



2021 budget – indirect tax perspective



KPMG in Malaysia

7 November 2020

1. Addressing the Cigarette Woes

At present, the issues of illicit trade of tobacco and related products have constantly been a concern for Malaysia and this has led to a significant loss of revenue for the nation.

As part of the initiatives to plug such leakages and ensure sustainable collection of revenue, the Government has proposed the following: -

- (a) Freezing issuance of new import license for cigarettes;
- (b) Tightening the renewal of import license and imposition of import quota;
- (c) Restricting transshipment to dedicated ports;
- (d) Imposition of tax on imported cigarettes and drawback facility for re-export;
- (e) Disallowance of transshipment via small boats (including kumpit); and
- (f) Cigarettes and tobacco products to be taxable in all Duty-Free Islands and Free Zones.

The various measures above are positive steps towards plugging the underground economy. The next phase is to see how effective these are and the monitoring process that will be put in place. If done well, these will surely result in a higher collection of taxes. It is also important to consider the overall economic impact of the above to the ports and logistic operators.

The above are proposed to be effective 1 January 2021.

2. Imposition of Excise Duty on Electronic Cigarettes

Presently, specific cigarettes and tobacco products that are classified under the tariff headers of 2402 and 2403 are subject to Excise Duty at various rates, and these excisable products do not include the likes of electronic cigarettes and vape products.

As the hype and demand for such “new-generation products” increases over time, this has certainly attracted much attention and scrutiny from the regulators as well as authorities globally.



In order to effect a level playing field amongst the new and conventional tobacco products, the Government has proposed that Excise Duty shall be levied on: -

- (a) All types of electronic and non-electronic cigarette devices including vape (10% ad valorem)
- (b) Liquid or gel used for electronic cigarettes including vape (RM0.40 per milliliter)

As the consumption of electronic cigarettes and vape products are continuously increasing, this would result in better collection of taxes for the coming years. It should also be noted that comprehensive measures are in place to regulate such products.

However, the challenge remains as to the product classification in accordance with the relevant legislation and orders.

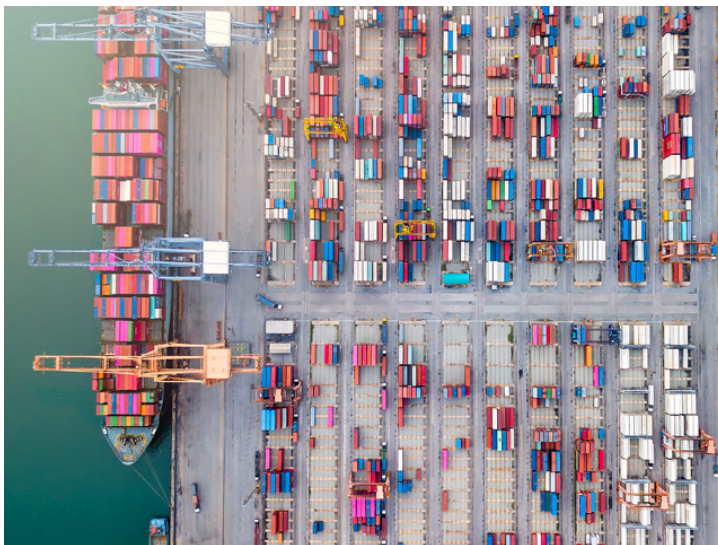
The above is proposed to be effective 1 January 2021.

3. Strengthening the Multi-Agency Task Force (“MATF”)

Earlier this year, the Government has established the MATF, which is led by Royal Malaysian Customs Department (“RMCD”) which is tasked with the objective of protecting the national coffers and to combat illegal activities such as illicit trades of high duty goods.

In order to complement the national collection strategy and further strengthen the existing taskforce, the Government had proposed that two additional agencies shall be included in the MATF, which are the Malaysia Anti-Corruption Commission (“MACC”) and the National Anti-Financial Crime Centre (“NFCC”).

4. Authorized Economic Operators (“AEO”)



Since its roll-out, it appears there are less than 100 companies in Malaysia that have been accredited with AEO status by RMCD to-date (according to RMCD’s website).

Whilst the AEO program offers businesses with high volumes of import and export to benefit from simplified customs clearance formalities and duty payment processes, in general the program requires businesses to introduce and continue to maintain high degree of compliance standards.

The Government will simplify the accreditation process and extend AEO facilitation to logistics services providers and approved warehouse operators nationwide.

To improve efficiency of cross-border business and increase productivity of the logistics sector, it is further proposed that RMCD will integrate the 43 permit and trading license issuing agencies into the AEO platform.

It is envisaged that further details will be released by RMCD soon. We encourage companies that are interested with this opportunity to monitor this development closely.

RMCD’s exclusive AEO portal can be accessed [here](#).

5. Increase of Sales Value for Value-Added and Additional Activities Carried Out in Free Industrial Zone (“FIZ”) and Licensed Manufacturing Warehouse (“LMW”)

Effective 1 April 2020, any applications by companies in the FIZ and LMW to perform activities other than manufacturing activities require prior approvals from the Zone or State RMCD Office. The non-manufacturing activities are value-added and additional activities such as: -

- i. Research and Development;
- ii. Product Design;
- iii. Marketing, for company with International Procurement Centre status only;
- iv. Distribution, for company with Regional Distribution Centre only;
- v. Quality Control;
- vi. Testing and Commissioning including Calibration and Configuration;
- vii. Labelling, Packaging and Re-Packaging;
- viii. Remanufacturing, Repairing and Servicing; and
- ix. Supply Chain Management, Strategic Procurement Operation and Total Support Solutions.

RMCD has issued a guideline that one of the conditions for the approval is that the sales value of these value-added and additional activities must not exceed 10% of the company’s annual sales value.

In order to increase competitiveness and meet the global trade dynamics, it is proposed that the 10% limit on the sales value from value-added and additional activities be increased to not exceeding 40% of the company’s annual sales value. This is a welcomed move as the previous activities allowed to be carried out by companies in the FIZ and LMW are restricted. The Government recognises the ever-evolving business environment that manufacturers are operating in, and this proposal accords manufacturers with the flexibility to expand the scope of services that can be provided in order to remain competitive at a global level.



The above is proposed to be effective for new applications and applications to increase the sales value limit received by RMCD from 7 November 2020.

6. Sales Tax Exemption on Purchase of Locally Assembled Buses

Currently, the Ministry of Finance (“MOF”) has granted Sales Tax exemption on purchase of locally assembled buses including the main components (i.e. chassis fitted engine and air conditioner) by bus operators, subject to meeting conditions. The exemption is effective until 31 December 2020. Please click [here](#) for the relevant guideline previously issued by the MOF for details on the exemption.

To ease the burden of bus operators, it is proposed that the exemption on purchase of locally assembled bus (including air conditioner) be extended. It remains to be seen whether a new/ updated guideline will be issued (and therefore any updates to the application procedures, conditions, etc.).

The above is proposed to be effective 1 January 2021 to 31 December 2022.



7. Import Duty and Excise Duty Exemptions on CBU/ CKD Vehicle under the Returning Expert Programme (“REP”)

The existing Import Duty and Excise Duty exemptions for the purchase of a CBU vehicle or Excise Duty exemption for the purchase of a CKD vehicle under the REP expiring this year is proposed to be extended for another 3 years with the total Duty exemptions reduced to RM100,000.

This measure is aimed to encourage skilled Malaysian citizens working abroad to return and work in Malaysia.

The above is proposed to be effective for applications received by Talent Corporation Malaysia Berhad from 1 January 2021 until 31 December 2023.

8. Expansion of the Scope of Imposition of Tourism Tax on Accommodation Booked Through Online Platform

Currently, tourism tax is imposed on a tourist staying at an accommodation premise which is registered under the Tourism Tax Act 2017 at a flat rate of RM10 per room per night. A tourist who is a Malaysian national or a permanent resident is exempted from such payment of tourism tax.

Unless specifically exempted under the Tourism Tax (Exemption) Order 2017 and its Amendment Order, any person who operates accommodation premises is required to register under the Tourism Tax Act 2017, collect tourism tax from tourists and pay the tourism tax collected to the RMCD.

The imposition of tourism tax has been suspended from 1 July 2020 to 30 June 2021 as a measure to support the tourism sector which has been badly impacted by the Covid-19 pandemic.

Once the suspension of tourism tax is lifted on 1 July 2021, the Government has proposed to expand the scope of imposition of tourism tax to accommodation bookings made through online platform providers. This serves to ensure equal treatment between tourists who book their accommodation directly with the accommodation premise operators and tourists who book through online platform providers.



However, it remains to be seen if the liability to charge the tourism tax would lie with the online platform providers as the exact mechanism is not available yet. Similar to the Service Tax on Digital Services, enforcement on overseas platform providers to comply and charge tourism tax may be a challenge especially where they do not have any presence in Malaysia.

The above is proposed to be effective 1 July 2021.

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