

## Malaysia releases service tax guide on digital services

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### Executive summary

Effective on or after 1 January 2020, a registered foreign service provider is required to charge a 6% service tax on digital services provided to consumers in Malaysia. Clarification on key aspects of the new law are set out in a Royal Malaysian Customs Department (Customs) Guide on Digital Services (the Guide) published on 20 August 2019.

This Alert summarizes several clarifications in the Guide.

### Detailed discussion

The *Service Tax (Amendment) Act 2019* (the Act) enacted on 9 July 2019<sup>1</sup> was broadly worded and left several questions unanswered on the precise implementation of the service tax on digital services effective as of 1 January 2020.

- ▶ The scope of digital services covers any service that is delivered or subscribed 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. Specific examples are provided in the Guide. It also clarifies that digital services are services delivered through an information technology medium with minimal or no human intervention from the service provider.

- ▶ A foreign service provider (FSP) may be subject to the new law. An FSP is any person who: (i) resides outside Malaysia; (ii) provides any digital service to a consumer; (iii) operates an online platform for buying and selling goods or providing services (whether such person provides any digital services); and (iv) makes transactions for provision of digital services on behalf of any person.
- ▶ A consumer is any person, **business or individual**, who meets any two of the following conditions:
  1. Makes payments for digital services to an FSP using a credit or debit card provided by any financial institution or company in Malaysia
  2. Acquires digital services from an FSP using an internet protocol address registered in Malaysia or an international mobile phone country code assigned to Malaysia
  3. Resides in Malaysia
- ▶ Registration is required if:
  - The person is an FSP, and the value of digital services provided by it to Malaysian consumers exceeds MYR500,000 (US\$120,000) over a 12-month period.
  - The person is a platform operator treated as an FSP, and the value of both digital services it makes to Malaysian consumers and the value of digital services made by other FSPs through its platform to Malaysian consumers exceed MYR500,000 over a 12-month period.
- ▶ Applications for registration can be submitted online beginning 1 October 2019. Registered FSPs should file service tax returns on a quarterly basis and settle their service tax liabilities no later than the last day of the month following the end of the corresponding quarterly taxable period.
- ▶ Registered FSPs must issue invoices, receipts or similar documents (electronically or in paper) with the required details.
- ▶ FSPs are not required to charge service tax on digital services if a payment is received before 1 January 2020. Digital services that include the 1 January 2020 implementation date will be subject to service tax on the proportion of digital services rendered on or after 1 January 2020, unless full payment is received before 1 January 2020.
- ▶ The service tax on digital services is generally due when payment is received.
- ▶ Businesses in Malaysia that have been charged service tax on digital services provided by a registered FSP are exempt from the reverse charge obligations (i.e., need not self-impose the 6% service tax on imported taxable services acquired from registered FSPs).

## Implications

Given the relatively short lead time to implementation, FSPs should be immediately assessing if they will need to register and charge Malaysian service tax from 1 January 2020. As the regime is broader to capture the provision of digital services to businesses, many companies may fall within the scope of the service tax regime in Malaysia.

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## Endnote

1. See EY Indirect Tax Alert, [Malaysia enacts law to impose service tax on digital services](#), dated 7 August 2019.



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