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Indirect Tax Chat

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

February 2025



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Key takeaways:

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Greetings from Deloitte Malaysia's Indirect Tax team

Greetings readers, and welcome to the February 2025 edition of our Indirect Tax Chat.

Unfortunately, the updated service tax regulations reflecting the expanded scope of service tax to cover more business-to-business services has yet to be released. This is in spite of the fact that the expanded scope was proposed in the Federal Budget to take effect on 1 May 2025. We are hopeful that these regulations are released in the coming weeks to allow businesses time to prepare.

On the e-invoicing front, the Inland Revenue Board Malaysia (“IRBM”) issued updates to its guidelines last month, including the [e-Invoice Guideline Version 4.2](#). This update includes a list of international organisations exempted from implementing e-Invoicing, updates to the e-Invoice implementation timeline and the [e-Invoice Specific Guideline Version 4.1](#) to address certain self-billing circumstances, and the e-Invoice treatment on interest payments. Additionally, several e-Invoice FAQs were updated covering [general](#) matters, the [insurance and takaful industry](#) and [financial services, stockbroking and unit trust](#). Please refer [here](#) for our commentary on these updates.



In this edition, we will discuss updates from the technical committee on Sales Tax and Service Tax (“SST”) matters, as well as the revised Guide on Tourism Tax and Service Tax Policy No. 8/2024.

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

- According to the Finance Ministry, the government has collected RM476.1 million from the Low-Value Goods (“LVG”) tax in 2024, following its implementation on 1 January 2024 with 63 sellers registered from 15 countries. The government also mentioned that there are no immediate plans to reintroduce Goods and Service Tax (“GST”) due to the lengthy implementation process and will continue refining the SST which has been in use for over 40 years. Meanwhile, the Service Tax on Digital Services introduced on 1 January 2020, on the digital services supplied by foreign service providers, generated RM1.6 billion revenue in 2024, with 464 foreign registered persons from 29 countries. For more information, please click [here](#).
- The Royal Malaysian Customs Department (“RMCD”) discovered that the parties involved in smuggling scheduled waste, e-waste, and scrap into Malaysia are doing so by making false declarations. This was uncovered during inspections of 336 suspected containers at Port Klang, Selangor, as a part of special e-waste operation from August to December 2024 which revealed 306 containers were found to contain e-waste and were handed over to the Department of Environment (“DOE”). RMCD said that import of e-waste is conditionally prohibited, requiring approval from DOE and a Certificate of Approval (“COA”) from SIRIM for e-waste imports, as outlined in the Customs (Prohibition of Imports) Order 2023. Violators face fines up to RM500,000 or imprisonment up to seven years under Section 133 of the Customs Act 1967, if convicted. For more information, please click [here](#).

To our Muslim readers, we wish you a blessed and rewarding Ramadhan journey. To all, we hope you continue to stay safe and well.

Best regards,

Tan Eng Yew

Indirect Tax Leader

1. Updates from the Technical Committee on Sales Tax and Service Tax matters

The Technical Committee deliberated several issues pertaining to SST in the “*Technical Committee on SST Implementation Issues Meeting*” held on 24 October 2024. Subsequently, RMCD has provided their responses to the SST technical queries discussed with professional bodies at the meeting, which have been incorporated in [Lampiran 3 of Mesyuarat Jawatankuasa Teknikal Isu Pelaksanaan Cukai Jualan dan Cukai Perkhidmatan Bil. 2/2024](#). (Note: The minutes of this meeting are not finalised yet and will be brought up for finalisation at the next Technical Committee meeting.)

We have summarised below 3 key issues in relation to sales tax and service tax that were deliberated at the above Technical Committee meeting:

Item 2 – Sales tax exemption on termination of Licensed Manufacturing Warehouse (“LMW”) operations that are to be continued under regime for sales tax-registered manufacturer

A query was raised as to whether a company would be eligible for sales tax exemption on goods acquired under its LMW license (i.e., goods purchased without sales tax) upon the company transitioning its status from an LMW to that of a sales tax-registered manufacturer.

In response, RMCD has stated that there is no provision under the Sales Tax Act that provides for sales tax exemption in account of LMW changing its status to a sales tax-registered manufacturer. RMCD further added that, LMW and sales tax-registered manufacturer are governed by separate legislation. However, the company may apply for such sales tax exemption to the Ministry of Finance (“MoF”), which has discretionary power under the Sales Tax Act to grant sales tax exemption in any case.

Deloitte’s comments

As rightly mentioned by RMCD, currently there is no provision under the Sales Tax Act that provides for sales tax exemption on taxable goods held by an LMW entity pursuant to changing its status to a sales tax-registered manufacturer. However, businesses should note that MoF has a discretionary power to exempt sales tax (and import duty) exemption in such an arrangement where a manufacturer changes its status from LMW to a sales tax-registered manufacturer. Accordingly, an application may be made to MoF by a company intending to transition from being a LMW to a sales tax-registered manufacturer.

Item 17 – Precedence where maintenance or repair services (charges) are not subject to service tax since considered by RMCD to be part of a non-taxable activity

The issue discussed was regarding the taxability of maintenance services provided in common area to tenants under a lease agreement – citing example 5A of the RMCD Guide on Management Services, as of 4 August 2021. In the example cited, RMCD had clarified that maintenance management services provided in the common area are not subject to service tax. However, if the maintenance management services are provided by the lessor in the area leased by the tenant, then maintenance management services are subject to service tax. Considering repair or maintenance has now been carved out and introduced as a new taxable service under the service tax law effective 26 February 2024, the issue was whether maintenance or repair services carried out in the common area would still not be subject to service tax.

In response, RMCD has clarified that, Example 5A in the RMCD Guide on Management Services is based on the fact that the rental charges collected is taken to include the maintenance management fee for common areas and is stated as such in the tenancy agreement. In such instances, the maintenance service charges will be treated as part of (incidental to) the rental and therefore, not subject to service tax. This is because rental is not a prescribed taxable service.

Deloitte's comments

RMCD's above clarification on treating maintenance service as part of non-taxable rentals seems to create an important precedent. Through our representation in professional bodies who attended this Technical Committee meeting, we had put forward a suggestion to RMCD that the above clarification on taxable maintenance being treated by RMCD as part of non-taxable activity (rental), in relation to Example 5 in RMCD Guide on Management Services would now need to be transferred and incorporated into RMCD's guide on maintenance and repair service. This consideration takes into account how maintenance or repair service is a separate taxable service from management services. While RMCD agreed to this verbally at the meeting, the same has not been captured in its response. As mentioned earlier, the minutes of this meeting are not finalised yet and this matter will be reiterated for consideration in the future meeting with RMCD when the minutes are proposed to be finalised.

In the meantime, this precedence by RMCD could potentially be applicable to other cases and scenarios, where separate maintenance charges are imposed in addition to core non-taxable transaction(s) e.g. sale of goods. It would be important for businesses to consider such scenarios and to seek tax advice and written confirmation from RMCD before taking any position on the non-taxable service tax treatment of maintenance service charges in connection with other core, non-taxable transactions. Until such RMCD confirmation is obtained, conservatively maintenance service charges would normally be taxable for service tax purposes.

Item 22 – Taxability of 'free delivery' services for service tax purposes

A query was raised referring to the Frequently Asked Question ("FAQ") No 8 as published in RMCD's logistic services guide, which discusses the taxability of 'free delivery' service. The FAQ outlines the following scenario:

- A buyer makes a purchase on an online platform.
- The platform runs a promotion where, if the buyer's purchase exceeds a certain amount, they receive free delivery.
- The guide acknowledges that free delivery constitutes a taxable service.
- However, it also states that the service tax for free delivery should be zero.

This appears to be a concession provided by Customs, though there are concerns regarding its application, as the position seems inconsistent with the current service tax law (where even free taxable service is subject to service tax at basically the open market value). So, an amendment to rectify the above FAQ was suggested. To this, RMCD has clarified the following:

- Service tax is levied on the provision of taxable services and the determination of the value of taxable services is based on the provisions under section 9, Service Tax Act 2018.
- If the taxable service is provided free of charge, the service tax shall be calculated on the value of the taxable service if it is provided in the ordinary course of business to a person who is not related to the taxable person.

- Referring to the logistics services guide FAQ answer no. 8, the service tax on delivery is charged at '0' value because the value of services provided is open to all customers (in the normal course of business).

Deloitte's comments

In our view, the above FAQ seems inconsistent with what is envisaged in the service tax law (i.e. free service is still subject to service tax). In light of this, RMCD has agreed to further analyse this matter and will also further discuss it in subsequent Technical Committee meetings.

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2. Tourism Tax and Service Tax Updates

A. Guide on Tourism Tax on Accommodation Premise Operators

The RMCD released an updated [Guide on Tourism Tax on Accommodation Premise Operators](#) (“the Guide”, available in Malay language only) on 6 December 2024. This supersedes the General Guide on Tourism Tax dated 4 August 2021.

The salient updates in the Guide are as below:

- i. The Guide is now titled as “Panduan Cukai Pelancongan Ke Atas Pengendali Premis Penginapan”, emphasizing that it specifically applies to the accommodation premises operators.
- ii. The Guide provides a list that specifies the required documents to determine a foreign tourist’s status.
- iii. Additional definitions have been added to the Guide as below:
 - a) The definition of “tourist” remains, but new examples have been added, including cases where a foreign worker staying outside the designated work area is considered a tourist, and is subject to the tourism tax.
 - b) The definition of “accommodation premises” now explicitly includes cruise ships and more innovative accommodation types such as capsules, tubes, and tents.
 - c) The definition of “operator” is expanded to clarify who qualifies as an operator, explicitly excluding those who only rent out properties without additional services.
- iv. Additional examples are provided to clarify various scenarios:
 - a) If a single unit (like a chalet with multiple rooms) is rented as one unit, the tax is imposed per unit, not per room.
 - b) Early check-in or late check-out charges are not subject to the tax unless the charge equal to a full night’s rate.

Deloitte’s comments

The updated Panduan Cukai Pelancongan 2024 has expanded its coverage to include innovative accommodations like capsule hotels and cruise ships, accurately reflecting the evolving tourism industry.

Enhanced documentation requirements for foreign tourists indicate a stronger compliance push, potentially reducing tax evasion. While the RM10 per night tax rate remains unchanged, the guide provides clearer tax application rules, particularly for early check-ins, late check-outs, and unit-based accommodation rentals.

Overall, these changes reinforces regulatory oversight, ensures consistent tax application, and reflects the Royal Malaysian Customs Department (“RMCD”)’s focus on modernising tourism tax collection while closing loopholes.

B. Service tax exemption on fees or commission charged by local commodity trading platform

On 26 December 2024, RMCD published the [Service Tax Policy No. 8/2024 \(“STP 8/2024”\)](#) which outlines the Ministerial Exemption, that exempts service tax on fees and commissions charged by local commodity trading platforms. The STP 8/2024 is only available in the national language (Malay version), and can only be accessed via the national language version of the MySST portal.

The salient points are as follows:

1. The Minister of Finance granted an exemption from paying and imposing service tax on the fees or commission charged by local commodity trading platforms for transactions conducted for Islamic financing purposes.
2. This exemption is effective 1 October 2024 onwards.
3. Any service tax collected up to 30 September 2024 must be remitted to RMC, and no refund will be granted on service tax paid before 1 October 2024. RMCD reserves the right to recover any unpaid service tax from non-compliant register or non-register providers.
4. RMCD stresses that they reserve the right to collect taxes from any persons that fail to register where they were required to, or registered but failed to remit the correct taxes. In addition, RMCD advise local commodity trading service providers to obtain a Customs Ruling from RMCD on the type of taxable services for fees or commissions imposed on local commodity trading platforms if there is any uncertainty in the event this exemption is withdrawn in the future.

Deloitte’s comments

This policy aims to support Islamic financial transactions, reducing costs for compliant businesses while ensuring proper tax compliance.

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