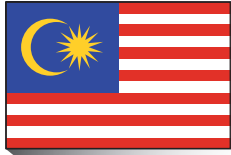




Malaysia Property Investment Guide

2015





Property tenure/ownership

Malaysia operates under Torrens Land Registration System. Ownership of real property under this system is created by registration under the National Land Code 1965. Subsequent transactions are registered against the title.

There are two types of tenure:

- Freehold
- Leasehold (a term not exceeding 99 years, and if the lease relates to a part of a land, 30 years).

Major property legislation

Environmental Quality Act 1974	Goods and Services Tax Act 2014
Housing Development (Control and Licensing) Act 1966	Land Acquisition Act 1960
Land Conservation Act 1960	Local Government Act 1976
Malay Reservation Enactment F.M.S. Cap 142	National Land Code 1965
Real Property Gains Tax Act 1976	Stamp Act 1949
State Land Rules*	Strata Management Act 2013 (not yet in force)
Strata Titles Act 1985	Street, Drainage and Building Act 1974
Town and Country Planning Act 1976	Uniform Building By-laws 1984

* In addition, each of the states in Malaysia may have its own set of regulations/rules.

Operational requirements for foreign corporations

Modes of entry

- Sole proprietorship and partnership
- Incorporation of local company (private or public limited company)
- Foreign company (via branch office, regional office, operational headquarters or OHQ)

Sole proprietorship and partnership

Sole proprietorship is the simplest form of business in terms of registration and formulation. A partnership, on the other hand, consists of not less than two and not more than 20 partners. In a partnership, partners are jointly and severally liable for the debts and obligations of the partnership. Formal partnership deeds may be drawn up, setting out the rights and obligations made of each partner, but a formal deed is not obligatory.

Sole proprietors or partners in Malaysia will be personally liable for the debts of business. All sole proprietorships and partnerships in Malaysia must be registered with the Companies Commission of Malaysia (CCM) under the Registration of Businesses Act 1956. Only Malaysian citizens and permanent residents are eligible to register for a sole proprietorship or partnership.

Incorporation of local company

The Companies Act 1965 ("Companies Act") governs all companies in Malaysia. The Companies Act stipulates that a person must register a company with the CCM in order to engage in any business activity. It provides for three types of companies:

- A company limited by shares
- An unlimited company
- A company limited by guarantee

Company limited by shares

This is the most common legal form of a company in Malaysia. A shareholder's liability in such a company is limited to the quantum of any amount remaining unpaid on their shares. A company having a share capital may be incorporated as a private company (identified through the words "Sendirian Berhad" or "Sdn. Bhd." appearing together with the company's name) or public company (identified through the words "Berhad" or "Bhd." appearing together with the company's name).

Private company ("Sendirian Berhad/Sdn. Bhd.")

A private company limited by shares will have provisions in its memorandum and articles of association that:

- Restrict the right to transfer its shares
- Limit the number of its members to 50, excluding employees and some former employees
- Prohibit any invitation to the public to subscribe for its shares and debentures
- Prohibit any invitation to the public to deposit money with the company

Public company ("Berhad/Bhd.")

A public company can be formed or a private company can be converted into a public company, subject to the requirements of the Companies Act. A public company limited by shares can offer shares to the public if it has registered a prospectus

with the Securities Commission and has lodged a copy of the prospectus with the CCM on or before the date of its issue.

A public company can apply to have its shares quoted on Bursa Malaysia (the Malaysian stock exchange) subject to compliance with the requirements laid down by Bursa Malaysia and the Securities Commission.

Requirements of a locally incorporated company

The requirements to form a company are:

- A minimum of two subscribers to the shares of the company (Section 14 Companies Act)
- A minimum of 2 directors (Section 122 Companies Act)
- A company secretary who can be either:
 - An individual who is a member of a professional body prescribed by the Minister of Domestic Trade and Consumer Affairs
 - An individual licenced by the CCM

Both the director and company secretary shall have their principal or only place of residence within Malaysia. Directors of public companies or subsidiaries of public companies normally must not be of or over 70 years of age. It is not required that a company director must also be a shareholder.

A company must maintain a registered office in Malaysia where all books and documents required under the provisions of the Companies Act are kept. The name of the company shall appear in legible Romanised letters, together with the company number, on its seal and documents.

A company cannot deal with its own shares or hold shares in its holding company. Each equity share of a public company carries only one vote at a poll at any general meeting of the company. A private company may, however, provide for varying voting rights for its shareholders.

Foreign company

A foreign company cannot carry on business in Malaysia unless it incorporates a local company or registers the foreign company in Malaysia under CCM. A foreign company refers to a company, corporation, society, association or other body incorporated outside Malaysia that, under the law of its place of origin, may sue or be sued.

Foreign companies must incorporate a local company or register a branch in Malaysia in order to conduct business in Malaysia.

Any documents in a language other than Bahasa Malaysia or English must have an accompanying certified translation. The CCM will bestow upon the applying company the status of a foreign company operating in Malaysia once all procedures are completed and approved.

Typical foreign business ventures

The following are the available options for a foreign company that intends to carry on a business in Malaysia:

- Register a branch office if the investor is a foreign company
- Incorporate a separate Malaysian company as its subsidiary
- Acquire all or a majority of the shares of an existing Malaysian company
- Enter into a joint venture with a Malaysian company or individual, typically through holding shares in a newly incorporated joint venture company
- Register as Labuan International Company under Labuan Companies Act 1990

Branch office

If the foreign company intends to open a branch in Malaysia to carry on business within Malaysia, it has to register with the CCM before it commences business or establishes a place of business in the country. The foreign company that is registered has power to hold immovable property in Malaysia. Such applications can be submitted via management companies that offer incorporation and company secretarial services to the CCM.

Representative office and regional office

Foreign companies or organisations involved in the manufacturing and services sectors may establish representative and regional offices in Malaysia to perform permissible activities for their head office or principal. The representative or regional office does not undertake any commercial activities and only represents its head office or principal to undertake designated functions. Such offices should be totally funded from sources outside Malaysia and are not required to be incorporated or registered with the CCM under the Companies Act. However, they must obtain the approval by the government. Applications for the establishment of representative or regional offices should be submitted to Malaysian Industrial Development Authority ("MIDA").

A representative office collects relevant information regarding investment and business opportunities to develop bilateral trade relations, promote the export of Malaysian goods and services and carry out research and development (R&D).

A regional office serves as the coordination centre for its affiliates, subsidiaries and agents within Asia Pacific. It is responsible for conducting designated activities within the region it operates.

Activities allowed to be conducted by a representative or regional offices are:

- Planning or coordinating business activities
- Gathering and analysing information, or undertaking feasibility studies on investment and business opportunities in Malaysia and in the region

- Identifying sources of raw materials, components or other industrial products
- Undertaking research and product development
- Acting as a coordination centre for the corporation's affiliates, subsidiaries and agents in the region

Activities not allowed to be conducted by a representative or regional offices are:

- Engaging in any trading (including import and export), business or any form of commercial activity
- Leasing warehousing facilities – any shipment/transshipment or storage of goods must be carried out through a local agent or distributor
- Signing business contracts on behalf of the foreign corporation or providing services for a fee
- Participating in the daily management of any of its subsidiaries, affiliates or branches in Malaysia

Expatriate posts are allowed in representative and regional offices depending on the functions and activities of the representative or regional office. Expatriates will only be considered for managerial and technical posts. An expatriate working in a representative office is subject to normal income tax. However, expatriates working in regional offices are taxed only on the portion of their chargeable income attributable to the number of days they are in Malaysia.

Approved operational headquarters (OHQ)

An approved OHQ generally refers to a company that provides qualifying services to its offices or related companies regionally and globally.

A company that establishes an OHQ in Malaysia can be considered for tax incentives and facilities under the OHQ incentive program which includes tax exemption for a period of 10 years on income from:

- Qualifying services rendered to its offices or related companies outside Malaysia
- Interest on foreign currency loans extended to its offices or related companies outside Malaysia
- Royalties received from research and development work carried out on behalf of its offices or related companies outside Malaysia

The income generated by an OHQ company in providing qualifying services to its offices and related companies in Malaysia will not be taxed during its tax-exempt period, provided such income does not exceed 20 percent of its overall income derived by providing qualifying services.

The qualifying services are as follows:

- General management and administration
- Business planning and coordination
- Coordination of procurement of raw materials, components and finished products

- Technical support and maintenance
- Marketing control and sales promotion planning
- Data/information management and processing
- R&D work carried out in Malaysia on behalf of its offices or related companies within or outside Malaysia
- Training and personnel management for its offices or related companies within or outside Malaysia
- Treasury and fund management services to its offices or related companies outside Malaysia
- Corporate financial advisory services to its offices and related companies outside Malaysia

International procurement centre/regional distribution centre

An international procurement centre (IPC) is a locally incorporated company that carries on a business in Malaysia to undertake procurement and sale of raw materials, components and finished products for its group of related companies and unrelated companies in Malaysia and abroad.

A regional distribution centre (RDC) is a collection and consolidation centre for finished goods, components and spare parts produced by its own group of companies for its own brand to be distributed to dealers, importers or its subsidiaries or other unrelated companies within or outside the country. Among the value-added activities involved are bulk breaking, repackaging and labelling.

An approved IPC/RDC status company is eligible for full tax exemption of its statutory income for 10 years and dividends paid from the exempt income will be relieved from tax in the hands of its shareholders if it fulfils the following additional criteria:

- An annual sales turnover of at least MYR 100 million (USD 28.1 million)¹, of which the annual value of export sales achieves MYR 80 million (USD 22.48 million), and the value of direct export sales achieves MYR 50 million (USD 14.05 million) concerning the qualifying activities in the basis period for a year of assessment
- At least 80 percent of the IPC/RDC products must be exported, including 30 percent via drop shipment
- Sales to the domestic market including sales to free zones and licenced manufacturing warehouses, are limited to 20 percent of its sales turnover

Applications for an IPC/RDC status, incentives and expatriate posts should be submitted to MIDA.

Labuan International Company under Labuan Companies Act 1990

Depending on the nature of business, not all types of companies in Malaysia are allowed foreign controlled ownership of more than 50 percent shareholding. Business nature such as import,

¹ MYR 1= USD 0.280984

export, trading, consultancy, and restaurant businesses may require the permission of the Ministry of Consumerism Trade and Cooperatives for foreign ownership.

However, there are some attractions for Labuan International Companies:

- Incorporation can be 100 percent foreign-owned, without Malaysian partners
- Paid-up capital of the company is low
- Simple structure with only one director and one shareholder required and both positions can be held by the same person
- Incorporation is fast and is often completed within 14 days
- No trade licences are required for trading, e-commerce, import, export and consultancy businesses
- Corporate bank account and personal account can be opened anywhere in Malaysia in Ringgit Malaysia and in any other foreign currencies
- No Sales and Services Tax and Goods and Services Tax (GST) applicable for sales transaction
- No Withholding Tax for dividend, interest, management, technical, royalty, lease rental
- Yearly taxation on profit for trading company is only 3 percent or maximum MYR 20,000 (USD 5,619.68) based upon election
- No tax is applicable on Investment Holding Company structure
- Business visa is available for application, immediately after the incorporation of a Labuan International Company
- Business visa application takes approximately 30–60 days only
- Business visa is two-year multiple entry and is renewable
- Spouses and children can join as dependents in the business visa
- Business visa holders can reside anywhere in Labuan and West Malaysia

Equity policy in the manufacturing sector

Equity policy for new, expansion or diversification projects

Since June 2003, foreign investors can hold 100 percent of the equity in all investments in new projects, as well as investments in expansion/diversification projects by existing companies, regardless of the level of exports and without excluding any product or activity.

The equity policy also applies to:

- Companies previously exempted from obtaining a manufacturing licence but whose shareholders' funds have now reached MYR 2.5 million (USD 702,460) or have now engaged 75 or more full-time employees and are, thus, required to be licenced

- Existing licenced companies previously exempted from complying with equity conditions, but are now required to comply due to their shareholders' funds having reached MYR 2.5 million (USD 702,460)

Equity policy applicable to existing companies

Equity and export conditions imposed on companies before June 17, 2003 will be maintained. However, companies can request for these conditions to be removed and approval will be given based on the merits of each case.

For more information, go to www.mida.gov.my

Foreign employment in Malaysia

Depending on the sector or industry, applications for employment of expatriates have to be submitted to the relevant agencies and approved before applications for work permits or submissions of employment passes for endorsement are submitted to the Immigration Department. There are six authorised bodies/agencies that can approve such applications/submissions based on the core business of the applying company. The agencies and the corresponding sectors are as follows:

- Malaysian Industrial Development Authority (MIDA)
 - Manufacturing company that is involved in expansion plans
 - Manufacturing-related services – regional office, operational headquarters, overseas mission, international procurement centre, etc.
 - Hotel and tourism industry
 - R&D sector
- Multimedia Development Corporation (MDeC)
 - Expatriate posts and skilled foreign workers in information technology-based companies that have been granted “Multimedia Super Corridor” (MSC) status
- Public Service Department (PSD)
 - Doctors and nurses in government hospitals or clinics
 - Lecturers and tutors employed in government institutes of higher education (IPTA)
 - Contract posts in public services
 - Recruitment process (job offer by Public Sector Commission (SPA) or government-related agencies)
- Central Bank Malaysia (BNM)
 - Employment in the banking, finance and insurance sectors
- Securities Commission (SC)
 - Employment in the securities and share market
- Expatriate Committee (EC)
 - Employment in the private and public sectors that are not under the jurisdiction of MIDA, MDeC, PSD, BNM or SC

Application to MIDA

Companies undertaking manufacturing activities, R&D activities, hotels with four-star rating or higher, tourism projects and other services may employ expatriates, subject to a minimum paid-up capital of the companies as follows:

- 100 percent Malaysian-owned company: MYR 250,000 (USD 70,246)
- Jointly owned by foreign and Malaysian: MYR 350,000 (USD 98,344)
- 100 percent foreign-owned company: MYR 500,000 (USD 140,492)

The applications for expatriate posts for OHQs, RDCs and IPCs can be considered based on a minimum paid-up capital of MYR 500,000 (USD 140,492). A representative office/regional office of a foreign company based in Malaysia is also allowed to employ expatriates at the professional, managerial and technical level with a minimum operating expenditure of at least MYR 300,000 (USD 84,295) per annum.

For more information, go to www.mida.gov.my

Application to the EC

In relation to the application to the EC, there are a few criteria that will be considered. They are:

- Minimum paid-up capital

The minimum paid-up capital for private limited companies and public listed companies, effective January 1, 2009, is based on the percentage of equity held by locals/foreigners. For 100 percent locally owned companies, the paid-up capital is MYR 250,000 (USD 70,246); for local and foreign-owned companies, the paid-up capital is MYR 350,000 (USD 98,344); and for 100 percent foreign-owned companies, the paid-up capital is MYR 500,000 (USD 140,492).

- Recommendations from ministry/monitoring agencies

Depending on the field/sector, the related ministry/agencies have the discretion/responsibility to make recommendations to the EC in relation to any application to employ expatriates. The related agencies and the corresponding field/sector are as follows:

- Ministry of Higher Education/Ministry of Education – lecturer, tutor and teacher
- Ministry of Health – medical doctor, nurse and traditional medical practitioner
- Football Association Malaysia – footballer
- National Sports Council – athlete and coach
- Civil Aviation Department, Malaysia – pilot and civil aviator
- Ministry of Tourism – tourism agencies
- Malaysian Professional Golf Associates – golf-related activities

- Biotechnology Corporation of Malaysia – biotechnology-related activities

- Registration with the ministry/monitoring agencies

Depending on the field/sector, the applying company is required to register with the related ministry/agencies. The related ministry/agencies and the corresponding field/sector are as follows:

- Construction Industry Development Board (CIDB) – for companies that undertake activities related to construction and maintenance
- Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) – for companies with foreign equity involving in wholesaling, marketing and retailing (including restaurants) and direct selling

- The EC also considers the following criteria:

- The company's equity
- The company's activities
- Local human resource
- Relevance of the post to the company's activities
- Monthly income
- Age and working experience

Application to MDeC

This type of work permit enables a foreign knowledge worker to take up employment under a contract of service with an organisation in Malaysia. The duration varies from a minimum of 12 months to a maximum of 60 months, depending on the nature of employment and the need of such employment. The Immigration Department of Malaysia will issue an employment pass upon approval of employment positions by MDeC in MSC Malaysia. A dependant pass may be issued to any person being the spouse or dependent child to accompany the foreign knowledge worker while in Malaysia, and a permission to study may be issued to the child to take up schooling in Malaysia.

For more information, go to <http://www.imi.gov.my/>

Foreign investment incentives

Tax incentives, direct and indirect, are provided for in the Promotion of Investments Act 1986, Income Tax Act 1967, Customs Act 1967, Sales Tax Act 1972, Excise Act 1976 and Free Zones Act 1990. These acts cover investments in the manufacturing, agriculture, tourism (including hotel) and approved services sectors as well as R&D, training and environmental protection activities.

Direct tax incentives grant partial or total relief from income tax payment for a limited period, while indirect tax incentives come in the form of exemptions from import duty, sales tax and excise duty.

Manufacturing sector

Major tax incentives for companies investing in the manufacturing sector are “pioneer status” and “investment tax allowance.” Eligibility for pioneer status and investment tax allowance is based on certain priorities, including the level of value add, technology used and the industrial linkages. Eligible activities and products are termed as “promoted activities” or “promoted products.”

- Pioneer status
 - Companies granted pioneer status pay tax on only 30 percent of their statutory income, with the exemption granted for five years commencing from the start of production day (defined as the day its production level reaches 30 percent of its capacity)
 - Unabsorbed capital allowances as well as accumulated losses incurred during the pioneer period can be carried forward and deducted from the post pioneer income of the company
- Investment tax allowance (ITA)
 - As an alternative to pioneer status, a company may apply for an ITA. Companies granted an ITA will be given a stipend of 60 percent on its qualifying capital expenditure (factory, plant, machinery or other equipment used for the approved project) incurred within five years from the date on which the first qualifying capital expenditure is incurred. The allowance is restricted to a maximum of 70 percent of their statutory income for each year of assessment
 - Any unutilised allowance can be carried forward to subsequent years until fully utilised. The remaining 30 percent of their statutory income will be taxed at the prevailing corporate tax rate
- Reinvestment allowance (RA)
 - RA is given to existing companies engaged in manufacturing and selected agricultural activities that reinvest for the purposes of expansion, automation, modernisation or diversification of its existing business into any related products within the same industry operating for at least 36 months effective from the Year of Assessment 2009
 - The RA is 60 percent of qualifying capital expenditure, and can be offset against 70 percent of the company’s statutory income for each year of assessment. Any unutilised allowance can be carried forward to subsequent years until fully utilised
 - A company can offset the RA against 100 percent of its statutory income for the year of assessment if the company attains a productivity level exceeding the level determined by the Ministry of Finance

- The RA will be given for 15 consecutive years commencing from the year the first reinvestment is made
- Accelerated capital allowance (ACA)
 - After the 15-year period of eligibility for RA, a company reinvesting in the manufacture of promoted products is eligible to apply for ACA
 - The ACA provides a special allowance, whereby the capital expenditure can be written off within three years, i.e., an initial annual allowance of 40 percent plus annual allowance of 20 percent for first year and an annual allowance of 20 percent for the following two years

Other additional incentives are also available, the details of which can be accessed from www.mida.gov.my.

Research and development (R&D)

Major tax incentives for R&D are as follows:

- Pioneer status

Tax exemption of 100 percent of the statutory income for five years is given to contract R&D companies (i.e., a company that provides R&D services in Malaysia to a company other than its related company).
- ITA
 - For contract R&D companies and R&D companies – 100 percent of the qualifying capital expenditure incurred within 10 years can be offset against 70 percent of the statutory income in the year of assessment
 - For companies that undertake in-house research to further enhance their business – 50 percent of the qualifying capital expenditure incurred within 10 years can be offset against 70 percent of the statutory income in the year of assessment
- Second-round incentives of pioneer status for another five years or ITA for a further 10 years
 - For contract R&D companies, R&D companies and companies that undertake in-house research
- Incentives for commercialisation of public sector R&D
 - The subsidiary company that undertakes the commercialisation is eligible for pioneer status with income tax exemption of 100 percent of statutory income for 10 years
 - A company that invests in its subsidiary company engaged in the commercialisation of the R&D findings is eligible for tax deduction equivalent to the amount of investment made in the subsidiary company
- Double deduction for R&D
 - A company can enjoy a double deduction on its revenue (noncapital) expenditure for research that is directly undertaken and approved by the Minister of Finance

- Double deduction can be claimed for cash contributions or donations to approved research institutes, as well as payments for the use of the services of approved research institutes, approved research companies, R&D companies or contract R&D companies
- Approved R&D expenditure incurred during a tax relief period for companies with pioneer status can be accumulated and deducted after the tax relief period
- Expenditure on R&D activities undertaken overseas, including training Malaysians, will be considered on a case-by-case basis
- Incentives for researchers to commercialise research findings
A 50 percent tax exemption is given for five years on the income they receive from the commercialisation of research findings. The undertaking has to be verified by the Ministry of Science, Technology and Innovation

Operational headquarters (OHQs)

- Allowed 100 percent foreign equity ownership
- Eligible for 100 percent income tax exemption for 10 years, provided conditions are met

Multimedia Super Corridor (MSC)

An MSC Malaysia status is recognition by the government of Malaysia through the MDeC for information and communications technology (ICT) and ICT-facilitated business that develop or use multimedia technologies to produce and enhance their products and services. The status can only be awarded to private limited companies, institutions of higher learning and incubators.

- Financial incentives for MSC status companies are as follows:
 - Pioneer status – Companies setting up new businesses in an MSC Malaysia-designated cyber city will receive exemption from tax on their statutory income for five years. A company may reapply to renew the exemption for a second five-year term
 - Alternatively, new companies will receive a 100 percent ITA, which allows a 100 percent deduction on the qualifying capital expenditure from its statutory income for five years
 - Freedom to source capital and borrow funds globally
 - Duty-free importation of multimedia equipment
 - Eligibility for R&D grants (for majority Malaysian-owned MSC Malaysia status companies)
- Nonfinancial incentives include:
 - Intellectual property protection and a comprehensive framework of cyber laws
 - No censorship of the Internet
 - A high-powered implementation agency (MDeC) to act as an effective one-stop super shop

- World-class physical and IT infrastructure within MSC Malaysia
- Globally competitive telecommunication tariffs and services for companies located within MSC Malaysia
- Excellent R&D facilities and green environment protected zones within MSC Malaysia

For more details on incentives, please visit www.mida.gov.my
More details on the MSC can be obtained at www.mscomalaysia.my

Foreign property ownership

In line with the announcement made by the government on June 30, 2009 to liberalise property acquisition by foreigners, the Foreign Investment Committee (FIC) guidelines were repealed. Previously, any acquisition of property by foreign interest requires the approval of the FIC under the FIC guidelines.

The approval for property acquisitions will now only be required from the Economic Planning Unit of the Prime Minister's Department (EPU) where the acquisition involves a dilution of bumiputera or government interests for properties valued at MYR 20 million (USD 5.62 million) and above, whether acquired directly or indirectly (via the acquisition of shares in the company that holds the property). All other property transactions (be it residential or commercial), including those between foreigners and non-bumiputeras, will no longer require FIC or EPU approval, subject to a general pricing threshold of MYR 1,000,000 (USD 280,984) and above per unit.

Financing from external and internal sources is allowed for all acquisition of properties.

Conditions if EPU approval is required

Where approval from the EPU is required, the proposed acquisition is subject to equity and paid-up capital conditions as follows:

Equity condition

- Companies to have at least 30 percent bumiputera interest shareholding

Paid-up capital conditions

- Local company owned by local interest to have at least MYR 100,000 (USD 28,098) paid-up capital
- Local company owned by foreign interest to have at least MYR 250,000 (USD 70,246) paid-up capital

For direct acquisition of property, the equity and paid-up capital conditions imposed by the EPU must be complied with before the transfer of the property's ownership.

For indirect acquisition of property, the equity and paid-up capital conditions imposed by the EPU must be complied with within one year after the issuance of written approval.

Foreign interest is not allowed to acquire:

- Properties valued less than MYR 1,000,000 (USD 280,984) per unit
- Residential units under the category of low and low-medium cost, as determined by the state authority
- Properties built on Malay reserved land
- Properties allocated to bumiputera interest in any property development project, as determined by the state authority

The following transactions are exempted from requiring the approval of the EPU:

- Acquisition of residential units by local and foreign interest. However, a foreign interest is only allowed to acquire a residential unit valued at more than MYR 1,000,000 (USD 280,984) per unit
- Any acquisition of a residential unit under the “Malaysia My Second Home” program
- MSC status companies are allowed to acquire any property in the MSC area provided that the property is only used for their operational activities, including as a residence for their employees
- Acquisition of properties in the approved area in any regional development corridor by companies that have been granted the status by the local authority, as determined by the government
- Acquisition of properties by a company that has obtained the endorsement from the Secretariat of the Malaysian International Islamic Financial Centre (MIFC)
- Acquisition of residential units to be occupied as a hostel for a company’s employees. However, local companies owned by a foreign interest are only allowed to acquire residential units valued at MYR 100,000 (USD 28,098) and above, and this matter is under the jurisdiction of the relevant state authorities
- Transfer of property to a foreign interest pursuant to a will and court order
- Acquisition of industrial land by a manufacturing company
- Acquisition of properties by ministries and government departments (federal and state), Ministry of Finance Incorporated, Menteri Besar Incorporated, Chief Minister Incorporated, State Secretary Incorporated and listed government-linked companies
- Acquisition of properties under a privatisation project, whether at the federal or state level, provided that it involves companies that are the original signatories in the contracts for the privatised projects
- Acquisition of properties in companies that have been granted the status of IPC, OHQ, representative offices, regional offices, Labuan offshore companies and BioNexus or other special status by the Ministry of Finance, Ministry of International Trade and Industry and other ministries
- Acquisition of agriculture land valued at MYR 1,000,000 (USD 280,984) and above or at least five acres in area by a foreign interest to undertake agriculture activities on a commercial scale using modern or high technology or to undertake agro-tourism projects or agriculture/agro-based industrial activities for the production of goods for export
- Acquisition of industrial land valued at MYR 1,000,000 (USD 280,984) by a foreign interest;
- Transfer of property to a foreigner based on family ties is only allowed among immediate family members
- Acquisition of properties under the privatisation projects, whether at the federal or state level, provided that it involves companies that are the original signatories in the contracts for the privatised projects

State authority’s consent still required

Despite the repeal of the FIC guidelines and the limited applicability of the need to obtain EPU approval, acquisition of properties by foreigners is still governed by section 433B of the National Land Code 1965, which stipulates the need to obtain the prior approval upon an application in writing to the relevant state authority for any acquisition of interest in property (other than land categorised for industrial use) by foreigners. In granting its approval, the state authority is at liberty to impose any other conditions and the payment of such levy as it deems fit. The application will usually be submitted on the acquirer’s behalf by the local solicitors handling the proposed acquisition. It should be noted that several states in Malaysia have adopted the EPU’s requirement that the property purchased by a foreigner must be valued at least MYR 1,000,000 (USD 280,984) while some other states have maintained the threshold limit at the lower level. As land matters are within the jurisdiction of each state, it is advisable to check with local solicitors on the actual threshold limit applicable to each state in Malaysia, as the threshold limit may vary from state to state and from time to time without much publicity.

Item	Effective date	Minimum threshold
Johor	May 1, 2014	MYR 1 million (USD 280,984) for all types of property ²
Penang	February 1, 2014	MYR 1 million (USD 280,984) for all types of property; MYR 2 million (USD 561,968) for land property on the island
KL/Putrajaya/ Labuan	March 1, 2014	MYR 1 million (USD 280,984) for all types of property ³
Selangor	September 1, 2014	<p>MYR 2 million (USD 561,968) for property in Zone 1 and 2</p> <p>Zone 1 District of : 1. Petaling 2. Gombak 3. Hulu Langat 4. Sepang</p> <p>Zone 2 District of: 1. Kuala Selangor 2. Kuala Langat</p> <p>MYR 1 million (USD 280,984) for property in Zone 3: District of: 1. Hulu Selangor 2. Sabak Bernam</p> <p>Foreigners, permanent residents and foreign companies are only permitted to acquire commercial and industrial properties at a minimum price of MYR 3 million (USD 842,952) in all three zones.</p> <p>These groups of people are not permitted to buy landed properties unless such properties are in a gated community, which has a landed strata title.⁴</p>

MALAYSIA

Malaysia My Second Home Program (MM2H)

The MM2H program is promoted by the government of Malaysia to allow foreigners who fulfil certain criteria, to stay in Malaysia on a multiple-entry social visit pass. The social visit pass is granted according to the validity of the passport for a maximum period of 10 years and is renewable. The program allows applicants to bring with them their spouses, parents and unmarried children below the age of 21. Foreign spouses of Malaysians and expatriates who wish to retire in Malaysia after expiry of their employment passes are also eligible to apply to stay in Malaysia on this program. Purchase of residential units is exempted from EPU's approval under the MM2H program, but such purchase is subject to the minimum price established

for foreigners by the different states. This program also allows foreigners to apply for one domestic maid and bring in their own personal car, or to purchase a locally-assembled car. On or after April 1, 2015, any car that is purchased in or imported into Malaysia under this programme is subject to GST unless it is given exemption by the Ministry of Finance.

The participants must maintain their fixed deposit at all times at any bank in Malaysia. Withdrawal of fixed deposit must have the prior approval of the MM2H Centre under the Ministry of Tourism and Culture Malaysia. Failure to comply with this condition could result in the immediate cancellation of the MM2H Social Visit Pass (Multiple Entry).

More details are available from www.mm2h.gov.my

²See Circular by Director of Johor Lands and Mines Office Bill 02 Year 2014 (Pekeliling Pengarah Tanah Dan Galian Johor Bil. 2 Tahun 2014)

³See Guideline on the Acquisition of Properties 2014

⁴See Guidelines for Acquisition of Property by Foreign Nationals/ Permanent Residents/Foreign Companies in the State of Selangor

Foreign exchange controls

A non-resident is permitted by the Controller of Foreign Exchange to undertake direct or portfolio investment in Malaysia, subject to certain rules and guidelines. A non-resident refers to:

- Any person other than a resident
- An overseas branch, a subsidiary, regional office, sales office or representative office of a resident company
- Embassies, consulates, high commission, supranational and international organisations or
- A Malaysian citizen who has obtained permanent resident status of a country or territory outside Malaysia and is residing outside Malaysia

Among the main exchange control requirements are:

Foreign direct investment (FDI)

- There are no restrictions for non-residents to purchase ringgit assets, such as landed properties and securities, and the settlement of investment in ringgit can be undertaken either in ringgit or foreign currency.
- Foreign direct investors are freely allowed to repatriate their investment, including capital, profits and dividends from divestment upon conversion into foreign currency, without being subject to any levy.

Buying or selling of currency

- Ringgit
 - Non-residents are free to buy or sell ringgit against foreign currency with licenced onshore banks (excluding licenced international Islamic banks), on spot and forward basis, for both current and financial account transactions.
 - Non-residents may also buy or sell ringgit against foreign currency with any non-resident financial institution for settlement of trade in goods or services or the purchase or sale of ringgit assets with a resident or with an appointed overseas office of a licenced onshore bank's banking group.
- Foreign currency
 - Non-residents are only free to buy or sell foreign currency against another foreign currency in Malaysia with a licenced onshore bank or a person who is licenced under the Money Services Business Act 2011 on spot basis.

Extension of credit facilities to non-residents

- Ringgit borrowing
 - Resident nonbank companies, licenced onshore banks (excluding licenced international Islamic banks), employers or individuals who are immediate family members may extend any amount of Ringgit credit facilities to a non-resident (other than financial institutions), provided the utilisation of such borrowings is to finance activities in the real estate sector in Malaysia or finance/refinance

the purchase of residential and commercial properties in Malaysia, excluding the purchase of land only, subject to their own internal credit assessment guidelines.

- Resident entities with a stockbroking licence may extend margin financing, where else licenced insurer or a licenced takaful operator may extend only up to the attained cash surrender value of any life insurance policy or family takaful certificate purchased by the non-resident.
- Non-resident custodian banks or non-resident stock broking corporations may obtain overdraft facilities to facilitate the settlement of shares or ringgit instruments traded on Bursa Malaysia or through the Real Time Electronic Transfer of Funds and Securities, from licenced onshore banks (excluding licenced international Islamic banks).
- Foreign currency borrowing
 - Non-residents are free to borrow any amount of foreign currency from licenced onshore banks, another nonresident in Malaysia or immediate family member.
 - Non-residents are free to borrow only a limited amount of foreign currency from other residents.
 - Non-residents are allowed to issue foreign-currency denominated sukuk/bonds in Malaysia for use in or outside Malaysia.
- Import and export of ringgit and foreign currency by non-resident travellers

Non-residents travellers are allowed to carry ringgit only up to USD 10,000 equivalent upon arriving or leaving Malaysia. However, there are no limitations on the import or export of foreign currency notes and traveller's cheques by non-residents. A written application to the Foreign Exchange Administration Department must be made for any import and export of ringgit exceeding permitted limits.

- Opening of foreign currency accounts (FCA) and ringgit accounts (external accounts)
 - Non-residents are free to open foreign currency accounts with licenced onshore banks in Malaysia and ringgit accounts in Malaysia. Funds in these accounts are free to be remitted abroad in foreign currency.
 - There are also no limitations in opening external accounts by non-residents with financial institutions in Malaysia, and non-residents are allowed to convert the funds into foreign currency with licenced onshore banks for repatriation abroad. The funds in the external account can be used for a number of purposes, including, among others, to pay for goods or services in Malaysia or to purchase ringgit assets in Malaysia. However, there shall be no ringgit financing provided by a non-resident intermediary or non-resident financial institution to its non-resident clients.

- Approved operational headquarters (OHQs)
 - OHQs are free to invest any amount in foreign currency assets, to be funded with own foreign currency funds or foreign currency borrowing.
 - OHQs are allowed to borrow any amount of foreign currency from onshore banks, licenced international Islamic Banks, other resident companies within the same corporate group in Malaysia and any non-residents, provided the OHQ does not on-lend the funds to other residents or raise the funds on behalf of any resident.
 - OHQs are allowed to obtain any amount of foreign currency trade financing from non-residents to finance import payments.
 - No restriction for payment in ringgit between resident companies.
 - OHQs may invest any amount abroad, including extending credit facilities to their related overseas companies, to be funded with foreign currency funds or borrowing. They may also convert any amount to finance investment abroad if they have no domestic credit facilities, or up to MYR 50 million (USD 14.0492 million) per calendar year if they have domestic credit facilities, into foreign currency for investment abroad.
- International Procurement Centre (IPCs) and Regional Distribution Centre (RDCs)
 - IPCs and RDCs are free to hedge with onshore banks and licenced international Islamic Banks for payments for the import and export of goods and services based on a firm underlying commitment or on anticipatory basis.
 - Hedging involving ringgit shall only be undertaken with licenced onshore banks.
 - No restriction for payment in ringgit between resident companies.
 - IPCs and RDCs are free to pay other resident companies in foreign currency for the settlement of goods and services sourced from its foreign currency account if the IPC/RDC has exports earnings (either from export of goods and services).
- Iskandar Development Region (IDR)

Companies approved by the Ministry of Finance and awarded IDR status by the Iskandar Regional Development Authority (IDRA) to undertake qualifying activities under the six targeted service based sectors in the IRDA approved zones, i.e., creative, education, financial advisory and consulting, healthcare, logistics and tourism, are granted exemption from most of the provisions of the foreign exchange administration rules and are afforded certain flexibilities.

More details on foreign exchange administration can be obtained at www.bnm.gov.my, www.sc.com.my, www.mifc.com and www.mida.gov.my

Taxes on possession and operation of real estate

Quit rent

No specific tax is levied on property owners. However, individual state governments levy a land tax known as “quit rent,” which is payable yearly. The rate varies with land category and size.

Assessment

Properties within local authorities’ boundaries are also required to pay an “assessment.” This tax is calculated as a percentage of annual value and varies with the property type and the location of the property.

Taxes on acquisition and transfer of real estate

Stamp duty and legal costs

The stamp duty payable by purchasers of property is based on the higher of the money value of the consideration or current market value at the following rates:

Consideration or current market value	Scale of rates
For the first MYR 100,000 (USD 28,098)	1%
For the next MYR 400,000 (USD 112,393)	2%
Remainder (Excess of MYR 500,000) (USD 140,492)	3%

Legal fees for sales, purchases or other forms of conveyances for completing any transaction involving immovable properties are fixed at rates based on the consideration or adjudicated value:

Consideration or adjudicated value	Scale of fees
First MYR 150,000 (USD 42,147)	1% [subject to a minimum of MYR 300 (USD 84.3) or MYR 250 (USD 70.2), if the consideration is below MYR 45,000 (USD 12,644.28)]
Next MYR 850,000 (USD 238,836)	0.7%
Next MYR 2,000,000 (USD 561,968)	0.6%
Next MYR 2,000,000 (USD 561,968)	0.5%
Next MYR 2,500,000 (USD 702,460)	0.4%
Remainder (Excess of MYR 7,500,000) (USD 2.1 million)	Negotiable, but shall not exceed 0.4% of such excess

Capital gains tax

Capital gains are generally not subject to income tax in Malaysia. However, real property gains tax (RPGT) is levied on chargeable gains arising from the disposal of real property situated in Malaysia, or on any interest, option or other rights in or over such land, as well as the disposal of shares in real property companies.

The RPGT rates for non-resident individuals are as follows:

Time of sale	Tax rate
Disposal within five years after the date of acquisition	30%
Disposal in the sixth year after the date of acquisition or thereafter	5%

For foreign companies, the rates are as follows:

Time of sale	Tax rate
Disposal within two years after the date of acquisition	30%
Disposal in the third year after the date of acquisition	20%
Disposal in the fourth year after the date of acquisition	15%
Disposal in the fifth year after the date of the acquisition or thereafter	5%

Goods and services tax (GST)

Introduction

The effective date for the imposition of GST is from April 1, 2015 onward. GST replaces the sales tax and services tax with a rate of 6 percent (standard rate).

GST shall be levied and charged on the taxable supply of goods and services made in the course or furtherance of business in Malaysia by a taxable person. It is also charged on the importation of goods and services.

A taxable supply is a supply that is standard-rated or zero-rated. Exempt supplies (such as financial services, education services, childcare service, healthcare services, residential land, agricultural land and general use land, accommodation, transport services, tolled highway or bridge, funeral, burial and cremation services, supplies made by societies and similar organisation) and out-of-scope supplies (such as supply from a place outside Malaysia to another place outside Malaysia) are not taxable supplies. GST will be levied and charged on the value of taxable supply.

To collect GST from customers, the business must be registered under GST. Registration is compulsory if its annual turnover of taxable supplies is more than MYR 500,000 (USD 140,492). Nevertheless, a business can apply to be registered voluntarily when the annual turnover is less than MYR 500,000 (USD 140,492).

Property investor

As the sale and letting out of residential properties are exempt, a person is liable to be GST-registered only if the annual turnover from letting out commercial property and, in some circumstances, the disposal of commercial property exceeds MYR 500,000 (USD 140,492). When a GST-registered person lets out or disposes of commercial properties, he has to issue a tax invoice and account for GST. This may not disadvantage the tenant or purchaser if such tenant or purchaser is a GST-registered person since he can claim input tax credit.

Property management corporations

Property management fees, sinking fund contributions, maintenance fee, rental of hall and other charges imposed by a management corporation or joint management body to provide services to the occupants are standard-rated, regardless whether they relate to a residential property or commercial property.

Construction company

Construction services, regardless whether they relate to residential or commercial property, are charged standard-rated. If the building materials are supplied (regardless whether at cost or with profit basis) by the developer to the construction company, the developer should issue a tax invoice and account for output tax. The construction company can claim input tax credit on such "acquisition." In exceptional situation where the construction contract requires the materials to be provided by the developer without any charge, the developer does not have to account for output tax on the materials.

Property developer

The supply of residential properties is GST-exempt. However, care is needed to distinguish between the supply of such property or land from supply of closely associated taxable supplies. For example, the Royal Malaysian Customs (RMC) is of the opinion that the sale of a car park in an apartment and administrative charges are subject to GST. For sale of residential properties with furniture and fittings, GST may also be imposed.

The supply of commercial and industrial properties is standard-rated. The recently developed concept of small office home office (SoHo), small office virtue office (SoVo) and small office flexible office (SoFo) are regarded as commercial properties by the RMC. An acquirer of commercial or industrial properties can claim input tax credit on the GST incurred if he is a GST-registered person.

GST does not have to be accounted for on booking deposits until they are applied to the supply, which usually occurs when the sale and purchase agreement is signed. However, GST is accounted for on the first stage of payment made on the signing of the sale and purchase agreement and then on each of the subsequent progress payments at the earlier of the invoice date and the date payment is received. The date of architect certification on the degree of completion is irrelevant.

Income tax

Income of any person, including a company, accrued in or derived from Malaysia is subject to income tax. The self-assessment system is applicable and the assessment of income tax is based on a current year basis. Chargeable income is derived after adjusting for allowable expenses incurred in the production of the income, capital allowances and incentives, where applicable.

The following sources of income are liable to tax:

- Gains and profits from a trade, profession and business
- Gains or profits from employment (salaries, remunerations, etc.)
- Dividends, interests or discounts
- Rents, royalties or premiums
- Pensions, annuities or other periodical payments
- Other gains or profits of an income nature

Section 34 of the Income Tax Act 1967 allows specific provisions for bad or doubtful debts. However, no deduction for book depreciation is allowed, although capital allowances are granted. Unabsorbed business losses may be carried forward indefinitely to offset against business income including companies with pioneer status, provided that the cessation of the period falls on or after September 30, 2005.

Corporate taxation

A company, whether resident or not, is assessed 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. Resident and non-resident companies are taxed at 25 percent on taxable income. Pursuant to the Budget issued by the government for 2015, it has been proposed that the corporate income tax rate be reduced to 24 percent. Resident small and medium-sized companies [i.e., companies capitalised at MYR 2.5 million (USD 702,460) or less] are taxed at -19 percent on the first MYR 500,000 (USD 140,492) chargeable income, with the balance at the corporate tax rate of 24 percent. These changes will be effective from the Year of Assessment 2016. Nevertheless, the corporate tax rate is remained as 25 percent and for small and medium sized enterprises is remained as 20 percent on the

first MYR 500,000 (USD 140,492) chargeable income, with the balance at 25 percent on the remaining chargeable income in the Year of Assessment 2015.

Personal taxation

The rate of tax of an individual depends on the individual's resident status, which is determined by the duration of his or her stay in Malaysia. Generally, an individual who is in Malaysia for at least 182 days in a calendar year is regarded as a tax resident. 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.

A resident individual is taxed on his chargeable income after deducting personal reliefs at a graduated scale ranging from 0 percent to 26 percent. Non-resident individuals are liable to tax at a rate of 26 percent without any personal relief. However, a non-resident individual can claim rebates in respect of fees paid to the government for the issuance of an employment work permit.

Pursuant to the budget issued by the government for 2015, it is proposed that the income tax rates for resident individuals are to be reduced by 1–3 percent. For non-resident individuals, income tax rate is to be reduced by 1 percent from 26 percent to 25 percent. These changes will be effective from Year of Assessment 2015.

Tax treaties: Avoidance of double taxation

As at September 24, 2013, the effective Double Taxation Agreements, which seek to avoid double taxation by defining the taxing rights of each country with regard to cross-border flows of income and providing for tax credits or exemptions are as follows:

Albania	Finland
Argentina*	France
Australia	Germany
Austria	Hong Kong
Bahrain	Hungary
Bangladesh	India
Belgium	Indonesia
Brunei	Iran
Canada	Ireland
China	Italy
Chile	Japan
Croatia	Jordan
Czech Republic	Kazakhstan
Denmark	Korea, Republic
Egypt	Kuwait
Fiji	Kyrgyz, Republic

Laos	Seychelles
Lebanon	Singapore
Luxembourg	South Africa
Malta	Spain
Mauritius	Sri Lanka
Mongolia	Sudan
Morocco	Sweden
Myanmar	Switzerland
Namibia	Syria
Netherlands	Taiwan
New Zealand	Thailand
Norway	Turkey
Pakistan	Turkmenistan
Papua New Guinea	United Arab Emirates
Philippines	United Kingdom
Poland	United States of America*
Qatar	Uzbekistan
Romania	Vietnam
Russia	Venezuela
San Marino	Zimbabwe
Saudi Arabia	

* Limited Agreement

More details on taxation can be obtained at www.mida.gov.my and www.hasil.gov.my

Real estate investment trusts (REIT)

Introduction

The Securities Commission issued a new set of guidelines on REITs on August 21, 2008 ("New REITs Guidelines"), which supersedes the earlier REIT Guidelines issued on January 3, 2005. The New REITs Guidelines were last updated on December 28, 2012.

Equity structure of REIT manager

Following the measures announced in Budget 2008 to encourage foreign REIT managers to set up operations in Malaysia and list their REITs on Bursa Malaysia, the New REITs Guidelines now allow up to 70 percent foreign shareholding in the REIT manager. The REIT Guidelines updated on July 13, 2011 introduced an eligibility requirement for a management company of a REIT to have a minimum of 30 percent local equity.

Permitted investments

Instead of having different thresholds for listed and unlisted REITs, the New REITs Guidelines has prescribed one threshold for both listed and unlisted REITs, that is, at least 50 percent of

a REIT's total asset value must be invested in real estate and/or single-purpose companies at all times. However, investment in non-real estate-related assets and/or cash, deposits and money market instruments must never exceed 25 percent of a REIT's total asset value. In addition, REIT managers are given more freedom to manage their REITs' portfolio mix, including investment in foreign real estate.

Investment in real estate where it does not have a majority ownership and control is permitted provided that their respective requirements are met. To safeguard investors' interest, a REIT is not allowed to conduct:

- Activities of extension of loans and any other credit facility
- Acquisition of vacant land
- Property development

However, the restriction on property development does not apply to refurbishment, retrofitting, renovations or extensions carried out on existing real estate within a fund's investment portfolio.

Borrowings and raising fund by issuance of units

Subject to certain rules of the New REITs Guidelines, REIT managers are now able to raise funds speedily for acquisitions or capital expenditure purposes. The New REITs Guidelines expressly permits a REIT, in addition to other conventional means of financing from licenced institutions, to raise funds through the issuance of debentures. Total borrowings of a fund should not exceed 50 percent of the total asset value of a REIT at the time the borrowings are incurred. Where this limit is exceeded, the sanction of unit holders by way of an ordinary resolution is required. To secure borrowings, the REIT manager may pledge the fund's property with the consent of the REIT trustee. In relation to the issue of units for cash (other than rights issues) concerning a listed REIT, REIT managers are only required to seek a general mandate via a resolution in a general meeting from unit holders for issuance of units up to 20 percent of its fund size (subject to certain requirements).

The New REITs Guidelines specifically prohibit new REIT units from being placed to interested persons of the REIT manager, persons connected to the said interested persons, or nominee companies. Otherwise, the REIT manager must obtain unit holders' approval for the precise terms of such issue or placement, and interested persons must also abstain from voting on the resolution.

Special tax exemptions for REITs

Generally, after deducting tax allowable expenses, a REIT income comprising rental, interest and other investment income derived from or accrued in Malaysia will be taxable at the normal corporate tax rate of 25 percent. Nevertheless a REIT is exempted from such taxes in an assessment year if the REIT distributes at least 90 percent of its total taxable income to its unit holders in the same assessment year.

Special treatment has been accorded to the taxation of rental income from the letting of real property received by REIT. Rental income is now treated as business income, but there are limitations imposed.

Where 90 percent or more of the REIT's total taxable income is distributed, dividends paid by the REIT to its unit holders will be subject to a withholding tax as follows:-

- A 10 percent withholding tax – all individuals and non-corporate investors, such as institutional investors (regardless of whether they are tax resident or not)
- A 25 percent withholding tax – non-resident company (incorporated body)

The above reduced withholding tax of 10 percent on individual and non-corporate investors was initially available up to December 31, 2011 only. The government has now extended the incentives for a period of five years, commencing January 1, 2012 up to December, 31 2016.

The withholding tax will be withheld by the REIT before paying out the dividends to unit holders. In other words, unit holders will be receiving dividends, net of withholding tax.

All instruments of transfer or assignment relating to the purchase of real property between a REIT and the vendor are exempted from stamp duty.

Gains on disposal of investments by a REIT will not normally be subject to income tax. However, where the investments represent real property and shares in real property companies, then such gains will be subject to RPGT. With effect from January 1, 2014, a company is required to pay RPGT of 30 percent when a disposal is made within three years after the date of acquisition, 20 percent in the fourth year, 15 percent in the fifth year and 5 percent in the sixth year and beyond, on the gains of disposal of share in real property companies. Likewise, a foreigner is required to pay RPGT of 30 percent when disposal of shares is made within five years and 5 percent in the sixth year and beyond.

GST

For the services supplied by a management company of a REIT, the management fee will be subject to GST at 6 percent from April 1, 2015.

Services provided by the property manager to a REIT are property management services, lease management services and marketing services. These services are subject to GST at 6 percent as well.

For GST purposes, the services of a trustee to a REIT are also subject to GST at 6 percent.

An investor is entitled to receive income distributions from the REIT. The income distribution in the form of dividend is not subject to GST. For REIT units listed and traded on Bursa Malaysia, the buying and selling of REIT units is also an exempt supply and is not subject to GST. However, any brokerage commission or clearing fee on the buying and selling of the REIT units is subject to GST at 6 percent. The investor is not entitled to claim the GST incurred on the buying and selling of the REIT units since it is an exempt supply.



Common Terms of Lease for Tenancy Agreements

Unit of measurement	
Unit of measurement	Square Feet (Sq Ft) of Gross Floor Area and Net Lettable Area (NLA) as defined by Uniform Method of Measurement of Buildings (The Institution Of Surveyors Malaysia)
Rental payments	
Rents	Net Rent – MYR/Sq Ft/Month of Net Lettable Area Gross Rent – MYR/Sq Ft/Month of NLA, inclusive of service charge Service Charge – Between MYR 1 – 2 /Sq Ft/Month of NLA
Typical lease term	3 years or longer
Frequency of rent payable (in advance)	Monthly
Typical rent deposit (expressed as x months rent)	3 months
Security of tenure	For the duration of the tenancy, no guarantee beyond the original lease term
Does tenant have statutory rights to renewal	No
Basis of rent increases or rent review	Open market rental value (Fixed increases are less common)
Frequency of rent increases or rent review	Every 3 years
Service charges, operating costs, repairs and insurance	
Responsibility for utilities	Electricity and telecommunication consumption are usually separately metered and payable by each tenant
Car parking	Allocation is usually on a per sq ft ratio based on 1 parking lot per 1000 sq ft leased
Responsibility for internal repairs	Tenant
Responsibility for repairs of common parts (reception, lifts, stairs, etc)	Landlord (charged back via service charge)
Responsibility for external/structural repairs	Landlord
Responsibility for building insurance	Landlord
Disposal of leases	
Tenant subleasing & assignment rights	Generally full assignment to third parties is accepted (subject to landlord approval)
Tenant early termination rights	Only by break clause
Tenant's building reinstatement responsibilities at lease end	Renistated to original condition

Source: JLL



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