



INLAND REVENUE BOARD OF MALAYSIA

**AGRICULTURAL SECTOR INCENTIVE-
TAX INCENTIVE FOR APPROVED FOOD
PRODUCTION PROJECT**

PUBLIC RULING NO. /2023

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

1. Objective

This Public Ruling (PR) provides an explanation on the tax treatment of agricultural sector incentive that is available to persons participating or intending to participate in a business in relation to an approved food production project in Malaysia.

2. Relevant Provisions of the Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are sections 2, 8 and Schedule 3.

2.3 The relevant subsidiary legislation referred to in this PR are as follows:

- (a) Income Tax (Exemption) (No. 9) Order 2006 [*P.U.(A)* 50/2006] effective from year assessment (YA) 2001;
- (b) Income Tax (Exemption) (No. 10) Order 2006 [*P.U.(A)* 51/2006] effective from YA 2001 in respect of a new project and from YA 2002 in respect of an expansion project;
- (c) Income Tax (Deduction for Investment In An Approved Food Production Project) Rules 2006 [*P.U.(A)* 55/2006] effective from YA 2001;
- (d) Income Tax (Exemption) (No. 3) Order 2011 [*P.U.(A)* 166/2011] effective on 1 October 2005;
- (e) Income Tax (Deduction For Investment In An Approved Food Production Project) Rules 2011 [*P.U.(A)* 167/2011] effective on 1 October 2005;
- (f) Income Tax (Exemption) (No. 6) Order 2020 [*P.U.(A)* 373/2020] effective on 1 January 2016;
- (g) Income Tax (Deduction of Investment In New Food Production Project) Rules 2020 [*P.U.(A)* 374/2020] effective on 1 January 2016;
- (h) Income Tax (Exemption) (No. 6) 2020 (Amendment) Order 2022 [*P.U.(A)* 352/2022] effective on 1 January 2021; and
- (i) Income Tax (Deduction For Investment In Approved New Food Production Project) Rules 2022 [*P.U.(A)* 351/2022] effective on 1 January 2021.

3. Interpretation

The words used in this PR have the following meaning:

- 3.1 “Minister”, except where there is a specific reference to the Minister of Agriculture and Food Security (MAFS), means the Minister of Finance.
- 3.2 “Investment” means an investment in the form of cash or holding of paid-up share capital in respect of ordinary shares in related company.
- 3.3 “Statutory income” in relation to a person, a source and a year of assessment, means statutory income ascertained in accordance with the ITA.
- 3.4 “Adjusted income” in relation to a source and a basis period, means the adjusted income ascertained in accordance with the ITA.
- 3.5 “Basis year” means the calendar year in which coincides with a year of assessment.
- 3.6 “Year of assessment” means calendar year.
- 3.7 “Basis period” in relation to a person, a source of his and a year of assessment, means such basis period, if any, as is ascertained in accordance with section 21 or section 21A of the ITA.

4. Introduction

Tax incentives for approved food production projects are given to encourage more investment in the agricultural sector. A person involve in the agricultural sector that undertake food production projects need to take longer time to achieve returns and involve long term investment compared to other sectors such as manufacturing and services. This is due to the risk of uncertainty of weather, market prices, long maturity periods, the complexity of the agricultural land acquisition process and difficulty in obtaining financing.

The incentives are applicable to:

- (a) a person participating or intending to participate in an approved food production project; and
- (b) a company that has made an investment in its related company undertaking an approved new food production project.

5. Approved Project

The project in relation to an approved food production projects are as follows:

No.	Project	Effective Dates
(i)	Planting of industrial crop, vegetables, fruits, herbs, spices or cash crop;	From YA 2001 except planting of industrial crop and cash crop effective from 1.1.2016
(ii)	Aquaculture;	From YA 2001
(iii)	Rearing of cows, buffaloes, goats, sheep or deer;	From YA 2001 except buffaloes (from 1.10.2005) and deer (from 1.1.2016)
(iv)	Deep sea fishing;	From 1.10.2005
(v)	Apiculture (rearing of honey or urena lobate bees);	From 1.1.2016
(vi)	Planting feed mill shall be cultivated in a project has been identified by the MAFS Minister of that project and approved by the Minister;	From 1.1.2016
(vii)	High seas fishing; or	From 1.1.2021
(viii)	Planting of seeds for agrofood.	From 1.1.2021

6. Person Undertaking An Approved Food Production Project

6.1 Qualifying person

Person undertaking an approved food production project are as follows:

- (a) A company incorporated under the Companies Act 2016 [Act 777];
- (b) An-agro based co-operative society;
- (c) An Area Farmers' Association;
- (d) A Federal Farmers' Association;
- (e) A state Farmers' Association;
- (f) An Area Fishermen's Association;

- (g) A Federal Fishermen’s Association;
- (h) A State Fishermen’s Association; and
- (i) sole proprietorship, partnership or association solely engaged in agriculture or fishery for the qualifying project.

6.2 Application and Approval for Tax Exemption

Application for tax incentive of an approved food production project shall be made and submitted to MAFS. For further information on the eligibility criteria and the procedure for an approved food production project applications, kindly refer to MAFS’s website at <https://www.kpk.gov.my/insentif-cukai>.

6.3 Person participating or intending to participate in an approved food production project shall apply for the incentive of a new project or an expansion project of food production in which;

- (a) an application is submitted to MAFS for that qualifying project within a specified period;
- (b) the project has not commenced on the date the application received by the MAFS Minister; and
- (c) the project commences within one (1) year from the date of approval given by the MAFS Minister.

6.4 Application for this incentive must fulfil the criterias from MAFS. The criterias includes type, species, area of crops/ farming, minimum production output or other criterias set by MAFS. Applications that do not meet the minimum criteria can be considered if it fulfils other criterias such as the use of technology, have commercial value, high production and high valued production. Further information regarding this criteria is available in the Guideline for Application of Approved Food Production Project under ITA 1967 published by MAFS.

Other than the set criterias, the qualifying person also needs to comply with all the conditions set by MAFS as in the letter of approval before the tax exemption can be claimed.

6.5 There are two (2) categories of an approved food production project that can be given under this incentive:

(a) New project

A new food production project is the first project carried out by a qualified person for the purpose of undertaking an approved food production project and the new project is approved by the Minister.

If the person that have a newly approved project wish to make an expansion (increase in area, addition/ change of species among the same project category) within the approved exemption period, the person have to submit an application to MAFS. The approval is subjected to the remaining of the approved exemption period.

Or,

(b) Expansion project

An expansion project is a project carried out by a qualified person for the purpose of expanding its existing approved food production project where the expansion project:

- (i) has not been granted a tax exemption;
- (ii) involves a new area of land; and
- (iii) is approved by the Minister.

The new area of land for this expansion project refers to land other than those invoved in the planting activity, poultry rearing and aquaculture (pond).

Example 1

Durian King Sdn. Bhd. (DKSB) is a company involve in the planting of durian trees. DKSB has applied for a tax incentives for a new project of food production on 1.1.2023. Based on the assessment report prepared by MAFS, it was discovered that the durian trees was already three (3) years old.

Therefore, DKSB is not eligible for the incentive under food production project because the planting activity has started before the application received by the Minister.

Example 2

Red Dragon Sdn. Bhd. (RDSB) is a company that involve in the planting of dragon fruits. RDSB has applied for a tax incentives for food production project under expansion project for plantation of watermelon beside the red dragon plantation. Both are different plantations.

Therefore, RDSB is not eligible for the incentive for expansion project of food production because the type of plant for the expansion project differs than the existing plantation.

6.6 Tax treatment

Exemption of income tax for approved projects are as follows:

(a) New project

Tax exemption of 100% for a period of ten (10) consecutive YAs in respect of the statutory income, commencing from the first YA in which the qualified person derived the statutory income in relation to the approved project.

(b) Expansion of an existing project

Tax exemption of 100% for a period of five (5) consecutive YAs in respect of the statutory income commencing from the first YA in which the qualified person derived the statutory income from the existing projects and the expansion projects. That first YA shall not be earlier than YA in respect of the basis period in which the date of approval by the Minister.

The person who has been granted approval must ensure that all of the conditions specified in the approval letter have been met before the exemption claim is made.

Example 3

Amazing Mango Sdn. Bhd. (AMSB) (account ending on 31 December) has been approved for tax exemption for new projects to carry out mango planting projects. AMSB applied for incentives and received approval for an approved food production project on 22.2.2016. Mango planting activities started in 2017. AMSB has met all the conditions specified in the approval letter. AMSB earns its first statutory income in YA 2022.

Therefore, tax exemption of 100% on statutory income for 10 consecutive years of assesment for AMSB is eligible to be claimed from YA 2022 and ends at YA 2031.

Example 4

Nanas Jambul Sdn. Bhd. (NJSB) (account ending on 30 April) is a company which started planting pineapples since 2014. The location of the plantation is at Lot 368. NJSB has never been granted an approval for an approved food production project. On 1.1.2018, NJSB applied for the approval of its pineapple plant expansion project and was approved on 6.5.2020. The location of the expansion project is at a nearby location at Lot 389 with an area of 6 hectares.

NJSB earned its statutory income for the existing project starting YA 2017. NJSB has met all the conditions specified in the approval letter for its expansion project. The statutory income for the expansion project only started in YA 2022.

Therefore, NJSB is eligible to claim tax exemption for a period of five (5) consecutive YAs for the whole existing projects and expansion projects from YA 2022 until YA 2026.

6.7 Capital Allowances under Schedule 3

The statutory income of a new or an expansion project in the basis period for each of the exempted YA is to be determined after deducting capital allowances under Schedule 3 notwithstanding that no claim for such allowances have been made.

Where an asset used for the purpose of the new or expansion project is also used for the purpose of other businesses and within the period of exemption, the capital allowances shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of that project.

6.8 Losses

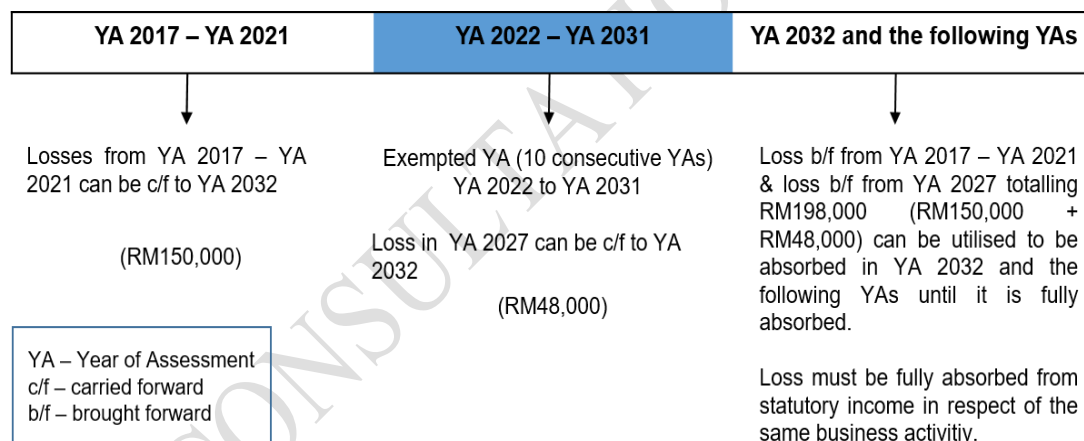
Any loss incurred in the YA prior to the exemption period commences and within the period of exemption, may be carried forward and to be deducted from the statutory income of the project after the exempted YAs until it is fully absorbed.

The loss amount that are carried forward and has been utilised will not be taken into account for deduction under subsection 43(2) and current year losses under subsection 44(2) of the ITA.

Example 5

Same facts as in Example 3. AMSB has a loss carried forward from the year of assessment before the exemption period which is from YA 2017 to YA 2021 amounting to RM150,000. AMSB also has a loss in YA 2027 which is within the exemption period. The loss in YA 2027 will also be carried forward to YA 2032.

Therefore, losses amounting to RM198,000 (RM150,000 for YA 2017 to YA 2021) and RM48,000 (for YA 2027) will be carried forward to YA 2032. Losses must be fully absorbed from statutory income in respect of the same business activities.



6.9 Withdrawal of Tax Exemption

If the qualified person fails to comply with the stipulated conditions imposed by the Minister in relation to the tax exemptions, the Minister may withdraw the tax exemptions on the statutory income of the project.

6.10 Separate Accounts

The qualified person which is exempted from payment of the income tax shall maintain a separate account from the income derived from the project and an approved project.

6.11 Non-application

The tax incentive shall not apply to a qualified person for a YA in the basis period if the qualified person –

- (a) has been granted any incentive under the Promotion of Incentives Act 1986;
- (b) has made a claim for allowance under Schedule 7A or Schedule 7B of the Act;
- (c) has been granted an exemption under exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act;
- (d) has made a claim for deduction under any rules made under section 154 of the Act –
 - i. the rules in relation to the allowance in Schedule 3 of the Act;
 - ii. Income Tax (Deduction for Audit Expenditure) Rules 2006 [*P.U.(A)* 129/2006];
 - iii. Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 [*P.U.(A)* 336/2014].

7. Investor Company

7.1 Application and approval for tax deduction

Application for tax incentive of an approved food production project shall be submitted to MAFS within a specified period. For further information on the eligibility criteria and the procedure for an approved food production project applications, kindly refer to MAFS's website at <https://www.kpk.gov.my/insentif-cukai>.

7.2 Company eligible to claim for deduction are:

- (a) a company incorporated under the Companies Act 2016 [*Act 777*];
- (b) residence in Malaysia and at least sixty percent (60%) of its paid-up share capital in respect of ordinary shares are directly owned by Malaysian citizen;
- (c) made an investment in a related company that undertake an approved new food production project;

- (d) holding at least seventy percent (70%) of its paid-up share capital in respect of ordinary shares in a related company;
- (e) made an application for an approved food production project to MAFS within a specified period;
- (f) made an investment in the form of cash or holding of paid-up share capital in respect of ordinary shares in a related company and must be of reasonable to the size of the project; and
- (g) investing in an approved food production project involving land acquisition cost, capital expenditure and working capital.

7.3 Related company (company undertaking an approved food production project)

Related company for the purposes of investment in an approved food production project refers to:

- (a) a company incorporated under the Companies Act 2016 [Act 777];
- (b) residence in Malaysia and at least seventy percent (70%) of its paid-up share capital in respect of ordinary shares are directly owned by an investor company; and
- (c) made an application for an approved new food production project to MAFS within a specified period.

7.4 Tax treatment

7.4.1 Investor company that made investment in related companies shall be allowed as a deduction in the BP for a year of assessment an amount equivalent to the value of investment for the sole purpose of financing the new approved food production project.

7.4.2 The value of investment claimed as deduction of ascertaining the adjusted income for the investor company:

- (a) shall be equivalent to the expenditure incurred by the related company in the basis period for the same YA;
- (b) shall be made for a period and up to an amount as approved by the Minister through MAFS Minister;

- (c) shall not be disposed of within five (5) years from the date of the last investment made if such investment is in the form of holding of paid-up share capital in respect of ordinary shares; and
 - (d) the application to make additional investment have to be submitted to MAFS with justification and only eligible to apply before the tax exemption period regarding the approved food production projects begins.
- 7.4.3 The tax deduction can only be claimed by a company for a period of three (3) consecutive YAs commencing from the YA the application approved by the Minister.
- 7.4.4 Where the investment in the form of paid-up share capital is disposed of within a period of five (5) years from the date the last investment was made, then it does not apply.
- 7.4.5 Where the company has made an investment in the form of holding of paid up ordinary share capital and claimed a deduction in respect of that investment receives an amount as consideration for the disposal of shares, the amount received by that company shall be added in ascertaining its adjusted income in the basis period for the YA in which that amount received;
- 7.4.6 The investment amount shall not exceed the total deductions allowed in the relation to that investment.

Example 6:

Ohana Ventures Sdn Bhd (OVSB) received approval on the investment made to its related party which undertakes the approved food production project. The investment include solely for the purchase of land, capital expenditure and working capital. OVSB also plan to invest in the form of an advance payment or loan to the related company.

OVSB is not eligible to claim for deduction in the form of advance payment or loans made to the related company. However, if the advance payment or loan made used to acquire land, capital expenditure and working capital are changed in the form of equity/ ordinary shares, OVSB is eligible to get deduction with a condition that the changes must be made while the project is still ongoing and the exemption period of the related company have not started or within the period specified by the Minister in the approval letter after the advance payment/ loan has ben granted, whichever is earlier.

7.5 Cessation of deduction

The deduction by investor company shall not be allowed in the basis period for a YA in which the related company deriving its first statutory income from the approved food production project.

7.6 Non-application

The tax incentive shall not apply to a company which –

- (a) has been granted an exemption under paragraph 127(3)(b) or subseksyen 127(3A) of the Act;
- (b) has made a claim for deduction under any rules made under section 154 of the Act except –
 - i. the rules in relation to allowance under Schedule 3 to the Act;
 - ii. the Income Tax (Deduction for Audit Expenditure) Rules 2006 [P.U. (A) 129/2006];
 - iii. the Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 [P.U. (A) 336/2014].

Example 7:

Mega City Sdn Bhd (MCSB) is a developer company and hold 100% shareholding in XYZ Sdn Bhd (XYZ) (both accounts ending on 31 December) both companies has been approved to undertake an approved food production project to produce mushrooms. MCSB has made an investment in XYZ and has applied for tax deduction incentives. The application was approved on 24.2.2022. The approved investment amount is RM25,000,000 for the purchase of land, plant and machinery including working capital.

The following information is on investments made by MCSB and expenses incurred by XYZ:

Details	Information of MCSB Investment			Total
	31.3.2022	30.4.2023	30.12.2024	
Date of Investment	31.3.2022	30.4.2023	30.12.2024	
Value of Investment by MCSB	RM20,000,000	RM3,000,000	RM3,000,000	RM26,000,000
Type of Investment	share capital	share capital	cash	
Expenses Incurred by XYZ	RM22,000,000	RM2,500,000	RM4,000,000	RM28,500,000

The deductions eligible to be claimed by the MCSB are as follows:

Details	YA 2022 (RM)	YA 2023 (RM)	YA 2024 (RM)
Adjusted income from business	30,000,000	27,000,000	32,000,000
Less: Deduction for investment made in XYZ	20,000,000 ¹	2,500,000 ²	limited to 2,500,000 ³
Less: Capital allowance	2,000,000	1,200,000	1,000,000
Statutory income	8,000,000	23,300,000	28,500,000

Notes:

¹ MCSB is eligible to claim an investment deduction amounting to RM20,000,000. The amount that can be claimed is limited to the investment amount made in XYZ.

² MCSB is eligible to claim a deduction amounting to RM2,500,000. The amount is limited to the amount incurred by XYZ in the basis year for YA 2023.

³ The deduction of investment amounting to RM25,000,000 must be claimed within 3 consecutive assessment years starting from the assessment year approved by the Minister from YA 2022 until YA 2024. Therefore, for YA



2024 the residual amount that can be claimed is limited to RM2,500,000 only.

8. Compliance with the Income Tax Act 1967

The approved company is not absolved from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the ITA.

9. Disclaimer

The examples in this PR are for illustration purposes only and are not exhaustive.

Director General of Inland Revenue,

Inland Revenue Board of Malaysia.

PUBLIC CONSULTATION DRAFT