



## Indirect Tax Alert

# Service Tax Guides on Management Services

The Royal Malaysian Customs Department (“RMCD”) recently released an updated Service Tax Guide on Management Services (“Management Guide”) and an accompanying Service Tax Guide on Warehousing Management Services (“Warehousing Guide”), both available in the national language only.

Salient points on the [Management Guide](#) are as below:

1. Types of taxable management services and its scope

Type of Management Service	Scope
Project management services, full or part of the project	<p>A company that carries out the management of a project, whether in full or in part, and which may involve third parties in implementing the project, will be providing taxable services.</p> <p>The Management Guide provides examples to illustrate that while the provision of project management services on its own in respect of a construction project are taxable, construction services itself are not a taxable service.</p>

Tourism management services	Removed as a taxable service from 1 September 2019
Logistics management services	Removed as a taxable service from 1 September 2019
Maintenance management services	<p>Maintenance management services on goods, buildings, or land belonging to clients of the service provider, are taxable services.</p> <p>The Management Guide differentiates between the maintenance of assets belonging to the client, which are taxable, and maintenance services provided on the service provider's own assets which are not taxable.</p> <p>As an example, renting out a lot and charging a monthly charge to maintain the lot is not taxable as the service provider company is maintaining its own asset (the lots), and not that of the tenant.</p> <p>The Management Guide also illustrates the difference in treatment between <i>preventive maintenance</i> services, which are taxable, and <i>corrective maintenance</i> which are not taxable.</p> <p>Some characteristics of taxable maintenance management services are provided in examples in the Management Guide:</p> <ul style="list-style-type: none"> <li>• Periodic and scheduled maintenance, not provided only when the service is requested by the client.</li> <li>• Services are provided over a specified and pre-agreed period and not a one-time service.</li> <li>• Services involve monitoring and maintaining the client's assets, including replacement of spare parts. The cost of spare parts may be taxable if it cannot be segregated from the cost of the service in the invoice.</li> </ul>
Warehousing management services	<p>Taxable warehouse management services would involve providing a range of services to customers, including managing the inflow and outflow of the client's goods, storage, re-packaging, security control, and transport of goods belonging to clients.</p> <p>In an example provided, the Management Guide provides that warehouse rental is not taxable, however it suggests that if the warehouse service is provided as a package including rental, the warehouse rental would also be taxable.</p> <p>This is further explained in the salient points of the Warehousing Guide below.</p>
Collection and debt management services	<p>Managing debt collection from debtors on behalf of the creditors customers, are taxable.</p> <p>However, services involving merely sending reminders and notices to prompt debtors to pay their creditors are not in scope of a taxable debt collection service.</p>

Car park management services	Managing the car park space and receiving a commission (whether contingent or fixed) from the owner of the car park space.
Sports facilities management services	Scope includes managing sports complex, stadiums, competition courts, sports equipment and more.
Secretarial management services	Scope includes management accounting, secretarial, and other services to clients.
Any management services other than specified above, made on behalf of another person	<p>The Management Guide highlights that examples of services provided “on behalf” of another person that would be a taxable management service.</p> <p>The general characteristics of a taxable service in the examples provided are where the services involve managing or coordinating a series of tasks on behalf of the client.</p> <p>Examples provided include:</p> <ul style="list-style-type: none"> <li>• Training management (organising location, training modules, trainers)</li> <li>• Event management (hotel booking, hall rental, food preparation, entertainment, scheduling)</li> </ul> <p>The scope (as explained in the examples) excludes:</p> <ul style="list-style-type: none"> <li>• Transportation management</li> <li>• Waste collection and disposal management</li> </ul>

## 2. Types of non-taxable management services

- Management services in connection with land or building for residential use provided by any developer, joint management body, management corporation or residential association;
- Management services provided by any person who is licensed or registered with the Securities Commission Malaysia for carrying out the regulated activity of fund management under the Capital Markets and Services Act 2007 [Act 671];
- Management services provided by any person, Government agency, local authority or statutory body for the purposes of religious, welfare, bereavement, burial, cemeteries, cremation, sewerage, water supply, health, transport, tourism or logistic services; and
- Management services in connection with goods or land situated outside Malaysia or other matters outside Malaysia

No further examples or clarification was provided in the Management Guide on the above non-taxable management services.

## 3. Determination of value of taxable management services

The value on which service tax is to be levied on is the actual value of the management services provided.

- Where a company provides management services to a client, the total value of management services invoiced to the client is subject to service tax.
- Where a company’s management service includes the acquisition of services from third parties, only the mark-up (profit margin) will be charged service tax if the company can segregate and itemise its own management service and the value of services acquired from third parties. The original invoices from the third parties should be attached with the company’s invoice to the client.

- For a company that provides management services as a package and does not itemise its own mark-up from third party services, the whole amount of the company's invoice is subject to service tax.

#### 4. Exemption from payment of service tax (B2B exemption)

Effective 1 January 2019, a professional service provider company registered under Group G (excluding items 10 and 11), is given an exemption from paying service tax in cases where they are providing the same service that is acquired to their own clients. The B2B exemption provided under item 1 in the Schedule of the Service Tax (Persons Exempted from Payment of Tax) Order 2018 ("exemption Order") is subject to the following conditions:

- The exempted service is a taxable professional service under Group G [excluding items (j) and (k)].
- The service provider is a registered person.
- The taxable service being exempted is the same service being provided by the person exempted from payment of tax.

The Management Guide provides an example where a company (PBA) charges a facility management service fee to tenants and shop owners in a building. In providing their facility management service, they appointed another company (Tengah) to provide the facility management services in the same building. Tengah would not need to charge service tax on their facility management services to PBA, as PBA is also providing the same facility management service to its clients.

The Management Guide does not mention the fourth condition of the B2B exemption which is the taxable service exempted is not for the personal consumption by the exempted person. This fourth condition was made effective from 1 January 2020.

Salient points on the [Warehousing Guide](#) are as below:

#### Who is the taxable person?

A warehouse operator refers to anyone managing the operations of the warehouse regardless of whether it is owned or rented.

#### What is the scope of warehousing management services?

Any services in relation to warehousing management service are a taxable service. This includes services such as:

- a) Handling
- b) Loading and unloading
- c) Sorting
- d) Consolidation and de-consolidation
- e) Labelling
- f) Inventory control
- g) Storage space
- h) Pick and pack
- i) Security control

Further illustration was provided in an example that mentions the following are within the scope of warehousing management services:

- j) Repackaging
- k) Documentation
- l) Audit

Note: Transportation of goods is excluded from the scope of warehousing management services.

The Warehousing Guide provides an illustration as below:

1. When a warehouse operator provides warehousing management services to a third party client, service tax is chargeable on its services. When the third party client recharges the amount billed by the warehouse operator to its own clients, no service tax is to be charged. The third party client is regarded as providing a logistics management service to its own clients, which is not a taxable service.
2. Where an owner of a warehouse provides rental space to a third party client, no service tax is to be charged on rental of warehouse space. Where the third party client rents a warehouse from the owner and provides warehousing management services to its own clients, the services are subject to service tax.

### Deloitte's comments

What constitutes a management service for the purpose of the service tax is one of the more complex and challenging aspects of the tax. The RMCD have over the years continued to expand its view of what constitutes a management service with only very minor amendments to the Law to reflect this expanded view. The difficulty in applying this provision was not helped by the lack of publicly available guidance from the RMCD on their views.

As a consequence, there has been considerable challenges for those seeking to apply the Law in determining what is likely to be in scope and, more importantly, what RMCD considered to be in scope. This lack of certainty, necessitated in many cases, impacted service providers simply charging tax to avoid risk or for the need to get a formal view from an advisor or the RMCD.

The release of these two guides will assist considerably in clarifying RMCD's interpretation of the Law and address a number of areas of uncertainty. We would recommend businesses review their current arrangements and assess whether any technical positions or treatments need to be revisited.

If you would like to have further discussions on any of the above, please reach out to your usual Deloitte indirect tax contact or to any of the people below.

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Best regards,

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