

New section 6D (effective from YA 2021) of the Malaysia Income Tax Act 1967, as amended (ITA)-Budget 2020. (Tax rebates for newly commenced business of a company or limited liability partnership only)

The ITA 1967 has introduced a new section 6D into Act 53 to provide for a tax rebate that will be granted to a start-up **company or limited liability partnership** (but has excluded sole proprietors and unincorporated partnerships) which fulfils the conditions and requirements as follows:

- a) **the rebate is** the amount **equivalent to its operating or capital expenditure** which it has incurred limited to a maximum amount of twenty thousand ringgit [**RM20,000**] for each year of assessment (YA),
- b) where the **total amount of the rebate** under subsection (1) **exceeds the income tax charged** (before any such rebate) for any YA, **the excess shall not be paid** to the company or limited liability partnership, **or be available** as credit to **set off the tax liability** of the company or limited liability partnership for that YA or any subsequent YAs,
- c) the **company or limited liability partnership** referred to in subsection (1) **shall be a company or limited liability partnership resident and incorporated or registered in Malaysia—**
 - i. which has a paid-up capital in respect of ordinary shares or contribution of capital (whether in cash or in kind) of two million and five hundred thousand ringgit and less at the beginning of the basis period for a YA (& the Malaysian Inland Revenue Board (MIRB) has confirmed that companies with paid-up capital below RM2.5 million but wholly owned by a parent company with paid-up capital exceeding RM2.5 million may not qualify for this rebate +)
 - ii. which has a gross income from a source or sources consisting of a business not exceeding fifty million ringgit for the basis period for that YA,
 - iii. a newly incorporated entity **must commence operations within 01/07/2020 till 31/12/2021** and closed its first financial year any time in 2021 to be eligible for one year to three (3) consecutive years of tax rebate.

+ in addition, a Company that is not eligible for the rebate includes an entity with paid-up capital below RM2.5 million and with annual sales of not more than RM50 million, would also have to fulfil the condition of not being **owned directly or indirectly** by:

- i. Companies that have paid-up capital of more than RM2.5 million
- ii. Multinational companies; or
- iii. Government Linked Companies.

Additional conditions imposed among others are:

- i. the newly established entity must operate in a different premise than that of its related company (if applicable);
- ii. the new entity must use a different plant, equipment and facility than that of any related company and the plant, equipment and facility are not transferred from any related company (if applicable);
- iii. all employees (not including key personnel) must be different employees than that of any related company (if applicable);
- iv. partnership or company that changes into Limited Liability Partnership or vice versa is not eligible.

If all the above conditions/requirements are not fulfilled to qualify, the company or limited liability partnership for the tax rebate, the entitlement for that YA, and subsequent YA(s) shall cease. However, it shall not affect the rebate that was claimed in prior years (when the qualifying conditions were met).

	Qualify to claim tax rebate		
	1st YA	2nd YA	3rdYA
Qualifying conditions not met in 1st YA.	No	No	No
Qualifying conditions met in 1st YA but not met in 2nd YA	Yes	No	No
Qualifying conditions met in 1st and 2nd YAs but not met in 3rd YA.	Yes	Yes	No
Qualifying conditions met in 1st and 3rd YAs but not met in 2nd YA.	Yes	No	No

This amendment has effect for the YA 2021 and subsequent YAs specified in the new section 6D and such conditions imposed by the Minister in the statutory order published in the Gazette. **(Pending revision once the gazette is available)**