

If you are planning on [doing business in Malaysia](#) knowledge of the investment environment and information on the legal, accounting and taxation framework are essential to keep you on the right track.



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Foreword

SJ Grant Thornton is a member firm within Grant Thornton International. SJ Grant Thornton was established in 1974 and ever since, has progressed expeditiously in every aspect. We provide innovative, yet practical advice in a range of assurance, tax and specialist services to privately held businesses and public interest entities. Today, we are ranked as one of the leading accounting and consulting firms in Malaysia. We operate from our main office in Kuala Lumpur and other offices in Penang, Johor Bahru and Kuantan.

Grant Thornton International is one of the world's leading organisations of independently owned and managed accounting and consulting firms providing assurance, tax and specialist advice to privately held businesses and public interest entities.

The strength of each local firm is reflected in the quality of the international organisation. All Grant Thornton International member firms share a commitment to providing the same high quality service to their clients wherever they choose to do business.

This guide has been prepared for the assistance of those interested in doing business in Malaysia. It does not cover the subject exhaustively but is intended to answer some of the important, broad questions that may arise. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Malaysia and to obtain appropriate accounting and legal advice. This guide contains only brief notes and includes legislation in force as of Feb 2011.

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Country Profile

Geography and population

Malaysia occupies a central position in South East Asia, with a land area of approximately 330,000 square kilometres (127,000 square miles) and is divided into 2 distinctive land masses – Peninsular Malaysia and East Malaysia. Peninsular Malaysia borders Thailand to the North and is separated from Singapore to the South by the Straits of Johore. East Malaysia is part of Borneo and shares its borders with Brunei and Indonesia.

Malaysia is a multi-racial country with an estimated population of 28.31 million (Source: National Statistics Department, 31 July 2009). Malays who make up about 50.4% of the population are the predominant group with Chinese, Indians and other ethnic groups making up the rest. Islam is the state religion but freedom of religion is guaranteed by the Constitution.

Political and legal system

Malaysia has 13 states and three federal territories, i.e. Kuala Lumpur, Putrajaya and Labuan, governed directly by the federal government of Malaysia. Kuala Lumpur is the Malaysian capital, while Putrajaya is Malaysia's administrative capital.

Nine of the 13 states have hereditary rulers. From these states (Perlis, Kedah, Kelantan, Terengganu, Pahang, Selangor, Negeri Sembilan and Johor), the Head of State of Malaysia, the King or Yang Di-Pertuan Agong, is elected every five years.

The government is a parliamentary democracy based upon universal suffrage. The executive powers are vested in the head of government, the Prime Minister, who presides over the Cabinet, comprising the government ministers. The majority party is the Barisan Nasional.

The Parliament is comprised of two houses: The Dewan Rakyat, which is fully elected, and the Dewan Negara (Senate) to which members are nominated by the Agong (King). Senate members are citizens who have given distinguished public service, have distinguished professional careers, or who represent the interests of racial minorities and aboriginal peoples.

Each state has a Chief Minister (Menteri Besar) who is elected to office, together with a State Assembly.

Languages

Bahasa Malaysia is the official and national language, but English is widely used for business and in the tourist industry. Mandarin and Tamil are also familiar local languages, and are taught concurrently with Bahasa Malaysia and English in the education system.

Business hours/time zone

Government offices operate from 8 am to 4.15 pm (Kuala Lumpur operates up to 4.45 pm), with a one-hour lunchtime, extended to 2.5 hours on Fridays.

Private offices generally run on a normal eight hours a day system, from 9 am to 5 pm, with some offices open for half day on Saturdays. Many large shopping complexes are open seven days a week between 10 am to 10 pm.

Banking hours are generally between 9.30 am to 4.30 pm on weekdays and 9.30 am to 12.00 pm on Saturdays. However, only selected branches are opened on the 2nd and 4th Saturdays of each month.

The exceptions are the states of Kedah, Kelantan and Terengganu, where Friday is the weekly holiday instead of Sunday. Therefore, government offices, banks and most shops are closed.

Malaysia is 8 hours ahead of Greenwich Mean Time (GMT).

Public holidays

New Year*, Hari Raya Aidiladha*, Federal Territory Day **, Chinese New Year *, Awal Muharam*, Maulidur Rasul*, Labour Day*, Wesak*, King's Birthday*, National Day* Deepavali# Hari Raya Aidilfitri* Christmas*

Note: (*) - National Holidays (**) - Putrajaya, Kuala Lumpur & Labuan only (#) - except Labuan & Sarawak

Economy

GDP growth - 6% (2010) (f) (Source: Economic Planning Unit)

Malaysia is a fast growing economy with liberal market policies aimed at promoting trade, entrepreneurship, industrial and economic development. Initiatives undertaken by the government and the private sector have always been investor-centric and business-friendly with the aim of encouraging market development. This has transformed Malaysia into one of the most dynamic business environments in South East Asia

Major economic activities in Malaysia includes manufacturing, export trade, services, tourism, commodities such as petroleum, palm oil, natural rubber and timber are Malaysia's economic activities. Information technology is also a growing industry

The major trading partners of Malaysia are United States, Singapore, Japan, People's Republic of China, Thailand, Hong Kong, South Korea Germany, and Indonesia.

Living standards

Malaysia has one of the highest standards of living in the region with all the modern infrastructure and facilities in place. The whole country is very well connected with up-to-date and modern road, rail, air and sea transportation systems. Public transport by buses, taxis, trains and planes are comfortable, efficient and relatively low in cost.

Regulatory environment

Summary

Malaysia has made major changes to its capital markets to boost foreign investments, cutting Bumiputera equity quotas for share offerings and in fund management firms while trimming the role of a powerful but conservative panel overseeing such investments.

Restrictions on foreign ownership

Foreign interest is not allowed to acquire:

1. Residential units valued less than RM250,000 per unit;
2. Properties other than residential units valued less than RM500,000 per unit;
3. Residential units under the category of low and low-medium cost as determined by the State Authority;
4. Properties built on Malay reserved land; and
5. Properties allocated to Bumiputera interest in any property development project as determined by the State Authority.

Conditions for Acquisition

Conditions for the acquisition of property are 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 RM100,000 paid-up capital; and Local company owned by foreign interest to have at least RM250,000 paid-up capital.

Government approvals and registration

The Companies Commission of Malaysia (CCM) serves as an agent to the Government in collecting and enforcing payment of prescribed fees, regulate matters pertaining to the incorporation of companies and business registration, promote ethical conducts amongst directors, company secretaries, managers and personnel who are directly involved in the management of a company or business and carry out research on matters relating to corporations, companies and businesses.

Exchange control

The foreign exchange administration rules in Malaysia are aimed at providing an appropriate framework that will influence capital flows and facilitate currency risk management to promote financial and economic stability of the country.

The rules complement the overall macroeconomic policies and are reviewed regularly in line with the changing environment. Reviews are aimed at reducing the cost of doing business, improving regulatory delivery system and encouraging better risk management activities by residents and non-residents as well as promoting the development of domestic foreign exchange market to promote stability in the financial system and economy of the country.

All rules are applied uniformly to transactions with all countries, except the State of Israel for which special restrictions apply.

Government incentives

Tax incentives are provided under the Promotion of Investment Act 1986 and the Income Tax Act 1967. The main incentives are as follows:

- Pioneer status
- Investment tax allowance
- Reinvestment allowance
- Industrial adjustment allowance
- Double deduction of expenses (given in respect of certain expenses if the conditions imposed are satisfied)
- Approved agricultural projects incentives
- Research and development incentives
- Industrial building allowance
- In bound tour operators incentives
- Incentive for approved overseas investments
- Incentives for overseas construction projects
- Operational Headquarters Incentives
- Labuan International Offshore Finance Centre

Finance

Summary

Finance and Banking sector in Malaysia is regulated by Bank Negara Malaysia. Bank Negara Malaysia is the central bank of the country (established on 26 January 1959) under the Central Bank of Malaya Act 1958 (Revised – 1994). The Bank reports to the Minister of Finance, Malaysia and keeps the Minister informed of matters pertaining to monetary and financial sector policies.

The objectives of the Bank Negara Malaysia:

- To issue currency and keep reserves safeguarding the value of currency
- To act as a banker and financial adviser to the Government
- To promote monetary stability and a sound financial structure; and
- To influence the credit situation to the advantage of the country.

Banking system

The banking system, comprising commercial banks, investment banks, and Islamic banks, is the primary mobiliser of funds and the main source of financing to support economic activities in Malaysia. The non-bank financial intermediaries, comprising development financial institutions, provident and pension funds insurance companies, and takaful operators, complement the banking institutions in mobilising savings and meeting the financial needs of the economy.

Imports

Summary

Malaysian legal provision in importation and exportation are stipulated in the Malaysian Customs Act 1967 and Customs Regulations 1977. The main concept of legal provisions is to apply customs control procedures in importation and exportation

Importation means to bring or cause to be brought into Malaysia by land, sea or air.

Import restrictions

Imports from South Africa and Israel are prohibited, and imports from the People's Republic of China require special permits. Knives, radio communication equipment, and firecrackers are prohibited for security reasons, and pornographic materials are also banned. Special permits are needed for the import of munitions, automobiles, chemicals, certain pharmaceuticals, plants, soil, tin ore and certain essential foodstuffs. There are severe penalties for importing illegal narcotics.

Customs duties

In Malaysia, import duty is mostly imposed ad valorem although some specific duties are imposed on a number of items. Nevertheless, in line with trade liberalisation, import duties on a wide range of raw materials, components and machinery have been abolished, reduced or exempted.

Furthermore, Malaysia is committed to the ASEAN Common Effective Preferential Tariffs (CEPT) scheme under which all industrial goods traded within ASEAN are imposed import duties of 0% to 5%.

Malaysia continues to participate in negotiations of free trade arrangements in areas of trade in goods, rules of origin, and investments. To date, Malaysia has concluded a bilateral free trade agreement with Japan under the Japan-Malaysia Economic Partnership Agreement, and the regional agreements under ASEAN- Republic of Korea FTA, and ASEAN-China FTA. Import duties between FTA partners are subject to specific reduction and elimination schedules under these agreements.

Business entities

Summary

Malaysia offers excellent opportunities and incentives to foreign investors who are willing to meet the challenges in the years ahead. Foreign company means a corporation, society, association or other body incorporated outside Malaysia which under the law of its place of origin may sue and be sued. A foreign company cannot carry on business in Malaysia unless it incorporates a local company or register the company in Malaysia.

Companies

There are generally three types of companies operating in Malaysia: companies limited by shares; companies limited by guarantee; and foreign branches.

Sole proprietorships

These are basically one-owner businesses. Before commencement of a business under a sole proprietorship, an interested person must seek registration with the Registrar of Business under the Registration of Business Ordinance 1965. (this option not available to foreign investors)

Partnerships

These are business concerns consisting of not less than two and not more than 20 partners. Registration must be formalised at the Registrar of Business also under the Registration of Business Ordinance 1965. (also not available to foreigners unless in very specific professional capacity e.g solicitors etc.)

Requirements for incorporating a company

All businesses must first seek approval and be registered with the Companies Commission of Malaysia (CCM). Only after this and on receipt of the certificate of incorporation can a company commence operations. All companies in Malaysia are governed by the Companies Act 1965. Companies limited by shares are the most popular and preferred vehicle as they are legal entities. Only Malaysians who are residents in Malaysia or foreigners who are permanent residents in Malaysia may register a sole proprietorship or a partnership.

Restriction of companies

The most important criterion for the setting up of a company is local participation. All companies must have at least two directors who are principally residing in Malaysia. The minimum authorised capital is RM100,000.

Fees

Fees are payable to the CCM for incorporation of companies and submission of forms and returns. The amount involved is dependent on the value of the authorised capital and the type of form lodged.

Foreign companies

Foreign branch companies must be formally registered with the CCM before commencing business in Malaysia. They are allowed to engage in a wide range of businesses in Malaysia except some and in some instances approval must first be obtained from the Domestic Trade Division, Ministry of International Trade and Industry.

Labour

Summary

Malaysia's important resource lies in its youthful labour force which is diligent, disciplined, educated and readily trainable. Though labour cost in Malaysia is low relative to the industrialised countries, labour productivity and quality standards are high.

Wages

Workers covered under the Employment Act 1955 are all workers whose earnings do not exceed RM1,500.00 a month and all manual workers irrespective of their earnings. If you are a foreign worker legally employed in this country, you are also covered under the Employment Act 1955.

Malaysia has no statutory minimum wage. The wages paid is subject to negotiations between an employer and an employee, or between a trade union and an employer.

However, under the Wages Councils Ordinance 1947, certain categories of occupations (not unionized) are subjected to a **minimum wage** (shop assistants, hotel and catering industry workers, Penang stevedores and cargo handlers, and cinema workers). Currently, the minimum wage for these groups of employees is RM250 per month.

Social Security

The Employee Provident Fund is a social security institution formed according to the Laws of Malaysia, Employees Provident Fund Act 1991 (Act 452) which provides retirement benefits for members through management of their savings in an efficient and reliable manner. Members of this fund are Private and Non-Pensionable Public Sector employees.

A mandatory contribution, 23% of the employee's monthly wages of which 11% is from the employee's monthly wage while 12% is contributed by the employer and will be credited to member's individual accounts in the EPF.

The monthly contributions are invested in a number of approved financial instruments to generate income. They include Malaysian Government Securities, Money Market Instruments, Loans & Bonds, Equity and Property.

The EPF ensures that the savings are secure and receive reasonable dividends. A minimum of 2.5 Per Cent Dividend is guaranteed annually. Dividends are paid annually into your account. The dividend rate declared by the EPF is subject to the returns from investments made in the approved instruments.

Pensions

Only applicable for Government servants.

Fringe benefits**Holiday pay**

An employee should be entitled to paid holidays of not less than 10 days in a year.

Sick pay

An employee should be entitled to paid sick leave of not less than the following:

- less than 2 years service - 14 days in each calendar year.
- more than 2 years but less than 5 years - 18 days in each calendar year.
- 5 years or more - 22 days in each calendar year.

Workers' compensation

The Social Security Organization (SOCSO) protects workers against industrial accident including accident occurred while working, occupational diseases, invalidity or death due to any cause. SOCSO also provide vocational and physical rehabilitation benefits and enhance occupational safety and health awareness of workers.

Healthcare

Employer is usually legally obliged to bear medical examination fee if his employee has worked for him for one year or more.

Personnel limitations - foreigners/nationals

All persons entering Malaysia must possess valid national passports or other internationally recognised travel documents valid for travel to Malaysia. These documents must be valid for at least six (6) months beyond the date of entry into Malaysia.

Those with passports not recognised by Malaysia must apply for a document in lieu of the passport as well as a visa issued by Malaysian missions abroad.

Visa requirements

Commonwealth citizens (except India, Bangladesh, Pakistan, Sri Lanka, Cameroon, Mozambique and Nigeria), ASEAN countries, Switzerland, Netherlands, San Marino and Liechtenstein do not need a visa to enter Malaysia.

Citizen of Algeria, Argentina, Austria, Bahrain, Belgium, Bosnia-Herzegovina, Brazil, Croatia, Cuba, Czech Republic, Denmark, Egypt, Finland, France, Germany, Hungary, Iceland, Italy, Japan, Jordan, Kyrgyzstan, Kuwait, Lebanon, Luxembourg, Norway, Oman, Poland, Qatar, Romania, Saudi Arabia, South Korea, Sweden, Slovakia, Tunisia, Turkey, Turkmenistan, United Arab Emirates, USA, Uruguay and Yemen do not require a visa for a visit not exceeding three months.

Citizens of Afghanistan, Iran, Iraq, Libya and Syria do not need a visa for a visit not exceeding two weeks.

Employment of expatriate personnel

It is the Government's policy to see that Malaysians are eventually trained and employed at all levels of employment. Notwithstanding this, foreign companies are allowed to bring the required personnel in areas where there is a shortage of trained Malaysians to do the job. In addition to this, foreign companies are also allowed certain "key posts" to be permanently filled by foreigners.

Companies should make every effort to train more Malaysians so that the employment pattern at all levels of the organisation will reflect the multi-racial composition of the country.

Financial reporting and audit

The framework

The Financial Reporting Foundation (FRF) is established under the Financial Reporting Act 1997, and together with the Malaysian Accounting Standards Board (MASB), make up the new framework for financial reporting in Malaysia.

The new framework comprises an independent standard-setting structure with representation from all parties in the standard-setting process, including preparers, users, regulators and the accounting profession.

The FRF as a trustee body, has the responsibility for the oversight of the MASB performance, financing and funding arrangements, and as an initial source of views for the MASB on proposed standards and pronouncements. It has no direct responsibility with respect to standard setting as this responsibility rests solely with the MASB.

Accounting requirements

The MASB uses the International Financial Reporting Standards (IFRS) as a basis for most of its standards. All financial statements prepared in pursuant to any law administered by the Securities Commission, the Central Bank of Malaysia and the registrar of companies will have to comply with MASB-approved accounting standards, which have the force of law.

The law empowers the Companies Commission of Malaysia, the Bursa Malaysia Securities Bhd and the Securities Commission to monitor compliance with MASB Standards.

Recognising that companies have different information needs, MASB announced that there are now 2 sets of accounting standards. The 2 sets of accounting standards are Financial Reporting Standards (FRS) which are applicable for public listed companies, their subsidiaries, associates, or companies jointly controlled by them and Private Entity Reporting Standard (PERS) for private entities. This move would reduce the burden of small and medium sized entities in complying with financial reporting standards. Hence, private entities now have the option of applying the full set of FRS or PERS in its entirety.

MASB has announced on 1 August 2008 that by 1 January 2012, all approved accounting standards applicable to entities other than private entities will converge fully with IFRS. This convergence plan will not affect private entities that are currently applying the PERS.

Tax

Summary

Malaysia's taxes are assessed on current year basis and are under self-assessment system for all taxpayers. There are two types of taxes, i.e. direct and indirect.

Direct taxes:

- Income tax
- Real property gains tax
- Petroleum income tax
- Stamp duty
- Others

Indirect taxes:

- Excise duty
- Import and export duty
- Sales tax
- Service tax
- Others

All income accrued in, derived from or remitted to Malaysia are liable to tax. However, income of any person (other than a resident company carrying on the business of banking, insurance or sea or air transport) derived from sources outside Malaysia and received in Malaysia is exempted from tax.

Companies

Liability to tax and Tax rates

Companies are subject to tax on non-exempted income or profit derived from Malaysia as follows:

- For companies with paid up capital of not more than RM2.5 million, the income tax rate is 20% on the first RM500,000 of chargeable income and 25% thereafter subject to conditions.*
- For companies with paid up capital of more than RM2.5 million, the income tax rate is at the flat rate of 25%.

* Does not apply to a company which 50% of its paid up capital is directly or indirectly owned by a company which has a paid up capital of more than RM2.5 million.

Groups

A company may surrender not more than 70% of its adjusted (current year) loss to one or more than one of its related companies under the group relief provision subject to various conditions being fulfilled.

Filing of tax returns

All companies must file their tax returns within 7 months from the end of the accounting period.

Use of losses

With effect from year of assessment 2006, a company with substantial change in the shareholders of the company or in the ultimate shareholders of the company will not be allowed to carry forward its unabsorbed losses and unabsorbed capital allowances, if the company is a dormant company.

Dividends

Dividends are declared gross, less tax at the rate of 25% based on imputation system. The underlying tax of 25% is offset against the domestic shareholders' total tax liability.

The imputation system will be phased out in the year 2014 and fully replaced by the single tier system.

Withholding tax

Withholding tax is imposed on payments to non-residents in respect of the following:-

Types	Tax Rate %
Interest	15
Royalties	10
Payments to non-resident contractors, consultants or professionals	3 and 10
Remuneration of public entertainer	15
Payment for use of property or installation or operation of plant and machinery	10
Technical fees (services provided on-shore)	10
Rent on moveable property	10
Other income (commission, guarantee fee, etc.)	10

Effect of treaties

The above withholding tax rates may be reduced subject to provisions in the double taxation agreement.

Foreign income

With effect from year of assessment 2004, individuals, trusts, co-operatives and resident corporations will be tax exempt on foreign source income received in Malaysia from outside Malaysia. Hence, there is no requirement to compute bilateral relief. However, banking, shipping, insurance and air transport companies continue to be assessed on worldwide income and therefore bilateral relief is still applicable.

Individuals

Expatriates taking up employment in Malaysia will be subject to Malaysian taxes.

Tax rates

Income of resident taxpayers is subject to tax at graduated tax rates after the deduction of personal relief as shown below:

Chargeable Income (RM)	Tax rate	Tax Payable (RM)
First 2,500	0	0
Next 2,500	1	25
On 5,000		25
Next 5,000	3	150
On 10,000		175
Next 10,000	3	300
On 20,000		475
Next 15,000	7	1,050
On 35,000		1,525

Next 15,000	12	1,800
On 50,000		3,325
Next 20,000	19	3,800
On 70,000		7,125
Next 30,000	24	7,200
On 100,000		14,325
Next 50,000	26	13,000
On 150,000		27,325
Next 100,000	26	26,000
On 250,000		53,325
Exceeding 250,000	26	

Residence criteria

An individual is resident in Malaysia for the basis year for a particular year of assessment if:

- (a) he is in Malaysia in that basis year for a period or periods amounting in all to one hundred and eighty-two days or more;
- (b) he is in Malaysia in that basis year for a period of less than one hundred and eighty-two days and that period is linked by or to another period of one hundred and eighty-two or more consecutive days;
- (c) he is in Malaysia in that basis year for a period or periods amounting in all to ninety days or more, having been a resident in Malaysia or in Malaysia for a periods amounting in all to ninety days or more with respect to each of any three of the basis years for the four years of assessment immediately preceding that particular year of assessment; or
- (d) he is resident in Malaysia for the basis year for the year of assessment following that particular year of assessment, having been so resident for each of the basis years for the three year of assessment immediately preceding that particular year of assessment.

Taxation of non-residents

Non-resident individual is taxed at a flat rate of 26%.

Payment dates

For employment income, it is mandatory for an employer to deduct tax from the monthly remuneration of each of the employees, both locals and expatriates for remittance to the Malaysian Inland Revenue Board (MIRB). The amount of tax is based on the Schedular Tax Deduction issued by the MIRB.

Tax returns

An individual with no business income has to file an income tax return by 30 April each year.

Sales tax

Sales tax shall be computed and paid by –

- (a) any taxable person who carries on a business in Malaysia, whether for profit or otherwise, in respect of taxable goods manufactured by him in the course of such business;
- (b) any person who imports taxable goods into Malaysia, in respect of such goods.

Rates

Sales tax rate varies from 5% to 10%.

Returns

Every taxable person shall within 28 days after the end of each taxable period (two calendar months) deliver a return in the prescribed form.

Other taxes

Stamp duty

Stamp duty is chargeable on certain types of instruments and documents. The rate of duty varies according to the nature of the instruments and documents as well as the transacted values.

Property taxes/Capital gains tax

Capital gain on disposal of real properties and shares of a real property company is subject to Real Property Gains Tax (RPGT) at the rate of 5%, if they are disposed of within 5 years of the date acquisition of such chargeable assets. If the chargeable asset is disposed of after 5 years from the date of acquisition, RPGT is exempted.

Estate tax/inheritance tax

There is no estate tax/inheritance tax in Malaysia.

Tax treaties

Double taxation agreements provide for the avoidance of incidence of double taxation on international income such as business profits, dividends, interest, royalties, etc. To date, Malaysia has signed such tax treaties with the following countries:

Albania	Italy	San Marino
Argentina *	Japan #	Saudi Arabia
Australia #	Jordan	Senegal **
Austria	Kazakhstan**	Seychelles
Bahrain	Kuwait	Singapore
Bangladesh	Kyrgyz	South Africa
Belgium #	Lebanon	South Korea
Bosnia and Herzegovina**	Luxembourg	Spain
Canada	Malta	Sri Lanka
Chile	Mauritius	Sudan
China	Mongolia	Sweden
Croatia	Morocco	Switzerland
Czech Republic	Myanmar	Syria
Denmark	Namibia	Thailand
Egypt	Netherlands #	Turkey
Fiji	New Zealand	Turkmenistan
Finland	Norway	United Arab Emirates
France #	Pakistan	United Kingdom
Germany	Papua New Guinea	USA *
Hungary	Philippines	Uzbekistan
India	Poland	Venezuela**
Indonesia #	Qatar	Vietnam
Ireland #	Romania	Zimbabwe **
Iran	Russia	

* Limited double tax treaty

** DTA not yet entered into force

Protocol which amends limited articles of the treaty has been gazetted but not entered into force

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