

Malaysia updates service tax guide on digital services

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Executive summary

From 1 January 2020, a registered foreign person¹ (RFP) is required to charge service tax at a rate of 6% on digital services provided to consumers in Malaysia.² Details of new group relief provisions and clarification on several aspects of the new law are set out in an updated Royal Malaysian Customs Department (Customs) Guide on Digital Services (the Guide) published on 1 August 2020.³

This Alert summarizes key highlights of the Guide.

Detailed discussion

The Guide provides further guidance on a range of issues, including:

► *Group relief/intra-group exemption*

- From 14 May 2020, an RFP will not need to charge service tax on supplies of digital services to companies in Malaysia within its group of companies provided that the RFP does not provide the same digital services outside its group of companies.⁴

► *Digital services that are not subject to service tax:*

From 1 January 2020, the following digital services provided by RFPs are not subject to service tax:⁵

- Online distance learning relating to preschool, primary, secondary or tertiary education including vocational education and professional training recognized by the relevant foreign authority
- Online newspapers, online journals and periodicals: Online journals and periodicals refer to online educational, technical, scientific, historical or cultural journals and periodicals issued weekly, fortnightly, monthly, quarterly or yearly

► *Clarification on the treatment of online platform operators*

A foreign online platform operator who facilitates transactions relating to the provision of digital services on behalf of any service provider is considered a foreign service provider (FSP) if it meets any of the following conditions:

- Is authorized to set the terms and conditions of the underlying transactions
- Has a direct or indirect involvement in payment processing
- Has a direct or indirect involvement in delivery of the digital service
- Provides customer support services in relation to the supply or provision of digital services
- Issues invoices or any other documents to the consumer, to whom the supply is identified as made by the online platform operator

► *Calculating the value of digital services for mandatory registration*

Additional guidance and examples are now available for the following categories of FSPs:

- FSPs who are online platform operators
- FSPs who sell both directly to consumers in Malaysia and indirectly through an online platform operator

► *Debit and credit notes*

- RFPs who issue debit notes must declare service tax in the taxable period in which the debit notes are issued or payments are received.
- RFPs who issue credit notes in relation to a digital service which was previously accounted for must amend their DST-02 returns related to the taxable period for which service tax has been paid. RFPs can submit refund applications to claim overpaid service tax for the corresponding taxable period.

Implications

The new group relief rules have the effect of narrowing the scope of Malaysia's service tax on digital services to business to consumer transactions and business to business transactions outside an FSP's group of companies, from 14 May 2020. FSPs relying on the exemption should be mindful of future transactions with service recipients outside its group of companies and have controls in place to maintain compliance with the group relief conditions.

Endnotes

1. A foreign service provider (FSP) is required to register for service tax as an RFP when the total value of digital services provided to consumers, businesses and individuals alike, in Malaysia exceeds US\$119,500 (MYR500,000).
2. See EY Global Tax Alert, [Malaysia releases services tax guide on digital services](#), dated 26 September 2019 for a summary of key aspects of the 20 August 2019 guide.
3. The full text of the Guide is available on the Customs' [MYSST portal](#).
4. Pursuant to Regulation 5A, Service Tax (Digital Services) Regulations 2020.
5. Pursuant to Service Tax Policy No.4/2020 - Service Tax on Online Distance Learning Services.

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EYG no. 006398-20Gbl

1508-1600216 NY
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