



Indirect Tax Alert Service tax on foreign digital services (Update)

Representatives from the Ministry of Finance (MoF) and the Royal Malaysian Customs Department (RMCD) presented more details on the expansion of the service tax to foreign digital services during a tax workshop at the Deloitte Financial Services Industry Conference held on 24 July 2019 in Kuala Lumpur, Malaysia.

The session was presented by Tuan Ezleezan bin Othman, the Head of Indirect Tax in the Tax Division of the MoF and was facilitated by our Indirect Tax Partner, Mr Senthuran Elalingam. The key takeaways from the session were:

- The guide on service tax on digital services will now be released early August 2019 instead of late July 2019;
- the authorities will be organising and running forums and talks in Malaysia and overseas to raise awareness of the service tax and to encourage voluntary compliance;
- at the initial stage, it appears that the approach would be to encourage compliance rather than to penalise foreign service providers who fail to comply;

- many of the operational aspects, including ascer when a person is determined to be 'residing in Malaysia', have yet to be finalised; and
- the authorities are casting a very wide view at this stage and would consider any service generally delivered electronically over a digital platform to possibly fall within the scope of digital services. The authorities do not discount that this could extend to financial services delivered electronically.

Some examples of digital services that MoF are looking into imposing tax on are as follows (non-exhaustive):

Examples		
Supplies of digital content/products (e.g. e-books, games, apps, movies, TV shows and music)	Online licensing of software (including computer games)	Databases (including updates and add-ons)
Advertising services on the internet (offering online advertising platforms)	Subscription to membership or news website	Webinars or distance learning courses
Supply and hosting of websites, remote maintenance of software and hardware	Storage and processing of information in the internet	Provision of access to the internet search systems
Provision of domain name services	Electronic Distribution Platform (EDP)	

Our previous alerts on the expansion of service tax on foreign digital services can be found at the following links dated 5 April 2019 (link [here](#)) and 20 June 2019 (link [here](#)).

Deloitte's comments

The intention of the authorities appear to be very clear in that they wish to bring as many service providers into the net as possible. However, it is unclear at this stage whether the practical issues that many of these businesses will face in complying with the rules has been given full consideration. For example, imposing a service tax on financial services transactions delivered electronically could result in significant costs for businesses operating in Malaysia, and pose significant operational challenges for these foreign service providers.

Although we are only five months from going live, it is still unclear whether any administrative concessions will be given in relation to invoicing or reporting relative to what is required by local companies. The details of the exemption for the reporting of reverse charge by local companies is also not yet available.

In considering that guidelines are unlikely to be released before next month, businesses should take note of the limited time that is left and start their implementation planning now. Where potential

technical or operational issues have been identified, we would recommend that these be raised with the authorities immediately so that these issues can be addressed prior to 1 January 2020.

If you would like to discuss any of the above further, feel free to reach out to your usual Deloitte indirect tax contact or to any of the people listed below.

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Best regards,

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