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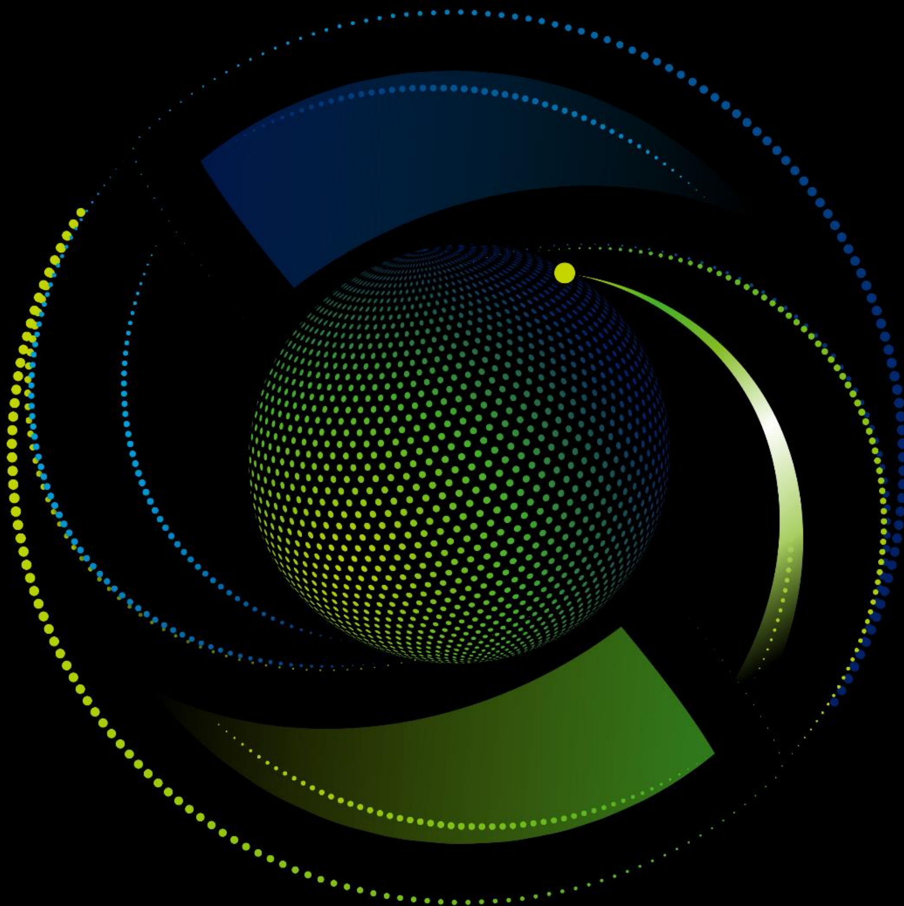

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Indirect Tax Chat

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

MAKING AN IMPACT THAT MATTERS since 1845

October 2022

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Key takeaways:

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Greetings from Deloitte Malaysia's Indirect Tax team

Greeting's readers, and welcome to the October 2022 edition of our Indirect Tax Chat. We hope that you are keeping safe and well.

With the announcement of Budget 2023 earlier this month, the Government released a revised estimate for indirect tax revenue for the year 2022. For the whole of 2022, sales tax revenue estimates have increased from RM14.56 billion to RM15 billion, while service tax collection is to increase from RM13 billion to RM14.7 billion. For the year 2023, indirect tax collection is estimated to increase by 4.3% to RM53.2 billion in tandem with steady consumption and trade growth. Sales tax and service tax ("SST") are projected to increase to RM16.3 billion and RM15.7 billion respectively. Meanwhile, import duties, export duties, and excise duties for 2023 are forecasted to be RM3 billion, RM2.2 billion, and RM12 billion respectively. The Budget 2023 figures can be accessed here and here.

The Internal Tax department and Compliance Management department at the Royal Malaysian Customs Department ("RMCD") have relocated their head office from Menara Tulus in Putrajaya to Suasana PjH on Jalan Tun Abdul Razak in Putrajaya. The Internal Tax Department is the department that handles SST technical matters, among others. For more information, please refer to the RMCD's announcements here and here.

This month, we look at a new sales tax Order which exempts certain businesses from registering for sales tax, and an updated RMCD Guide on sales tax exemptions under Schedule C. We also cover the amendments to tourism tax and departure levy brought about by their respective amendment Acts.

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

- Finance Minister Tengku Datuk Seri Zafrul Tengku Abdul Aziz said that the possibility of reviving the Goods and Services Tax ("GST") will only be discussed next year. The cabinet will discuss reintroducing the GST depending on the state of the economy next year. For more information, please click here and here.

- Standard Chartered Bank ASEAN and South Asia chief economist, Edward Lee, said that debate on the GST may resurface in the coming years as federal government revenue projections point to a deterioration. He shared that with revenue to GDP the lowest since 2005, and questions arising on new revenue sources, the GST debate may resurface in 2023. Edward shared that the SST collection has averaged 1.8% of GDP over the past five years, less than the 3.3% of GDP worth of GST collections in 2016-2017. For more information, please click here.

We would like to wish our readers celebrating, a Happy Deepavali!

Best regards,
Tan Eng Yew
Indirect Tax Leader

1. Sales Tax (Exemption From Registration) (Amendment) Order 2022

The Sales Tax (Exemption from Registration) (Amendment) Order 2022 ("Amendment Order") was gazetted on 29 August 2022. The amendments were made to Paragraph 2 and Schedule A of the Principal Order, Sales Tax (Exemption from Registration) Order 2018.

Amendment to Paragraph 2

The scope of who gets exempted from having to be registered for sales tax has been changed to:

- Any person who operates only one manufacturing operation (specified in Schedule A) out of several operations in a manufacturing chain to produce goods.
- Where the person operates more than one manufacturing operation as specified in Schedule A, and such manufacturing operations do not relate to producing goods.

Amendment to Schedule A

The entire Schedule A of the Principal Order has been replaced. Notable differences observed are as follows:

A. The following operations have been excluded:

i. The incorporation of goods into building
ii. The installation of air conditioners into motor vehicle
iii. The manufacture of jewellery and goldsmiths' wares
iv. The extraction of gold from mineral ores
v. The recovery of gold from jewellery and/or the refining of gold

B. Certain existing prescribed operations have been amended to:

i. The developing, printing of photograph, production of film slides or any forms or combination of any of those activities. (Item 1 of the Amendment Order)

ii. Engraving printing, drawing, writing, embossing or any other similar activities on taxable goods with a description relating to the sports record or other circumstances under which the taxable goods was donated or awarded. (Item 2 of the Amendment Order)

iii. The preparation of food and drinks by:
(i) any person who provides services under Group B, First Schedule, Service Tax Regulations 2018; or
(ii) central kitchen for distribution to its premises which provide services under Group B, First Schedule, Service Tax Regulations 2018.

(Item 4 of the Amendment Order)

iv. The preparation of tarred metal, tarred screening, and hot mixed preparations of bitumen and metal for road construction. (Item 5 of the Amendment Order)

v. The production of copies of documents by the copy machine or similar copying process. (Item 6 of the Amendment Order)

vi. The repacking of the same bulk goods into smaller packages by **any person.** (Item 7 of the Amendment Order)

vii. The testing of eyesight, the prescription of suitable lenses and the installation of such lenses into frames. (Item 9 of the Amendment Order)

viii. The following operations when performed by a person other than a registered manufacturer:

(i) the varnishing and/or polishing of finished pieces of furniture;
(ii) the installation of glass tops and/or glass doors to pieces of furniture otherwise complete.

(Item 10 of the Amendment Order)

ix. The reduction of size and/or changing of the shape without changing the nature of such taxable goods. (Item 11 of the Amendment Order)

x. The rendering of personal tailoring service but excluding tailoring service provided by company engaged in the business of manufacturing garments and other textile articles. (Item 12 of the Amendment Order)

xi. Printing, sewing or pasting of logo, knitting, crocheting or embroidering on ready-made garments. (Item 13 of the Amendment Order)

C. The addition of a new operation:

i. A cleaning operation by removing dirt or dust without any further operations.

Deloitte's comments

The amendment appears to affect many businesses across various industries: potentially impacting some businesses which were previously exempted from the need to register for sales tax while providing an opportunity to some to be exempted. However, the lack of an indication as to when this amendment would be effective makes it difficult for businesses to gauge the extent of the amendment's implications.

It is important that businesses study if their existing operations would now fall in or out of the exemption's scope. For impacted businesses, it would be worthwhile to also engage with the RMCD in seeking clarity on transitional steps that can be taken, in light of this amendment.

Brought to you by:

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2. Revised Guide on Sales Tax Exemption Under Schedule C

On 23 August 2022, the RMCD uploaded a revised Guide on Sales Tax Exemption Under Schedule C, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 ("Schedule C Guide") dated 22 July 2022, which is accessible here, to replace the previous Schedule C Guide as of 24 April 2019.

Schedule C of the Sales Tax (Persons Exempted From Payment of Tax) Order 2018 ("Schedule C") enables the sales tax registered manufacturers to acquire sales tax exempted raw materials, components, and packaging materials for use in manufacturing of taxable goods. In the revised Schedule C Guide, an important change is in paragraph 6 that the sales tax exemption under Schedule C also covers **non-returnable pallets** that are used to transport finished goods. The cost of the pallets shall also be included in the selling price of the finished goods for sales tax purposes. The non-returnable pallets are treated as in the category of packaging/packing materials used in the manufacturing of taxable goods and therefore, are eligible for exemption under Schedule C.

In addition, **labels** for the identification of finished goods which are **attached to the boxes** are also eligible for Schedule C sales tax exemption under the category of packaging or packing materials used in the manufacturing of taxable goods.

Deloitte's comments

The above amendment to the Schedule C Guide on the exemption on pallets is in line with the Sales Tax Policy 1/2022 ("STP1/2022") which was published by the RMCD on 5 April 2022. Businesses are advised to be mindful of the criteria that qualify the pallets and labels for sales tax exemption.

For more information on the STP1/2022 on sales tax exemption on pallets, please refer to our April 2022 Chat.

Brought to you by:

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3. Amendments to Tourism Tax and Departure Levy Acts

Tourism Tax ("TTx")

The Tourism Tax (Amendment) Bill 2022 ("TTx Bill") was introduced into Parliament on 20 July 2022, to amend the Tourism Tax Act 2017 ("TTx Act"). The TTx Bill has since been passed in the House of Representatives (*Dewan Rakyat*) and the Senate (*Dewan Negara*), and has recently been gazetted as the Tourism Tax (Amendment) Act 2022 ("Amendment Act") on 18 October 2022. The amendments to the TTx Act are as follow:

- Subsection 66(3) of the TTx Act regarding forms to be used is to be deleted. At present, it is an offense where a wrong form has been used where prescribed under the TTx. Such deletion would be sensible as outlawing a simple mistake of using the wrong prescribed form would not be sensible.

- New section 69A to be inserted, which seeks to empower the Minister to extend the period to perform an act or a thing which is required to be completed within a certain period under the TTx Act if he is satisfied that the act or thing could not be completed within the period due to the occurrence of any public emergency or public health crisis. For example, where the TTx-03 return is to be submitted by a hotel operator at the end of a particular month, but due to public emergency or public health crisis, the Minister may extend the deadline to a future date as he deems fit.

- New section 69B to be inserted, where terms and conditions are imposed for any matter under the TTx Act, the Minister may, on the advice of the Director General of the RMCD, modify (i.e. add to, delete, or vary) the terms and conditions for the purpose of carrying out the objectives of the TTx Act. Such notice must be given to the person bound by the terms and conditions to notify them of such modifications and effective date of such modifications.

- Amendment of subsection 70(2) to give additional powers to the Minister to prescribe the particulars in an invoice or receipt to be used for the purposes of TTx.

Apart from the Amendment Act above, the RMCD has announced that effective 1 October 2022, Digital Platform Service Providers ("DPSP"), both local and foreign, who allow the booking of accommodation premises in Malaysia are now able to register for tourism tax. This registration can be done by submitting the TTx-01A form online here.

Deloitte's comments

The amendments provide additional powers to the Minister and the RMCD, in relation to the extension of statutory deadlines and modification of terms and conditions granted under the TTx Act.

We would like to take this opportunity to remind our readers that TTx for DPSP is slated to come into effect on 1 January 2023. Local accommodation service providers who work with various platform partners for the booking of their rooms should notify and work with the partners to highlight the registration and their liability to impose and collect the tourism tax.

For more information on TTx for DPSPs, you may refer to our September 2021 Chat.

Departure Levy ("DLv")

The Departure Levy (Amendment) Bill 2022 ("DLv Bill") was introduced into Parliament on 20 July 2022, to amend the Departure Levy Act 2019 ("DLv Act"). This Bill has since been passed in the House of Representatives (*Dewan Rakyat*) and the Senate (*Dewan Negara*), and has recently been gazetted as the Departure Levy (Amendment) Act 2022 ("Amendment Act") on 18 October 2022. The amendments to the DLv Act are as follow:

- New section 62A is inserted into the DLv Act which seeks to empower the Minister to extend the period to perform an act or a thing which is required to be completed within a certain period under the DLv Act if he is satisfied that the act or thing could not be completed within the period due to the occurrence of any public emergency or public health crisis. For example, where the DL-02 return is to be submitted by an airline operator at the end of a particular month, but due to public emergency or public health crisis, the Minister may extend the deadline to a future date as he deems fit.

- New section 69B to be inserted, where terms and conditions are imposed for any matter under the DLv Act, the Minister may, on the advice of the Director General of the RMCD, modify (i.e. add to, delete, or vary) the terms and conditions for the purpose of carrying out the objectives of the DLv Act. Such notice must be given to the person bound by the terms and conditions to notify them of such modifications and effective date of such modifications.

Deloitte's comments

Similar to the TTx Amendment Act, the amendments to the DLv Act provide additional powers to the Minister and the RMCD in relation to the extension of statutory deadlines and modification of terms and conditions granted under the DLv Act. Though the departure levy has now been in effect for three years, it is a lesser-known indirect tax compared to the SST. To find out more information on DLv, please refer to our July 2019 Chat and August 2019 Chat.

Brought to you by:

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