

Part 1: Pioneer Status

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Pioneer Status – Who Qualify?

- ◆ Company or person
- ◆ Desirous of establishing or participating in a promoted activity or of producing a promoted product
- ◆ existing company desire to engage in a new promoted activity or producing a new promoted product,
- ◆ Given by product / activity
- ◆ Mutually exclusive with ITA / RA/other tax incentives (other than 2x)

FRS 38 - 2

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Mechanism of Incentives

- ◆ Separate accounts for each activity granted PS/ITA.
- ◆ Abated 70% @ SI = Exempt
 - = Tax exempt account
 - = 2 tier tax exemption
- ◆ Tax relief period: Production day – 5 years / 10 years
 (Stated in Pioneer Certificate)
 (within 24 months from the date of the grant of approval or such extended period)
 PR 10/2023

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Pioneer Status – Tax treatment

After 31.10.91

Pioneer income(#)	70%/100% Statutory income	BA
Tax exempt account	Pioneer income Non-pioneer loss S44(2) Pioneer loss S43/44 (#)	BA (BB) (BC) <u>BD</u>
Eg 23.5, pg 295		Disregard loss i.e. cannot used to set off other income
30% of statutory income	Deemed total income ≠ unabsorbed pioneer loss ≠ non-pioneer loss ≠ tax exempt donation	
Pioneer loss	Set-off against Pioneer Income	

(#)wef 1.1.2019,royalty income/any income derived fr commercial exploitation of intellectual property rights would not be treated as pioneer income. Taxed under ITA

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Pioneer Status – Tax treatment (Cont'd)

After 31.10.91

Unabsorbed CA/losses c/f to post- on pioneer period	Yes CA – indefinite Losses - up to 7 consecutive years)
Non pioneer loss	To set off: 1 st : Pioneer income 2 nd : Balance = normal rules
Pre-pioneer loss	c/f to pioneer or post pioneer period
Pre-pioneer CA	utilised in pioneer period
Pre-pioneer TWDV c/f	c/f to pioneer (deemed incurred in pioneer)

Eg 23.6,pg 296

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Pioneer Status – Tax treatment (Cont'd)

Note :

- ◆ Eligible to accumulate and c/f the following claims to post pioneer period :
 - a. DD on promotion of exports,
 - b. DD on packaging design and
 - c. DD on research and development

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Summary of Tax Incentives

	Pioneer Status	
	Exemption Period (Years)	Restricted to % of statutory income
Project of national and strategic importance / MSC	10	100
Projects in Promoted Areas	5	100
High Technology Company / medical devices testing lab company	5	100
Contract R&D Company	5	100 (must approve by MITI as R & D status)
R&D Company	-	-
In-House R&D	-	-
Technical or Vocational Training Company	-	-
Other Companies	5	70

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Part 2: Investment Tax Allowance

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Investment Tax Allowance – Who Qualify?

- **Company or person**
- **Producing promoted product / engaged in promoted activity**
- **Product or activity granted Pioneer Status ≠ qualify unless Pioneer Status surrendered**
- Retrospective approval (Section 27L, proviso (ii))
commencement of the promoted activity is permitted provided not more than 3 years from the date the application is received
(Example 4 PR 4/2023)
- **Given by products or activities → can enjoy ITA or PS for separate products / activities within the company**

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Investment Tax Allowance - Mechanism of Incentives

- **5 years from date first QE is incurred (within 24 months from the date of the grant of approval or such extended period)**
- **60% on QCE**
- **Restricted to 70% @ SI (including unutilised ITA b/f)**
- **Unutilised ITA can be c/f**
- **Unabsorbed CA and losses can be c/f**
- **Two tier tax exemption = ITA utilised**

Eg 23.7, pg 307

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Qualifying Capital Expenditure

	Manufacturing	Agriculture	Hotels	Tourist Projects
Factory	√			
Plant and machinery (excl. replacement items)	√	√	√	√
Clearing & preparing of land		√		√
Planting of crops		√		√ trees & plants
Provision of irrigation & drainage system		√		
Construction of access roads incl. bridges		√		√
Buildings constructed or purchased - welfare or persons - living accommodation - Structural (improvements on land / structures)		√ √ √	roads & other infrastructure facilities	√ √ √
Birds, animals & other exhibits				√
Construction of hotel building of an approved std (Alteration, extension, renovation)			√	

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Summary of Tax Incentives

	Investment Tax Allowances			
	Period (years)	Rate (% of qualifying CE)	Restricted to % of statutory	
Project of national and strategic importance / MSC	5	100	100	
Projects in Promoted Areas	5	100	100	
High Technology Company / medical devices company	5	60	100	
Contract R&D Company(*)	10	100	70	
R&D Company(*)	10	100	70	
In-House R&D	10	50	70	
Technical or Vocational Training Company	10	100	70	
Other Companies	5	60	70	

* **Must be approved by MITI wef 1.1.2022**

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High Technology Companies

- ◆ High technology companies that have been granted investment tax allowance are required to exclude IP rights income in the computation of the investment tax allowance claimed. Separate accounts are to be kept for such IP rights income.
- ◆ Royalties and other income that are derived from all Intellectual Property (IP) rights owned by the high technology company or where the high technology company is a licensee of the IP rights, are excluded wef 1.7.2021

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Distinction between In-house Research, R&D Company and Contract R&D

	In-house research (S 29F, 26E)	R&D Company (S 29F, 26E)	Contract R&D
Definition	R&D carried on in M'sia within a company for the purpose of its own biz	Company which provides R&D services in M'sia to its related companies or any other company	Company which provides R&D services in M'sia only to a company other than its related comp.
ITA (qualifying capital expenditure)	50%	100%	100%
Period	10 years	10 years	10 years
Amount of ITA to be utilised for each YA	Restricted to 70% of S.I.	Restricted to 70% of S.I.	Restricted to 70% of S.I.

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Distinction between In-house Research, R&D Company and Contract R&D (Cont'd)

	In-house research (S 29F, 26E)	R&D Company (S 29F, 26E)	Contract R&D
Profits abated will be exempt from tax and to be distributed as 2-tier dividend	Yes	Yes	Yes
Any unutilised ITA to be carried forward to future YA	Yes	Yes	Yes
Remarks	<p>S29F(3) of the PIA 1986 seems to imply that in-house R&D is a biz distinct from its manuf'ing activities. Thus, ITA for in house R&D could not be set-off against the profits from its manuf'ing biz. As research is a cost centre it would be a dis-incentive for comp. to carry out in-house R&D</p> <p>Related companies which use the service of the R&D company would not be given a DD incentive (s 34B(2) – principal Act)</p>		

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Definition of Research & Development (s 2)

R&D has been defined to mean

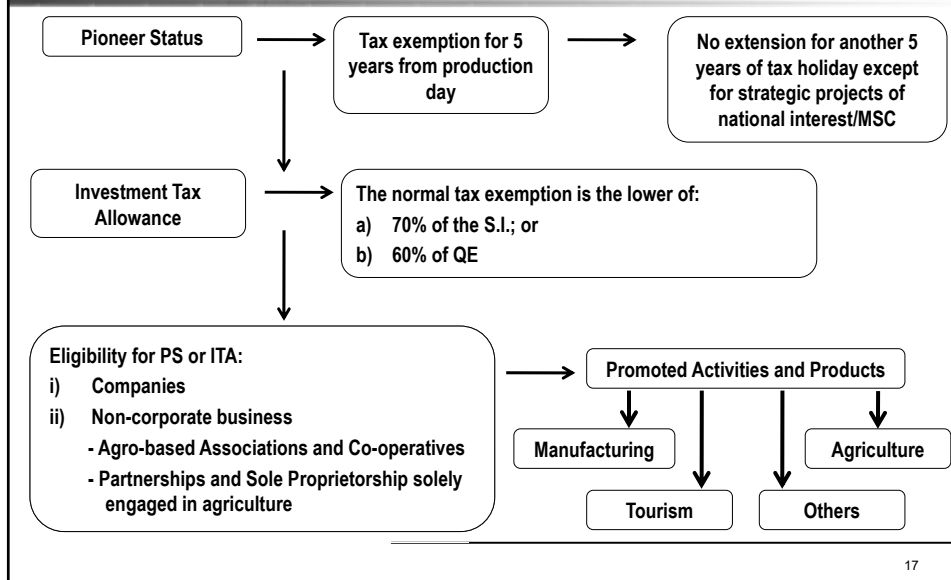
any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the object of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes, but **does not include**—

- (a) quality control or routine testing of materials, devices or products;
- (b) research in the social sciences or the humanities;
- (c) routine data collections;
- (d) efficiency surveys or management studies;
- (e) market research or sales promotion;
- (f) routine modifications or changes to materials, devices, products, processes or production methods; or
- (g) cosmetic modifications or stylistic changes to materials, devices, products, processes or production methods.

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Pioneer Status and ITA



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Choosing The Right Incentive

	PIONEER STATUS	ITA
Projected profit for the 5 year period	Fairly accurate	Not affected if wrongly forecasted
Losses, suffered during the 5 yr period	Affect the tax exempt income.	≠ tax exempt income.
Capital intensive	X	✓
Long Gestation Period	NOT suitable	Not affected
QCE disposed off ≤ 5 years	N/A	ITA clawed back
Tax exempt acct	Depend on the pioneer income of the 5 year period	Depend on the amt of QCE incurred & utilized.. Unutilised ITA claims c/f until fully utilised

Eg 23.8, pg 312

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