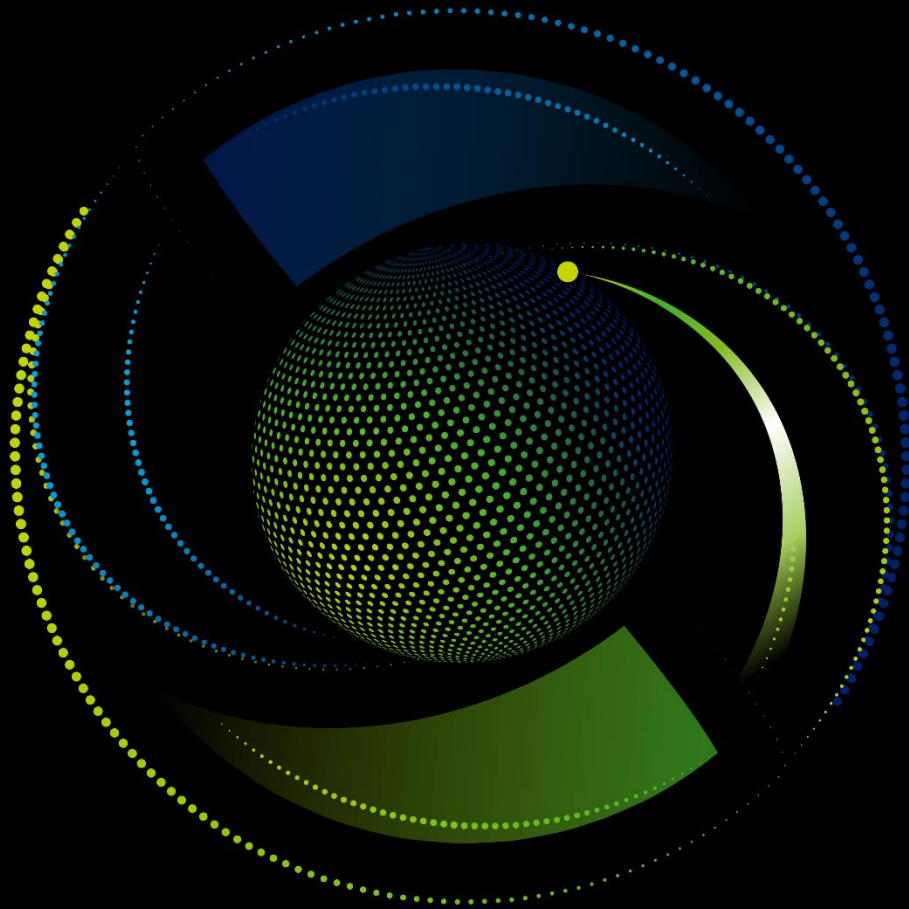


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Indirect Tax Chat

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

May 2024



Issue 05.2024

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

Key takeaways:

1. [Updated Guide on Accommodation Services](#)
2. [Updated Guide on Consultancy, Training and Coaching Services](#)
3. [Updated Guide on Logistic Services](#)

Greetings from Deloitte Malaysia's Indirect Tax team

Greetings readers, and welcome to the May 2024 edition of our Indirect Tax Chat.

The Voluntary Disclosure (“VD”) Program draws to a close on 31 May 2024, with many businesses taking the opportunity to disclose any errors. We remain hopeful that the Royal Malaysian Customs Department (“RMCD”) will introduce similar programs in the future to further encourage voluntary compliance.

In this month's chat, we will be sharing our thoughts on the service tax updates on Accommodation Services, Consultancy, Training and Coaching Services Guide, as well as updates to Logistic Service Guide.



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

- RMCD announced plans to introduce the Compliance Verification Audit (AViP) in July to encourage self-compliance and voluntary disclosure. This new approach helps businesses correct errors and comply with regulations by advising them to voluntarily pay any tax shortfalls. It also offers incentives such as penalty waivers and instalment payment. For more information, please click [here](#).
- The reinstatement of the GST in Malaysia will be considered only if the economic situation allows, Deputy Finance Minister Lim Hui Ying told the Dewan Negara. The current Sales and Services Tax (“SST”) offers a faster fiscal impact compared to GST. Prime Minister Datuk Seri Anwar Ibrahim stated that Malaysia is not ready for GST until the people's income threshold rises. The government aims to ensure any future tax policy changes, including potential GST reintroduction, do not harm vulnerable groups or living costs and support economic growth. For more information, please click [here](#).
- Mich Goh, Airbnb's public policy head for Southeast Asia, stated that Airbnb has collected and remitted billions in tourist and hotel taxes globally, including the RM10 tourism tax and an eight percent service tax in Malaysia. For more information, please click [here](#).

We hope you continue to stay safe and well. We would also like to take this opportunity to wish to our readers celebrating a *Selamat Hari Raya Haji!*

Best regards,

Tan Eng Yew

Indirect Tax Leader

1. Updated Guide on Accommodation Services

The RMCD released an [updated Guide on Accommodation Services](#) (“Accommodation Guide”) dated 26 February 2024 which is available only in the national language (Malay version). As such, the guide can only be accessed via the national language version of the MySST portal. This supersedes the [previous Accommodation Guide](#) dated 27 June 2023.

The salient points covered within the guide are highlighted below:

Determination of service tax rate for provision of taxable services under Group A - Accommodation

Taxable services	Determination of service tax rate
(a) Provision of accommodation premises – Examples: 1. Accommodation package only 2. The accommodation package including breakfast	8% 8% 8%
(b) Provision of any other services specified in other Groups in the First Schedule of the Service Tax Regulations 2018 (“STR”) – Examples: 1. Food and beverage (“F&B”) services 2. Parking services 3. Other taxable services such as massage parlour, event management, business centre	6% or 8% 6% 6% 8%
(c) Provision of other services within the area or place of business under the control of the service provider – Examples: 1. Rental of advertising space 2. Rental of business space 3. Wedding packages inclusive of provision of banquet/catering, venue preparation and rental of equipment/live band/karaoke 4. Seminar/ Training/ Meeting/ Course package includes provision of accommodation, F&B services, telecommunication services (internet), rental of seminar hall/meeting room or others such as LED equipment/ microphones	8% 8% 8% 8% 8%
(d) Supply or sale of – 1. Cigarettes; 2. Tobacco products; 3. Smoking pipes (including pipe bowls); 4. Electronic cigarettes and similar personal electric vaporizing devices; 5. Preparation of a kind used for smoking through electronic cigarettes and electric vaporizing device in form of liquid or gel, whether or not it contains nicotine; or	8%

6. Alcohol or non-alcoholic beverages.	
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- Under paragraph 14(iii) Example 2, the service tax treatment on the rental charges for spaces on the exterior roof of the building to place telecommunication equipment has been updated. Under the previous accommodation guide, the rental of the space is not subject to service tax on the basis that it is located outside the accommodation premises. However, in the updated accommodation guide, this is now considered as subject to service tax.
- Generally, the FAQ answers have been updated to include the relevant service tax rates for the provision of taxable services in each scenario, reflecting the change in service tax rate from 6% to 8%.

Deloitte's comments

The Accommodation Guide was mainly updated to align with the relevant amendments made to the Service Tax (Amendment) Regulations 2024 and the Service Tax (Rate of Tax) (Amendment) Order 2024.

For affected businesses, it would be important for the businesses to re-evaluate all provisions of other services within the area or place of business under the businesses' control and to identify the appropriate service tax treatment to be applied. Businesses will also be required to ensure that the correct service tax rate is charged and elected during the preparation of SST-02 return. In instances of uncertainty, businesses should proactively seek clarification from the RMCD to ensure compliance and avoid disruptions.

Brought to you by:



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2. Updated Guide on Consultancy, Training and Coaching Services

On 29 February 2024, the RMCD has updated the [Guide on Consultancy, Training and Coaching Services](#) (“the Guide”), which is available only in the national language and can be accessed through the list of industry guides on the Malay version of the MySST portal.

Based on recently released the Guide, we note the following salient points:

- Service tax rate for the provision of consultancy, training and coaching services has been increased to 8% effective 1 March 2024. For further information on the change of rate of service tax, please refer to our [February 2024 Chat](#) on the [Guide on the Transition of Service Tax Rate Change](#) from 6% to 8% dated 26 February 2024.
- The RMCD has further clarified that the provision of advisory services by a person appointed as a Non-Executive Director (“NED”) will be in his/her personal capacity under a contract.
- The above simply means that a director appointed under a contract for services who charges a fee for the provision of advisory services, is subject to service tax. However, if the person is appointed as a director in the capacity of the position held, which is a contract for service or even working with the company, then it is not subject to service tax.
- The following services provided by a director under a contract for advisory services are subject to service tax:
 1. Director’s remuneration / fee
 2. Director’s allowance (e.g., meeting allowance, monthly allowance, Senior Independent Director (“SID”) allowance and others)
 3. Benefits in the form of goods*
 4. Reimbursement
 5. Disbursement*

(*) Notwithstanding the above, the following services provided by the director are not subject to service tax:

a. Benefits in the form of goods

Benefits in kind are also part of the remuneration package and they are an additional incentive for directors. NED can receive benefits like allowance in terms of cash given directly by the appointing company and it is subject to service tax. However, the facility paid directly by the company to the service provider to be enjoyed by the NED, is not subject to service tax.

b. Disbursement

To the extent where the prescribed conditions have been met, the disbursement incurred by the NED for the provision of advisory services shall not be subject to service tax. Please refer to the [Guide on Disbursement and Reimbursement](#) dated 15 September 2020 for further details.

- Under the list of non-taxable consultancy, training, and coaching services, the latest guide has been further amended where the taxability of training and coaching services is no longer determined by the subject matter (i.e., whether the provision of training and/or coaching service relates to goods, land or matters in Malaysia).

Deloitte's comments

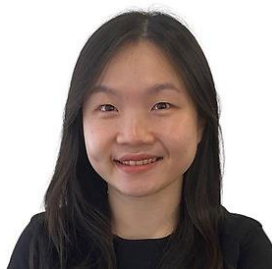
The guide gives further clarity that all services provided by NEDs are taxable except in the form of benefits in form of goods and/or disbursement. We recommend businesses with directors who are not employees of the firm, to review their position to ensure the right tax treatment is adopted.

For all provision of training and coaching services, the applicability of goods/land situated or matters outside Malaysia would no longer be applied. This change is consistent with the change in the law which came into effect from 26 February 2024.

Brought to you by:



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3. Updated Guide on Logistic Services

The RMCD has recently released an updated [Guide on Logistic Services](#) (“the Guide”) on 5 April 2024 which supersedes the previous Guide dated 26 February 2024. The Guide is only available in the national language and accessible via the list of industry guides on the Malay version of the MySST portal. The salient updates in the Guide are as below:

- a) A new paragraph 9 is inserted to state that service tax on logistics services is not levied on duty, taxes, levies charges or any gazetted payment fees.
- b) Additions of new paragraphs 11 to 15 have been included to state that logistics services are taxable services under Group J at a rate of 6% effective from 26 February 2024. These paragraphs also outline that the Minister of Finance has granted an exemption from charging service tax for the period from 26 February 2024 to 29 February 2024 to existing registered persons who provide the new taxable logistics services and to levy service tax on these services from 1 March 2024.
- c) An exemption is also granted to new registered persons from levying service tax on the new taxable logistics services for the period from 26 February 2024 to 31 March 2024. For those who are responsible to register in February 2024, the application for registration can be made in the period from 1 March 2024 to 31 March 2024 and service tax is to be levied from 1 April 2024.

The exemptions above are addressed in the [Service Tax policy No.1/2024](#) dated 28 February 2024.

- d) In paragraph 20, the exclusion of taxable services under logistics services for the delivery, distribution or transport of goods (including express delivery of documents, packages or goods) has been amended to include the following item (e):

e) documents, packages or goods which arrive in Malaysia for the purpose of transit to another place outside Malaysia through sea/air/land transport.

The exemption above is addressed in the [Service Tax policy No.4/2024](#) dated 29 March 2024.

- e) Paragraph 24 has been revised to additionally include “services provided within Special Areas (“SA”) or within Designated Areas (“DA”), if its main place of business is in Malaysia” is subject to service tax.
- f) Paragraph 37 outlines the registered persons who receive logistics services are eligible to be exempted from paying service tax (“B2B exemption”), if the conditions set out have been met. In the previous guide, one of the conditions include “the exempted taxable services are the same services provided by the person exempted from payment of tax”. This condition has been revised to read as “the exempted taxable services are the services under the same item provided by the person exempted from payment of tax”.

This exemption is given specifically to service recipient who obtained the same item of services from the service provider. The B2B exemption is self-compliance and no application for exemption is required. The service provider is responsible to identify the eligibility of the service recipient for exemption, to indicate B2B exemption in the invoice issued to service recipient and to declare under item 18(c) of the SST-02 return.

The exemption above is addressed in the Service Tax policy No.4/2024 dated 29 March 2024.

- g) A new section has been inserted under paragraph 45 with regards to the service tax treatment on logistics services provided in SA and DA. This section covers the definition of SA and DA. The provision of logistics services under Group J, excluding customs agent services are exempted from service tax for the following scenarios:
- i. within the SA – by a service provider (whose main place of business is in SA) to a service recipient (whose main place of business is in SA).
 - ii. within the DA – by a service provider (whose main place of business is in DA) to a service recipient (whose main place of business is in DA).
 - iii. between a place in DA to a place in SA, or vice versa – by a service provider (whose main place of business is in DA or in SA) to a service recipient (whose main place of business is in DA or in SA).

The exemption above is addressed in the Service Tax policy No.4/2024 dated 29 March 2024.

- h) A new section has also been inserted under paragraph 47 with regards to the service tax exemption granted by the Minister of Finance on ocean freight charges for the delivery of goods using sea transport mode limited to the following journeys/destinations:
- i. Peninsular Malaysia to Sabah/Sarawak/Labuan;
 - ii. Sabah/Sarawak/Labuan to Peninsular Malaysia; and
 - iii. Between Sabah, Sarawak and Labuan.

The exemption above excludes the transportation of goods using river routes in Sabah and Sarawak.

The exemption above is addressed in the Service Tax policy No.4/2024 dated 29 March 2024.

Deloitte's comments

With the addition and improvement of the service tax exemptions in the aforementioned Guide, businesses would be able to explore the different types of exemptions relevant to its current business practices. The exemption granted by the Minister of Finance to the existing and new registered persons would reduce service tax non-compliance issues such as late service tax registration and late payment of service tax. Additionally, a revision of conditions has broadened the scope of B2B exemption, which allows more businesses to benefit from the exemption and helps to alleviate the impact of tax duplication or the tax cascading effect in the logistics supply chain.

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