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Enhancing Consumer Benefit Via Special Tax Scheme for Social Enterprise

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Abstract

In Malaysia, social enterprises (SEs) are still in their infancy, but they are growing in popularity as more people become aware of the beneficial effects on local communities. SEs in Malaysia are business models that combine the aspects of both non-profit and commercial entities to achieve social or environmental objectives. Business organizations, such as partnerships, corporations, and limited liability partnerships, are used to operate SEs because there is no specific legal entity for SEs in Malaysia. From a Malaysian perspective, tax-exempt status is one of the main challenges encountered by Malaysian social entrepreneurs. Despite the government's efforts to recognize SEs, the problem of taxation for SE has not been resolved because SE still must pay taxes in a manner similar to that of commercial entities. This study aims to provide tax benefits to SE in Malaysia. Although Malaysia revised its laws and accredited SEs, no tax exemption has been provided exclusively for SEs. SEs contributions are meant to improve social welfare, but SEs are not exempt from taxes, such as charitable organizations. SEs business methods and organizational structures, which are comparable to those of commercial companies, lead to the conclusion that SEs are comparable to commercial organizations. The research concludes that by introducing tax exemptions permanently for SEs in Malaysia, customers can benefit from supporting businesses that align with their values, while SEs can benefit from increased support and growth opportunities. Governments can also benefit from a stronger economy and increased social and environmental impacts, making this an attractive policy option for Malaysian society.

Keywords: Social Enterprise; Tax Scheme; Malaysia.

Introduction

Social enterprises (SEs) are business models that combine the aspects of both commercial and for-profit entities to achieve social or environmental objectives. For SEs, the term "SEs" refers to a mission of the organization rather than its legal

framework. In the opinion of certain professionals, is businesses that generate profits for general welfare. However, some claim that the word “SEs” applies to nonprofit organizations that employ efficient business criteria. Other scholars contend that, rather than being intrinsically businesslike, the SEs movement is more entrepreneurial in nature, finding innovative remedies to social problems. According to Dees and Elias, SE may oscillate between being completely charitable (social mission) and being purely commercial (financial mission), echoing the conventional debate on the social goals of the business.¹ In Malaysia, SEs are a growing sector that is gaining traction, as an increasing number of entrepreneurs recognize the potential of using business as a tool for positive social and environmental change.²

The Ministry of Finance (MOF) assigned Malaysian Global Innovation and Creativity (MaGIC) in 2014 with the goal of creating an inclusive SEs ecosystem and technology start-ups with social impact. The Malaysian Social Enterprise Blueprint 2015-2018 was produced by MaGIC with the goal of making SEs a self-sustaining, egalitarian, and people-centric industry. In accordance with this new focus, the Ministry established the Social Enterprise Accreditation Guidelines (SE.A.) To certify legitimate SEs status, enabling them to access support and opportunities provided by the government in an effort to recognize SEs in Malaysia.³ Under these guidelines, there are three main criteria for SEs. To be eligible for this, SEs must (i) proactively create positive or environmental impacts, (ii) contribute significant resources to their social or environmental mission, and (iii) be financially sustainable. The third requirement stipulates that the organization must generate more than 50% of its total revenue by selling goods or services rather than through contributions or grants as a starting point. Once accredited, the organization will be categorized as an

¹ J Gregory Dees and Jaan Elias, ‘The Challenges of Combining Social and Commercial Enterprise’ (2016) 8 Business Ethics Quarterly.[165].

² Shahril Nizam Md Radzi and others, ‘Special Tax Scheme for Malaysia’s Social Enterprise: An Incentive for Public Good’ in Bahaeddin Alareeni, Allam Hamdan and Islam Elgedawy (eds), *The Importance of New Technologies and Entrepreneurship in Business Development: In The Context of Economic Diversity in Developing Countries*, 194 (Springer 2020).

³ Malaysian Global Innovation and Creativity Centre, ‘Social Enterprise Accreditation’ (*Ministry of Entrepreneur Development*, 2019).

Accredited Social Enterprise on an online platform by the Ministry of Entrepreneur Development and Cooperatives (MEDAC), which allows customers and the public to access information on a social enterprise more efficiently. As a result, MEDAC granted 37 SEs in Malaysia full accreditation status, also known as SE.A Plus, as of June 2021.⁴

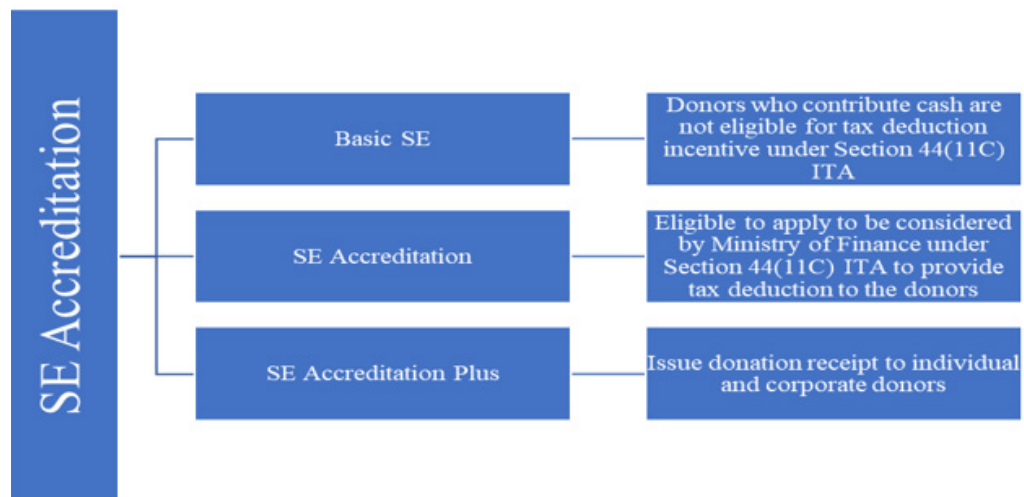


Figure 1. Social Enterprise Accreditation (2019)

SE.A will be implemented in three phases: basic SE, SE Accreditation Status and SE Accreditation Plus. SE.A Plus is the final level of accreditation and certifies the company's SEs status with the approval of the MOF and the Inland Revenue Board (IRB).

In recent developments, the Malaysian government launched the Social Entrepreneurship Action Framework 2030 (SEMy2030).⁵ This action provided a new direction for the development of SEs in Malaysia. Notably, in Malaysia, the previous definition of SEs is "a business entity that is registered under any written law in Malaysia that proactively creates positive social and/or environmental impact in a way that is financially sustainable." The SEs definition for Malaysia has been improved going forward as follows; "a social enterprise is a registered entity under a written law in

⁴ Farah Aida Ahmad Nadzri and others, 'Accountability and Transparency of Accredited Social Enterprises in Malaysia: Website Disclosure Analysis' (2021) 20 *Management and Accounting Review*, [245].

⁵ MEDAC, 'Rangka Tindakan Keusahawanan Sosial Malaysia 2030' (MEDAC, 2022). [1].

Malaysia, purpose-driven and has financially viable business model that addresses social and/or environmental challenges, aiming to achieve positive impacts to its beneficiaries and to the economy.” This definition aligns with the global characteristics of SEs: (i) purpose-driven/mission drive,(ii) financially viable business,(iii) address social and/or environmental challenges, and (iv) achieve a positive impact.

Due to the significance of SEs, the government has temporarily provided tax exemptions through the Malaysia Social Entrepreneurship Blueprint 2030 (SEMy2030 Blueprint). Private companies participating in efforts to empower SEs under the Malaysia Social Entrepreneurship Blueprint 2030 (SEMy2030) will be given an income tax exemption for three years.⁶ This development demonstrates that the Malaysian government recognizes the importance of this tax policy for SEs in Malaysia. However, the tax exemption provided by the government was temporary. To ensure the sustainability of SEs, tax incentives in the form of permanent tax exemptions should be implemented. This study aims to discuss the effectiveness of the tax exemption policy in incentivizing SEs to actively support and collaborate with social entrepreneurs.

Business Organization for Social Enterprise (SEs) in Malaysia

In Malaysia, the Income Tax Act of 1967 (also known as “ITA 1967”) requires a business entity to pay taxes on any income produced by its operations. Given the broad definition of a taxable person under Section 2 of the ITA 1967, the majority of commercial entities are normally subject to taxation. Because there are no specific legal entities for SEs in Malaysia, SEs can be in the form of either business organizations or Non-profit organizations (NPOs).

In Malaysia, the common business organization for SEs include:

1. Sole Proprietor

The sole proprietorship in Malaysia is a type of business structure owned and operated by a single individual. In this type of business, the owner has complete

⁶ Malaymail, ‘Minister: Private Companies Involved in Malaysia Social Entrepreneurship Blueprint 2030 to Be given Tax Exemption’ (*Malaymail*, 2022).

control and responsibility for all aspects of the business, including management, decision making, finances, and operations.

2. Partnership

In Malaysia, a partnership is owned by two or more individuals. According to Section 3 of the Partnership Act 1961, partnership refers to a relationship that subsists between persons carrying on business in common with a view of profit. Partners in this type of business share responsibilities, profits, and losses. A partnership is not a legal entity, and, as such, the partners and the business are not distinct from one another. The partners are personally liable for all liabilities and debts incurred by the businesses. Partnerships are governed by partnership agreements that outline the responsibilities of each partner and how profits and losses are shared. A partnership is not a tax entity under the ITA 1967, and as such, no tax is imposed on the firm. Each partner was treated as if he was the sole proprietor and assessed according to his share of the partnership income.⁷ Formal partnership deeds may govern the rights and obligations of each partner, but this is not obligatory.⁸

3. Limited Liability Partnership (LLP)

A Limited Liability Partnership (LLP) is an alternative business vehicle to carry out business that combines the characteristics of a private company and a conventional partnership. The LLP provides limited liability status to its partners and offers flexibility in internal arrangements through an agreement between the partners. An LLP is a business vehicle that offers simple and flexible procedures in terms of its formation, maintenance, and termination, while simultaneously having the necessary dynamics and appeal to be able to compete domestically and internationally. LLP were also introduced in countries such as the United States of America, the United Kingdom, Singapore, India, and Japan as alternative business vehicles.⁹

⁷ Zuhairah Ariff Abd Ghadas and Engku Rabiah Adawiah Engku Ali, 'Partner's Limited : Limited Liability in Partnership Structure :An Overview of the Common Law and the Shariah' (2009) 1 Shariah Law Reports.

⁸ Malaysia Investment Development Authority, 'General Policies, Facilities and Guidelines', 132 (2021).

⁹ Company Commission of Malaysia, 'Limited Liability Partnership (LLP)' *Company Commission of Malaysia*.

4. Private Limited Company (Sdn Bhd)

In Malaysia, a private company is a separate legal entity from its owners and shareholders and is limited in the number of shareholders it can have (maximum 50). The shareholders of a private company have limited liability for the debts and obligations of the business, meaning that their personal assets are not at risk if the business cannot pay its debts.¹⁰ Private companies in Malaysia must be registered with the Registrar of Companies and must comply with the relevant laws and regulations governing social enterprises in Malaysia.¹¹ The Private Limited Company is one of the most common business entities adopted by businesses, including family businesses¹² and SEs, owing to its attributes.

5. Cooperative Society

In Malaysia, a cooperative society is a legal entity formed by a group of individuals, with the common goal of providing economic and social benefits to their members. These societies were governed by the Cooperative Societies Act of 1993. Under this Act, “co-operative society” is defined as an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically controlled enterprise which is registered under this Act. Cooperative societies can be formed in various sectors such as agriculture, consumer, credit, housing, and transportation. Some of the most common types of cooperative societies in Malaysia include agriculture, consumer, credit housing, and transportation.

The Malaysia Co-operative Commission, a division of the Ministry of Domestic Trade, Co-operatives, and Consumerism, oversees the co-operative industry in Malaysia. A company incorporated under the Co-operative Societies Act 1993,

¹⁰ Halyani Hassan, Zuhairah Ariff Abd Ghadas and Nasarudin Abdul Rahman, ‘The Myth of Corporate Personality: A Comparative Legal Analysis of the Doctrine of Corporate Personality of Malaysian and Islamic Laws’ (2012) 6 Australian Journal of Basic and Applied Sciences.[191].

¹¹ Nor Hayati Abdul Samat and Hasani Mohd Ali, ‘Reviving Shareholders’ Participation in Companies’ Decision-Making in Malaysia’ (2019) 23 Malaysian Journal of Consumer and Family Economics.[73].

¹² Wan Noraini Mohd Salim and Zuhairah Ariff Abd Ghadas, ‘Sustainability of the Family Ownership in a Family Business via Inheritance: An Appraisal with Special Reference to the Malaysian Law’ (2012) 6 Australian Journal of Basic and Applied Sciences.[354].

with the specific purpose of fostering economic interest among its members and based on cooperative principles, could be considered a member of the co-operatives sector in Malaysia.¹³ According to Ewon Benedick, the Minister of Entrepreneur Development and Cooperatives, there are currently 14,975 cooperatives operating in the nation, earning a combined RM of 22.4 billion in revenue.¹⁴

At this juncture, cooperatives are similar to social enterprises, but not all cooperatives fulfil the description of SEs. The key difference lies in their target beneficiaries. SEs are distinct, as their target beneficiaries include poor, marginalized, and vulnerable groups, as well as animal welfare and the environment. Cooperatives On the other hand, are member-centric and based on their common interests. The lack of clear guidelines for cooperatives presents a challenge in recognising them as SEs.

According to the findings of the British Council, 43% of people opted to register as private companies limited by shares (Sdn Bhd). This is consistent with earlier findings, according to which 48% of social enterprises were registered in this category. The sole proprietorship registration type was the second most common type of registration (19%). In terms of paperwork and following the law, these two options are regarded as least complicated and burdensome.¹⁵



Figure 2. Business Organization for Social Enterprise in Malaysia

¹³ Hafizah Hammad Ahmad Khan and others, ‘Factors Affecting Performance of Co-Operatives in Malaysia’ (2016) 65 International Journal of Productivity and Performance Management.[641].

¹⁴ Yong Siew Chuen, ‘Tax Planning: So, You Want to Start Your Own Business ...’ (*The Edge Markets*, 2021).

¹⁵ British Council Malaysia and ESCAP, ‘The State of Social Enterprise in Malaysia 2018’ (2018).

It is important to note that the best legal entity for a social enterprise depends on factors such as ownership structure, liability protection, and tax implications.

Non-Profit Organization (NPOs)

Non-profit organizations (NPOs) are essential to the success of every society because they satisfy the demands of the general population.¹⁶ NPOs are a class of taxpayers in Malaysia who also pay taxes. Even if the tax payment is modest compared to other organizations, it has grown over time. NPOs in Malaysia that generate RM 1 million or more in revenue can register as companies limited by guarantees with the Companies Commission of Malaysia (CCM), which is governed by the Companies Act 2016. However, NPOs with less than RM 1 million in revenue must register with the Ministry of Home Affairs Registrar of Societies Malaysia (ROS), as mandated by the Societies Act of 1966.¹⁷

In general, non-profit organizations (NPOs) are associations, charities, trusts, and other volunteer organizations created with the intention of improving society through the creation of social value.¹⁸ In Malaysia, certain NPOs can be registered under particular acts (e.g., the Sports Commission Act, the University and University Colleges Act 1971, and Youth Commission). In addition, they can apply for the Companies Act 2016 registration.¹⁹

In Malaysia, NPOs registered under the Registry of Society (ROS) are regulated under the Societies Act of 1966, and their financial statements are not subject to audit. Societies are governed by the Societies Act of 1966 and Societies

¹⁶ N. Syed Ali and Fong Yew Ong, 'Non-Profits in Malaysia : Perception of Accountability and Reporting Framework', *4th UUM International Qualitative Research Conference* (2020).

¹⁷ Khairiah Ahmad, Nor Aishah Mohd Ali and Siti Hawa Shuid, 'Taxable and Non-Taxable Non-Profit Organization (NPO): An Exploratory Study in Malaysia' [2017] Proceedings of the 29th International Business Information Management Association Conference - Education Excellence and Innovation Management through Vision 2020: From Regional Development Sustainability to Global Economic Growth.[1053].

¹⁸ Norliza Omar and others, 'Effectiveness, Accountability and Understanding Board Characteristics of Non-Profit Organisations in Malaysia' (2016) 15 *Management & Accounting Review (MAR)*. [1].

¹⁹ Saunah Zainon and others, 'Legitimacy and Sustainability of Social Enterprise : Governance and Accountability', *Procedia - Social and Behavioral Sciences* (Elsevier BV 2014).

Regulations of 1984 within the Ministry of Home Affairs.²⁰ NPOs registered under the CCM are incorporated under the Companies Act 2016 as a company limited by guarantee (CLBG) for which all financial statements must be audited.

To operate in Malaysia, NPOs type of SEs must be registered as either a society under the Societies Act of 1966, under the jurisdiction of the Registrar of Societies, or as charitable corporations under the Companies Act of 2016, subject to the jurisdiction of the Registrar of Companies, which is housed within the Companies Commission of Malaysia.²¹

The Inland Revenue Department (IRD) of Malaysia is a competent authority for granting tax exempt status. On the other hand, these organizations may be charitable organizations that can formally apply to the IRD for tax exemptions under Section 44(6) of the ITA 1967. The IRD imposes two conditions on these organizations to qualify for tax exempt status: (1) the organization must be incorporated in Malaysia exclusively for charitable purposes, and (2) the organization must spend at least 50% (or a percentage determined by the Director-General) of its income, including donations received in the previous year, on activities approved to achieve its objectives for the base period of an assessment year paragraph 3.4 section 44(6).²²

In Malaysia, NPOs consist of NPOs with or without charitable status. The main difference between a non-profit organization with charitable status and one without is the tax treatment and regulatory oversight that they receive. NPOs with charitable status are typically registered under the Malaysian Societies Act of 1966 and are eligible for tax-exempt status. To be recognized as charity, an organization must meet certain criteria, such as having a clear charitable purpose and being registered with the Registrar of Societies. Charitable organizations are also subject to additional regulatory requirements and reporting obligations.

²⁰ Syed Ali and Ong (n 16).

²¹ Ummu Kolsome Farouk and Mok Siew Wing, 'Drivers and Challenges of a NGO Type Social Enterprise in Malaysia: A Narrative Study' (2019) 22 Malaysian Journal of Consumer and Family Economics.[43].

²² Saunah Zainon and others, 'Institutional Donors ' Expectation of Information from the Non-Profit Organizations (NPOs) Reporting : A Pilot Survey' (2011) 6 International NGO Journal. [170].

NPOs that are registered with the Registrar of Societies (ROS) and recognized as charitable organizations by the Malaysian government are generally eligible for tax exemptions and other incentives and may also be able to receive donations that are tax-deductible for the donor. These organizations are typically subject to greater regulatory oversight and reporting requirements to ensure that they operate in a transparent and accountable manner.

NPOs without charitable status are typically registered under the Companies Act of 2016 and are not eligible for tax-exempt status. These organizations are not required to have a charitable purpose and may engage in a wide range of activities, including advocacy, research, and community development. Non-profit organizations without charitable status are also subject to regulatory requirements and reporting obligations. NPOs' charitable status is still able to operate in Malaysia, but they are generally not eligible for tax exemptions or incentives. These organizations may also be subject to less regulatory oversight and reporting requirements than those with charitable status, although they are still required to comply with the relevant laws and regulations governing non-profit organizations.

Both types of NPOs play an important role in Malaysian society and contribute to the development of the country.²³ Charitable organizations are particularly important, as they are able to access additional resources and support from the government and other organizations to carry out their activities. However, NPOs without charitable status are also important as they can focus on a wide range of social issues and provide a platform for advocacy and awareness-raising on important social issues.

In summary, the main difference between an NPO with charitable status and one without in Malaysia is the tax treatment and regulatory oversight they receive, with charitable organizations generally receiving more favorable treatment in these areas.

²³ Abdul Rahman Tatyana Aspen, 'Corporate E-Law Alert'. [603].

Table 1. Tax Treatment

	Non Profit Organization with Charitable Status	Non Profit Organization without Charitable Status
Tax Treatment	Enjoy Tax Exempt benefit	Tax exemption is only for charitable activities income

All registered NPOs, whether operating under CCM or ROS, have the noble objective of delivering social services rather than maximizing profits. In many areas, including the environment, humanitarian aid, animal protection, education, arts, social issues, charities, early childhood education, healthcare, politics, religion, research, and sports, non-profit organizations (NPOs) play a significant role in assisting governments in providing social services.²⁴

Tax Treatment for Commercial Entities, Charitable Organization and Social Enterprise in Malaysia

In Malaysia, tax treatments are discussed in the Federal List of the Ninth Schedule of the Federal Constitution, whereby the federation has jurisdiction over financial matters, including tax rates, in the federal capital. According to Section 3 of the ITA, 1967 states that “Subject to and in accordance with this Act, a tax to be known as income tax shall be charged for each year of assessment upon the income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia”.

Malaysia provides tax exemptions to a specific number of entities that are not for profit in nature, such as foundations, non-profit organizations, and companies limited by guarantee.

1. Commercial Entities

Commercial entities in Malaysia are subject to corporate income tax on their profits, which is currently set at a flat rate of 24%. Malaysia has a diverse economy, and many types of commercial entities operate in the country, such as sole proprietorships, partnerships, limited-liability partnerships, and companies.

²⁴ Omar and others (n 18).

For sole proprietorship and partnership (unincorporated business), they possess no separate legal entity, which means the businesses are not separate from the owners; therefore, business profits are taxed as personal income.²⁵

Meanwhile, companies (incorporated businesses) are regarded as separate legal entities; therefore, businesses are separate from the owner. Companies are required to pay income tax on their taxable income, which is based on their net profits after deducting the allowable expenses and capital allowances.

2. Charitable Organization

In Malaysia, a charitable organization is a type of non-profit organization that serves charitable purposes, such as providing aid and assistance to those in need or promoting social welfare. Charitable organizations can take many forms, including charities, foundations, non-governmental organizations (NGOs), and community-based organizations (CBOs).

From Malaysia's perspective, charitable organizations are given certain tax incentives to encourage and support their activities. The tax treatment for charitable organizations in Malaysia is governed by ITA 1967 and the Promotion of Investments Act of 1986. For charitable organizations registered under the ROS or CCM, entities are eligible for tax exemption on their income. The income exempt from tax includes donations, contributions, grants, and other gifts received by the organization. To be eligible for these tax incentives, charitable organizations must meet certain criteria and conditions set out by the IRBM. For example, they must be registered as charitable organizations and have a genuine charitable purpose.

Any organization or institution approved under subsection 44(6) will automatically be granted a tax exemption on its income (except dividend income) under paragraph 13, Schedule 6, ITA 1967.

3. Social Enterprise

Overall, the tax treatment of SEs in Malaysia is still evolving and the

²⁵ Afifah Hamdan and others, 'Sole Proprietorship Business Succession in Malaysia: A Perspective of Civil and Islamic Law' (2022) 9 Journal of Asian Finance, Economics and Business. [285].

government is taking steps to encourage the growth of this sector. As social entrepreneurship continues to gain momentum in Malaysia, policies and incentives are likely to be introduced to support the development of this important sector. In general, the goal of SEs has expanded beyond traditional businesses—the motive is not only to generate income, but also to combat social problems and promote the well-being of the country.²⁶

Table 2. Tax Treatment

	Commercial Entities	Charitable Organization	Social Enterprise
Tax Status	Taxed on Entity	Taxed on Entity or Individual	Taxed on Entity
Tax Treatment	Not Tax-Exempt	Tax exempt (subject to condition)	Not Tax-exempt

Commercial entities and charitable organizations in Malaysia are subject to different tax treatments based on their legal structures and activities. Commercial entities are taxed on their income, while charitable organizations may be eligible for tax exemptions or deductions if they meet certain criteria.

4. Revenue Law and Social Enterprise (SEs) in Malaysia

In Malaysia, SEs are subject to the same tax laws as other businesses are. Under the ITA 1967, SEs are considered taxable entities. The income tax rate for social enterprises is the same as that for other businesses in Malaysia, which is currently set at a maximum rate of 24%. The link between businesses and charities may occasionally be complex. Businesses have many advantages for charitable purposes. One of the many exclusive treatments is tax exemption, and in some charity structures, such organizations are given permission to collect funds from the public.

Taxation has a significant impact on both businesses and society, affecting both individual decisions and the context in which they are made. Therefore, most governments design their tax policies to achieve socially acceptable results while

²⁶ Zuhairah Ariff Abd Ghadas, Rabiatal Adawiyah Mohd Ariffin and Mohd Shahrilnizam Md Radzi, 'View of Enhancing Social Entrepreneurship in the Digital Age : Legal Framework for Special Tax Treatment for Social Enterprise Business Entity' (2021) 8 International Journal of Contemporary Architecture 256; Radzi and others (n 2).

reducing distortions and corporate complexity. Both the emphasis of corporations on for-profit shareholder value and the social aim of charities can be effectively addressed by tax regimes. However, businesses that mix social and business purposes, actively work to provide value to society, and prioritize the common good could all pose challenges to them. This essay examines the extent to which taxation may, unintentionally, operate as a systemic impediment to social innovation in for-profit enterprises.

The organization's legal structure determines how all revenue streams are taxed and whether investments are deductible. Many countries provide social enterprises with one or more types of legal establishments. However, the benefits usually have more to do with social branding, reporting requirements, and goal alignment than taxation.

According to Radzi et al. (2021), SEs are different from charitable organizations. ITA 1967 also has a differential tax treatment for corporate entities and charitable organizations. Regarding SEs as business entities that demonstrate for-profit and nonprofit activities, they may not be eligible to register their companies under the Societies Act of 1966.²⁷ Meanwhile, if organizations are registered under the Societies Act of 1966, they are strictly prohibited from actively participating in commercial business. Therefore, SEs in Malaysia are not unique in creating social impact from other companies. Moreover, achieving tax relief on social missions is difficult. In this situation, the absence of tax relief for SEs may discourage them from expanding their scale to the highest stage.

In general, companies incorporated under the Company Limited by the Guarantee of the Companies Act 2016 and even organizations registered under the Societies Act 1966 are eligible to enjoy full tax exemption in Malaysia; nevertheless, certain restrictions must be adhered to.²⁸ SEs and other organizations must have been established continuously and without a profit-making goal to be eligible for

²⁷ Abdul Kadir Ali Bahari and others, 'Malaysian Social Enterprise Blueprint 2015-2018 : What ' s Next ?' (2019) 5 ASEAN Entrepreneurship Journal (AEJ).[1].

²⁸ Radzi and others (n 2).

tax exemption. As a result, SEs are still liable to pay taxes on any income unrelated to charitable endeavors. While SEs do not receive any specific tax relief, they are nevertheless eligible for some ITA 1967 exemptions under certain circumstances.²⁹

Findings and Discussion

One way to enhance customer benefit via a special tax scheme for SE is to offer tax incentives to customers who purchase from these businesses. This could take the form of a tax exempt, in which customers do not have to pay a certain amount of money as their taxes for joining SEs. By offering tax incentives, governments can encourage consumers to develop SEs, which can in turn help these businesses grow and increase their impact. Customers can feel good about enhancing a business that aligns with their values. In return, customers buying from an SE can help create positive social or environmental impacts and feel as if they are contributing to a greater cause.

The tax status of SEs in Malaysia depends on how it is structured and its legal form of operation. This research has identified that the existing legal form of business entities in Malaysia, either in the form of business organizations or NPOs, does not support a tax exempt status for SEs. According to the findings, SEs received no tax benefits or tax-exempt status. It has been observed from the discussion above that the main constraint for SE is tax treatment. As discussed earlier, commercial entities are always associated with a profit-oriented objective in their establishment, not including the public goods element. All commercial entities are allowed to be involved in commercial activities to earn profits. For NPOs, to obtain tax-exempt status, the main condition must be solely for charitable purposes and restricted to gain profit. In fact, there is no legal provision in Malaysian laws allowing SEs to receive special tax treatment because of its hybrid concept that combines social and profit goals. Obtaining tax-exempt status under section 44(6) of the ITA renders SEs not profitable, which is parallel to the characteristics of SEs. SEs should be given

²⁹ Mohd Rizal Palil and others, 'Social Enterprise and Taxation Policy: A Systematic Literature Review' (2021) 9 *Bestuur*. [135].

the best special tax treatment because SEs' goals are the same as those of charities. In fact, the profit generated by SEs is exclusively for charitable purposes.

In articulating the idea of why tax exempt status should be granted to SEs, it is important to highlight that any cause for the purpose of charity has always been considered noble and good due to the existence of public benefit elements. This is why charity has always been considered to have different characteristics from other purposes, which are commercial, political, or those relating to private individuals.³⁰

Referring to the definition of SE in Malaysia, SEs can be seen as an innovative solution to fill the gap in the state sector, which is unable to provide comprehensive services to its citizens owing to resource constraints. Nowadays, these enterprises exist all over the world in every economic sector and are involved in a wide range of activities in social and welfare, the environment, health, tourism, and education. Although SEs have been proven to play an important role in addressing social problems and have a positive impact on socio-economic development in Malaysia, harnessing the benefits of SEs requires long-term government support for growth and financial sustainability to impact the community and even the economic level. The trend in SEs also aligns with global trends, as many countries around the world, including the United Kingdom, South Korea, and Canada, have introduced tax incentives for SEs. Following this trend, Malaysia can position itself as a leader in the development of the SE sector in the region.

Most of the literature has examined the significance of SEs, and its importance is apparent. SEs contribute to economic growth and job creation, particularly in underserved communities. By providing tax exemptions, SEs can reduce their financial burden, allowing them to invest more resources in business and social missions. In turn, this can lead to increased economic growth and job creation, particularly in underserved communities. In addition, granting tax exemptions for

³⁰ Zuraidah Haji Ali, Sharifah Zubaidah Syed Abdul Kader and Nor Asiah Mohamad, 'Analysing the Need to Regulate Non-Profit Foundations under the Trustees (Incorporation) Act 1952: Towards Transparency and Good Governance' (2020) 21 *International Journal of Business and Society*. [165].

SEs can help create a more supportive environment for the sector to grow and develop. It can also help attract more investment and support from domestic and international sources. Tax exemptions for SEs could be a more effective way to promote the social good than traditional non-profit models, as they allow for more flexibility and innovation.

Therefore, it is highly recommended for the Malaysian government, and there is a need to appraise existing and proposed tax treatment for SEs in Malaysia, as it could help increase the scale and impact of socially driven businesses.

Conclusion

It is expected that the special treatment of tax exemptions for SEs should be further improved, especially considering the commitment of SEs to allocate their income towards accomplishing their social or environmental goals. It may be possible to lessen costs and ensure the sustainability of SEs by introducing tax exemptions based on the percentage of profits allocated by SEs towards fulfilling their social or environmental goals. Overall, tax incentives and exemptions can be important tools for supporting the growth and development of social enterprises in Malaysia and other countries. By providing financial benefits to SEs that are focused on creating positive social or environmental impacts, governments and policymakers can encourage more entrepreneurs to pursue this business model and help address some of the most pressing social and environmental challenges facing society today. In conclusion, customers and SEs can benefit from a specific tax scheme. Customers can benefit from supporting businesses that align with their values, whereas social enterprises can benefit from increased support and growth opportunities. Governments can also benefit from a stronger economy and increased social and environmental impacts, making this an attractive policy option for Malaysian society.

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