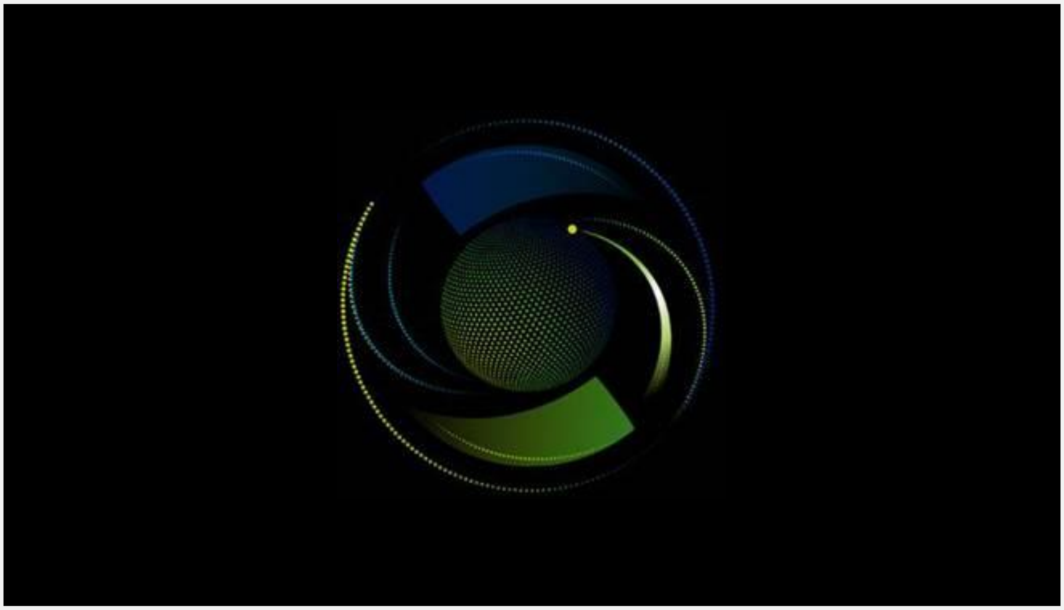
Malaysia | Tax | 14 April 2025



Tax Espresso – Special Alert
US reciprocal tariff

Overview

On 2 April 2025, the US President invoked emergency powers and signed an Executive Order titled **Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contributes to Large and Persistent Annual US Goods Trade Deficits.** The Executive Order reflects the US administration's efforts to realign trade under its America First Trade Policy Presidential Memorandum.

The key actions include the following:

- From 5 April 2025, a 10% ad valorem duty is imposed on all imports into the US from all trading partners (with the exception of Canada and Mexico). Goods already loaded onto a vessel and in transit before that date would not be impacted;

- From 9 April 2025, an additional country-specific duty will be imposed. The additional duty will apply to goods entered for consumption or taken from warehouses for consumption after that period. However, goods already loaded onto a vessel and in transit before that time are not affected. Note that this measure has been paused for 90 days after 9 April 2025, for most countries except China;
- These additional ad valorem duties shall apply until such time as it is determined otherwise by the US government. The rates imposed on imports from specific countries are set out in [Annex 1] to the Executive Order. There are 58 countries in the list which are affected;
- Based on Annex 1, the tariff of 10% imposed on goods from Malaysia will instead be replaced with a 24% tariff from 5 April 2025. This new tariff is only applicable for goods of Malaysian origin;
- Please find below other tariff rates imposed on countries within the region:
  - Cambodia 49%
  - India 26%
  - Indonesia 32%
  - Japan 24%
  - Laos 48%
  - Myanmar 44%
  - Philippines 17%
  - Taiwan 32%
  - Thailand 36%
  - South Korea 25%
  - Vietnam 46%
- The above duty rates apply to all imports under current US trade agreements, with specific exceptions.
- The specific exceptions are provided in section 3(b) of the Executive Order, including [Annex II] of the Executive Order (a total of 1,039 HS codes are included under 25 chapters). These include semiconductors, pharmaceuticals, copper, lumber, bullion, certain critical minerals not available in the US. Additionally, derivative aluminium articles and derivative steel articles and all automobiles and automotive parts on which additional duties were imposed pursuant to section 232 of the Trade Expansion Act of 1962 are excluded from the additional ad valorem duty;
- A rule has been introduced to waive ad valorem duties on the US portion of products, provided that at least 20 percent of the product's contents (value) is of US origin, transferring the responsibility of proving compliance to exporters;
- According to section 3(a) of the Executive Order, the reciprocal tariffs will apply notwithstanding the existing World Trade Organisation (WTO) commitments and override US trade agreement preferences / commitments, except as specified in the Executive Order e.g. certain FTAs between US and Canada / Mexico.

Impact on Malaysia

As an export-oriented economy, Malaysia is exposed to challenges arising from the overall negative impact on the global economy arising from the sweeping tariffs. These include increased uncertainty, higher cost challenges as well as competitive challenges in a key market. Specifically on exports to the US, Malaysian exporters face the prospect of a significantly higher ad valorem duty of 24%.

The initial impact would be that the cost of Malaysian goods to the US would increase relative to goods exported to some other countries. There may also be further changes to these rates as countries embark on their own responses to the change by negotiation with the US.

Key Malaysian exports to the US include electronics, palm oil and machinery. Other products affected include furniture, recreational goods, rubber products and apparels.

General concerns and areas of uncertainty

Some key areas of uncertainty that has to be addressed include the following:

- The total tariff rates applicable on Malaysian export products under the US Harmonized Tariff Schedule (HTS);
- US rules of origin for Malaysian exports to be eligible for the Malaysian specific tariff (in view of the fact that some countries are subject to higher tariffs);
- Customs compliance requirements for customs documentation, labelling, and compliance with US import regulations;
- Strategies to minimise tax liabilities and avoid potential penalties or disputes with US authorities;
- Transfer pricing implications, ranging from revisions to pricing policies and testing methodology, to business restructuring considerations and impact to existing APAs;
- When to initiate changes to supply chains, pricing, etc., given the long-term measures concerned.

What next

- **Monitor developments**
  The measures announced have a far-reaching impact on the economy. The Malaysian government has also indicated the intention to engage the US in negotiations as opposed to retaliating with more tariffs. It is therefore important for business leaders, especially those in the supply chain industry, to monitor developments as part of the response plan for businesses and create sensible, long-term investment plans. It is crucial for business leaders to know what the trading environment will look like –

both in the next several months and years to come. As there is still uncertainty on the details around the tariffs, from its duration to the US's response should other countries offer concessions, it is important for global companies to have both short-term mitigation plans and medium- to long-term strategy, with built-in flexibility.

- **Seek opportunities to strengthen competitive advantages**
  The relative difference in the impact of tariff on each country raises an important question for companies – are they on the winning side of the equation or vice versa? A company can be on the winning side if, relative to its competitors, its supply chain footprint is more advantageous. For example, their sourcing sites could be in lesser tariffed countries and would enjoy better cost structures. Companies should take a note on this relative difference and look out for opportunities to reinforce their competitive advantages.
- **Assess the impact of reciprocal tariffs and strategise your response**
  This may involve:
  - Determining if goods exported are excluded. This may include reviewing of HS codes applicable on goods exported.
  - A review of existing contracts and discussions with US importers on matters of cost, pricing and trade terms.
  - Tariff impact assessment studies. Businesses can undertake a detailed tariff and transfer pricing impact assessment through an analysis of the supply chain, trade flows and contractual obligations, in relation to increased tariff payments.
  - US input consideration. The study can also include a cost analysis based on country of origin of input materials and components, especially of US origin, to determine if the products may be eligible for the waiver of US origin inputs.
  - Assess comparative advantage. Since some other countries have been imposed with an even higher reciprocal tariff rates, there might be opportunities to relook at their existing manufacturing footprints.
  - Exploring new markets. This includes countries where Malaysia has more favorable trading terms, e.g. countries who are signatories of Free Trade Agreements (FTAs) where Malaysia is a party.
  - Conduct a scenario analysis. This is to better understand the impact of known unknowns such as fluctuations in currency value, variations in reciprocal tariffs, variations in competition's response and supply chain uncertainties.

How Deloitte can help

We are a multi-disciplinary advisory firm with presence in most countries globally. As part of our response to help businesses maneuver the challenges ahead, we have assembled a team comprising professionals who has expertise covering business transformation, supply chain, tax and global trade to support businesses both locally and abroad to successfully navigate the challenges brought about by this new Executive Order.

Get in touch

For more details or assistance, please reach out to your usual Deloitte contact or any member of the team below.

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