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Renewable Energy Programmes and Fiscal Incentives

Contact Persons:

Ooi Bee Hong
Partner

+603 6209 5401
beehong@rdslawpartners.com

Chia Loong Thye
Partner

+04 370 1122
ltchia@rdslawpartners.com

Ong Eu Jin
Partner

+603 6209 5488
eujin@rdslawpartners.com

Tan Gek Im
Partner

+04 370 1122
gekim@rdslawpartners.com

Annabel Kok Keng Yen
Senior Associate

+603 6209 5400
annabel@rdslawpartners.com

In recent years, global leaders have become increasingly conscious of the importance of utilizing indigenous renewable energy resources to enhance the green economy and facilitate sustainable socio-economic development. In Malaysia, the government has set an ambitious goal to generate 20% of energy consumption from renewable sources by 2025. In line with the nation's goal, multiple fiscal incentives have been introduced to stimulate the growth and interest in the renewable energy sector in Malaysia.

This alert sets out some of the latest renewable energy programmes in Malaysia and highlights various fiscal incentives and schemes available to local and foreign investors.

Renewable Energy Programmes

Solar photovoltaic (PV) panels are becoming a common staple in many households around the world.¹ In Malaysia, a wide range of renewable energy programmes which have been implemented by governmental authorities have attracted investments from existing industry players and new potential investors.

- **Net Energy Metering (NEM)²**

Introduced since 1 January 2019, the enhanced NEM programme launched by the Sustainable Energy Development Authority of Malaysia (SEDA) provides a mechanism whereby pursuant to an NEM Contract between

¹ EdgeProp, 'Go Solar and Save on your Electricity Bill' (25 May 2019) <<https://www.edgeprop.my/content/1541671/go-solar-and-save-your-electricity-bill#:~:text=For%20domestic%20customers%2C%20it%20offers,conventional%20electricity%20tariffs%20in%20future>>.

² SEDA, 'Net Energy Metering (NEM)' <<http://www.seda.gov.my/reportal/nem/>>.

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the consumer / prosumer and the Distribution Licensee,³ any energy that is generated from solar PV systems will be consumed first, and any excess energy produced thereafter are exported back to the utility grid on a “one-on-one” offset basis.⁴

In this regard, consumers / prosumers may install solar PV systems by way of entering into a power purchase agreement (PPA) with solar investors, through the solar leasing programme, or a hybrid of both, as offered by solar investors.

Alternatively, consumers / prosumers may enter into a tripartite agreement named Supply Agreement for Renewable Energy (SARE) with the solar investor and Tenaga Nasional Berhad (TNB), allowing the consumer / prosumer to lease the solar PV system from the solar investor without incurring substantial upfront payment.

Due to the proven success of the NEM2.0 programme in reducing electricity cost and the surge in demand of consumers / prosumers who wish to benefit from the scheme, the government has extended the one-on-one credit offset scheme with a total quota allocation of up to 500MW, from 1 February 2021 to 31 December 2023 for domestic consumers, ministries and government agencies.⁵ As for businesses, the government has introduced the Net Offset Virtual Aggregation (NOVA) programme which allocates a quota of 300MW for commercial premises and industries.⁶

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³ SEDA, ‘Guidelines for Solar Photovoltaic Installation on Net Energy Metering Scheme’ <<https://efit.seda.gov.my/?omaneg=0001010000000101010100010000100000001010001000110&id=2846>>.

⁴ SEDA, ‘Benefits of NEM’ <<http://www.seda.gov.my/reportal/nem2/>>.

⁵ The Edge Markets, ‘Cover Story: Malaysia still needs to incentivise solar adoption’ (1 April 2021) <<https://www.theedgemarkets.com/article/cover-story-malaysia-still-needs-incentivise-solar-adoption>>.

⁶ SEDA, ‘Net Energy Metering (NEM) 3.0’ <<http://www.seda.gov.my/reportal/nem/>>.

- **Large Scale Solar (LSS)⁷**

Large Scale Solar (LSS) is a scheme introduced and administered by the Energy Commission of Malaysia which selects prospective developers through competitive bidding to develop, maintain and operate large scale solar PV power plants for purposes of driving down the Levelized Cost of Energy.

In respect of LSS4, the government has shortlisted a list of 30 bidders to develop solar farms, with export capacity ranging from 10mw to 50mw. However, owing to the COVID-19 pandemic which has disrupted global supply chains and the surging costs of solar projects due to an increase in demand for solar modules, market observers commented that bid winners with bids of 17.68 to 24.81 cent per kWh may face challenges in operating their plants profitably.⁸

Fiscal Incentives

The government has offered various fiscal incentives, some of which are outlined below to encourage investments from the private sector.

- **Green Investment Tax Allowance (GITA): Green Technology Assets & Projects**

Introduced during the Budget 2014 on 25 October 2013 and extended via Budget 2020 until 2023,⁹ the government had agreed to provide investment tax allowance of 100%, subject to the satisfaction of eligibility requirements, to:

- companies that acquire qualifying green technology assets for their own consumption; and

⁷ SEDA, 'Large Scale Solar (LSS)' <<http://www.seda.gov.my/reportal/large-scale-solar/>>.

⁸ The Edge, 'Cover Story: LSS4 awards: Boon or bane for winners?' (1 April 2021) <<https://www.theedgemarkets.com/article/cover-story-lss4-awards-boon-or-bane-winners>>.

⁹ SEDA, 'Financial Incentives for Green Technology as Announced Under Budget 2020' <<http://www.seda.gov.my/policies/other-related-fiscal-incentives/>>.

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- (b) companies that undertake qualifying green technology projects for their own consumption.¹⁰

- **Green Technology Financing Scheme (GTFS) 2.0**

The Green Technology Financing Scheme (GTFS) is a financing scheme offered to investors to promote green investments by providing easier access to financing and at a lower financing cost.¹¹

On 6 March 2019, the Ministry of Finance had approved the launching of GTFS 2.0 with an allocation of RM 2 billion for the period of January 2019 up to 31 December 2020. The Scheme offers a rebate of 2% p.a. on interest or profit rate charged by financial institutions for the first seven years with 60% government guarantee on green technology component cost.¹²

Although applications relating to GTFS 2.0 have closed, it has been announced during the tabling of the 2021 Budget by the Finance Minister on 6 November 2020 that RM2 billion has been allocated to GTFS 3.0 for the period between 2021 to 2022. However, there has been no news on when GTFS 3.0 will be implemented.

Key Considerations For Landlords & Tenant

Moving forward, landlords and tenants are advised to consider the following issues:

- (a) Whether the lease / tenancy agreement should provide that a tenant has the right to build installations on the property or its rooftop or otherwise?;
- (b) If so, whether the installation of the solar PV panels on the rooftop of the property may infringe the rights of any neighbouring third parties, such as blocking

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¹⁰ MyHijau, 'Green Incentives' <<https://www.myhijau.my/green-incentives/>>.

¹¹ GreenTech Malaysia, 'Guidelines for Green Technology Tax Incentive (GITA/GITE)' <<https://www.myhijau.my/wp-content/uploads/2020/10/REC-GTGT-007-GUIDELINES-FOR-GREEN-TECHNOLOGY-TAX-INCENTIVE.pdf>>.

¹² GreenTech Malaysia 'What is the GTFS 2.0?' <<https://gtfs.my/faq/what-gtfs-20>>.

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ltchia@rdslawpartners.com

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Partner

+603 6209 5488
eujin@rdslawpartners.com

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annabel@rdslawpartners.com



- (c) sunlight or internet signals from reaching a neighbour's property?;
- (d) If the property is an apartment building, whether the landlord / tenant has the right to modify the electrical cabling in the communal risers of the property?; and
- (e) Whether the lease / tenancy agreement expressly prohibits either party from building any solar PV installations on the property?

Conclusion

Given the socio-economic disruptions caused by the COVID-19 outbreak and the unprecedented challenges that lie ahead, it is inevitable that the pace of growth of the green industry will slow down this year. Nevertheless, it is promising to see more investors being brought into the fold and corporations who have already spread their wings here enhance their existing operations following the introduction of the various fiscal policies including subsidies and incentives announced by the Malaysian government to sustainably rebuild the country's economy from the devastating effect of the pandemic.

Authored by our Partner, Ooi Bee Hong and Annabel Kok, Senior Associate in the firm's Corporate & Real Estate Transactions practice.

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