

SERVICE TAX (AMENDMENT) ACT 2020

Act A1632

31 December 2020

Short title and commencement

- 1(1) This Act may be cited as the **Service Tax (Amendment) Act 2020**.
- 1(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Service Tax Act 2018 [*Act 807*], which is referred to as the “principal Act” in this Act, is amended in subsection 2(1)—
 - (a) by inserting after the definition of “this Act” the following definition:

‘ “goods” means all kinds of movable property;’;
 - (b) in the English language text, in the definition of “foreign service provider”, by substituting for the words “for buying and selling” the words “for buying or selling”; and
 - (c) by inserting after the definition of “foreign service provider” the following definition:

‘ “conveyance” includes any vessel, train, vehicle, aircraft or any other means of transport by which persons or goods can be carried; ’.

Amendment of section 18

3. Subsection 18(1) of the principal Act is amended by substituting for the words “immediately succeeding” the words “immediately preceding”.

Amendment of section 19

4. Paragraph 19(1)(a) of the principal Act is amended by substituting for the words “taxable services” the words “any taxable service”.

New section 20A

5. The principal Act is amended by inserting after section 20 the following section:

“Variation of registration

20A.(1) Where a registered person makes a notification under section 19, the Director General may vary the person’s registration or the particulars of the person’s registration from the date the registered person ceased to carry on business of providing any taxable service.

(2) Where there is no notification made under section 19 and the Director General is satisfied that a registered person has ceased to provide any taxable service or has ceased to be liable to be registered under section 18, the Director General may vary the person’s registration or the particulars of the person’s registration from the date the registered person ceased to provide any taxable service.

(3) Where the Director General is satisfied that on the day on which the person was registered—

a. in the case of a person who was registered under section 13, the person was not liable to be registered under section 12, was not providing any taxable service or has ceased to provide any taxable service; or

b. in the case of a person who was registered under section 14, the person was not providing any taxable service or has ceased to provide any taxable service,

the Director General may vary the registration of such person or the particulars of registration of such person with effect from the date as determined by the Director General in the notification in writing to such person.”.

Amendment of section 27

6. Subsection 27(1) of the principal Act is amended by substituting for the words “26(8), 26A(4)” the words “26(7), 26A(3)”.

Amendment of section 31

7. Paragraph 31(1)(b) of the principal Act is amended by substituting for the words “26(8) or 26A(4)” the words “26(7) or 26A(3)”.

Amendment of section 32

8. Subsection 32(2) of the principal Act is amended by substituting for the words “26(8) or 26A(4)” the words “26(7) or 26A(3)”.

New section 34A

9. The principal Act is amended by inserting after section 34 the following section:

“Refund by deduction of service tax

34A.(1) The Director General may direct any registered person to deduct the amount of refund against the amount of service tax to be paid from his return in section 26 if the registered person has been granted refund of service tax under paragraph 34(3)(b) or has made a deduction under section 23 or 39.

(2) Where after the deduction has been made under subsection (1), there is any balance in the amount of refund, the balance shall be refunded to the registered person by the Director General.

(3) Notwithstanding subsection (2), the Director General may withhold the whole or any part of any amount refundable under subsection (2) to be credited to any following or subsequent taxable period and the Director General shall treat the amount credited as payment or part payment received from the registered person.”.

Amendment of section 40

10. Section 40 of the principal Act is amended by deleting subsection (4).

Deletion of section 56A in Part IX

11. The principal Act is amended by deleting section 56A in Part IX.

Amendment of section 56A in Part IXA

12. Section 56A in Part IXA of the principal Act is amended by inserting after subsection (4) the following subsection:

“(4A) The Director General may, upon application in writing by any foreign registered person and subject to such conditions as he deems fit, approve service tax on any digital service provided by the foreign registered person to be due at the time the invoice is issued.”.

New section 56GA

13. The principal Act is amended by inserting after section 56G the following section:

“Credit notes and debit notes

56GA. Where any digital service is provided by any foreign registered person which involves the issuance and receipt of credit notes or debit notes under the prescribed circumstances and conditions, such foreign registered person shall make deduction or addition of service tax in his returns accordingly, and the credit notes and debit notes shall contain the prescribed particulars.”.

Amendment of section 56H

14. Section 56H of the principal Act is amended—

- a. by inserting after subsection (4) the following subsection:

“(4A) A foreign registered person who ceases to be liable to be registered under section 56D shall furnish a return not later than thirty days or such later date containing particulars as the Director General may determine in respect of that part of the last taxable period during which the foreign registered person was registered.”;

- b. in subsection (6), by substituting for the words “subsections (4) and (5)” the words “subsections (4), (4A) and (5)”; and
- c. in paragraph (7)(a), by substituting for the words “subsection (4) or (5)” the words “subsection (4), (4A) or (5)”.

Amendment of section 62

15. Section 62 of the principal Act is amended—
- a. in subsection (1), by inserting after the word “place” the words “or premises”; and
 - b. in subsection (3), by substituting for the words “or packages” the words “, packages or conveyance”.

New section 62A

16. The principal Act is amended by inserting after section 62 the following section:

“Power to seal

62A.(1) Where by reason of its nature, size or amount it is not practicable to remove any goods, documents, articles or things seized under this Act, a proper officer of service tax may, by any means, seal the goods, documents, articles or things, or the places, premises, receptacles, packages or conveyances in which the goods, documents, articles or things are found.

(2) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (1) or removes the goods, documents, articles, things, receptacles, packages or conveyances under seal, or attempts to do so, commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.”.

New sections 63A and 63B

17. The principal Act is amended by inserting after section 63 the following sections:

“Additional powers

63A.(1) In addition to and without affecting the existing powers conferred under this Act, when escorting and guarding any person in custody, a proper officer of service tax shall have all the powers of a police officer of the rank of Corporal and below and the powers of a prison officer of the rank of Sergeant and below under the Prison Act 1995 [Act 537].

- (2) For the purposes of this Act—
- (a) where an order, a certificate or any other act is required to be given, issued or done by an officer in charge of a Police District under any written law, such order, certificate or act may be given, issued or done by a senior officer of service tax, and for such purpose, the place where the order, certificate or act was given, issued or done shall be deemed to be a Police District under his charge; and
 - (b) a proper officer of service tax shall have all the powers conferred on an officer in charge of a police station under any written law, and for such purpose the office of such officer shall be deemed to be a police station.

Powers of enforcement, inspection and investigation

63B. For the purposes of this Act, a senior officer of service tax shall have all the powers of a police officer of whatever rank as provided for under the Criminal Procedure Code [Act 593] in relation to enforcement, inspection and investigation, and such powers shall be in addition to the powers provided for under this Act and not in derogation thereof.”.

New section 65A

18. The principal Act is amended by inserting after section 65 the following section:

“Evidence of agent provocateur admissible

- 65A.(1)** Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, no agent provocateur shall be presumed to be unworthy of credit by reason only of his having attempted to abet or abetted the commission of an offence by any person under this Act if the attempt to abet or abetment was for the sole purpose of securing evidence against such person.
- (2) Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, and that the agent provocateur is a police officer of whatever rank or an officer of service tax, any statement, whether oral or in writing made to an agent provocateur by any person who subsequently is charged with an offence under this Act shall be admissible as evidence at his trial.”.

New section 73A

19. The principal Act is amended by inserting after section 73 the following section:

“Improperly obtaining deduction of service tax

73A. Any person who causes or attempts to cause the deduction of service tax under subsection 23(1), 34A(1) or 39(2) for himself or for any other person of any amount in excess of the amount properly so deductible for him or for that other person commits an offence and shall, on conviction, be liable—

- a. to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both; and
- b. to a penalty of two times the amount deducted in excess of the amount properly so deductible.”.

Amendment of section 82

20. Subsection 82(1) of the principal Act is amended by substituting for the words “which is a registered person” the words “which is liable for any service tax due and payable”.

Amendment of section 83

21. Subsection 83(1) of the principal Act is amended—
- a. by substituting for the words “a registered person” the words “any person who is liable for any service tax due and payable”;
 - b. by substituting for the words “disposing of any of the assets of the registered person” the words “disposing of any of the assets of the person”; and
 - c. by substituting for the words “provided by the registered person” the words “provided or imported taxable services acquired by the person”.