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### PR No. 2/2019 – Director’s Liability

The Inland Revenue Board [“IRB”] has recently issued the Public Ruling [“PR”] No. 2/2019 – Director’s Liability to provide guidance on the liabilities of a company director in respect of the company’s tax i.e.:-

- any tax that is due and payable by a company; and
- any debt that is due and payable by the company as an employer in relation to tax deductions from emoluments and pensions under the Monthly Tax Deduction [“MTD”].

## Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)

- [PR No. 2/2019](#)

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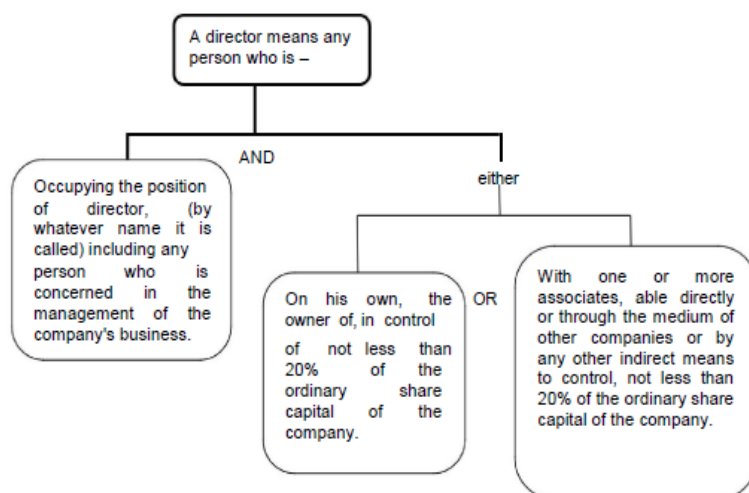


## Hyperlinks

Salient points of the above PR include:-

i. "Director" means:-

- Pursuant to Section 75A(2) of the Income Tax Act 1967 [“the Act”], the meaning of a director is summarised as follows:-



ii. Recovery of a Company's Tax and Debt from Directors

- A director who holds 20% or more of ordinary share capital in a company will be held liable for:-
  - the payment of corporate income tax; and
  - MTD.
- The director is jointly and severally liable in respect of the company's tax and any debt such as MTD that is due and payable.

iii. Company Directors Who are Liable

- A person who is a director of a company during the period in which tax was due and payable by the company, i.e. from the date the notice of assessment is served/deemed to have been served on the company.
- A person who is the director during the period in which the debt is liable to be paid by that company. Therefore, action can only be taken against the director during the period in which the amount of MTD is due and payable.

iv. Company Directors Who are Not Liable

- A person who is a director of a company after the date the notice of assessment is served/deemed to have been served on the company.
- Director who ceases to be a director before the notice of assessment is served/deemed to have been served.
- A director of a company which has taxes or debts arising after the winding up of the company commences.

#### v. Tax Recovery Action

- Preventing Taxpayer from Leaving the Country
  - The IRB has the power to impose stoppage order on a director of a company from leaving Malaysia with the assistance and cooperation from the Commissioner of Police and Director of Immigration via issuance of Certificate of Stoppage Order under Section 104 of the Act.
  - Stoppage order enforced by the IRB will be cancelled if the amount of tax in arrears shown on the Certificate of Stoppage Order is fully settled.

**Note:** For further information on recovery from persons leaving Malaysia, kindly refer to our Tax Flash – February 2016 issue.

- Civil Suit under Section 106(1) of the Act
  - A civil suit against both a company and the directors of the company will be taken in the same suit and both will be named as Defendants.
  - A director shall be liable to civil action even though before or during the civil action, the director:-
    - has resigned;
    - reduce the share capital to less than 20%; or
    - the company has been wound up.

#### Tax Exemption on Rental Income on Residential Property

Following the 2018 Budget announcement, the Income Tax (Exemption) (No. 2) Order 2019 has been gazetted to provide tax exemption to a landlord who rents out his residential property in respect of 50% of his statutory income derived from the rental of the residential property in the basis period for a year of assessment with the following conditions:-

- the landlord shall be an individual citizen who resides in Malaysia and is the registered proprietor of his residential property;
- the monthly rental amount received from each residential property does not exceed RM2,000;
- the tenancy agreement between the landlord and the tenant which has been executed and stamped comes into effect on or after 1<sup>st</sup> January 2018; and
- the residential property is rented out for any period from 1<sup>st</sup> January 2018 until 31<sup>st</sup> December 2018.

"Residential property" means a house, condominium unit, flat or an apartment which is built as a dwelling house.

The above Order is deemed to have effect for the year of assessment 2018.

#### Hyperlinks

➤ [Tax Flash – February 2016](#)

➤ [Income Tax \(Exemption\) \(No. 2\) Order 2019](#)

## Hyperlinks

### Guidelines on Application for Relief from Stamp Duty under Section 15 of the SA 1949

The IRB has recently issued the Guidelines on Application for Relief from Stamp Duty under Section 15 of the Stamp Act 1949 ["SA 1949"] to provide guidance on eligibility and application requirements in respect of relief from stamp duty in the case of reconstructions or amalgamations of companies. The Guidelines also incorporate updates based on amendments in the Finance Act 2018.

Among others, it is noteworthy that:-

- i. Registered Name of Shares in the Transferee Company (Paragraph 2.4 of the Guidelines)
  - The shares in the transferee company must be registered in the name of the respective shareholders and not in the name of nominees.
- ii. Application Procedure (Paragraph 3 of the Guidelines)
  - The application for relief from stamp duty shall be submitted manually to any State Director's Office or via STAMPS (online), followed by the submission of supporting documents by hand.
  - The statutory declaration in the format as appended to the Guidelines shall be included in the said submission.
- iii. Documents Required to be Submitted (Paragraph 4 of the Guidelines)
  - The following documents are required to be submitted for the application for relief from stamp duty:-
    - The original instrument of transfer.
    - Statutory declaration made by an advocate and solicitor or an advocate of the High Court.
    - Supporting documents certified as true copies by the Deputy Collector of Stamp Duty at the State Director's Office as follows:-
      - Constitution of a Company and annual return in respect of the transferee company prior to the execution of the transfer of undertaking / shares.
      - Sale and Purchase Agreement / Amalgamation Agreement or other documents in support of the restructuring scheme or amalgamation of companies.
      - Letter of offer and resolution of board of directors in respect of the transferee company on the approval of the transfer of undertaking / shares.
      - Letters of approval from the Government regulatory bodies such as Foreign Investment Committee, Ministry of International Trade and Industry, Securities Commission, National Bank of Malaysia, etc.
      - Return of Allotment of Shares in respect of the transferee company as the proof of allotment of shares as consideration.

- [Guidelines on Application for Relief from Stamp Duty under Section 15 of the Stamp Act 1949 \(In Bahasa Malaysia\)](#)

## Hyperlinks

- iv. Withdrawal of Approval for Relief Granted (Paragraph 5 of the Guidelines)
- The approval for relief from stamp duty granted will be withdrawn (with exceptions) if:-
    - it is found that the declaration and evidence furnished in support of the claim of the relief from stamp duty is untrue;
    - the existing company ceased to be the beneficial owner of the shares of the transferee company which were issued to the existing company as consideration for the acquisition of an undertaking within a period of 3 years (with effect from 28<sup>th</sup> December 2018; previously 2 years); or
    - the transferee company ceased to be the beneficial owner of the shares of the existing company acquired by the transferee company within a period of 3 years (with effect from 28<sup>th</sup> December 2018; previously 2 years).
  - In the case of withdrawal of the said approval, the stamp duty previously relieved shall become payable, together with interest thereon at 6% per annum, from the date on which the stamp duty would have become chargeable had it not been relieved.
- v. Responsibility of the Transferee Company (Paragraph 6 of the Guidelines)
- Commencing from 28<sup>th</sup> December 2018, the transferee company shall notify the Collector of Stamp Duty of the occurrence of the circumstances under Section 15(5) of SA 1949 (see item iv above) within 30 days from the date of the occurrence.

### **Guidelines on Application for Relief from Stamp Duty under Section 15A of the SA 1949**

The IRB has recently issued the Guidelines on Application for Relief from Stamp Duty under Section 15A of SA 1949 to provide guidance on eligibility and application requirements in respect of relief from stamp duty in the case of transfer of property between associated companies. The Guidelines also incorporate updates based on amendments in the Finance Act 2018.

- [Guidelines on Application for Relief from Stamp Duty under Section 15A of the Stamp Act 1949 \(\*In Bahasa Malaysia\*\)](#)

## Hyperlinks

Among others, it is noteworthy that:-

- i. New Requirements to be Eligible for Relief (Paragraph 3 of the Guidelines) – Effective 28<sup>th</sup> December 2018
  - The transfer of the property of the associated companies is to achieve greater efficiency in operations.
    - This requirement is to be supported with a 3-year operational plan of the transferor and transferee companies, consisting of:-
      - indication/justification of the increase in efficiency (e.g. increase in input, output or profit of the companies) in the forms of narratives, graphs, charts, tables, etc.;
      - clear indication of the objective and planning towards the increase in operational efficiency which will be achieved within 3 years; and
      - other relevant documents in support of the yearly increment of efficiency.
    - In the event that no increment of efficiency occurs or the percentage of increment is not achieved, the companies are required to furnish reasonable circumstances which gave rise to the same for the consideration of the Collector of Stamp Duty. The decision of the Collector of Stamp Duty to withdraw the approval for relief or otherwise would be final.
  - The transferee company must be incorporated in Malaysia.
- ii. Application Procedure (Paragraph 3.1 of the Guidelines)
  - The application for relief from stamp duty shall be submitted manually to any State Director's Office or via STAMPS (online), followed by the submission of supporting documents by hand.
  - The statutory declaration in the format as appended to the Guidelines shall be included in the said submission.
- iii. Documents Required to be Submitted (Paragraph 4 of the Guidelines)
  - The following documents are required to be submitted for the application for relief from stamp duty:-
    - The original instrument of transfer.
    - Statutory declaration made by an advocate and solicitor or an advocate of the High Court (with effect from 28<sup>th</sup> December 2018, previously made by the company secretary or a company director).

## Hyperlinks

- Supporting documents certified as true copies by the Deputy Collector of Stamp Duty at the State Director's Office as follows:-
  - Share Certificate / Shareholder's Register / Annual Return / company information from the Companies Commission of Malaysia as proof of ownership of shares in the relevant companies.
  - Extract of the resolution of board of directors in respect of both the transferor and transferee companies on the approval of the transfer of property (must be submitted in the respective company's letterhead).
  - Sale and Purchase Agreement duly stamped (if applicable).
  - Form CKHT 2A acknowledged receipt by the IRB.
  - Letters of approval from the Government regulatory bodies such as Foreign Investment Committee, Ministry of International Trade and Industry, Securities Commission, National Bank of Malaysia, etc.
  - Proof of payment of the consideration for the transfer of property.
  - Other relevant documents.
  
- iv. Withdrawal of Approval for Relief Granted (Paragraph 5 of the Guidelines)
  - The approval for relief from stamp duty granted will be withdrawn if it is found that the declaration or supporting documents furnished is untrue.
  - Based on the Guidelines, the approval for relief from stamp duty will also be revoked if it is found that the conditions under Section 15A(4) of SA 1949 as shown below are not fulfilled:-
    - The consideration or any part thereof for the transfer of property was provided by a person other than the transferee company or was received by a person other than the transferor company.
    - The property was previously transferred, directly or indirectly, by a person other than the transferor and transferee companies.
    - The transferor company and transferee company ceased to be associated within the meaning and reasons of Section 15A of SA 1949 within a period of 3 years from the date of conveyance or transfer of the property (with effect from 28<sup>th</sup> December 2018; previously, no time period is provided).
    - The transferee company disposes of the property that it has acquired within 3 years from the date of conveyance or transfer of the property (with effect from 28<sup>th</sup> December 2018).

## Hyperlinks

- In the case of withdrawal of the said approval, the stamp duty previously relieved shall become payable, together with interest thereon at 6% per annum, from the date on which the instrument of transfer ought to be stamped with the proper amount of duty had the stamp duty not been relieved.
- v. Responsibility of the Transferee Company (Paragraph 6 of the Guidelines)
- Commencing from 28<sup>th</sup> December 2018, the transferee company shall notify the Collector of Stamp Duty of the occurrence of the circumstances under Section 15A(4) of SA 1949 (see item iv above) within 30 days from the date of the occurrence.

### **Stamp Duty Exemption for the Purchase of Residential Property Valued Between RM300,000 and RM2,500,000 under the National Home Ownership Campaign 2019**

Following the 2019 Budget announcement, the following exemption orders have been gazetted to provide exemption from stamp duty for the purchase of residential property under the National Home Ownership Campaign 2019, valued between RM300,001 to RM2,500,000, to an individual (i.e. a purchaser or co-purchaser who is a Malaysian citizen):-

- i. Stamp Duty (Exemption) (No. 2) Order 2019
  - Exemption from stamp duty in respect of any loan agreement to finance the purchase of the above residential property.
- ii. Stamp Duty (Exemption) (No. 3) Order 2019
  - Exemption from stamp duty in respect of RM1 million and below of the value of the residential property on all instrument of transfer for the purchase of the above residential property.

The exemption of stamp duty shall only apply if:-

- i. the sale and purchase agreement ["SPA"] for the purchase of residential property is between an individual and a property developer, executed from 1<sup>st</sup> January 2019 to 30<sup>th</sup> June 2019 and stamped at any IRB branch;
- ii. the purchase price in the SPA is after a 10% discount by the property developer except for residential property which is subject to controlled pricing; and
- iii. the application for the exemption is accompanied by a National Home Ownership Campaign 2019 Certification issued by the Real Estate and Housing Developers' Association Malaysia (REHDA), Sabah Housing and Real Estate Developers Association (SHAREDA) or Sarawak Housing and Real Estate Developers' Association (SHEDA).

The above exemptions apply to loan agreement and instrument of transfer executed from 1<sup>st</sup> January 2019 onwards.

➤ [Stamp Duty \(Exemption\) \(No. 2\) Order 2019](#)

➤ [Stamp Duty \(Exemption\) \(No. 3\) Order 2019](#)

## Hyperlinks

### Sales Tax Orders

The following orders in relation to sales tax have recently been gazetted and are in force effective 27<sup>th</sup> March 2019:-

- Sales Tax (Imposition of Sales Tax in Respect of Designated Areas) (Amendment) Order 2019; and
- Sales Tax (Persons Exempted from Payment of Tax) (Amendment) Order 2019.

The salient amendments to the Sales Tax (Imposition of Sales Tax in Respect of Designated Areas) (Amendment) Order 2019 are summarised below:-

- i. Deletion of Certain Products from Being Subject to Sales Tax
  - The imposition of sales tax on the importation of wine, spirit, beer, malt liquor, tobacco and tobacco products into designated areas has been removed, i.e. these products imported into the designated areas will no longer be subject to sales tax with effect from 27<sup>th</sup> March 2019.

The salient amendments to the Sales Tax (Persons Exempted from Payment of Tax) (Amendment) Order 2019 [“the Amendment Order”] are summarised below:-

- a. Amendments to Item 66, Schedule A
  - Item 66, Schedule A has been amended to delete the words “other than in designated area”. With this, any person licensed under Section 65D of the Customs Act 1967 to operate a Duty Free Shop (including a duty free shop located at the designated area) is exempted from payment of sales tax on all taxable goods.
  - An additional condition be imposed whereby the taxable goods acquired by the person under Item 66, Schedule A must be solely for sale at his duty free shop.
- b. Exclusion of Persons from the List of Persons under Schedule A
  - The following persons have been deleted from the list of persons eligible for sales tax exemption under Schedule A:-
    - Any person licensed under Section 65D of the Customs Act 1967 to operate a duty free shop in a designated area (Items 67 to 69 of Schedule A).
    - Any person licensed under Section 65 of the Customs Act 1967 to operate a licensed warehouse in a designated area (Item 70 of Schedule A).
    - Any person licensed under Paragraph 35(1)(a) or 35(1)(b) of the Excise Act 1976 to operate a public house or to operate a beer house in a designated area (Item 71 of Schedule A).
  - The above amendments are the consequential amendments made due to the amendments to the Sales Tax (Imposition of Sales Tax in Respect of Designated Areas) (Amendment) Order 2019 as mentioned in item (i) above.

➤ [Sales Tax \(Imposition of Sales Tax in Respect of Designated Areas\) \(Amendment\) Order 2019](#)

➤ [Sales Tax \(Persons Exempted from Payment of Tax\) \(Amendment\) Order 2019](#)

## Hyperlinks

- [Sales Tax \(Amendment\) Bill 2019](#)

### Sales Tax (Amendment) Bill 2019

The Sales Tax (Amendment) Bill 2019 was passed in the House of Representatives on 8<sup>th</sup> April 2019. Salient points extracted from the Sales Tax (Amendment) Bill 2019 are as follows:-

- i. Expansion of Designated Areas
  - Inclusion of Pangkor as a designated area.
- ii. Expansion of Special Areas
  - Inclusion of petroleum supply base licensed under Section 77B of the Customs Act 1967 as a special area.
- iii. Redefinition of Manufacturing In Relation to Petroleum Activity
  - The word “manufacture” in relation to petroleum means the process of refining that includes the separation, conversion, purification and blending of refinery streams or petrochemical streams.
- iv. Offsetting Unpaid Tax Against Refund or Drawback
  - The Director General [“DG”] may offset any unpaid sales tax, service tax, goods and services tax, Customs duty or excise duty, including any surcharge accruing, any penalty, fee or other money payable by any person against any amount of refund or drawback due to that person and the DG shall treat the amount offset as payment or part payment received from that person.
- v. Imprisonment for Non-Payment of Fine
  - The introduction of this new section is to provide for the period of imprisonment to be imposed by any court in respect of non-payment of any fine:-

Fine	Maximum Period of Imprisonment
a) ≤ RM5,000	2 months
b) > RM5,000 but ≤ RM10,000	4 months
c) > RM10,000 but ≤ RM20,000	6 months
d) > RM20,000 <ul style="list-style-type: none"> <li>▪ First RM20,000</li> <li>▪ Subsequently, every RM10,000</li> </ul>	6 months Additional 2 months

- vi. Evasion of Sales Tax on Importation of Taxable Goods
  - Any person who with intent to evade or to assist any other person to evade sales tax on importation of taxable goods commits an offence and on conviction, he shall be liable to the following:-
    - o First offence
      - Fine of not less than 10 times the amount of sales tax or RM50,000, whichever is the higher amount and fine of not more than 20 times the amount of sales tax or RM500,000, whichever is the higher amount; or

- Imprisonment for a term not exceeding 5 years; or
- To both.
- o Second or any subsequent offence
  - Fine of not less than 20 times the amount of sales tax or RM100,000, whichever is the higher amount and fine of not more than 40 times the amount of sales tax or RM1million, whichever is the higher amount; or
  - Imprisonment for a term not exceeding 7 years; or
  - To both.

### **Existing Approval for Sales Tax Exemption Granted Under Items 3 or 4 of Schedule C**

Royal Malaysian Customs Department ["RMCD"] had on 1<sup>st</sup> January 2019 introduced a new module for application for sales tax exemption under Items C3 and C4 on MySST System. RMCD has advised that any certificates generated prior to 1<sup>st</sup> January 2019 will no longer be usable effective 1<sup>st</sup> June 2019.

Under the new module, both the registered manufacturer and his appointed agent must be involved in the application for certificate of sales tax exemption:-

- Registered Manufacturer: To appoint a person to import taxable goods on his behalf through MySST System. The system will generate the appointment approval number automatically.
- Person Acting on Behalf of the Registered Manufacturer (i.e. the Agent): To sign up to MySST System. Once approval is granted by RMCD, the Agent is required to log in to MySST System to generate the certificate using the appointment approval number provided by the registered manufacturer.

Once the certificate is issued and there are additional items to be exempted from sales tax, new application must be made.

Application for Item C3/C4 certificate must be made based on purchase order/contract/estimated purchase quantity for a period of 3 months or less.

Any application for cancellation of item or certificate has to be submitted manually to the relevant RMCD's controlling station using a prescribed form together with the company's official letter.

## Hyperlinks

- [Cancellation Application \(Delete\) Item / Goods Form for Exemption Certification under Schedule B and C Sales Tax \(Persons Exempted from Payments of Tax\) Order 2018](#)
- [Cancellation Application Form for Exemption Certification under Schedule B and C Sales Tax \(Persons Exempted from Payments of Tax\) Order 2018](#)

## Hyperlinks

### Application for Sales Tax Exemption for Companies in PCA

The Malaysian Investment Development Authority ["MIDA"] has announced that effective 1<sup>st</sup> April 2019, eligible companies in the Principal Customs Area ["PCA"] in the following sectors can apply to MIDA for sales tax exemption on raw materials / components / machinery / equipment as follows:-

- i. Machinery/equipment for agriculture sector
- ii. Equipment/machinery for selected service sectors
  - Research and Development;
  - Private Institutes of Higher Education;
  - Private Institutes of Higher Education (Sciences, Technical or Vocational); and
  - Tourism Projects (without accommodation).
- iii. Raw materials / components for selected industries in the manufacturing sector where no sales tax will be imposed on the finished goods
  - Aerospace/aircraft industry;
  - Machinery and equipment industry;
  - Petroleum products used as raw materials for industries other than oil refinery; and
  - Motorcycle assembly industry.

### Service Tax Guide

The Guide on Customs Agent Services dated 5<sup>th</sup> March 2019 was withdrawn and replaced by the revised guide dated 15<sup>th</sup> March 2019.

➤ [Guide on Customs Agent Services](#)

### Service Tax (Amendment) Bill 2019

The Service Tax (Amendment) Bill 2019 was passed in the House of Representatives on 8<sup>th</sup> April 2019. Salient points extracted from the Service Tax (Amendment) Bill 2019 are as follows:-

➤ [Service Tax \(Amendment\) Bill 2019](#)

- i. Territorial and Extra-Territorial Application
  - The application for Service Tax (Amendment) Act 2019 (and its subsidiary legislation) covers both within and outside Malaysia and the said legislations shall apply to any person, regardless of his nationality, citizenship or location, if the person is a foreign service provider or is registered under Section 56C as a foreign registered person.
- ii. Expansion of Designated Areas
  - Inclusion of Pangkor as a designated area.
- iii. Expansion of Special Areas
  - Inclusion of petroleum supply base licensed under Section 77B of the Customs Act 1967 as a special area.

## Hyperlinks

### iv. Introduction of New Definitions

- Definition of Foreign Service Provider
  - “Foreign service provider” means any person who is outside Malaysia providing any digital service to a consumer and includes any person who is outside Malaysia operating an online platform for buying and selling goods or providing services (whether or not such person provides any digital services) and who makes transactions for provision of digital services on behalf of any person.
- Definition of Consumer
  - “Consumer” means any person who fulfils any two of the following:-
    - makes payment for digital services using credit or debit facility provided by any financial institution or company in Malaysia;
    - acquires digital services using an internet protocol address registered in Malaysia or an international mobile phone country code assigned to Malaysia;
    - resides in Malaysia.
- Definition of Digital Service
  - “Digital service” means any service that is delivered or subscribed over the internet or other electronic network and which cannot be obtained without the use of information technology and where the delivery of the service is essentially automated.

### v. Service Tax Due

- The DG may, upon application in writing by any registered person and subject to such conditions as he deems fit, approve the service tax in respect of the taxable services provided by the registered person to be due at the time the invoice is issued. In the absence of such application, the service tax is only due at the time the payment is received.
- Where the whole or any part of the payment for any taxable service provided by the registered person is not received from the customer within a period of 12 months from the date the taxable service was provided, the service tax shall be due on the day following that period of 12 months. Prior to this amendment, the 12 months period will be counting from the **date of invoice** for the taxable service provided and not from the **date the taxable service** was provided.
- In respect of any taxable services provided where payments for such services are made to any machine or device operated by coins, tokens or the like, the service tax shall be due on the day when the coins, tokens or the like are collected from such machine or device. The amount paid shall include the amount of service tax chargeable.

## Hyperlinks

### vi. Timeframe for Issuance of Invoices

- Every registered person who provides any taxable service shall issue an invoice within one year from the date the taxable service was provided or such extended period as may be approved by the DG.
- Notwithstanding the above, the DG may, upon request in writing by a registered person and subject to such conditions as he deems fit, approve an invoice not to be issued by the registered person if the DG is satisfied that it will not be appropriate for the registered person to issue an invoice.

### vii. Offsetting Unpaid Tax Against Refund

- The DG may offset any unpaid service tax, sales tax, goods and services tax, Customs duty or excise duty, including any surcharge accruing, any penalty, fee or other money payable by any person against any amount of refund due to that person and the DG shall treat the amount offset as payment or part payment received from that person.

### viii. Inclusion of Digital Services as Taxable Services

- Service tax shall be charged and levied on any digital service provided by a foreign registered person to any consumer.
- The service tax charged on the digital service provided to the consumer shall be due at the time when the payment for the digital service is received by the foreign registered person.
- The Minister may prescribe the threshold for registration by the foreign service provider.
- The taxable period for a foreign registered person shall be a period of 3 months ending on the last day of any month of any calendar year.
- It is proposed that the following penalty rates for late payment be imposed on any foreign registered person who fails to make payment for any service tax due within the stipulated time frame in which no prosecution is instituted:-

<b>Period of Default from Payment Due Date</b>	<b>Rate of Penalty</b>
≤ 30 days	10% on unpaid service tax
> 30 days but ≤ 60 days	25% on unpaid service tax
> 60 days	40% on unpaid service tax

- In the event that RMCD instituted legal actions for recovery of the service tax due, such person shall, on conviction, be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or to both.

## Hyperlinks

## ix. Imprisonment for Non-Payment of Fine

- The amendment is to provide for the period of imprisonment to be imposed by any court for non-payment of fines:-

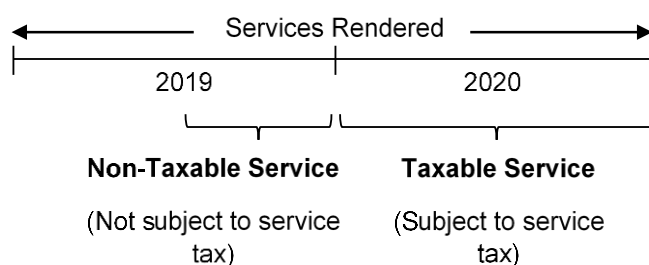
Fine	Maximum Period of Imprisonment
a) ≤ RM5,000	2 months
b) > RM5,000 but ≤ RM10,000	4 months
c) > RM10,000 but ≤ RM20,000	6 months
d) > RM20,000 <ul style="list-style-type: none"> <li>▪ First RM20,000</li> <li>▪ Subsequently, every RM10,000</li> </ul>	6 months Additional 2 months

## x. Registration Before Effective Date of Imposition of Service Tax on the Provision of Digital Services

- Any foreign service provider who provides digital services with the total value of the digital services provided in January 2020 and 11 months immediately succeeding January 2020 exceeding the prescribed threshold for registration is required to register as a foreign registered person and the application for registration shall be made 3 months before the effective date of imposition of service tax on digital services (i.e. on or before 30<sup>th</sup> September 2019).
- Any foreign service provider who fails to comply with the above provision shall, on conviction, be liable to a fine not exceeding RM30,000 or to imprisonment for a term not exceeding 2 years or to both.

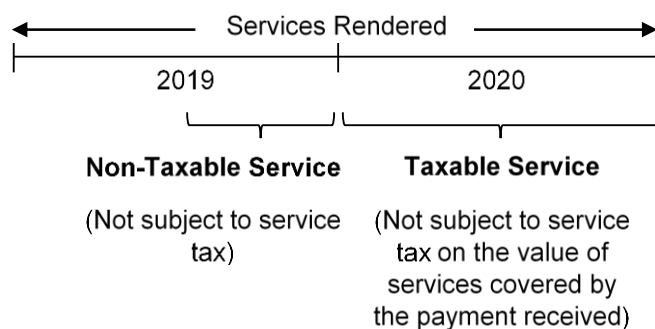
xi. Service Tax Treatment on Digital Services Spanning 1<sup>st</sup> January 2020

- No payment is received before 1<sup>st</sup> January 2020
  - Services rendered spanning 1<sup>st</sup> January 2020

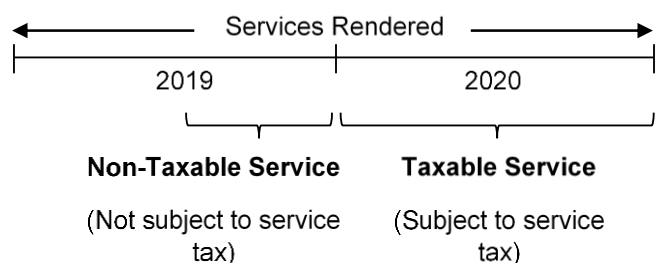


## Hyperlinks

- Payment received
  - Payment received before 1<sup>st</sup> January 2020



- Payment received on/after 1<sup>st</sup> January 2020



### Revised Guidelines on the Establishment and Operations of Labuan Leasing Business

The Labuan Financial Services Authority has recently issued the revised Guidelines on the Establishment and Operations of Labuan Leasing Business dated 5<sup>th</sup> March 2019 to replace the previous Guidelines issued on 29<sup>th</sup> December 2017. The Guidelines clarify on the application, procedure, operational and regulatory requirements for Labuan companies carrying out leasing business in Labuan International Business and Financial Centre.

Among others, it is noteworthy that the Labuan company has to establish activity requirements in Labuan as prescribed by the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018, as well as the following:-

- i. Maintaining an operational office in Labuan; and
- ii. Carrying out the core income generating activities from the Labuan office. Typically, the activities may include identifying and acquiring of assets to be leased, agreeing funding terms, setting the terms and duration of financing/leasing, monitoring and revising agreements and managing risks.

- [Guidelines on the Establishment and Operations of Labuan Leasing Business \(Revised\)](#)

The above revised Guidelines come into effect on 1<sup>st</sup> January 2019.

**Note:** For further information on the previous Guidelines on the Establishment and Operations of Labuan Leasing Business issued on 29<sup>th</sup> December 2017 and the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018, please refer to our Tax Flash - May 2018 and February 2019 issues.

## Hyperlinks

- > [Tax Flash - May 2018](#)
- > [Tax Flash – February 2019](#)

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