

# Deloitte.



## Indirect Tax Chat

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

*April 2020*



MAKING AN  
IMPACT THAT  
MATTERS  
*since 1845*

# Issue 4.2020

Quick links: [Contact us - Our Indirect Tax team](#)

Key takeaways:

1. [Excise Duty, Import Duty and Sales Tax Exemptions to combat COVID-19](#)
2. [Exemption for Service Tax on Digital Services for Banking and Financial Services](#)
3. [Relaxation of Invoice Prescribed Particulars for Foreign Registered Persons of Digital Services](#)

## Greetings from Deloitte Malaysia's Indirect Tax team

Greetings readers, and welcome to the April 2020 edition of our Indirect Tax Chat. To those of you who are observing, I would also like to wish you a blessed Ramadhan.

The Movement Control Order (“MCO”) in Malaysia was initially extended from the 14<sup>th</sup> to the 28<sup>th</sup> of April, and was recently further extended to the 12<sup>th</sup> of May. Following the most recent MCO extension, the payment deadline for certain indirect taxes that were statutorily due on 31<sup>st</sup> March or 30<sup>th</sup> April have had their deadlines extended to 31<sup>st</sup> May 2020 in an announcement released in the national language by the Royal Malaysian Customs Department (“RMCD”), which you can access [here](#). We covered this in a separate alert which you may access from our page [here](#).



This month saw the activation of [MYSToDS](#) portal for foreign registered persons. To coincide with this, a new guide was released by the RMCD with critical new information. We have discussed it in detail in a separate alert, which you may find [here](#).

We also held this month, the first of many webinars on topical indirect tax issues. Our seminar on service tax on digital services (“SToDS”) was well attended and we look forward to welcoming more of you in our upcoming sessions.

Separately, here are some recent news which may interest you:

- The Minister of Finance, YB Tengku Dato’ Sri Zafrul Tengku Abdul Aziz, released a [media statement](#) earlier this week on the Ministry’s response to the decline of oil price. An interesting aspect of the Minister’s statement was that the Ministry will “so be looking at structural reforms to ensure better diversification in Malaysia’s economy, apart from undertaking the necessary fiscal and monetary policies to develop the nation’s economic resiliency”.
- The Government has been urged to repay outstanding GST refunds to the construction industry to ease their cash flow which has been affected by the movement control order. This was among the proposals submitted by the Master Builders Association Malaysia to the Government.

We hope you find this month’s tax chat engaging, and that all of you continue to be safe and healthy.

Best regards,

**Tan Eng Yew**

Indirect Tax Leader

## 1. Excise Duty, Import Duty and Sales Tax Exemptions to combat COVID-19

Following the COVID-19 outbreak, the Malaysian Ministry of Finance announced that manufacturers of hand sanitisers (under HS code 3808.94 90 00) would be granted import duty, excise duty, and sales tax exemptions on the following raw materials – undenatured ethyl alcohol and denatured ethyl alcohol. You may find the announcement which is only available in the national language by clicking [here](#).

Applications should include the following information:

- a) Manufacturing licence issued by the Malaysian Investment Development Authority (MIDA)
- b) Information on the finished product
- c) Company's maximum production quantity for a period of one (1) year
- d) Input : output ratio
- e) Manufacturing process flow chart
- f) Manufacturing licence issued by the Malaysian Ministry of Health

Applications are to be submitted to the Taxation Division of the Ministry of Finance at the address below:

Secretary of the Tax Division  
 Malaysian Ministry of Finance  
 No. 5 Persiaran Perdana,  
 Presint 2, Pusat Pentadbiran Kerajaan Persekutuan,  
 62592 Putrajaya  
 (Attention: Puan Noor Zuraini binti Aziz)  
 E-mail: zuraini.aziz@treasury.gov.my  
 Tel: 03-8882 3344/8878/4060  
 Fax: 03-8882 3885

### Deloitte's comments

These tax exemptions would reduce the costs incurred on raw materials used to produce hand sanitisers which have seen increased demand since the outbreak of the COVID-19 pandemic. Eligible manufacturers of hand sanitizers should take note of information required, as listed above when submitting an application for the exemptions.

**Brought to you by:**



**Wong Poh Geng**  
 Director  
 KL Office

[Back to top](#)

## 2. Exemption for Service Tax on Digital Services for Banking and Financial Services

Service Tax Policy No. 10/2020 (“the policy”) was released by the RMCD on 17 April 2020, which exempts from service tax, digital services provided in connection with banking and financial services by local service providers. We highlight below key points of the policy, which you can access [here](#).

Effective 1 January 2020, digital services provided by local service providers were prescribed to be subject to service tax under item (*m*) of Group G in the First Schedule to the Service Tax Regulations 2018 (“STR”).

However, the Finance Minister has now declared that effective 1 January 2020, local service providers of digital services related to banking and financial services are exempt from charging and collecting service tax under subsection 34(4) of the Service Tax Act 2018 (“STA”). The recipient of digital services relating to banking and financial services from local service providers are exempt from payment of service tax under the provision of subsection 34(3)(a) of the STA.

The local providers of digital services that are exempt are as follows:

- a) Banks, investment banks or any licensed financial institutions under the Financial Services Act 2013 [Act 758], the Islamic Financial Services Act 2013 [Act 759], the Labuan Financial Services and Securities Act 2010 [Act 704] and the Labuan Islamic Financial and Securities Act 2010 [Act 705]
- b) Development Financial Institutions as prescribed under the Development Financial Institutions Act 2002 [Act 618] or other written law; and
- c) Any digital service provider that meets the following criteria:
  - Is a registered person under the STA;
  - Is a digital service provider in Malaysia; and
  - Provides digital services related to withdrawals or transfers of funds from one bank account to another, where service charges are charged separately to the account holder

The above exemptions do not apply to:

- a) Digital services related to banking and financial services provided by foreign service providers to consumers in Malaysia;
- b) Digital services other than digital services related banking / financial services provided by the local service providers listed above.

The transitional provisions under the policy provide for tax adjustments as follows:

- a) If the applicable service tax has been accounted for on an invoice basis and payment has not been received for services rendered on or after 1 January 2020, the registered person shall issue a credit note to the customer under subregulation 11(1) of the STR and make adjustments under subregulation 11(2) of the STR; or

- b) Where the service was provided in respect of a period prior to 1 January 2020 and spans beyond 1 January 2020, the registered person shall charge, account and pay the service tax on the services provided before 1 January 2020 only.
- c) No service tax refund is allowed for any person who has paid service tax.

Deloitte's comments

The concession whilst a welcome move for the local banking sector, does not sufficiently address the potential impact of tax applying on the wider range of financial services. In particular, there are no specific exclusions for services performed by credit card associations, payment networks, payment exchanges and payment processors. Furthermore, there is an imbalance in the treatment as services by foreign banking institutions are not excluded from the scope of the tax. This not only has the potential to impact Malaysian retail and corporate customers who transact directly with foreign banks, but also interbank transactions. Furthermore, where a foreign financial institution fails to register and account for tax, the local bank / customer may be required to account via the reverse charge which creates additional administrative challenges.

Critically there is still no clarity on what types of financial services the RMCD considers to be in scope of the tax, and this creates considerable uncertainty for the industry and the potential for diverging positions to be taken.

We understand that the policy document is intended to outline specific administrative or technical concessions that have not yet been put into Law. While the policy document does not have a force of Law, businesses should be able to rely on it until such time it is superseded.

**Brought to you by:**



**Senthuram Elalingam**  
Global Indirect Tax Clients  
& Industries Leader  
KL Office



**Patrick Ng**  
Tax Assistant  
KL Office

[Back to top](#)

### 3. Relaxation of Invoice Prescribed Particulars for Foreign Registered Persons of Digital Services

Subregulation 6(1) of the Service Tax (Digital Services) Regulations 2019 (the “Regulations”) provides that every Foreign Registered Person (“FRP”) who issues an invoice or document in relation to digital services provided to a consumer shall state the following particulars:

- (a) The date of the invoice;
- (b) The registration number of the FRP;
- (c) A description sufficient to identify the digital service provided; and
- (d) The total amount payable excluding service tax, the rate of service tax and the total service tax chargeable shown as a separate amount.

Further, subregulation 6(2) of the Regulations states that the Director General (“DG”) of the Royal Malaysian Customs Department (“RMCD”) may allow the FRP upon an application in writing for any particulars to not be stated on the invoice.

The RMCD has been supportive of FRPs who have been unable to configure their systems to meet these invoicing requirements. For example, the DG has allowed, on a case by case basis, FRPs to omit the service tax registration number and service tax rate (6%) in its invoice for provision of digital services. The FRP would instead be required to notify its Malaysian customers that service tax is applicable on its services e.g. through its portal or website.

The notification of Malaysian customers of service tax being included in the price is critical for the purpose of reporting of service tax on imported services by the customer. Local service recipients are entitled to any exemption from a reverse charge where the FRP has charged service tax on digital services [refer to item 3 in the Schedule of the Service Tax (Persons Exempted from Payment of Tax) Order 2018].

#### Deloitte’s comments

FRPs should take note of the practical approach taken by the DG in relation to the relaxation of invoicing requirements. The DG has shown a willingness to grant these concessions on a temporary or permanent basis depending on the challenges faced by the FRP. As we are in the early stages of the tax, we would encourage FRPs to take advantage of such opportunities as such concessions may not be granted later. It is also important to note that in the absence of such concessions, penalties can be imposed on each specific instance an invalid invoice has been issued.

For local service recipients who receive invoices from FRPs, to ensure correct reporting of reverse charge, we would encourage service recipients to discuss and confirm treatments with the FRPs, especially where it is unclear whether service tax has been charged or not.

Brought to you by:



**Leong Wan Chi**  
Manager  
KL Office



**Sherilyn Deva**  
Senior  
KL Office

We invite you to explore other tax-related information at:  
<http://www2.deloitte.com/my/en/services/tax.html>

To subscribe to our newsletter, please [click here](#).

[Back to top](#)



## Contact us – Our Indirect Tax Team



**Tan Eng Yew**  
Indirect Tax  
Leader  
[etan@deloitte.com](mailto:etan@deloitte.com)  
+603 7610 8870



**Senthuran Elalingam**  
Global Indirect Tax Clients &  
Industries Leader  
[selalingam@deloitte.com](mailto:selalingam@deloitte.com)  
+603 7610 8879



**Wong Poh Geng**  
Director  
[powong@deloitte.com](mailto:powong@deloitte.com)  
+603 7610 8834



**Chandran TS Ramasamy**  
Director  
[ctsramasamy@deloitte.com](mailto:ctsramasamy@deloitte.com)  
+603 7610 8873



**Larry James Sta Maria**  
Director  
[lstamaria@deloitte.com](mailto:lstamaria@deloitte.com)  
+603 7610 8636



**Irene Lee**  
Associate Director  
[irlee@deloitte.com](mailto:irlee@deloitte.com)  
+603 7610 8825



**Nicholas Lee**  
Associate Director  
[nichlee@deloitte.com](mailto:nichlee@deloitte.com)  
+603 7610 8361



**Wendy Chin**  
Senior Manager  
[wechin@deloitte.com](mailto:wechin@deloitte.com)  
+603 7610 8163

Name	Email address	Telephone
Leong Wan Chi Manager	wanleong@deloitte.com	+603 7610 8549
Eliza Azreen Kamaruddin Manager	eazreen@deloitte.com	+603 7610 7271
Atika Hartini Suharto Manager	asuharto@deloitte.com	+603 7610 7986
Tamil Selvan Chandran Manager	tchandran@deloitte.com	+603 7610 9231
Emeline Tong Assistant Manager	emtong@deloitte.com	+603 7610 8733
Naresh Srinivasan Assistant Manager	narsrinivasan@deloitte.com	+603 7650 6459

## Other offices

Name	Email address	Telephone
Susie Tan Johor Bahru and Melaka	susietan@deloitte.com	+607 268 0851
Ng Lan Kheng Penang	lkng@deloitte.com	+604 218 9268
Lam Weng Keat Ipoh	welam@deloitte.com	+605 253 4828
Philip Lim Kuching and Kota Kinabalu	suslim@deloitte.com	+608 246 3311

[Back to top](#)



# Deloitte.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities. DTTL (also referred to as “Deloitte Global”) and each of its member firms and their affiliated entities are legally separate and independent entities. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 312,000 people make an impact that matters at [www.deloitte.com](http://www.deloitte.com).

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities provide services in Australia, Brunei Darussalam, Cambodia, East Timor, Federated States of Micronesia, Guam, Indonesia, Japan, Laos, Malaysia, Mongolia, Myanmar, New Zealand, Palau, Papua New Guinea, Singapore, Thailand, The Marshall Islands, The Northern Mariana Islands, The People’s Republic of China (incl. Hong Kong SAR and Macau SAR), The Philippines and Vietnam. In each of these, operations are conducted by separate and independent legal entities.

## **About Deloitte in Malaysia**

In Malaysia, services are provided by Deloitte Tax Services Sdn Bhd and its affiliates.

*This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organisation”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.*

*No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.*