

Malaysia enacts law to impose service tax on digital services

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Executive summary

Malaysia's *Service Tax (Amendment) Act 2019* (the Act) that implements the imposition of 6% service tax on certain digital services was enacted on 9 July 2019. The key features of the Act are in line with the draft bill presented on 8 April 2019.¹

This Alert summarizes the key aspects of the Act.

Detailed discussion

Any foreign service provider providing digital services, as defined below, to consumers on or after 1 January 2020 is required to charge a 6% service tax on the digital services.

The key terms defined in the Act are as follows:

- ▶ **Digital service:** Any service that is delivered or subscribed to over the internet or other electronic network, which cannot be obtained without the use of information technology and the delivery of the service is essentially automated
- ▶ **Foreign service provider:** Any person who is located outside Malaysia and provides any digital service to a consumer, including any person who operates an online platform for the buying and selling of goods, or for providing services

(whether such person provides any digital services) and who makes transactions for the provision of digital services on behalf of another person

► **Consumer:** Any person who meets any two of the following conditions:

- a) Makes payment for digital services using a credit or debit card provided by any financial institution or company in Malaysia
- b) Acquires digital services using an internet protocol address registered in Malaysia or an international mobile phone country code assigned to Malaysia
- c) Resides in Malaysia

Based on an 18 April 2019 a Frequently Asked Questions released by the Royal Malaysian Customs Department (Customs) on the topic, a foreign service provider will need to register for service tax if the total value of the digital

services provided to consumers (defined above) exceeds RM500,000 (US\$121,500) over any 12-month period. Online registration facilities are available.

Any foreign service provider who provides the digital services prior to 1 January 2020 and is required to be registered should begin applying for service tax registration from 1 October 2019. The registration will be effective as of 1 January 2020 or any later date as determined by Customs.

The foreign service provider will be required to file quarterly returns and pay the service tax due.

Although initially expected to apply only on digital services provided to individual consumers, the law is unclear on this point. The term "consumer" is broadly defined and can be interpreted to include businesses recipients. Further details are expected to be released as a Customs Guide in due course.

Endnote

1. See EY Indirect Tax Alert, [Malaysia introduces digital service tax](#), dated 8 May 2019.

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Indirect Tax

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