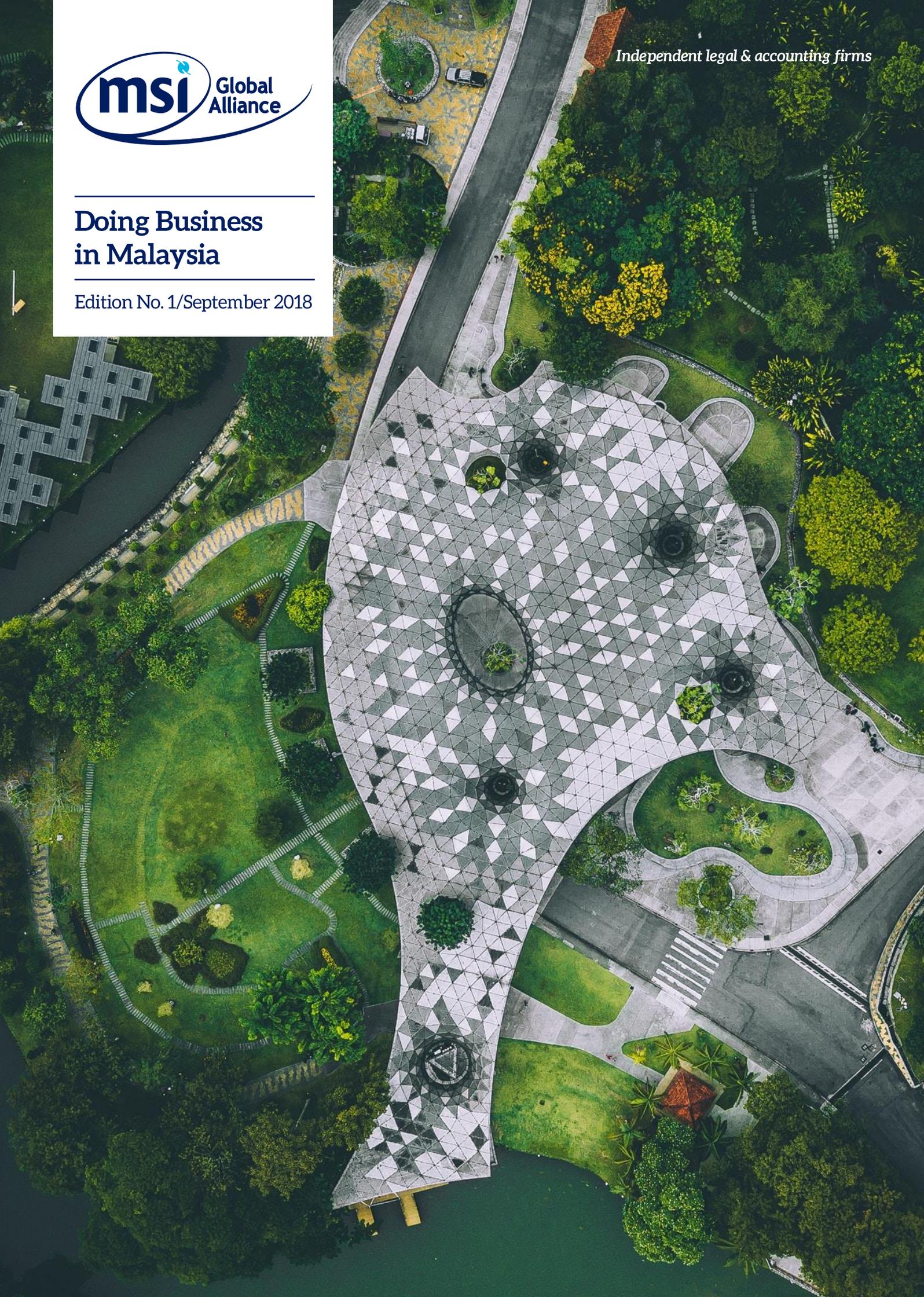




Independent legal & accounting firms

Doing Business in Malaysia

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Doing business in Malaysia



MSI's guide on Doing Business in Malaysia provides current information about the financial, regulatory and legal considerations that could affect business dealings within Malaysia. For further assistance please contact one of our MSI member firms in Malaysia.

Country overview

Population

32.1 million (2017)

Government

Constitutional monarchy system. The head of state is the King, known as the Yang Dipertuan Agong and the head of Government is the Prime Minister. Malaysia has 13 states and three federal territories, separated by the South China Sea into two regions, namely Peninsula Malaysia and Malaysian Borneo (abak & Sarawak).

Languages

The national language is Bahasa Malaysia which is the official language of Malaysia. English remains an active second language.

Currency

The national currency is the Ringgit Malaysia (RM)

Economic summary

GDP: RM 1,353.4 billion

Income per capita: RM 41,093

Inflation: 3.9 %

Main sectors of the economy

The growth in the Malaysian economy is driven by strong domestic demand and reinforced by improved external sector. The external position will remain resilient consistent with the increase of global trade activities.

The main economic sectors are: Agriculture, mining and quarrying, manufacturing, construction and services.

Foreign Investment

Malaysia is a member state of the Association of Southeast Asian Nations (ASEAN). The vibrant business environment attracts foreign investment. It is supported by the economy-oriented and pro-business Government policies.

The conducive business environment in Malaysia has made the country one of the world's top investment destinations for offshore manufacturing operations. In 2017, Malaysia was ranked No.1 "Best country to invest" by BAV Consulting and the Wharton School of the University of Pennsylvania.

The result of the recent general elections in May 2018 have put old-time leader Prime Minister Mahathir Mohamad back in power. The Pakatan Harapan government is currently considering whether Malaysia will ratify the trade agreement known as CPTPP (Comprehensive and Progressive Agreement for Trans-Pacific Partnership). This pact is believed to open up new market opportunities for Malaysia in the US and the remaining 11 countries that signed the new CPTPP in March this year. Implementation of the pact is expected in early 2019 once the domestic ratification process by respective country members is completed.

Setting up a business

There are two Acts which govern the establishment of companies in Malaysia:

1. The Malaysian Company Act 2016, which is the main act that applies to public/private companies in Malaysia.

2. The Labuan Companies Act 1990, which specializes in offshore companies

and allows full foreign ownership with its own tax benefits.

Malaysia's participation in global trade is active. The Foreign Direct Investment (FDI) is vital for Malaysia's economy. Many industries are affected positively by the FDI and it helps them to flourish.

Legal types of business entities

1. Branch
2. Wholly owned
3. Joint Venture Company
4. Representative Office
5. Limited liability Partnership
6. Takeovers and Mergers of Companies
7. Labuan Company

Generally, there is no one-fit-all minimum paid up capital amount requirement when setting up a company in Malaysia as the amount varies according to the type, nature and distribution of ownership of the company.

For example, in accordance with the Companies Commission of Malaysia (CCM), a 100% foreign-owned company requires a minimum paid-up capital of RM 500,000 for advisory and consultancy business and a minimum paid-up capital of RM 1million for import, export, restaurant and trading businesses.

As for Joint Ventures with a Malaysian partner, the minimum paid-up capital is RM 350,000. Whereas for Labuan Companies, the minimum amount for paid up capital, with 100% foreign ownership, is USD 1. Thus, the paid up capital differs according to the circumstances of the Company itself.

Process of how to set up a business

The rules and regulations must be followed. A foreigner must make an application for a name search first then submit the documents for registration purposes. For the manufacturing sector, the license will be issued under the Industrial Coordination Act 1975 if the capital is RM 2.5 million or employs at least 75 full-time staff.

Financial year of taxes and financial accounts

The financial year of the company may be different. The financial year must be within the calendar year.

Accounting and auditing

The financial statements and report of the company must be in compliance with the approved accounting standards issued. If the company is a holding company, it is required to make consolidated financial statements. Failure to comply in accordance with the particular approved accounting standard render the directors to give justification and particulars.

Economic and fiscal incentives

Malaysia offers various incentives for foreign companies:

1. Pioneer Status: There will be an income tax exemption of 70%-100% of statutory income for 5-10 years.
2. Income Tax Allowance (ITA): Allowance of 60%-100% on qualifying capital expenditure incurred within 5-10 years from the date the first qualifying capital expenditure is incurred
3. Incentives for export: If the products produced are for the export market, the manufacturers can apply for Double Deduction for Promotion of Exports.

Taxation

The Inland Revenue Board of Malaysia imposes various taxes that need to be complied with. The taxes include: income tax, corporate income tax, real estate/ property gains tax and stamp duty.

VAT

The 6% Goods and Services Tax (GST) was abolished on 1 June 2018.

Income tax

Income chargeable to tax are as follows:

1. Business
2. Employment
3. Dividends, interests or discounts
4. Rents, royalties or premiums
5. Pensions, annuities or other periodical payments
6. Special classes of income

The basis of assessment of income tax is on the current year basis and is self-assessed. The income tax varies from 0%-28% depending on chargeable income.

Foreigners employed in Malaysia must give notice of chargeability to the Non-Resident Branch or the nearest Inland Revenue Board Malaysia branch (IRBM).

Personal income tax

A non-resident under Malaysian tax law is a person who stays in the country for less than 182 days in a year.

There is a different tax rate on income earned in Malaysia. For clarity purposes, please be guided by IRB's rules and regulations, please see the IRB's website further information: www.hasil.gov.my

Corporate income tax

A company is liable to pay tax when it carries the business through a permanent establishment in Malaysia and assessable on income accruing in or derived from Malaysia. The business income of non-resident companies is taxed at 24%.

The tax rate for small and medium-sized companies incorporated in Malaysia, with a paid-up capital of RM 2.5 million or less, is 18% on the first RM 500,000 and the balance is taxed at 24%.

The imputation system does not apply to a non-resident company.

Registration procedures

The income tax number will be provided by the Inland Revenue Board after

registration. The registration can be made online through e-daftar. After completing the application an Income Tax Reference Number will be provided within 3 working days. Following this, it is advisable to register for ezHASIL e-Filing, which is the most convenient way to submit the Income Tax Return Form (ITRF).

Participation exemption

In general, there is no participation exemption except foreign-source income (not taxable) and domestic dividends (tax-exempt).

Withholding taxes

The payer is liable to make payment to a non-resident person by deducting withholding tax at the prescribed rate at 10% (contractor's liability) and 3% (employee's liability). The payer must remit the sum withheld to the Malaysian IRB within one month of paying or crediting.

Other main taxes

1. Real Property Gains Tax
2. Stamp Duty

HR/ Labour Law**Employment law**

An employment agreement may be agreed for an indefinite or fixed period of time. If an employment agreement for a fixed period of time is continued, a new agreement will then be deemed to have been entered into under the same conditions and for the same period of time (subject to a maximum of 1 year) as the former employment agreement.

For a maximum of 3 consecutive contracts in a period of maximum 2 years, contracts for a fixed period can be entered into, allowing both employer and employee, to terminate the contract at the end of the agreed term.

Social security

Social security schemes in Malaysia fall into two categories: The Social Security Organisation (SOCSSO) and the Employees Provident Fund (EPF) - both schemes involve contributions from employers and employees.

The SOCSO provides social security protection by social insurance, including medical and cash benefit, provision of artificial aids, and rehabilitation. The purpose is to reduce suffering and to provide financial guarantees and protection for families. The SOCSO administer two types of social protection schemes:

1. Employment Injury Insurance Scheme
2. Invalidity Pension Scheme

Pension

The EPF provides retirement benefits for members through management of their savings. Contributions are payable to the employees in full upon reaching the age of 55 years.

As at January 2018, the Employer deduct the employees pay based on certain rates (minimum 11% of the employee total pay) for it to be channeled to their respective SOCSO and EPF accounts.

Payroll

When starting a business and employing staff, the company must register with the tax authorities. Employers in Malaysia have monthly withholding obligations for employee salaries, and must submit a tax return with Monthly Tax Deduction (MTD) payments to the Inland Revenue Board of Malaysia (IRBM). The calculations rely on information submitted by employees, including any personal tax relief or child relief, and zakat(tithe) payments.

Visa and work permits

There are three types of work permits:

1. Professional Visit Pass: Suitable for technical experts and trainees as well as volunteers. However, the pass is only valid for a short period of 6 months.
2. Temporary Employment Pass: For individuals with a salary of RM 5000 or less (unskilled and semi-skilled workers in the sectors of manufacturing, agriculture, construction and services).
3. Employment Pass: The Employment Pass (EP) is a work permit that enables

an expatriate to take up employment with an organization in Malaysia subject to a maximum period of 60 months. The application must be made by the hiring companies/employer by registering online at the Expatriate Services Division. Subsequently, the EP can be made after the successful registration. The EP is for employees with specified skills in technical or managerial position. This pass also allows applications for spouses, parents, children below the age of 18 years old.

Contact us

The information provided in this guide cannot be exhaustive and we recommend anyone considering doing business in Malaysia should seek professional advice from our member firms before making any business or investment decision.

Contact our member firms in Malaysia to discuss your requirements:

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