



Indirect Tax Alert

Updates on the Digital Tax Services

Following a recent discussion with the Ministry of Finance (MoF) and the Royal Malaysian Customs Department (RMCD), there is further development from our previous alert dated 5 April 2019 on the implementation of Digital Service Tax (DST) to Malaysian consumers [here](#).

MoF has confirmed that there will be no deferral of the go-live date for DST and it will commence from 1 January 2020. Among other points discussed:

- DST will be applicable for digital services supplied by a foreign service provider to both businesses and consumers in Malaysia. This would mean that it would apply to both business to business (B2B) and business to consumer (B2C) transactions.
- In terms of identifying who is a consumer in Malaysia, MoF intends to apply a 'residence test'. The place of residence in Malaysia would be the primary test, and the secondary test

would be determined based on either the IP address registered in Malaysia, telephone number country code assigned to Malaysia or payment facility provided by a company in Malaysia (e.g. credit card issued by financial institution in Malaysia). The acquirer would first need to meet the primary test, followed by one of the secondary conditions, to be viewed as being in Malaysia.

- To ensure that there is no double taxation, a blanket exemption would be given to SST-registered entities from accounting for service tax on a transaction of imported taxable service if they receive an invoice from a foreign entity, where service tax was imposed by the foreign entity on that transaction (as digital services).
- On the scope of taxable digital services, RMCD has confirmed that it would be as wide as possible. Any service using an electronic infrastructure (e.g. IT-enabled services) would be included in the scope.
- There is the possibility of exemptions for certain industries (e.g. health or education) for services that are not taxable services if delivered non-electronically – the exemption would be given to the electronic delivery of such services to harmonise the non-taxable treatment of both electronic and non-electronic mediums of service delivery.
- The finalised guide on DST is to be made available by RMCD in July 2019.
- Registration for DST will be open from 1 October 2019, providing foreign service providers four months to prepare for the implementation of DST effective 1 January 2020. The invoicing requirements would remain the same as what is required locally (i.e. quoting the Service Tax Registration ID, service tax amount, etc.).
- RMCD may provide some leeway to assist in facilitating and smoothening the implementation process of DST for the foreign service providers. RMCD will also be organising roadshows to assist the implementation of these foreign service providers.

Deloitte's comments

The requirement for foreign digital service providers to register and collect tax on both B2B and B2C transactions represents a major shift from the proposed B2C-only digital taxation guidelines released by the OECD and what has been implemented in the region and globally.

The implementation time frame for businesses will be short, with only about 4-5 months to get ready. We observe that some of the critical challenges will be in relation to classification and system configuration (including configuring invoices).

The provision of an exemption on reverse charge for service tax registered customers who receive an invoice with service tax could pose issues depending on how it is framed and how it will be applied.

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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