derived from the QA. Unutilised QCE incurred can be carried forward to the next YAs until it is fully utilised.	0% tax rate on chargeable income
<b>Exemption Period</b>	A period of 5 consecutive years	<ul style="list-style-type: none"> <li>10 years of assessment (i.e. for QCE incurred amounting to RM300,000,000 to RM500,000,000)</li> <li>15 years of assessment (i.e. for QCE incurred more than RM500,000,000)</li> </ul>
<b>Withdrawal of Tax Exemption</b>	The Minister may withdraw the Tax Exemption if the QC fails to comply with any condition imposed in relation to the Tax Exemption in any year of assessment within the exemption period.	The Order did not specify the withdrawal provision. Nonetheless, the Minister may withdraw the Tax Exemption if the QC fails to comply with any condition imposed in relation to the Tax Exemption in any year of assessment within the exemption period.
<b>Non-application</b>	Tax exemption should not apply to QC which in the basis period of a year of assessment: <ul style="list-style-type: none"> <li>Has made a claim for reinvestment or investment allowance;</li> <li>Has been granted any incentive under the Promotion of Investment Act 1986 in respect of the same QA; or</li> <li>Has been granted an exemption / incentive scheme approved by the Minister.</li> </ul>	Tax exemption should not apply to QC which in the specified years of assessment: <ul style="list-style-type: none"> <li>Has made a claim for reinvestment or investment allowance;</li> <li>Has been granted any incentive under the Promotion of Investment Act 1986; or</li> <li>Has been granted an exemption / incentive scheme approved by the Minister.</li> </ul>
<b>Method of Application</b>	Application for both the STI shall be made in writing by the applicants and received by Minister through MIDA on or before 1 July 2020 but not later than 31 December 2024.	





## Other criteria stated in the MIDA Guideline

Description	Existing Company	New Company
<b>QCE</b>	First QCE can be backdated up to 3 years but shall not be earlier than 1 July 2020	Not applicable
<b>Paid up capital requirement</b>	RM2.5 million and above	RM2.5 million and above
<b>Determination of incentive effective date</b>	Based on the first QCE incurred for the approved products / activities which can be backdated 3 years but shall not be earlier than 1 July 2020.	Based on the year of assessment (“YA”) the company commences the operations for the approved products / activities. The commencement of operations is defined as the first sales invoice issued by the company.
<b>Dateline to submit the application for incentive effective date</b>	Within 24 months from the date of the approval letter. Application to be submitted to the MIDA’s Investment Compliance Division via Invest Malaysia portal online.	Within 36 months from the date of the approval letter. Application to be submitted to the MIDA’s Investment Compliance Division via Invest Malaysia portal online.
<b>Annual compliance of incentive</b>	Where an approved company has been granted the determination of incentive effective date, the approved company must provide the annual compliance of incentive within 6 months from the approved company’s YA ended. Annual compliance of incentive is to be submitted to the MIDA’s Investment Compliance Division via Invest Malaysia portal online.	Where an approved company has been granted the determination of incentive effective date, the approved company must provide the annual compliance of incentive within 6 months from the approved company’s YA ended. Annual compliance of incentive is to be submitted to the MIDA’s Investment Compliance Division via Invest Malaysia portal online.
<b>Failure to comply with stipulated conditions</b>	An approved company must comply with the stipulated conditions throughout the incentive period. In the event that the approved company fails to comply with the stipulated conditions in any YA during the STI period, the approved company is not entitled to offset the QCE incurred against the statutory income or enjoy the special income tax rate derived from the approved products / activities for that particular YA.	
<b>Eligible activities</b>	The eligible activities may also be subjected to the discretion of both the Minister of Finance (“MOF”) and Minister of Investment, Trade and Industry (“MITI”).	
<b>Method of application of STI</b>	The STI application should be submitted online at <a href="https://investmalaysia.mida.gov.my">https://investmalaysia.mida.gov.my</a> .	

## The special income tax treatment for non-citizen individuals holding C-Suite positions in an approved company

The special income tax treatment (i.e. SITT) for non-citizen individuals holding C-Suite positions in an approved company was announced by the Government under the National Budget 2021. The non-citizen individuals may be able to enjoy a flat rate income tax treatment at 15% for a period of 5 consecutive years (i.e. subject to the fulfilment of certain conditions) for application received by MIDA until 31 December 2021. Subsequently, the SITT incentive was extended to applications received by MIDA until 31 December 2022 in the National Budget 2022.

Further, the SITT incentive was extended again to applications received by MIDA until 31 December 2024 through the National Budget 2023. The level of commitment by the Malaysian Government is shown by the series of extensions given to the SITT incentive.

Similarly, in order for the non-citizen individuals to enjoy the SITT incentive, the relevant applications have to be approved by the NCI and subsidiary legislation under the MITA has to be gazetted.

On 15 August 2023, the following PU Order has been published by the Attorney General's Chambers:

- P.U. (A) 242 – Income Tax (For An Individual Resident Who Is Not A Citizen And Holds C Suite Position In An Approved Company) Rules 2023

The MIDA has also published an updated guideline on the SITT incentive dated 14 August 2023 (i.e. MIDA Guideline).

We have also summarised the salient points of the PU Order 242 for ease of reference.





# Tax Incentive for Qualifying Non-Citizen Senior Executives in Approved Companies

No	Questions	Answers
1.	<b>Who are eligible for the tax incentive?</b>	A qualifying individual (“QI”) who is a resident and not a citizen employed by an approved company (“AC”) and holding a C-Suite position in the specific YA.
2.	<b>What is an AC?</b>	AC refers to a company that has been granted:- a) A tax exemption under Income Tax (Exemption) Order 2023 [referring to page 3, P.U.(A) 240/2023]; b) The Income Tax (Relocation of Manufacturing Business Incentive Scheme Rules 2023 [referring to page 3, P.U.(A) 241/2023]; or c) The Income Tax (Relocation of Provision of Services Business Incentive Scheme) Rules 2022 [referring to P.U.(A) 398/2022]
3.	<b>What is the conditions for tax incentive?</b>	a) Is holding the C-Suite position such as top senior executives who rely on functional know-how and technical skills [i.e. Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Operating Officer (COO) and Chief Information Officer (CIO)] in the specific YAs; b) Receives minimum basic salary of RM25,000 per month from an employment with AC in the specific YAs; c) Is a tax resident in Malaysia in the specific YAs.
4.	<b>How to apply?</b>	The application shall be made in writing by the AC and received by the Minister through MIDA on or after 7 November 2020 but not later than 31 December 2024. The QI included in the application must never been granted the same tax incentive previously.
5.	<b>What is the tax incentive?</b>	Income tax rate will be 15% of the chargeable income of a QI in relation to the employment income derived from an AC.
6.	<b>What is the duration of specific YAs?</b>	The specific YAs refer to a period of 5 consecutive YAs, commencing from the year of assessment as determined by the Minister in the approval letter.
7.	<b>What if the QI ceases to be employed by the AC during the specific YAs?</b>	The tax incentive of 15% flat rate shall cease to apply to the QI from the YA in which the QI ceases to be employed by the AC.
8.	<b>Any limitation to the AC?</b>	The number of QI for every AC is limited to 5 only.
9.	<b>Any withdrawal provision?</b>	The Minister may withdraw the tax incentive if the QI fails to comply with the conditions imposed by the Minister specified in the approval letter.
10.	<b>What is the definition of C Suite position in MIDA Guideline?</b>	Top senior executives responsible in setting the business strategy, making decisions for the business operations and having the functional know-how or technical skills. The C-Suite person may include the CEO, CFO, COO, Chief Marketing Officer and CIO.

# Summary

In summary, the primary goal of the STI is to entice businesses seeking to transfer their manufacturing operations to Malaysia in response to the global economic crisis and geopolitical uncertainty, which have wrought significant disruptions to global supply chains.

Beyond the enticing tax incentives, the relocation of manufacturing businesses to Malaysia presents a myriad of advantages such as follows:

**Cost-effective labour:** Malaysia boasts a highly competitive labour market, offering skilled and semi-skilled workers at notably more favourable wage rates than many Western counterparts. This translates into substantial savings in labour expenditures.

**Strategic location:** Nestled in Southeast Asia, Malaysia serves as a pivotal gateway to the ASEAN market. This proximity affords the opportunity to slash shipping costs and transit durations, ultimately bolstering supply chain efficiency.

**Well-established infrastructure:** Malaysia's forward-thinking infrastructure investments encompass cutting-edge ports, extensive highways, and dedicated industrial zones. These state-of-the-art facilities streamline the movement of goods while mitigating logistical complexities.

**Skilled workforce:** Malaysia boasts an educated and proficient workforce, particularly in fields such as electronics, engineering, and manufacturing. The widespread use of English simplifies communication for international businesses.

**Access to abundant resources:** Malaysia enjoys access to a diverse array of raw materials and resources, encompassing palm oil, rubber, electronics components, and more. This bountiful supply can greatly benefit manufacturing processes.

**Championing sustainability:** Malaysia champions sustainable manufacturing practices and exhibits a growing commitment to green technology and renewable energy. These initiatives harmonise with the objectives of environmentally-conscious enterprises.

If your businesses are currently expanding and / or plan to relocate your manufacturing operations to Malaysia and need assistance in applying for the STI and SITT incentive, please feel free to reach out to us and we will be glad to assist you.

## This article was written by:



**Chong Mun Yew**  
Executive Director,  
Tax Advisory  
[munyew.chong@crowe.my](mailto:munyew.chong@crowe.my)



**Eric Lai**  
Senior Manager,  
Tax Advisory  
[eric.lai@crowe.my](mailto:eric.lai@crowe.my)



## Contact us

Crowe Malaysia PLT  
Level 15, Tower C  
Megan Avenue 2  
12, Jalan Yap Kwan Seng  
50450 Kuala Lumpur  
Malaysia

Tel. +603 2788 9898

## About us

### **About Crowe Malaysia**

Crowe Malaysia is the 5th largest accounting firm in Malaysia and an independent member of Crowe Global. The firm in Malaysia has 12 offices, employs over 1,200 staff, serves mid-to-large companies that are privately-owned, publicly-listed and multinational entities, and is registered with the Audit Oversight Board in Malaysia and the Public Company Accounting Oversight Board in the US.

### **About Crowe Global**

Crowe Global is one of the top 10 accounting networks with over 200 independent accounting and advisory firms in more than 145 countries. For almost 100 years, Crowe has made smart decisions for multinational clients working across borders. Our leaders work with governments, regulatory bodies and industry groups to shape the future of the profession worldwide. Their exceptional knowledge of business, local laws and customs provide lasting value to clients undertaking international projects.

[www.crowe.my](http://www.crowe.my)