

TAXING THE DIGITAL ECONOMY

SERVICE TAX ON IMPORTED DIGITAL SERVICES

Effective 1 January 2020, foreign service providers may be liable for charging service tax on “digital services” provided to Malaysian customers (private consumers and/or local businesses) under the local *Service Tax Act 2018*. If you currently procure digital services from a registered overseas vendor, there may be operational, business and cost implications that you need to assess and address.

For example, if you do not currently self-account for service tax on the acquisition of digital services (i.e. using group relief), there may be additional cost and operational considerations for you. If you do currently self-account for service tax on the acquisition of such services (i.e. reverse charge), there may not be any additional costs. However, you may need to review and update your systems and compliance processes.

TIPS ON HOW TO GET YOUR BUSINESS READY

1. Determine if your business is impacted by the change

If you acquire digital services from an overseas vendor, you may be impacted by the change. If so, is the vendor registered for service tax in Malaysia? If yes, do you need to set up a process for reviewing and accepting the vendor invoices, and do you need to disable any automated “self-accounting” for service tax that has been programmed into your system?

2. Seek professional advice

Each business should consider obtaining professional advice as to how their operations involving the importation of digital services will be impacted by the requirement for the foreign service provider to impose Malaysian service tax. This includes compliance requirements (for example do you still need to self-account, are there exemptions available, and what to do if your vendor is not registered?), cost impacts and pricing considerations.

3. Review and assess all contracts with your overseas vendors

The legal officer (or external lawyer) should review and assess all your contracts with registered overseas vendors to ensure that service tax can be charged in addition to the contracted service fee. Such a review must consider the transitional rules that apply to pre-existing contracts that span 1 January 2020.

4. Review your cost and pricing

Pricing implications arising from the potential increase in acquisition costs is another important consideration.

5. Ensure timely communication

Timely communication to relevant internal and external stakeholders, including finance or tax personnel, IT personnel or IT vendors and customers if there is a price increase is important. You may also wish to consider communicating on the change with your overseas vendors.

6. Update your compliance procedures and system settings/configurations

You may need to work with systems personnel to ensure relevant systems are updated to capture any necessary data to identify when service tax is to be imposed and when you will need to “self-account” for it, and so on. You may also want to update your compliance processes for reviewing of invoices from foreign suppliers.

7. Update internal compliance plans and train affected staff

The changes to the Malaysian service tax law may mean a reduction in reporting requirements for local businesses but additional documentary review processes. It is important that the affected staff understand how service tax on digital services applies (including transitional implications), how amounts should be coded in accounts, what additional details should a compliant invoice have, and the escalation process for invalid invoices or incorrect charges.

KEY CONCEPTS

A "foreign service provider providing digital services to Malaysian consumers in excess of RM500,000 in a 12-month period" will be liable to register and charge service tax on such services provided to Malaysian customers.

A foreign service provider is:

"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."

A consumer is defined as any person who fulfils any two of the following:

- a) makes payment for digital services using credit or debit facility 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.

Digital service is:

"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."

FURTHER INFORMATION

- [Royal Malaysian customs' guide on digital services](#)
- [Service tax on digital services regulation and order](#)
- [Service Tax \(Amendment\) Act 2019](#)
- [Service tax on digital services registration landing page](#)

LATEST UPDATE: 7 JANUARY 2020

1. [Service Tax \(Persons Exempted from Payment of Tax \(Amendment\) Order 2019](#) released on 31 December 2019 details exemption for local businesses importing digital services in Item 3.
2. The Ministry of Finance, in a [media statement](#) on 31 December 2019, introduced new rules in relation to service tax on digital services.

You may want to consult your tax advisor about how this applies to you.