

TaxLetter 25

20 October 2020



CMCO

To curb the rising numbers of Covid-19 cases, the National Security Council has implemented a Conditional Movement Control Order (CMCO) for the state of Sabah (effective from 12 October 2020), Selangor, Kuala Lumpur and Putrajaya (effective from 14 October 2020).

Activities in the economic sectors are allowed to operate but under strict standard operating procedures (SOP). Employers are advised to issue work passes or consent letters to employees, especially to those who are required to travel.

In this Taxletter, we will continue to update you on the recent tax updates to prepare you for the upcoming Budget 2021, which is going to be unveiled on 6 November 2020.

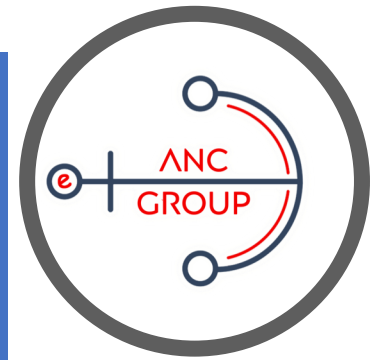


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Public Rulings Updates

Public Ruling (PR)	Description
<u>7/2020</u>	<p>Appeal Against an Assessment and Application for Relief</p> <p>This Public Ruling (“PR”) supersedes PR 12/2017 which was last amended on 25 September 2018. The objective of this PR is to explain the procedures with regards to the appeal and application for relief in line with the provisions of the Income Tax Act 1967 (“ITA”), which includes procedures for Form Q and Form N.</p> <p>The salient points include:</p> <ul style="list-style-type: none"> (a) Clarification in respect of appeal against Reduced Assessment; and (b) Appeal against Best Judgement Assessment under subsection [sub(s)] 90(3) of the ITA. <p>This align with the Budget Proposal 2019 and the new Section (s.) 99(1A) of the ITA. Effective from Year of Assessment (“YA”) 2019, if best judgement assessment has been made under sub(s) 90(3) of the ITA against a company, Limited Liability Partnership (“LLP”), trust body or co-operative who fails to submit its Income Tax Return, the appeal against the best judgement assessment shall be made by submitting Form Q together with the Income Tax Return for the YA involved not later than thirty (30) days after the notice of assessment has been served.</p>
<u>8/2020</u>	<p>Taxation of a Resident Individual Part 1 – Gifts or Contributions and Allowable Deductions</p> <p>PR 8/2020 supersedes PR 4/2018. PR 8/2020 has been updated to take into account changes in individual reliefs and rebates which has taken effect for YA 2019 and YA 2020.</p> <p>These changes include:-</p> <ul style="list-style-type: none"> (a) EPF relief of RM4,000 and Life insurance premium of RM3,000 (w.e.f YA 2019); (b) Restriction on deduction of gift of money made to approved organisation, increased from 7% to 10% of aggregate income (w.e.f YA 2020); (c) Serious disease treatment extended to include fertility treatment (w.e.f YA 2020); (d) Contribution to SSPN relief increased from RM6,000 to RM8,000 (w.e.f YA 2019 and YA 2020); and (e) Maximum amount of deduction for child care fees increased from RM1,000 to RM2,000 (w.e.f YA 2020). <p>In respect of (e) above, the quantum of relief has recently increased to RM3,000 under the Penjana Scheme. Kindly refer to ANC TaxLetter 24 for more information.</p>

Guidelines on Income Tax Deduction for Secretarial and Tax Filing Fee YA 2020

This technical guideline supersedes the existing guideline dated 8 February 2017. Effective YA 2020, the tax deduction limit on expenses incurred on secretarial fees and tax filing fees have combined and allowed up to RM15,000 for each year of assessment. This technical guideline was issued to provide guidance on the aforesaid expenses with heavier emphasis on Tax Filing Fee.

Expenses deductible under this rule has been amended as follows:-

- (a) GST filing fee has been removed;
- (b) Sales Tax and Service Tax filing fee are tax deductible;
- (c) Departure Levy filing fee is tax deductible; and
- (d) Tourism Tax filing fee is tax deductible.

Clarity has also been provided in respect of tax deductibility for tax filing fee charged for for different YA which are incurred in a YA. For example, Company with December accounting year end, in its tax filing for YA 2020, the deductible expenses incurred will include:-

- (a) Tax submission fee for the YA 2019;
- (b) Submission of CP204A for the YA 2020; and
- (c) Submission of CP204 for the YA 2021.

Technical Guidelines Update

Income Tax Gazette Orders

Gazette Order	Description
P.U. (A) 269	<p>Income Tax (Exemption) (No. 9) 2020 (Amendment) Order 2020</p> <p>From YA 2020, private healthcare companies are eligible to claim tax exemption on income derived from export of healthcare services to foreign patients either in Malaysia or from Malaysia. The income tax exemption is equivalent to 50% of the value of increased exports of services and the exemption can be set-off against 70% of statutory income.</p> <p>To promote growth in healthcare services and establish Malaysia as a healthcare hub for foreign patients, effective YA 2018 to YA2020, the tax exemption on income derived from export of healthcare services be increased from 50% to 100%, subject to qualifying conditions below:-</p> <ul style="list-style-type: none"> (a) At least 10% of its total patients consist of foreign client who have obtained private health care services in each YA; and (b) At least 10% of its gross income is derived from the foreign client who have obtained private health care services in each YA.
P.U. (A) 272	<p>Income Tax (Deduction for Expenditure on Industry4WRD Readiness Assessment) Rules 2020</p> <p>In conjunction with Budget 2019, effective YA 2019 to YA 2021, an amount equivalent to the total amount of fee expenditure on the Industry4WRD Readiness Assessment program incurred by a qualifying company shall be allowed as a deduction, subject to the qualifying conditions.</p>

Income Tax Gazette Orders



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P.U. (A) 274	<p data-bbox="725 142 1616 178">Income Tax (Prescribed Fees under Schedule 5 to the Act) Rules 2020</p> <p data-bbox="725 207 1937 271">For the purpose of the payment of the fees under Schedule 5 of the Act, the prescribed fees shall be as specified below:-</p> <table border="1" data-bbox="741 314 1999 642"> <thead> <tr> <th data-bbox="741 314 835 392">No.</th> <th data-bbox="835 314 1558 392">Item</th> <th data-bbox="1558 314 1999 392">Existing Rules (1998)</th> </tr> </thead> <tbody> <tr> <td data-bbox="741 392 835 478">1</td> <td data-bbox="835 392 1558 478">Requisition to state a case to the High Court in respect of each deciding order</td> <td data-bbox="1558 392 1999 478">RM100 for each deciding order against which an appeal is lodged</td> </tr> <tr> <td data-bbox="741 478 835 549">2</td> <td data-bbox="835 478 1558 549">Cost of preparing the case stated</td> <td data-bbox="1558 478 1999 549">RM5 per page</td> </tr> <tr> <td data-bbox="741 549 835 642">3</td> <td data-bbox="835 549 1558 642">Obtaining authorised publication from the Special Commissioners or the Court</td> <td data-bbox="1558 549 1999 642">RM1 per page</td> </tr> </tbody> </table> <table border="1" data-bbox="741 678 1999 1263"> <thead> <tr> <th data-bbox="741 678 835 756">No.</th> <th data-bbox="835 678 1558 756">Item</th> <th data-bbox="1558 678 1999 756">Effective 25 September 2000</th> </tr> </thead> <tbody> <tr> <td data-bbox="741 756 835 842">1</td> <td data-bbox="835 756 1558 842">Filing of a notice of appeal to the High Court</td> <td data-bbox="1558 756 1999 842">RM200 for each deciding order against which an appeal is lodged</td> </tr> <tr> <td data-bbox="741 842 835 1049">2</td> <td data-bbox="835 842 1558 1049"> Cost of notes of proceedings - In the form of printed copy - In the form of compact disc </td> <td data-bbox="1558 842 1999 1049"> RM2 per page for 1st copy RM1 per page for second or subsequent copy RM10 per unit </td> </tr> <tr> <td data-bbox="741 1049 835 1135">3</td> <td data-bbox="835 1049 1558 1135">Copy of any document filed during the proceedings before the Special Commissioner</td> <td data-bbox="1558 1049 1999 1135">RM2 per page</td> </tr> <tr> <td data-bbox="741 1135 835 1263">4</td> <td data-bbox="835 1135 1558 1263">Copy of the grounds of decision form the Special Commissioners for the purposes of authorised publication</td> <td data-bbox="1558 1135 1999 1263">RM5 per page</td> </tr> </tbody> </table>		No.	Item	Existing Rules (1998)	1	Requisition to state a case to the High Court in respect of each deciding order	RM100 for each deciding order against which an appeal is lodged	2	Cost of preparing the case stated	RM5 per page	3	Obtaining authorised publication from the Special Commissioners or the Court	RM1 per page	No.	Item	Effective 25 September 2000	1	Filing of a notice of appeal to the High Court	RM200 for each deciding order against which an appeal is lodged	2	Cost of notes of proceedings - In the form of printed copy - In the form of compact disc	RM2 per page for 1 st copy RM1 per page for second or subsequent copy RM10 per unit	3	Copy of any document filed during the proceedings before the Special Commissioner	RM2 per page	4	Copy of the grounds of decision form the Special Commissioners for the purposes of authorised publication	RM5 per page
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Service Tax Guides Update

The Royal Malaysian Customs Department (“RMCD”) has updated its Service Tax Guides. However, this Taxletter may not include older version of the guidelines or track changes of the guidelines. Hence, we advise readers to read through the whole RMCD’s guide which is relevant to your industry:-

Service Tax Guides Updates

No.	Service Tax Guides :-	Last Updated
1	<p>[English / Malay] Guide on Accommodation</p> <p>The guide supersedes accommodation guide dated 7 September 2018. The salient points include:-</p> <ul style="list-style-type: none"> (a) Complimentary room given by hotel as part of a package to travel agent is not subject to Service Tax; (b) Complimentary room provided by hotel operator to third parties not employed by the hotel operator is subject to Service Tax; and (c) In the case of wedding packages, no segregation of hotel accommodation and wedding meal required as Service Tax is imposed on the total value of the package. 	13 October 2020
2	<p>[Malay] Guide on Group C, D E (Clubs)</p> <p>The guide supersedes existing guide dated 23 August 2018 to take into account changes in the Service Tax legislation. Clarification has also been given to the definition of health centres or massage parlor to include non registered or approved health services and massage services by the authorities.</p>	13 October 2020
3	<p>[Malay] Guide on General Guide on Service Tax</p> <p>The guide has been updated to take into account changes in Service Tax legislation and Service Tax Policies.</p>	7 October 2020
4	<p>[English] Guide on Professional Services</p> <p>The guide has updated to take into account Digital Services and Exemption from Payment of Service Tax under Business to Business Exemption.</p>	6 October 2020



Service Tax Guides Update

Service Tax Guides Updates

No.	Service Tax Guides :-	Last Updated
5	<p>[Malay] Guide on Warehouse Management Services</p> <p>The new guide on warehouse management services explains the types of taxable services under Warehouse Management Services. Clarification is provided that if a Company charges rental of warehouse, such service is not taxable. However, if the rental is part and parcel of the warehouse management services as a package, the entire package amount will subject to service tax.</p>	6 October 2020
6	<p>[Malay] Guide on Management Services</p> <p>This guide supersedes existing guide dated 25 August 2018. In this updated guide, the RMCD has clarified for the following:-</p> <ul style="list-style-type: none"> (a) Monitoring and supervising services in managing a project is subject to service tax; (b) Construction services are not subject to service tax; (c) Maintenance management services are subject to service tax depending whether supervision and monitoring services are required; and (d) Services of prompting for outstanding payment are not collection and debt management services, hence not subject to service tax. 	5 October 2020
7	<p>[Malay] Guide on Consultation, Training and Coaching Services</p> <p>This guide supersedes existing guide dated 17 March 2019 to take into account changes in the Service Tax legislation. Definition of consultation has been widen to include services provided by consultant regardless whether he/she is a professional, has expertise or specialised knowledge.</p>	15 September 2020



Service Tax Guides Update

Service Tax Guides Updates

No.	Service Tax Guides :-	Last Updated
8	<p>[English] Guide on Disbursement & Reimbursement</p> <p>The RMCD has issued a new guide to clarify the service tax treatments of disbursement and reimbursement. Salient points include:-</p> <ul style="list-style-type: none"> (a) Disbursement defined as a recovery of payment made on behalf of the customer by a claimant who is acting as an agent. Not subject to Service Tax; and (b) Reimbursement is defined as a recovery of expense from the customer that a claimant has incur as a principal. Subject to Service Tax. <p>The guide provides various examples of disbursements and reimbursements, which include out-of-pocket (“OPE”) expenses charged by service providers. OPE related costs are treated as part of the value of taxable service by the service provider, unless the following conditions are fulfilled:-</p> <ul style="list-style-type: none"> (a) It is stated in the contract that the customer will bear the OPE costs; (b) It is paid on back to back basis (without any mark-up); and (c) The claimant provides the supporting documents when making the claim from the customer. 	15 September 2020



Service Tax Guides Update

Service Tax Guides Updates

No.	Service Tax Guides :-	Last Updated
9	<p>[English] Guide on Digital Service by Foreign Service Provider (FSP)</p> <p>This guide supersedes existing guide dated 20 August 2019 to take into account changes in the Service Tax legislation and Service Tax policies. Salient points include:-</p> <ul style="list-style-type: none"> (a) Effective 1 January 2020, online distance learning, online newspaper, online journals and periodicals provided by foreign service provider are not subject to Service Tax; (b) Digital services to a company in Malaysia within the same group of companies shall not charge Service Tax; (c) Guidelines on refund of Service Tax, penalty, fee or other money related issues; and (d) Transitional issues. 	1 August 2020
10	<p>[English] Guide on Information Technology Services</p> <p>This guide supersedes the earlier guide dated 9 August 2019 to take into account the provision of IT service which was expanded to include distributing or reselling of IT services on behalf of any person.</p>	13 July 2020



Service Tax Gazette Orders



Gazette Order	Description						
P.U. (A) 357	<p>Service Tax (Amendment) (No. 2) Regulations 2019</p> <p>Group relief is granted for taxable service provided within the group of companies, with a condition that the total value of taxable services to third party outside the same group of companies does not exceed 5% of the total value of services provided by the company within a period of 12 months; and</p> <p>Training services or coaching services provided to a person who holds a valid OKU Card issued under the Persons with Disabilities Act 2008 are not subject to Service Tax provided the service provider is a training and teaching centers:-</p> <ol style="list-style-type: none"> registered with Ministry of Health of Malaysia; registered with Social Welfare Department; or registered by any national association for persons with disabilities registered with the Registrar of Societies Malaysia. <p>Effective 1 January 2020.</p>						
P.U. (A) 388	<p>Service Tax (Persons Exempted from Payment of Tax) (Amendment) Order 2019</p> <p>The gazette order explains the service tax exemption for the following:-</p> <table border="1" data-bbox="727 811 1873 1090"> <thead> <tr> <th data-bbox="727 811 1301 862">Persons</th> <th data-bbox="1301 811 1873 862">Services Exempted</th> </tr> </thead> <tbody> <tr> <td data-bbox="727 862 1301 976">Any person who, in carrying on his business whom acquired digital services from foreign registered person</td> <td data-bbox="1301 862 1873 976">Digital services acquired from foreign registered person</td> </tr> <tr> <td data-bbox="727 976 1301 1090">Taxable person specified in Group G, column (1), item 8 of the First Schedule to the Service Tax Regulations 2018</td> <td data-bbox="1301 976 1873 1090">Information technology service acquired from any person who is outside Malaysia.</td> </tr> </tbody> </table> <p>Effective 1 January 2020.</p>	Persons	Services Exempted	Any person who, in carrying on his business whom acquired digital services from foreign registered person	Digital services acquired from foreign registered person	Taxable person specified in Group G, column (1), item 8 of the First Schedule to the Service Tax Regulations 2018	Information technology service acquired from any person who is outside Malaysia.
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Taxable person specified in Group G, column (1), item 8 of the First Schedule to the Service Tax Regulations 2018	Information technology service acquired from any person who is outside Malaysia.						
P.U. (A) 389	<p>Service Tax (Digital Services) (Amendment) Regulations 2019</p> <p>The RMCD has issued a new form for application for digital service registration and digital service return. Effective 1 January 2020.</p>						

Service Tax Gazette Orders

Gazette Order	Description
P.U. (A) 393	<p>Service Tax (Imposition of Tax for Taxable Service in Respect of Designated Areas and Special Areas) (Amendment) (No.2) Order 2019</p> <p>Effective 1 January 2020, accommodation premises provided by employer as a facility to its employee shall no longer be chargeable to Service Tax.</p>
P.U. (A) 406	<p>Service Tax (Customs Ruling) (Amendment) Regulations 2019</p> <p>The RMCD has issued a new form for application for Customs Ruling. Effective 1 January 2020.</p>
P.U. (A) 149	<p>Service Tax Regulations (Amendment) 2020</p> <p><u>Intra-Group Services Non Taxable under Imported Taxable Service</u> When a company in a group of companies acquires taxable service specified in item (a) to (i) or (l) of the taxable services in Group G from a company within the same group of companies outside Malaysia, such service shall be not subject to Service Tax under imported taxable service.</p> <p><u>Expansion of Scope of Taxable Service</u> Provision of electronic medium has been widen to include digital services provided on behalf of any person, unless the service is in relation to subject matter outside of Malaysia. This is also align with Service Tax Policy 1/2020 (Amendment 1).</p> <p>Effective 14 May 2020.</p>



Service Tax Gazette Orders

Gazette Order	Description
P.U. (A) 150	<p>Service Tax (Digital Service) (Amendment) Regulations 2020</p> <p><u>Intra-Group Services Non Taxable</u> When a foreign registered person provides any digital service to company within the same group of companies in Malaysia, such digital service shall not be subject to Service Tax.</p> <p>However, if the foreign registered person provides any digital service to another person in Malaysia outside the group of companies, the same digital service provided to person or company in and outside the group of companies will become chargeable to Service Tax.</p> <p>Effective 14 May 2020.</p>
P.U. (A) 151	<p>Service Tax (Person Exempted from Payment of Tax) (Amendment) Order 2020</p> <p>Clarity provided on the conditions to fulfil for Service Tax exemption under imported taxable service.</p>



Sales Tax Gazette Orders



Gazette Order	Description
P.U. (A) 196	<p>Sales Tax (Amendment) Regulations 2020</p> <p><u>Approved Major Exporter Scheme</u> In conjunction with Budget 2020, a new Section 61A was introduced to the Sales Tax Act 2018 with regards to Approved Major Exporter Scheme. The Scheme allows any person who qualifies to be exempted from payment of sales tax which may be charged and levied on the taxable goods imported, transported from designated areas or special areas or purchased from a registered manufacturer.</p> <p>The gazette of the regulation explains the:-</p> <ul style="list-style-type: none"> (a) Application for approval; (b) Validity of approval; (c) Exemption from payment of Sales Tax; (d) Goods not eligible for exemption from payment of Sales Tax; (e) Variation, suspension and revocation of approval; and (f) Sales Tax due and payable. <p>The RMCD has also issued an announcement dated 30 June 2020 explaining the application guide, forms and supporting documents required to apply for the Scheme.</p>



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