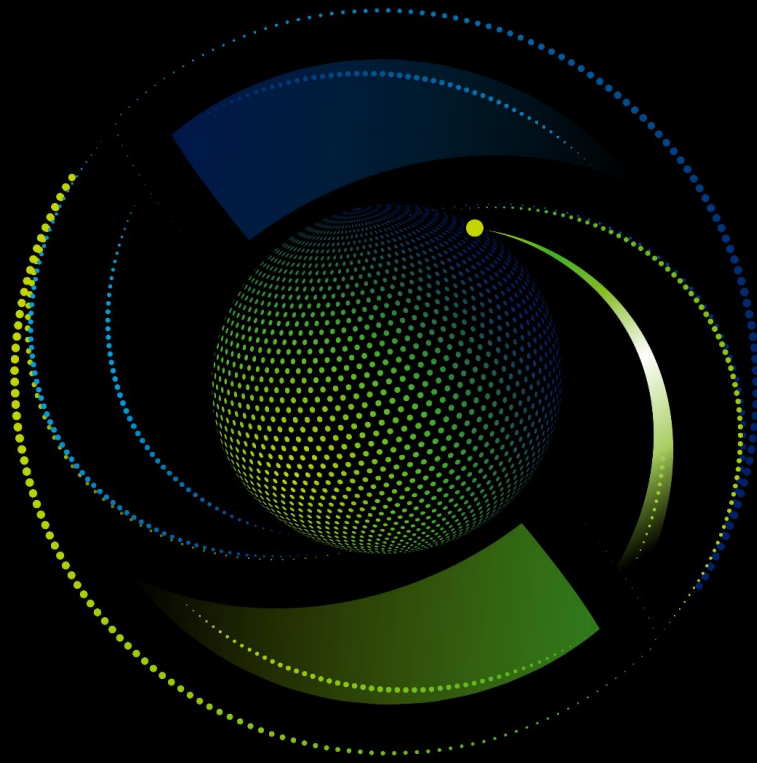


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Indirect Tax Chat

Keeping you updated on the latest news
in the Indirect Tax world

November 2024



Issue 11.2024

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Key takeaways:

1. [Customs Legislative Amendments](#)
2. [Aftermath of the Malaysia e-Invoice Implementation](#)

Greetings from Deloitte Malaysia's Indirect Tax team

Greetings readers, and welcome to the November 2024 edition of our Indirect Tax Chat.

As the recent Budget 2025 announcements continue to capture attention, we would like to remind businesses of several ongoing initiatives by the Royal Malaysian Customs Department ("RMCD"). Notably, the Audit Verifikasi Pematuhan ("AViP") initiative is set to run until 31 December 2025, while the current penalties and surcharges remission scheme will end this year on 31 December 2024. Businesses with outstanding taxes are encouraged to take advantage of this limited-time remission offer to clear their dues and benefit from waived penalties and surcharges.



Following the announcement in the Budget of the expanded scope of service tax to cover broader business to business transactions, we have seen the commencement of the consultation exercises with various industry groups on the proposed changes. We anticipate further details to be shared in the coming months on the scope of the changes. The expansion of the service tax scope will take effect in May 2025.

In this month's edition, we will discuss several Customs legislative amendments in particular the addition of Forest City, Johor as a Free Trade Zone. We are also covering the aftermath of the e-Invoicing implementation in Malaysia.

Additionally, here are some recent news that may interest you:

- Ministry of Investment, Trade and Industry ("MITI") said Malaysia has collected an estimated RM500 million in anti-dumping duties between 2016 and June 2024 to mitigate the effects of "unfair" imports. In 2024, MITI received 12 anti-dumping applications, a significant increase from three in 2023, reflecting the growing challenges faced by local producers. To address these, MITI launched the Trade Remedies Investigation Management System ("TRIMA"), a platform for streamlined digital applications that reduces costs, enhances security, and provides global access. TRIMA will soon integrate AI for trend analysis, while MITI is also reviewing the Countervailing and Anti-Dumping Duties Act to further protect local industries. For more information, please click [here](#).
- Finance Minister II Datuk Seri Dr Amir Hamzah Azizan announced that the expanded Sales and Service Tax ("SST") next year is expected to generate RM51.7 billion, an increase of RM5 billion from the current system's projected RM46.7 billion for 2025. The added revenue includes RM2.2 billion from Sales Tax and RM2.8 billion from Service Tax, aimed at meeting government needs without burdening low-income citizens. The SST expansion will target specific non-essential goods, like premium imports, and expand Service Tax to cover commercial service supplies between businesses, or business-to-business ("B2B") services, which are currently not taxed. For more information, please click [here](#).

We hope you're keeping well.

Best regards,

Tan Eng Yew

Indirect Tax Leader

1. Customs Legislative Amendments

On 25 September 2024, the following Acts were gazetted and came into operation on a date to be appointed by the Minister by notification in the Gazette:

- [Customs \(Amendment\) Act 2024](#)
- [Excise \(Amendment\) Act 2024](#)
- [Free Zones \(Amendment\) Act 2024](#)
- [Sales Tax \(Amendment\) Act 2024](#)
- [Service Tax \(Amendment\) Act 2024](#)

Notable amendments were made to the abovementioned Acts:

Customs (Amendment) Act 2024

The Customs Act 1967 [Act 235] which is referred to as the “principal Act” has been amended as follows:

- In Subsection 2(1) – “Pulau 1” is defined as Pulau 1, Forest City, located in Mukim Tanjung Kupang, Johor Bahru District, Johor, as indicated in the Gazette Plan PW50276.
- In Subsection 2(1b) – “Principal Customs Area” is defined to include Pulau 1 alongside Labuan, Langkawi, Tioman and Pangkor.
- In Sections 154, 163A, 163B, 163J, 163K, 163Q, and 163R – Substitution of the words “and Pangkor” with the words “, Pangkor and Pulau 1”.
- In Sections 155, 163B(2), 163K(2), and 163R(2) – Substitution of the words “Subsections 11(2), (3), (4), and (5)” with the words “Subsection 11(2)”
- Insertion of a new Part XIXE Special Provisions Dealing with Pulau 1, worth noting in:
 - Retail Trade in Pulau 1 (Section 163Y) –
 - i. Retailers must obtain approval from the Minister to sell goods declared under Section 163Z(1)(a).
 - ii. Offenders are liable to a fine not exceeding RM50,000, imprisonment for up to three years, or both.
 - Customs duties relating to Pulau 1 (Section 163Z) –
 - i. Import Duty: Applicable on dutiable goods brought into Pulau 1 or transported to the Principal Customs Area, except goods exempted by the Minister.
 - ii. Export Duty: Applicable on dutiable goods transported from the Principal Customs Area to Pulau 1.
 - Transportation of goods to or from Pulau 1 from or to the Principal Customs Area (Section 163AA) – Goods transported between Pulau 1 and the Principal Customs Area are treated as imports or exports and subjected to customs provisions, with modifications as needed.

- Declaration of goods transported from Pulau 1 into the Principal Customs Area (Section 163AB) – Transporters of goods from Pulau 1 to the Principal Customs Area must make declarations as prescribed by the Director General.
- Dutiable goods to be deemed to be non-dutiable while in Pulau 1 (Section 163AC) – Goods declared under Section 163Z(1)(a) are considered non-dutiable while in Pulau 1.
- Collection of duties (Section 163AD) – Regulations may allow for the collection of customs duties on goods imported into or exported from Pulau 1.
- Application of Part X to goods transported to Pulau 1 (Section 163AE) – Goods transported to Pulau 1 may qualify for customs duty drawbacks under Part X, as if exported.

Excise (Amendment) Act 2024

The Excise Act 1976 [Act 176] which is referred to as the “principal Act” has been amended as follows:

- In Subsection 2(1) – The term “Pulau 1” has the meaning assigned to it under subsection 2(1) of the Customs Act 1967.
- In Subsection 2(1b) – “Principal Customs Area” is defined to include Pulau 1 alongside Labuan, Langkawi, Tioman and Pangkor.
- In Sections 87, 91a, 91e, and 91q – Substitution of the words “and Pangkor” with the words “, Pangkor and Pulau 1”.
- In Sections 90a(2), 91da(2), 91i(2), and 91u(2) – Substitution of the words “Subsections 6(2), (3), (4), and (5)” with the words “Subsection 6(2)”.
- Insertion of a new Part Xve Special Provisions Dealing with Pulau 1, worth noting in:
 - Interpretation (Section 91aa) – “Principal Customs Area” is redefined to exclude Pulau 1, Labuan, Langkawi, Tioman, and Pangkor.
 - Retail Trade in Pulau 1 (Section 91ab) –
 - i. Retailers must obtain approval from the Minister to sell goods declared under Section 163Z(1)(a).
 - ii. Offenders are liable to a fine not exceeding RM50,000, imprisonment for up to three years, or both.
 - Non-application of Part IV and Part V (Section 91ac) – Parts IV and V of the Excise Act do not apply to goods manufactured in Pulau 1 that are declared by the Minister under Section 91af(1)(a).

- Application of the Customs Act 1967 (Section 91ad) –
 - i. Goods manufactured in Pulau 1 are treated as if produced outside Malaysia.
 - ii. Transportation provisions:
 - Goods moved from Pulau 1 to the principal customs area are treated as imports.
 - Goods moved to Pulau 1 from the principal customs area are treated as exports.

- Goods manufactured in “Principal Customs Area” shall be deemed to have been exported when transported to Pulau 1 (Section 91ae) – Goods declared under Section 91af(1)(a) and transported to Pulau 1 are considered exported for purposes such as duty drawbacks under Section 19 and Paragraph 28(d).

- Excise duties relating to Pulau 1 (Section 91af) –
 - i. Excise duties apply to:
 - Dutiable goods manufactured or imported into Pulau 1, except those exempted by the Minister.
 - Goods transported to the principal customs area from Pulau 1, treated as imports.
 - ii. The Minister may define “Value” for goods transported from Pulau 1 to the principal customs area through regulations.

- Goods deemed to be non-dutiable while in Pulau 1 (Section 91ag) – Goods declared under Section 91af(1)(a) are deemed non-dutiable while in Pulau 1.

- Collection of Duties (Section 91ah) where regulations may govern –
 - i. The collection of excise duties for goods transported to/from Pulau 1 and the principal customs area.
 - ii. Restrictions on transportation methods (e.g., vehicles, vessels, or aircraft).
 - iii. Licensing or control of transporters.

Free Zones (Amendment) Act 2024

The Free Zones Act 1990 [Act 438] which is referred to as the “principal Act” has been amended as follows:

- In Subsection 2(1a) – Substitution of the words “and Pangkor” with the words “, Pangkor and Pulau 1” in the definition of “Principal Customs Area”.
- In Subsection 2(1b) – Insertion after “proper officer of the Authority” with the term “Pulau 1” has the meaning assigned to it under subsection 2(1) of the Customs Act 1967.

Sales Tax (Amendment) Act 2024

The Sales Tax Act 2018 [Act 806] which is referred to as the “principal Act” has been amended as follows:

- In Subsection 2(1a) – Substitution of the words “and Pangkor” with the words “, Pangkor and Pulau 1” in the definition of “Designated Areas”.
- In Subsection 2(1b) – Insertion after “Business” with the term “Pulau 1” has the meaning assigned to it under subsection 2(1) of the Customs Act 1967.

- In Section 49 –
 - The existing section is renumbered as subsection (1).
 - A new Subsection (2) is introduced, stating:

“In the case of Pulau 1, this Act shall apply to any taxable goods manufactured in Pulau 1, except goods declared exempt by the Minister through a Gazette order.”
- Insertion of a new Section 49a to address Retail Trade in Pulau 1 –
 - No person may sell by retail any goods declared by the Minister under paragraph 50(2)(a) in Pulau 1 without the Minister’s approval.
 - Applications for approval must follow procedures prescribed by the Minister in the regulations.
 - Offenders are liable to a fine not exceeding RM50,000, imprisonment for up to three years, or both.
- In Section 50 –
 - The existing section is renumbered as subsection (1).
 - In paragraph (1)(a), after “designated areas”, the phrase “other than Pulau 1” is added.
 - A new Subsection (2) is introduced, stating:
 - i. Where sales tax is imposed on:
 - Goods imported into Pulau 1 or transported from Malaysia, designated areas, or special areas to Pulau 1 (excluding exempt goods).
 - Goods declared by the Minister under paragraph (a) and transported from Pulau 1 to Malaysia, treated as if imported into Malaysia.
 - ii. Where sales tax is not imposed on – Goods declared under paragraph (a) transported from Pulau 1 to other designated or special areas.
 - iii. Sale value of taxable goods liable to sales tax is determined as per subsection 9(2).
- In Section 54 – The reference “paragraph 50(a)” is replaced with “paragraph 50(1)(a) or 50(2)(a)”.
- In Section 57 –
 - The existing section is renumbered as subsection (1).
 - A new subsection (2) is introduced, stating:

“For designated areas, where subparagraph (1)(a)(iii) is Pulau 1, no sales tax applies to taxable goods declared exempt under paragraph 50(2)(a) and transported from special areas to Pulau 1.”

Service Tax (Amendment) Act 2024

The Service Tax Act 2018 [Act 807] which is referred to as the “principal Act” has been amended as follows:

- In Subsection 2(1a) – Substitution of the words “and Pangkor” with the words “, Pangkor and Pulau 1” in the definition of “Designated Areas”.
- In Subsection 2(1b) – Insertion after “Business” with the term “Pulau 1” has the meaning assigned to it under subsection 2(1) of the Customs Act 1967.

Deloitte's comments

The legislative amendments introduced through the abovementioned Amendment Acts impacts businesses and/or individuals involved in operations within or related to Forest City, Johor (i.e. Pulau 1). Key changes include new compliance requirements under the Customs and Excise Acts, such as mandatory import/export declarations, specific duty applications, and Ministerial approvals for retail trade. These provisions aim to establish a clear regulatory framework for Pulau 1.

Additionally, the amendments to the Sales Tax, Service Tax, and Free Zones Acts redefine the scope of designated areas and clarify tax treatment for goods transported to and from Pulau 1. The gazettelement of Pulau 1 as a designated area has the potential to create greater opportunities for businesses operating in free zones or participating in cross-border trade. It may also contribute to economic growth, benefitting sectors ranging from retail to tourism.

However, it is important for businesses to remain vigilant about potential challenges arising from these provisions and closely monitor their compliance with RMCD requirements, particularly for transactions involving any designated areas.

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2. Aftermath of the Malaysia e-Invoice implementation

In the past 12 months, taxpayers with annual sales turnover threshold of RM100 million has been busy going through the implementation of e-invoicing for Malaysia, which went live 1 August 2024. On the high level, the phases that taxpayers took to be compliant are:

- i) **Phase 1** – Requirement gathering
 - a. Understanding the Malaysia e-invoicing requirement;
 - b. Understanding the impact to the business processes due to the e-invoicing mandate;
 - c. Understanding the data completeness from the ERP, billing and procurement systems and any system in used.
- ii) **Phase 2** – Implementation of the chosen submission approach
 - a. Analyse, design, build, test and go-live.
- iii) **Phase 3** – Monitoring and updating
 - a. Ensuring any changes from IRBM from the guideline to technical are reflected on the system.

Although 12 months seems like a long period of time, it was proven that it is not long enough for an e-invoice implementation project to be completed successfully for certain taxpayers. As e-invoice mandate is new to Malaysia, taxpayers were struggling to grasp the requirements and the implication. A lot of the time was also spent on evaluating the solutions available in the market and building a business case for the project to go ahead.

Challenges continue when taxpayers embark on the implementation journey. Common issues found along the way include unexpected changes required on the IT systems, a number of business processes that needs to be revised to ensure e-invoice compliant and the sheer number of internal stakeholders that are impacted. There were a number of taxpayers who opts for shortcuts and workaround in order to meet the go-live date, and potentially missing the big picture.

As the stabilisation phase settled in, these taxpayers are taking the opportunity to revisit the solutions and fixes that were parked due to the time constrain, namely:

- i) Solution and process automation
- ii) Improve the integration option of submitting the transaction from the ERP system
- iii) Master data completeness
- iv) Standard operating procedure

The ideal approach for an e-invoicing implementation is to be ahead of the *curve*,

- i) setup an **e-invoicing committee** to ensure clear and transparent communication with the internal stakeholders and project team;
- ii) perform **system review** especially to identify master data completeness from tax perspective;
- iii) capturing the business processes for each entity in each jurisdiction.

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