



## Digital Service Tax in Malaysia

(As of February 2020)

### 1. Introduction

Due to the immense growth of the digital economy, its taxation is becoming increasingly important from globally. Companies offer cross-border digital services without being physically represented in the countries where services are provided, which means that their income is not covered by the tax laws of these countries and thus remains untaxed. In addition, data, digital services and other digital assets are increasingly becoming commercial goods.

As of 1 January 2020, service providers located outside Malaysia and providing digital services to Malaysian consumers must register in Malaysia and levy a service tax.

### 2. Definitions

#### a. Service Tax

The Malaysian service tax is a form of single-tier indirect tax levied on any supply of taxable services by a taxable person in Malaysia.

Service tax can only be levied on services that are included in the list of taxable services. These are prescribed by the Minister in accordance with the First Schedule of the Service Tax Regulations 2018.

#### b. Value Added Tax

Value added tax is a single-tier tax levied on taxable goods imported into Malaysia and taxable goods manufactured in Malaysia by a taxable person and sold by him (including used or discarded goods).

It is mandatory in Malaysia that all manufacturers of taxable goods are licensed under the Sales Tax Act 2018.

A taxable person is a person who manufactures taxable goods and is required to declare them. This is the case if the annual turnover has exceeded the threshold of RM500,000.00. This person must be registered in the MySST system.

#### c. Foreign Service Provider (FSP)



A foreign service provider is any person located outside Malaysia who provides a digital service to a consumer. This also includes operators of online platforms that offer the purchase and sale of digital services outside Malaysia.

#### **d. Digital Service**

The term "digital service" refers to any service provided over the Internet or another IT network which would not be available without the use of information technology. Another important prerequisite is that the provision of the service must be essentially automated. This includes, for example, the streaming of music, videos, cloud storage and the provision of software on the Internet.

#### **e. Consumer**

Currently, no distinction is made between business and private consumers, so that digital services in the business-to-business (B2B) sector would also be subject to service tax.

### **3. Rates**

Generally, the service tax rate in Malaysia is set to be 6%. The same tax rate also applies to digital services. The service tax for the provision of credit card and prepaid card services is RM25.

### **4. Taxable Services**

A complete list of the digital services subject to tax is given in the First Schedule of Service Tax Regulations 2018. The following digital services are considered digital services:

- online licensing of software, updates and add-ons website filters and firewalls;
- mobile applications and video games;
- provision of digital content, for e.g., music, e-book, film, images, text and information;
- advertisement platform, for e.g., provision of online advertising space on intangible media platform;
- online platform, for e.g., offering of a platform to trade products or services;
- search engines services;
- social networks;
- database and hosting, e.g., website hosting, online data warehousing, filesharing and cloud storage services;
- internet-based telecommunication;
- online training, for e.g., provision of distance teaching, e-learning, online courses and webinars;
- online newspapers and journals subscription; and
- payment processing services.



## 5. Service Providers Subject to Taxation

Taxable are those service providers who are already registered or subject to registration. A foreign service provider is subject to registration, from 1 January 2020, if the value of digital services provided to Malaysian consumers exceeds or is likely to exceed the prescribed registration threshold of RM500,000.00 within a twelve (12) months period.

## 6. Registration and Its Cancellation

Every person operating a business for the provision of taxable services must apply for registration as a registered person in accordance with Section 13 (1) STA 2018 on Form SST-01.

Registration comes into force on the first day of the month following the month in which the tax liability commenced or on an earlier date agreed by the General Director, but not earlier than the day on which the person concerned is subject to registration.

The application for registration is made online via the MySST portal.

Any person who does not need to be registered according to Section 14 of STA 2018 may voluntarily apply for registration to the Director General. The General Director may register such a person if he is convinced that such a person provides taxable services but has not reached the threshold or if the person intends to operate a business for the purpose of providing taxable services.

The registration of a branch is permitted. Registration of branches or departments may be considered if:

- it is difficult to submit a single return for all the branches or divisions;
- each branch or division maintains a separate account;
- such branch or division is separately identifiable by reference to the nature of the business or its location; and
- every separately registered branch or division has the same taxable period.

Group registrations are not allowed.

Generally, the service tax registration shall be cancelled by the Director General if the taxable person:

- ceases to carry on business of providing taxable services;
- fails to provide taxable service by the date which the registration issued upon application for voluntary registration is to take effect;
- a company is dissolved.



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## 7. Exemption

Certain professional services provided to companies within the same group of companies would not be taxable under certain criteria. Furthermore, with effect from 1 January 2019, certain taxable services supplied by one registered person to another registered person registered for the same service are exempt from service tax.

**Disclaimer:** This information is intended to provide a general overview on taxes levied on digital services in Malaysia and should not be regarded as a basis for ascertaining the liability to tax in specific circumstances. No responsibility for loss to any person acting or refraining from acting as a result of any information in this overview can be accepted by Malaysian-German Chamber of Commerce and Industry. Recipients should not act on the basis of this information without seeking professional advice of a Malaysian tax agent.

**Sources:** Official Website of Malaysia Sales & Service Tax (SST), <https://mysst.customs.gov.my/>, accessed 6<sup>th</sup> February 2020 ; Official Website of PwC Malaysia, <https://www.pwc.com/my/en/services/digital.html>, accessed 6<sup>th</sup> February 2020.