MOORE Advent

TAX FLASH

JULY 2020

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PR No. 2/2020 – Tax Treatment of Stock in Trade Part I – Valuation of Stock

The Inland Revenue Board ["IRB"] has recently issued the *Public Ruling ["PR"] No. 2/2020 – Tax Treatment of Stock in Trade Part I – Valuation of Stock* to provide guidance on the valuation of stock in trade in relation to a business carried on by a person in Malaysia.

Salient points of the abovementioned PR include:-

i. Valuation of Opening Stock in Trade and Closing Stock in Trade

- Value of opening stock in trade at the beginning of a basis period (except in the case of commencement of business) must always be the value of the closing stock in trade at the end of the immediate preceding basis period.
- The total cost method adopted for accounting purposes should use the principles of either first-in-first-out ["FIFO"] or weighted average cost formula. Other costing methods are not acceptable for income tax purposes.

ii. Valuation of Work in Progress

- Value of unfinished goods should be valued either at market value or cost.
  - If value at market value, it must be assumed that the unfinished goods to be of some use to a potential buyer and cannot normally by valued at less than the cost.
  - Cost of work in progress must include the cost of raw materials used and other expenditure incurred to bring the partly finished goods into their state at the end of the basis period.

iii. Tax Treatment for Valuation of Stock in Trade

- Value of closing stock in trade at the end of a basis period (applicable to physically tangible goods only) should be:-
  - Market value at the end of that period; or
  - Total cost of acquiring the stock in trade.
- In the case of immovable properties, stocks, shares or marketable securities, the value of closing stock in trade at the end of a basis period shall be the lower of:-
  - Cost price; or
  - Market value.
- Net realisable value (i.e. estimated selling price less estimated costs of completion and other necessary costs to make the sale) which is lower than the cost, is not acceptable for income tax purposes.
- For stock in trade valued at net realisable value, tax adjustment is required to reinstate it to market value, i.e. to add back the estimated cost to sell or estimated selling price deducted from the valuation of stocks.
- Any changes to the acceptable method used in the valuation of stock in trade or work in progress or changes to the valuation of the opening stock in trade or work in progress shall be appropriately documented and the relevant adjustment has to show clearly in the tax computation.

iv. Valuation of Stock in Trade on Cessation of Business

- Where a person permanently ceases to carry on his business and stock of the business is sold or transferred on cessation or shortly after cessation for a valuable consideration to another person who intends to use that sold or transferred stock in his business or in another business of his, the value of the sold or transferred stock of time the busines ceases is taken to be an amount equal to the price paid on the sale or value of the consideration (i.e. not the market value) as the case may be, and is taken as the value of that stock in the final accounts of the business.
- In this case, the cost of the purchased or transferred stock is deductible as an expense in computing the other person's adjusted income for the basis period for a year of assessment of his business or in another business of his.
- Where a person permanently ceases to carry on his business and the above situation does not apply, the value of the stock in trade of the business shall be taken to be the market value at the time of cessation of the business and is taken as the value of that stock at the end of the relevant period.

v. Stock in Trade Obsolescence
- Provision for obsoleses of stock in trade is not allowable for tax deduction.
- An actual write-off (realised) of stock in trade which is charged to the profit and loss account is allowable for tax deduction.

vi. Diminution in Value of Shares as Stock in Trade
- The diminution in value of the shares (where the shares are part of his stock in trade) which is based on market value and cost of particular share is allowable for tax deduction, provided the basis of determining the diminution in value of the stock is substantiated.
- Accretion in the value of shares in the event that the diminution in the value of share is no longer required is taxable.

PR No. 3/2020 – Tax Treatment of Stock in Trade Part II – Withdrawal of Stock

The IRB has recently issued the *PR No. 3/2020 – Tax Treatment of Stock in Trade Part II – Withdrawal of Stock* to provide guidance on the tax treatment of withdrawal of stock in trade in ascertaining the adjusted income in relation to a business for the basis period for a year of assessment carried on by a person in Malaysia i.e. the market value of an item of stock in trade of a business which is withdrawn for own use or for other reasons by a person carrying on the business will be treated as gross income from the business under Sections 24(2) and 24(3) of the Income Tax Act 1967 ["the Act"].

Salient points of the abovementioned PR include:-

i. Withdrawal of Stock in Trade for Own Use
- Valuation of stock in trade for own use
  - If a person carrying on a business takes his stock in trade of the business for his own use, the withdrawal of such stock has to be:-
    - accounted for as if the item of stock in trade had been sold; and
    - valued at the market value at the time of its withdrawal and be treated as gross income of the person from the business for the relevant period.
- Withdrawal of stock in trade for use in a different business activity
  - When a person transfers the stock in trade from one business activity to another, this would mean that at that point of time, he is making a withdrawal of stock in trade for use in a different business activity of his and this will be treated as if a transaction of sale or purchase at market value has taken place; and
- Reclassification
  - When there is a reclassification from trading to capital asset or vice versa due to a change of intention of the business, the trading stock or capital asset is to be valued at market value.

ii. Withdrawal of Stock in Trade for Other Reasons
- Where a person withdraws stock in trade from his business (other than on requisition or compulsory acquisition or in a similar manner):-
  - without any consideration received; or
  - for a consideration consisting of:-
    - any property not being either a debt owing to the relevant person or a sum in cash or the equivalent of cash;
    - any such property together with a debt owing to the relevant person or any such sum; or
    - any such property together with a debt owing to the relevant person and any such sum,

  then, the market value of that stock in trade at the time of its withdrawal shall be treated as gross income of the relevant person from the business for the relevant period.

- Market value is reduced under certain circumstances
  - Where the stock in trade is withdrawn by the relevant person for a consideration consisting of property together with a debt and/or any such sum in cash, the market value of that stock in trade can be reduced by:-
    - the amount of the debt or sum; or
    - the amount of the debt and sum.
  - The tax treatments on the amount of debt or/ and cash sum and the property are as follows:-
    - The amount of debt would be a trade debt and is taxable when stock in trade is withdrawn [Section 24(1) and Section 24(3)(b) of the Act];
    - The cash sum would be taxable when it is received [Section 24(3)(c) and Section 28 of the Act]; and
    - The balance would be taxed at the time the stock is withdrawn from the business [Section 24(2) of the Act].
- Stock in Trade Parted with by Compulsion
  - Effective year of assessment ["YA"] 2014, Section 4C of the Act was introduced to provide that gains or profits from a business shall include an amount receivable arising from stock in trade parted with by element of compulsion including on requisition or compulsory acquisition or in a similar manner. The amount receivable will be treated as gross income of the business in the year where the stock in trade is parted with by way of compulsory acquisition.

PR No. 4/2020 – Tax Treatment of Any Sum Received and a Debt Owing That Arises in Respect of Services to be Rendered

The IRB has recently issued the *PR No. 4/2020 – Tax Treatment of Any Sum Received and a Debt Owing That Arises in Respect of Services to be Rendered* to provide guidance on the tax treatment of any sum received by a person in respect of both debts owing and not owing to a person that arises in respect of services to be rendered in a relevant period.

Salient points of the abovementioned PR are as follows:-

i. Debts Owing to a Person in Respect of Any Services to be Rendered
- Prior to YA 2016, Section 24(1)(b) of the Act only addressed debts owing to a person in respect of any **services rendered** where the amount of debt is treated as gross income of the relevant person from the business for the relevant period.
- Effective YA 2016:-
  - Section 24(1)(b) of the Act was amended to provide that where in a relevant period, a debt owing to a relevant person that arises in respect of any **services to be rendered** in the relevant period or in any following basis period, the amount of the debt is to be treated as gross income of the relevant person from the business for the relevant period.
  - If there is a contractual obligation to pay, a liability would arise when there is a liability to pay for the services that have yet to be rendered. When a liability to pay arises in respect of services to be rendered in future by a person in the course of carrying on a business, a debt owing to the person would arise, whether or not due, or due and payable.
  - A debt owing to a person that arises in respect of services to be rendered would be treated as gross income of the person from the business in the relevant period i.e. when the liability to pay arises.

ii. Any Sum Received by a Person in Respect of Any Services to be Rendered

- Effective YA 2016, Section 24(1)(A) of the Act was introduced to provide that where in a relevant period, any sum received by a person in the course of carrying on a business in respect of any services to be rendered in the relevant period or in any following basis period, the sum is to be treated as gross income of the person from the business for the relevant period the sum is received, notwithstanding that there is no debt owing to the relevant person in respect of such services.
- The application of Section 24(1)(b) of the Act would have to be considered first before applying Section 24(1A) of the Act.

iii. Advance Payments

- Prior to YA 2016, advance payments received were treated as gross income from a business when the service is rendered.
- The tax treatment prior to YA 2016 is maintained for any advance payments received prior to YA 2016 i.e. before the introduction of Section 24(1A) of the Act.

iv. Refund of Advance Payments

- Pursuant to Section 34(7A) of the Act, if a person refunds any sum of money received in respect of services that has yet to be rendered, and this sum has been treated as part of the gross income from a business in accordance with Section 24(1A) of the Act, the person may claim a deduction on the sum refunded in the basis period for the year of assessment the refund is made.

v. Services That are Not Subject to Section 24(1)(b) and Section 24(1)(A) of the Act

- Section 24(1)(b) and Section 24(1)(A) are not applicable to the following:-
  - Services that are governed by separate income tax rules e.g. business activities connected to services provided under a construction contract or property development where the tax treatments are subject to separate income tax rules.
  - Income under Section 4A of the Act i.e. income in relation to services provided by a non-resident person pursuant to Section 24(8) of the Act.
  - Deposits for any service received by a service provider upon the signing of an agreement where the deposits are refundable upon completion of the service do not form part of the gross income of the service provider's business under Section 24 of the Act e.g. security deposits and refundable deposits.
  - Forfeitable deposits where the deposits are not refundable by a service provider upon completion of the service if the terms and conditions of the agreement are not adhered to. Such deposits forfeited would be part of the gross business income of the service provider under Section 4(a) of the Act.

PN No. 3/2020 – Clarification on Determining the Gross Income from Business Sources of not More Than RM50 Million of a Company or LLP

Effective YA 2020, other than the requirement of having a paid-up capital in respect of ordinary shares up to RM2.5 million for a company or a total capital contribution up to RM2.5 million for a Limited Liability Partnership ["LLP"], as an additional criteria, such entities must have gross income from business source not exceeding RM50 million in order to be eligible for the preferential tax treatments under Paragraphs 2A and 2D, Part 1 of Schedule 1 (i.e. subject to tax at 17% on the first chargeable income of RM600,000) and Paragraph 19A(3), Schedule 3 of the Act (i.e. eligible for special allowance of 100% on qualifying expenditure incurred on small value assets not exceeding RM2,000 each, with no restriction of RM20,000 per year).

The IRB has recently issued the Practice Note ["PN"] No. 3/2020 – Clarification on Determining the Gross Income from Business Sources of not More Than RM50 Million of a Company or LLP dated 18th May 2020 to provide clarification on the above additional criteria for the determination of gross income from all business sources not more than RM50 million.

Salient points of the abovementioned PN include: -

i. Investment Holding Company ["IHC"]
   - IHC under Section 60F of the Act (i.e. not listed on the Bursa Malaysia)
     - is deemed to have no gross income from a business source.
   - IHC under Section 60FA of the Act (i.e. listed on Bursa Malaysia)
     - is deemed to have gross income from a business source.

ii. Company or LLP which does not have gross income from business income but have other income such as rent and interest income (including temporarily closed business operations)
   - Any rental or interest income received is not assessed as a business source under Section 4(a) of the Act and is deemed to have no gross income from business sources.

iii. Company or LLP which has gross income from foreign business sources.
   - Gross income from foreign business sources shall be taken into account in determining the gross business income not exceeding RM50 million.

iv. Company or LLP enjoying tax incentives such as pioneer status or investment tax allowance
   - Exempted gross income from business sources shall be taken into account in determining gross business income not exceeding RM50 million.

In summary, the IRB takes the stand that in the circumstance where the entities are deemed to have no gross income from business sources, the preferential tax treatments will not be accorded to such entities.

Extension of Tax Incentive for Automation Equipment

Pursuant to the Income Tax (Accelerated Capital Allowance) (Automation Equipment) 2017, a qualifying company is entitled to claim accelerated capital allowance ["ACA"] i.e. initial allowance and annual allowance of 20% and 80% respectively on qualifying capital expenditure in the manufacturing sectors as follows:-

- Rubbers, plastics, wood, furniture and textile
  - First RM4,000,000 of the qualifying capital expenditure incurred in the basis period for the YA 2015 until YA 2017; or
- Other sectors as determined by the minister
  - First RM2,000,000 of the qualifying capital expenditure incurred in the basis period for the YA 2015 until YA 2020

Besides, the qualifying company shall also be exempted from payment of income tax in respect of statutory income derived from a qualifying project which is equivalent to the amount of ACA given under the Income Tax (ACA) (Automation Equipment) Rules 2017 mentioned above in accordance with the Income Tax (Exemption) (No.8) Order 2017. The amount exempted is restricted to 70% of statutory income for each year of assessment and any utilized allowance can be carried forward to subsequent years of assessment.

Following the Budget 2018 and Budget 2020 announcements, the *Income Tax (Accelerated Capital Allowance) (Automation Equipment) 2017 (Amendment) Rules 2020* and *Income Tax (Exemption) (No. 8) 2017 (Amendment) Order 2020* have been gazetted to provide for extension of the incentive period for qualifying capital expenditure incurred up to YA 2023 for both the above sectors. This applies to:-

- Application received by the Malaysian Investment Development Authority from 1st May 2015 to 31st December 2023
- A qualifying company which has been in operation for a period of at least 36 months

Additionally, it is noteworthy that one of the non-application provisions has been amended where the above incentive shall not be given to a qualifying company that has been granted any exemption under Section 127(3)(b) or Section 127(3A) of the Act (instead of Section 127 of the Act previously)

Both the above amendment Orders shall have effect from the YA 2018.

Note: *For further information on the above incentive granted under the Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017 and Income Tax (Exemption) (No. 8) Order 2017 issued previously, please refer to our Tax Flash –September 2017 issue.*

FAQ on APA Treatment due to COVID-19 Pandemic

The IRB has, on 16th June 2020, published the *Frequently Asked Questions ["FAQ"] on Advance Pricing Arrangement ["APA"] treatment due to COVID-19 pandemic*. The FAQ was published to provide guidance to taxpayers on the treatment of new, on-going and concluded APA during the pandemic.

Some of the pertinent points provided in the FAQ are as summarised below:-

i. Application for New APA
- For businesses which are affected by the COVID-19 pandemic, the IRB is currently not accepting new application for APA until further notice
- For businesses which are not affected by the COVID-19 pandemic, taxpayers can still apply for new APA

ii. Treatment of On-going APA Application
- For on-going APA application, the IRB will review the application based on the information previously submitted. The proposed arm's length range will be based on the benchmarking analysis of normal economic and market conditions, i.e. pre-COVID-19
- A term test may be applied in order to take into account the impact of COVID-19 on the proposed covered transaction depending on the facts and circumstances of the case. For this purpose, the Annual Compliance Report will be required to be submitted annually and any compensating adjustment shall be made at the end of the APA covered period
- Alternatively, taxpayers can withdraw from the APA application if the probability of the impact of COVID-19 on the taxpayers' bisuness is significant and submit a new application subject to the conditions mentioned in item (i) above

iii. Treatment of Concluded APA Application
- Taxpayer is required to comply with all the critical assumptions stated in the APA agreement
- In the event the taxpayer cannot fulfil the critical assumptions due to COVID-19, they can either notify the IRB of the need to revise or apply for cancelation of the APA
- In the case of bilateral / unilateral APA, the application of for a revision or cancelation will be subject to further negotiation with the Competent Authorities [i.e. treaty partner(s)] taking into account all relevant tax juridictions, APA regulations and procedures

iv. Renewal of APA
- APA can be renewed under the terms and conditions similar to the expiring APA. However, a taxpayer is not eligible for a renewal if the critical assumptions in the expiring APA are no longer valid or relevant due to material changes on the taxpayers' business as a result of the COVID-19
- Under such circumstances, the taxpayer may file a new application for APA or forgo the choice of submitting a new application for APA

Remission of Penalty in Respect of Late Payment Penalties Generated in MySST System for the Taxable Periods of February 2020 to April 2020

The Royal Malaysian Customs Department ["RMCD"] has on 29th May 2020 informed that the penalties in respect of late payment of sales tax and service tax generated in MySST system for the taxable periods of February 2020 to April 2020 will be remitted as soon as possible. Please refer to the *Announcement – Penalty in MySST System for Late Payment of Taxes on Taxable Period included in the Movement Control Order ["MCO"] Period*.

Any Bill of Demand issued in relation to the abovementioned penalties will be revoked by RMCD accordingly.

FAQ Pertaining to GST Refund

The RMCD has on 16th June 2020 published the *FAQ Pertaining to Goods and Service Tax ["GST"] refund* ["the GST FAQ"]. The salient points extracted from the GST FAQ are as follows:-

- Where there is a change to the registration details of GST of a GST registrant such as address of office premises, phone number, bank information and etc., the GST registrant is required to update the relevant information in Taxpayer Access Point ["TAP"].
- All applications for GST refund will be subject to verification (i.e. desk review), audit or investigation. Any refund of the GST overpaid will be made within 6 years from 1st September 2018.
- A registered person may use bank guarantee ["BG"] as an alternative to request RMCD to expedite the processing of the balance of the GST refundable prior to completion of GST audit.
- The application for BG and letter of undertaking can be made via email: *bgrefund@customs.gov.my*.

Notification of GST Refund

The RMCD has on 16th June 2020 published the *Notification of GST Refund* ["the Notification"]. For the purpose of expediting the GST refund during/post MCO period, the RMCD will be adopting "pay first, audit later" approach for selected companies as summarised below:-

i. For any claim of GST refund less than RM100,000
   - The GST refund will be made upon completion of verification process (i.e. desk review). However, the company or claimant will still be subject to GST audit at any time within 6 years from 1st September 2018.

ii. For any claim of GST refund amounted to RM100,000 and above
   - The GST refund will be made if the company or claimant passes the risk assessment review and verification process (i.e. desk review). However, the company or claimant will still be subject to GST audit at any time within 6 years from 1st September 2018.
   - In the event that the company or claimant fails the risk assessment review, the GST refund will not be made until field audit is completed. However, for the purpose of easing the company's cash flow, the GST refund may be made in full if the following conditions are satisfied:-
     - The verification process (i.e. desk review) is passed;
     - A letter of undertaking declaring that all the information furnished are correct and that any tax (both GST and penalty) underpaid will be made good to RMCD; and
     - A BG at the rate of 10% based on the total GST refundable as at 1st January 2019 is furnished.
   - Upon completion of the field audit, the BG will be returned to the taxpayer after verifying that the company does not have any tax underpaid.

Companies that have yet to receive the GST refund can access the TAP or contact the nearest RMCD office to check on the status of the GST refundable and any information requested by the RMCD.

Service Tax Policy No. 9/2020 (Amendment No. 1)

The RMCD has on 17th June 2020 published the *Service Tax Policy No. 9/2020 (Amendment No. 1)*. The amendment is made subsequent to the Short-Term Economic Recovery Plan ["PENJANA"] announced by our Prime Minister on 5th June 2020. The amendments are in relation to the following exemptions:-

- the service tax exemption for hotel related services will be extended from 31st August 2020 to 30th June 2021; and
- the tourism tax will also be exempted from 1st July 2020 to 30th June 2021.

Note: *Kindly refer to our Tax Flash – March 2020 for further details.*

Specific and Industry Guides

The RMCD has published the following guides:-

- *Guide on Transmission and Distribution of Electricity Services* as at 1st July 2020;
- *Guide on Information Technology Services* as at 13th July 2020; and
- *Guide on Refund on the Acquisition of Services by Foreign Missions and International Organisations* as at 13th July 2020.

FAQ Pertaining to PENJANA

The RMCD has on 30th June 2020 published the *FAQ Pertaining to PENJANA* ["the PENJANA FAQ"]. The salient points extracted from the PENJANA FAQ are as follows:-

i. Initiative 23 – Remission of 50% Penalty Due to Late Payment of Sales Tax and Service Tax
   - It is applicable to the taxable periods of May 2020, June 2020, July 2020 and August 2020.
   - The remission of 50% penalty is subject to the conditions that the company:-
     - makes declaration via Form SST-02 or Form SST-02A; and
     - makes good of the payment within 90 days from the due date for payment of sales tax / service tax / imported service tax.
   - Previously, it was announced that the penalty for late payment of sales tax and service tax in respect of the taxable periods of February 2020 to April 2020 will be fully remitted by RMCD provided that the payment was settled by 30th June 2020. Any penalty in respect of the outstanding balance which is settled within 90 days from the statutory due date will be eligible for 50% remission.
   - The 50% remission is not applicable to digital tax and tourism tax.
   - The above can be summarised as below:-

Taxable Period	**Due Date for Payment**	**Remission of 100% Penalty If Payment Made By**	**Remission of 50% Penalty If Payment Made By**
29th February 2020	31st March 2020	30th June 2020	N/A
31st March 2020	30th April 2020		29th July 2020
30th April 2020	31st May 2020		29th August 2020
31st May 2020	30th June 2020	N/A	28th September 2020
30th June 2020	31st July 2020		29th October 2020
31st July 2020	31st August 2020		29th November 2020
31st August 2020	30th September 2020		29th December 2020

ii. Initiative 32 – 100% Exemption of Sales Tax for Purchase of Locally Assembled Passenger Cars and 50% Exemption of Sales Tax for Purchase of Imported Passenger Cars

- The exemption is effective from 15th June 2020 to 31st December 2020 subject to other conditions as prescribed by the Ministry of Finance ["MOF"] and the RMCD.
- It is applicable to all types of passenger cars including MPV and SUV (excluding MPV with 11-seat and above).
- It is not applicable to window van, pick-up cars and commercial vehicles such as panel vans, trucks, prime movers and buses.
- The sales tax exemption is only applicable to the following companies:-
  - Franchise holder / distributor / dealer who purchases the qualified passenger cars from local car assembler (registered manufacturer);
  - AP franchise holder who imports new CBU cars;
  - Open AP holder registered as a member of PEKEMA who imports used CBU cars; and
  - Other party who has obtained approval from the MOF.
- The effective date of this exemption refers to:-
  - For locally assembled passenger cars – the date of invoice from local car assembler to purchaser, i.e. franchise holder / distributor / dealer.
  - For imported CBU cars – the date of the import declaration form (i.e. Form K1).
- The sales tax exemption will still be applicable in the case where the CBU cars have been registered with the *Sistem Maklumat Kastam* ["SMK"] before 15th June 2020 provided that the sales tax is paid on/after 15th June 2020.
- The following details must be disclosed or declared for the purpose of the sales tax exemption:-
  - For locally assembled passenger cars – in the invoice issued by the local car assembler to the purchaser, i.e. franchise holder / distributor / dealer:-
    "*Pengecualian cukai jualan 100% di bawah Seksyen 35(3) Akta Cukai Jualan 2018 mengikut surat MOF.TAX.700-2/3/36 Jld.3(12)*"
  - For imported new CBU cars – in the Form K1:-
    "*Saya menuntut pengecualian cukai jualan 50% di bawah Seksyen 35(3) Akta Cukai Jualan 2018 mengikut surat MOF.TAX.700-2/3/36 Jld.3(12)*"
  - For imported used CBU cars – in the Form K1:-
    "*Saya menuntut pengecualian cukai jualan 50% di bawah Seksyen 35(3) Akta Cukai Jualan 2018 mengikut surat MOF.TAX.700-2/3/36 Jld.3(11)*"
- Passenger cars that have been granted the sales tax exemption must be registered within the period from 15th June 2020 to 31st January 2021. Otherwise, the company (i.e. franchise holder / distributor / dealer or importer) is required to repay the sales tax exempted together with the Form SST-ADM to the nearest Customs station.
- Companies enjoying the above sales tax exemption are required to submit certain information in the prescribed format within the stipulated time to MOF. The terms and conditions are set out in the letter MOF.TAX.700-2/3/36 Jld.3(11) and MOF.TAX.700-2/3/36 Jld.3(12).
- Any sales tax paid on passenger cars from 1st January 2020 to 14th June 2020 may be refunded subject to the following conditions:-
  - The car is registered within the period from 15th June 2020 to 31st January 2021; and
  - The claim for refund should be made not later than 31st March 2021.
- The application for refund of sales tax is required to be submitted to the Tax Division of MOF before 31st March 2021.
- Once it is verified by MOF, the company may apply for the sales tax refund from RMCD via Form JKDM-2 within 3 months from the date of verification letter issued by MOF together with the following documents:-
  - Verification letter issued by MOF;
  - Invoice issued within the period from 1st January 2020 to 14th June 2020 indicating the amount of the sales tax charged for the case of locally assembled cars;

- Form K1 to substantiate that the sales tax has been paid within the period from 1st January 2020 to 14th June 2020 for the case of imported CBU cars;
- A copy of the car grant; and
- A copy of invoice from the distributor / dealer to the customer confirming that the sales tax has not been included in the selling price.

iii. Initiative 35 – Exemption of Tourism Tax For The Period From 1st July 2020 to 30th June 2021

- The exemption is determined based on the check-in date. The following examples illustrate the mechanism for the exemption:-

Check-In Date	Check-Out Date	Tax Treatment
30th June 2020	1st July 2020	Subject to tourism tax.
30th June 2021	3rd July 2021	Tourism tax will be exempted for 30th June 2021. No exemption of tourism tax for 1st July 2021 and 2nd July 2021.

- During the exemption period, the accommodation premises operators are still required to submit the Form TTx-03 and disclose the amount of tourism tax exempted in column 7 of the Form TTx-03.
- The invoice issued to foreign tourist in relation to the tourism tax can indicate as "exempted", "NIL" or "RM0.00".

Approved Major Exporter Scheme

The RMCD has on 30th June 2020 announced the conditions and application procedures for *Approved Major Exporter Scheme ["AMES"]* as summarised below:-

- The companies that wish to apply for AMES must fulfill *the conditions prescribed by the RMCD*;
- Any eligible company can make an application by submitting the following forms:-
  - *AMES Application Form*; and
  - *Template Excels Goods Information for Sections D, F and G*
- The complete application forms and supporting documents must be submitted to *ames@customs.gov.my*
- The application status will be notified within 14 days from the date of receipt of the complete application forms and supporting documents by the SST Division of RMCD Headquarters

Exemption of Import Duty and Sales Tax on Type KN95 of Face Mask

The RMCD has on 4th July 2020 informed that in accordance with Section 14(2) of the Customs Act 1967 and Section 35(3)(a) of the Sales Tax Act 2018, the Finance Minister has agreed to *exempt the import duty and sales tax on the following face mask*:-

Name of Goods	Tariff Code
Face mask (surgical / medical) – KN95	6307.90.9000

The exemption of import duty and sales tax takes effect from 1st July 2020 until a date to be announced by the MOF, likely to be the date when the COVID-19 pandemic is declared over by the Government.

Sales Tax (Amendment) Regulations 2020

The *Sales Tax (Amendment) Regulations 2020* ["the Regulations"] was gazetted and in force effective 1st July 2020. The salient points extracted from the Regulations are as follows:-

i. Interpretation
- The "approved person" means any trader or manufacturer who is granted an approval by the Director General of Customs and Excise ["the DG"] under the AMES under Section 61A of the Sales Tax Act 2018.

ii. Application for Approval
- Any person is eligible to make an application for AMES to the DG. subject to the following conditions:-
  a. He is a trader who:-
     - has been operating in Malaysia for at least one year;
     - at the time the application is made, the annual sales value of the taxable goods exceeds RM10 million; and
     - at least 80% of the annual sales value of the taxable goods are sales exported or transported to a designated area ["DA"] or special area ["SA"].
  b. He is a manufacturer who:-
     - has been operating in Malaysia for at least one year;
     - at the time the application is made, the annual sales value of the manufactured goods exempted from sales tax exceeds RM10 million; and
     - at least 80% of the annual sales value of the manufactured goods exempted from sales tax are sales exported or transported to a DA or SA.
  c. He is a trader or a manufacturer who fulfills the conditions stated in (a) or (b) above; or
  d. He is a person as determined by the Finance Minister.
- The person who has been approved shall be subject to the following conditions:-
  - any importation, transportation and exportation of goods shall be declared by the approved person in the prescribed form under the Customs Act 1967 or any document as the DG may determine;
  - keep a complete and true record or accounts in relation to the goods imported, transported, purchased, exported and sold under this scheme;
  - his accounting and internal control system are able to fulfill such accounting and auditing standards;
  - notify in writing to the DG within 14 days after any change in the business particulars of the approved person;
  - prepare a statement relating to this scheme in such manner as the DG may determine and submit such statement for inspection as may be required by a senior officer of sales tax at any time; and
  - any other conditions as the DG may deem fit to impose.

iii. Validity of Approval
- The approval granted under this scheme shall be valid for a period of 2 years or any period as the DG may determine.
- An application for renewal of the approval period may be made in such form and manner as the DG may determine within 30 days before the expiry date of such approval.

iv. Exemption from Payment of Sales Tax
- Any approved person is allowed to be exempted from payment of sales tax on the taxable goods imported or transported from a DA or SA or purchased or acquired from a registered manufacturer subject to the following conditions:-

- The approved person is a trader:-
  - the taxable goods are directly imported or transported from a DA or SA or purchased or acquired from a registered manufacturer by the trader;
  - the taxable goods shall not be used or carried out any value-added process;
  - the taxable goods are subsequently exported or transported to a DA or SA by the trader; and
  - the taxable goods shall not be disposed of other than by way of destruction as approved by the DG, not sold locally or not accounted for unless the sales tax exempted on such taxable goods shall be paid to the DG.
- The approved person is a manufacturer:-
  - the raw materials, components, packing and packaging materials shall be directly imported or transported from a DA or SA or purchased or acquired from a registered manufacturer by the manufacturer;
  - the raw materials, components, packing and packaging materials shall be used directly and solely in the manufacture of goods exempted from sales tax;
  - the manufactured goods exempted from sales tax shall be exported or transported to a DA or SA by the manufacturer;
  - the raw materials, components, packing and packaging materials shall not be disposed of other than by way of destruction as approved by the DG, not used other than for the purpose of manufacture of goods exempted from sales tax, not sold locally or not accounted for unless the sales tax exempted on such goods shall be paid to the DG; and
  - the manufactured goods exempted from sales tax shall not be disposed of other than by way of destruction as approved by the DG, not sold locally or not accounted for unless the sales tax exempted on raw materials, components, packing and packaging materials used in the manufacturing of the goods exempted from sales tax shall be paid to the DG.

v. Goods Not Eligible for Exemption from Payment of Sales Tax
- wine, spirits, beer and malt liquor;
- cigarettes, tobacco and tobacco products; and
- petroleum