

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

This guide is designed to give an insight into doing business in Malaysia together with relevant background information which will be of assistance to organisations considering setting up a business there.

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.

The most common way of doing business is through Malaysian incorporated companies which could be subsidiaries of foreign companies, and the information has been produced mainly with these entities in mind. Other business structures exist and in some situations may be more appropriate. Some entities such as banks and insurance companies are subject to special regulations, which are not dealt with in this booklet.

This guide contains only brief notes and includes legislation in force as of **31 January 2005**.

Grant Thornton in Malaysia

Shamsir Jasani Grant Thornton is the Malaysian member of Grant Thornton International, one of the world's leading organisations of accounting and consulting firms, providing assurance, tax and specialist advice to fast-growing, entrepreneurial people and businesses.

Employing more than 200 staff, Shamsir Jasani Grant Thornton operates in four offices across Malaysia: Kuala Lumpur, Kuantan, Johor Bahru and Penang.

The strength of each firm is reflected in the quality of our international organisation, operating in 109 countries, bringing together 22,000 personnel in around 540 offices worldwide. All Grant Thornton firms share a commitment to providing the same high quality service to their clients wherever they choose to do business.

If you require any further information, please do not hesitate to contact your nearest Grant Thornton office.

Country profile

Geography

Malaysia occupies a central position in South East Asia, with a land area of 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.

Climate

The country is situated at the southern part of the tropics and has a wet tropical climate with warm and humid weather all year round. Temperatures range from 21-35 degree Celsius. Annual rainfall varies from 2000mm to 2470mm.

Time Zone

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

Population

Malaysia is a multi-racial country with an estimated population of 25.99 million (Source: National Statistics Department, 31 January 2005). Malays who make up about 66% 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.

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.

Currency

The Malaysian unit of currency is Ringgit Malaysia (RM), which is divided into 100 sen. Since September 1998, the currency has been pegged to the US Dollar at the exchange rate of RM3.80 per one US Dollar.

Federal capital

Kuala Lumpur

Administrative centre

Putrajaya

Political system

Malaysia has 13 states and two federal territories, i.e. Kuala Lumpur and Labuan. 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.

Legal system

The supreme law of the nation is a written federal constitution, which can only be amended by a two-thirds majority in Parliament.

Malaysia's judiciary is independent, with judicial power vested in the High Court of Malaya, and the High Court of Borneo, headed by Chief Justices; with the Federal Court having exclusive jurisdiction to determine appeals. The Lord President is Head of the Judiciary.

The basis of the Malaysian legal system is English common law, a legacy of British colonial history. The High Court has jurisdiction over all criminal and civil matters, while the Court of Appeal hears appeals from the High Court. The Federal Court, in turn, hears appeals from the Court of Appeal, and has jurisdiction over constitutional law matters. The paramount ruler on the advice of the Prime Minister appoints judges to the Supreme Court. Traditional Islamic law is applied to Muslims with respect to personal status matters.

Business hours

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 3.30 pm (local banks close at 4.00 pm) on weekdays and 9.30 am to 11.30 am on Saturdays. However, banks are closed on the 1st and 3rd 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.

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.

Cost of living

Cost of living is one of the lowest in the Asia and will remain so for a very long time. This is achieved through the government's efficient monitoring of the economy in ensuring that inflation is kept low at all times and thereby also the prices of goods and services.

Business environment

Economy

The manufacturing sector is the main engine of growth and accounts for 30.8% of Malaysia's GDP while exports of manufactured goods make up 82% of the country's total exports. From being the world's largest producer of rubber and tin, Malaysia is today one of the world's leading exporters of semiconductor devices, computer hard disks, audio and video products and room air-conditioners. Tourism and primary commodities such as petroleum, palm oil, natural rubber and timber are also major contributors to its economy.

Malaysia's rapid industrialisation was the result of the country opening itself relatively early in the 1960s to foreign direct investments (FDI). Agencies that assist by encouraging investment are the Malaysian Industrial Development Authority (MIDA), the Heavy Industries Corporation of Malaysia (HICOM) and State Economic Development Corporations (SEDCs).

Continuous economic growth

The Malaysian economy has performed remarkably well over the years due to the country's political stability, the sound financial and economic policies adopted by the government, and the efficient management of its natural resources which include oil and gas.

In the last three years, the Malaysian economy recorded a creditable performance despite the unprecedented volatility in the global economy and uncertainties arising from international terrorism, wars in Afghanistan and Iraq, and the outbreak of the Severe Acute Respiratory Syndrome. Through fiscal stimulus and accommodative monetary policies, the government was able to sustain growth due to the expansion in domestic demand and promotion of domestic sources of growth. From a GDP growth rate of only 0.4% in 2001, the Malaysian economy recovered strongly to register growth rates of 4.2% and 5.3% in 2002 and 2003 respectively.

In 2004, the Malaysian economy registered a healthy growth of 7.1%. With the global economic expansion expected to be sustained at a steady pace in 2005, the growth prospect for Malaysia remains favourable in 2005. Growth would be driven by the private sector as the public sector consolidates its fiscal position, and would be continued to be achieved amidst low inflation.

Multimedia Super Corridor (MSC)

The next decade will see a greater emphasis on human resource enhancement as availability of skilled and knowledge workers is a major pre-requisite to transform Malaysia from a production-based into a knowledge-based economy.

In line with this vision, the Multimedia Super Corridor (MSC) was conceptualised in 1996 and has since grown into a thriving dynamic ICT hub, hosting more than 900 multinationals, foreign-owned and home-grown Malaysian companies focused on multimedia and communications products, solutions, services and; research and development.

Why Malaysia?

Malaysia has always been an attractive market for foreign investors due to its conducive business environment as follows:

(a) Economic strength

Malaysia is a country on the move. From a country dependent on agriculture and primary commodities in the sixties, Malaysia has today become an export-driven economy spurred on by high technology, knowledge-based and capital-intensive industries.

(b) Supportive government policies

Government policies that maintain a business environment with opportunities for growth and profits have made Malaysia an attractive manufacturing and export base in the region. The private sector in Malaysia is encouraged to become partners with the public sector in achieving the nation's development objectives.

(c) An educated workforce

Malaysia offers investors a young, educated and productive workforce at very competitive costs. Malaysia's literacy rates are high at 94% and school leavers entering the job market have at least 11 years of basic education.

(d) Developed infrastructure

Malaysia's persistent drive to develop and upgrade its infrastructure has resulted in one of the most well-developed infrastructure among the newly industrialising countries of Asia.

(e) A vibrant business environment

Malaysia's market-oriented economy, supportive government policies and a large local business community that is ready to do business with international corporations have made Malaysia a highly competitive manufacturing and export base.

(f) Quality of life

Malaysia is among the most friendly and hospitable places in the world to work and live in, while Malaysians are warm, friendly people who easily accept foreigners into their circle of friends.

Finance

Exchange Control

Malaysia continues to implement selective exchange control policies introduced since 1 September 1998, albeit with some major modifications to enhance their effectiveness. Hence, there is complete free movement of funds for all foreign investment in Malaysia, including the equity market. The exchange control policies of Malaysia are applied uniformly to transactions with all countries except Israel, Serbia and Montenegro for which special restrictions apply.

Regulations on capital flows are liberal with policies aimed at monitoring the settlement of payments and receipts as well as encouraging the use of the country's saving for productive purposes. Approval requirements for large inflows and outflows are mainly for prudential reasons to ensure financial stability.

Bank Negara Malaysia

Bank Negara Malaysia (BNM) is the central bank of Malaysia, and is responsible for maintaining monetary stability and ensuring a sound financial system. Towards this, BNM regulates and supervises the Malaysian banking system, development finance institution and insurance companies. BNM also issues the Malaysian currency (the Ringgit), acts as a banker and economic and financial adviser to the government, administers the country's foreign exchange control regulations, and acts as lender of last resort to the banking system.

Commercial banks

The commercial banks are the main players in the banking system. There are 23 commercial banks operating in Malaysia, of which almost half are domestic.

Finance companies

After the commercial banks, finance companies are the next largest mobilisers of deposit funds from Malaysia. There are 7 finance companies now in Malaysia and their role in the development of the country has increased significantly.

Merchant banks

There are 10 merchant banks in Malaysia, offering full range of special financial services which not only complement but also supplement those already offered by the other two main types of financial institutions.

Islamic banks

Malaysia also has 3 Islamic banks which provide banking services based on Islamic principles. In addition to the Islamic banks, there are also 13 commercial banks that offer products and services under the Islamic banking scheme.

Incentives for investment

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

Incentives for the manufacturing sector

(a) Main incentives

- Pioneer status
- Investment tax allowance

(b) Incentives for High Technology Companies

(c) Incentives for Strategic Projects

(d) Incentives for Small and Medium Scale Companies

(e) Incentives to Strengthen Industrial Linkages

(f) Incentives for the Machinery and Equipment Industry

(g) Incentives for Automotive Component Modules

(h) Enhanced Incentives for the Utilisation of Oil Palm Biomass

(i) Additional Incentives for the Manufacturing Sector

- Reinvestment allowance
- Accelerated capital allowance
- Tax exemption on the value of increased exports

Incentives for the agricultural sector

(a) Main incentives

- Pioneer status
- Investment tax allowance
- Incentives for food production
- Incentives for reinvestment in food processing activities

(b) Additional Incentives for the agricultural sector

- Reinvestment allowance
- Reinvestment incentives for resource-based industries
- Incentives for modernising chicken and duck rearing
- Accelerated capital allowance
- Agricultural allowance
- Accelerated agriculture allowance for the planting of rubberwood trees
- 100% allowance on capital expenditure for approved agricultural projects
- Tax exemption on the value of increased exports
- Incentives for companies providing cold chain facilities and services for food products
- Deduction for expenses to obtain “halal” certification and quality certification and accreditation

Incentives for the tourism industry

(a) Main incentives

- Pioneer status
- Investment tax allowance
- Additional incentives for hotels and tourism projects
- Incentives for luxury yacht industry

(b) Additional Incentives for the tourism industry

- Double deduction on overseas promotion
- Double deduction on approved trade fairs
- Tax exemption for tour operators
- Tax exemption for promoting international conferences and trade exhibitions
- Deduction on cultural performances
- Incentive for car rental operators

Incentives for environmental management

- (a) Incentives for forest plantation projects
- (b) Incentives for the storage, treatment and disposal of toxic and hazardous wastes
- (c) Incentives for energy conservation
- (d) Incentives for waste recycling activities
- (e) Incentives for the use of renewable energy resources
- (f) Additional incentives for environmental management
 - Accelerated capital allowance

Incentives for research and development

Incentives for training

Incentives for information and communication technology

Incentives for approved service projects

Incentives for the shipping and transportation industry

Incentives for manufacturing related services

Incentives for the multimedia super corridor

Incentives for a knowledge-based economy

Incentives for operational headquarters

Incentives for the regional distribution centres

Incentives for international procurement centres

Incentives for representative offices and regional offices

General incentives**(a) Industrial building allowance****(b) Infrastructure allowance****(c) Tariff related incentives**

- Exemption from import duty on raw materials/components
- Exemption from import duty and sales tax on machinery and equipment
- Exemption from import duty and sales tax on spares and consumables
- Drawback of import duty, sales tax and excise duty
- Sales tax exemption

(d) Incentives for export

- Double deduction for the promotion of exports
- Single deduction for the promotion of exports
- Double deduction on export credit insurance premiums
- Special industrial building allowance for warehouses
- Double deduction on freight charges
- Double deduction for implementation of RosettaNet
- Double deduction for the promotion of Malaysian brand names
- Tax exemption on the value of increased exports in the services sector

(e) Training incentives**(f) Incentives for acquiring proprietary rights****(g) Incentives for acquiring a foreign-owned company****(h) Incentives for the use of environmental protection equipment****(i) Donations for environmental protection****(j) Incentives for employees' accommodation****(k) Incentives for employees child care facilities**

Business entities

The following are the principal forms of business entity through which business can be conducted in Malaysia:

- Companies
- Sole proprietorships
- Partnerships

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.

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.

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.

Restriction of companies

The most important criterion for the setting up of a company is local participation. All companies must have at least two resident directors and one secretary, who should be Malaysians. 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 companies 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. In the case of a branch of a foreign company, it must be formally registered with the CCM before it commences business in Malaysia.

Immigration requirements

Passport requirements

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

Those who are in possession of passports which are not recognised by Malaysia, must apply for a document in lieu of a passport as well as a visa which is 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, Kyrgystan, Kuwait, Lebanon, Luxembourg, Norway, Oman, Poland, Qatar, Romania, Saudi Arabia, South Korea, Sweden, Slovakia, Tunisia, Turkey, Turkesmenistan, 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

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 Accounting Standards (IAS) 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, the Bursa Malaysia and the Securities Commission to monitor compliance with MASB Standards.

In order to keep abreast with the developments worldwide, as well as to streamline the local MASB standards to the international standards, the existing MASB standards have now been renamed Financial Reporting Standards (FRS) effective 1 January 2005. This is consistent with similar move by other countries in this region to change the name of their standards. This also reflects the Financial Reporting Foundation (FRF) and MASB's commitment to the initiatives taken by the International Accounting Standards Board (IASB) in developing a set of global accounting standards.

In addition to the name change, MASB will also change the numbering of the standards to correspond to those of the international standards. The change will take effect for financial statements covering the period beginning on or after 1 January 2005.

Tax

Malaysia's taxes are assessed on a current year basis and are under self-assessment system for all corporate 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

Indirect taxes:

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

Scope of change

Malaysian taxation is based on "derived and remittance basis" or "territorial scope". That is, only income derived from Malaysia or received in Malaysia from outside is subject to income tax.

Corporate tax

(a) Corporate tax rate

Before year of assessment (YA) 2003, both resident and non-resident companies were subject to tax at the flat rate of 28% on all income or profit derived from Malaysia. With effect from YA 2004, for companies with paid up capital of less than RM2.5 million, the income tax rate is 20% on the first RM500,000 of chargeable income and 28% thereafter.

For companies with paid up capital of more than RM2.5 million, the income tax rate remains at 28%.

(b) Withholding tax

The above tax is payable on the following types of payments made to non-resident:

Types	Tax Rate
Interest paid to a non-resident person	15%
Royalties	10%
Payments to non-resident contractors, consultants or professionals	10% and 3%
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 movable property	10%

The above rates may be reduced if the recipient is a resident of a country which has a double taxation agreement in Malaysia.

Taxation of individuals**(a) Personal reliefs**

Residents are entitled to the following personal reliefs:

Personal reliefs	RM8,000
Wife/Husband (in case of joint assessment)	RM3,000
Children	RM800 per child
Disabled children	RM5,000 per child
Contribution to approved funds/Life assurance	Actual contributions but including life assurance premium paid should not exceed RM5,000
Medical/Education insurance	Subject to a maximum claim of RM3,000
Medical expenses incurred for parent	Subject to a maximum claim of RM5,000
Expenditure incurred by a disabled individual in the purchase of necessary basic supporting equipment for his use or for the use of his wife, child or parent who is disabled.	Subject to a maximum claim of RM5,000

(b) Tax rebates

Resident individuals are entitled to the following rebates if the chargeable income does not exceed RM35,000.

Husband	RM350 (additional RM350 for wife in the case of joint assessment)
Wife	RM350

(c) Personal 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	Rate	Tax
2,500	0	0
2,500	1	25
5,000		25
5,000	3	150
10,000		175
10,000	3	300
20,000		475
15,000	7	1,050
35,000		1,525
15,000	13	1,950
50,000		3,475
20,000	19	3,800
70,000		7,275
30,000	24	7,200
100,000		14,475
50,000	27	13,500
150,000		27,975
100,000	27	27,000
250,000		54,975
Over 250,000	28	

(d) Non-resident individuals

Non-resident individuals are generally not entitled to any personal reliefs and they are subject to tax on income derived from Malaysia at the flat rate of 28%.

Other taxes

(a) Real property gains tax

Real property gains tax is applicable to companies, partnerships and individuals. It is a tax on chargeable gain accruing on the disposal of any real property and shares in real property companies in Malaysia.

Companies	Tax rates
Disposal within two years of acquisition	30%
Disposal in the 3 rd year after acquisition	20%
Disposal in the 4 th year after acquisition	15%
Disposal in the 5 th year after acquisition and subsequent years	5%

Individuals	Tax rates
Disposal within two years of acquisition	30%
Disposal in the 3 rd year after acquisition	20%
Disposal in the 4 th year after acquisition	15%
Disposal in the 5 th year after acquisition	5%
Disposal in the 6 th year after acquisition and subsequent years	Nil

Disposal by an individual who is not a citizen or permanent resident	Tax rates
Disposal within 5th year after acquisition	30%
Disposal in the 6th year after acquisition or thereafter	5%

(b) Double taxation agreements

Malaysia has bilateral double taxation agreements with the following countries:

Albania *	India	Pakistan
Argentina	Ireland	Papua New Guinea
Australia	Islamic Republic of Iran *	Romania
Austria	Japan	Russia
Bangladesh	Jordan	Saudi Arabia
Bahrain	Korea, Republic	Seychelles *
Belgium	Kyrgyz, Republic *	Sri Lanka
Canada	Lebanon *	Sudan *
China	Luxembourg *	Switzerland
Croatia *	Malta	Singapore
Czech Republic	Mauritius	Sweden
Denmark	Mongolia	Taiwan
Egypt	Morocco *	Thailand
Fiji	Myanmar *	Turkey
France	Namibia *	United Kingdom
Finland	New Zealand	United Arab Emirates
Germany	Netherlands	USA
Hungary	Norway	Vietnam
Indonesia	Poland	Uzbekistan
Italy	Philippines	Zimbabwe *

* Agreements with the following countries are not yet entered into force.

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