

Service Tax

<p>Service Tax (Amendment)(No 3) Regulations 2018</p>	<p>Value of imported taxable services</p> <ul style="list-style-type: none"> ▪ Acquired from non-connected person <ul style="list-style-type: none"> - The actual value of the imported taxable services; the actual premium or contribution paid for insurance/ takaful; or ▪ Acquired from connected person <ul style="list-style-type: none"> - The value of the imported taxable services which would have been acquired in the ordinary course of business by the person who is not connected with the person outside Malaysia ▪ The determination of a person connected with a person outside Malaysia is as per Regulation 4 of the Service Tax Regulations 2018 (“STR”). <p><i>Note: As Service Tax is a single stage tax, it would be important to ensure that the value is correct. Under declaration of taxable value and under payment of Service Tax would attract fines/ penalties.</i></p>
	<p>Furnishing of declaration by a person other than a taxable person – via the SST-02A declaration</p> <p><i>Note: Service Tax registered person should be able to include the imported taxable services in the SST-02 return. Non-Service Tax registered person or Sales Tax registered manufacturer who is not registered for Service Tax would need to furnish the SST-02A declaration for imported taxable services.</i></p> <p><i>It is important to note that the period to account and furnish the SST-02A declaration is slightly different from the SST-02 return (bi-monthly taxable period).</i></p>
	<p>Availability of intra-group exclusion</p> <ul style="list-style-type: none"> ▪ The intra-group exclusion is currently not available for imported taxable services, based on the STR. <p><i>Note: The Minister of Finance (through the Media Statement dated 30 December 2018) and the Royal Malaysian Customs Department (“RMCD”) (through a guide on ‘Service Tax Amendments 2019’ issued on the MySST website) has informed that Minister’s exemption for imported taxable service in Group G (professionals) will be applicable to any company in Malaysia who acquires taxable services of Group G items (a), (b), (c), (d), (e), (f), (g), (h) and (i) from any company within the same group of companies outside Malaysia. Further details of the Ministerial exemption have yet to be released.</i></p>
	<p>Changes to Taxable Person and Taxable Service under the First Schedule of the STR</p> <ul style="list-style-type: none"> ▪ Group C <ul style="list-style-type: none"> - <u>“Any person operating any health or wellness centre, massage parlour or similar places which is approved by the appropriate local authorities or which is lawfully registered, whether or not registered with, or approved by, any relevant authorities, excluding -”</u>

	<ul style="list-style-type: none"> ▪ Group G The provision of the following services have been redefined: <ul style="list-style-type: none"> (i) Consultancy services <ul style="list-style-type: none"> - Addition of 'training or coaching services' (ii) Information Technology (IT) services (iii) Management services (iv) Employment services ▪ Group I Additional services are prescribed to be taxable: <ul style="list-style-type: none"> (i) Amusement park services (ii) Brokerage and underwriting services (iii) Cleaning services <p>Please refer to Table 1 for further details.</p> <p><i>Note: Any person who provides the new taxable services before 1 January 2019 shall apply for registration not later than 28 February 2019 in accordance with Section 13 of the Service Tax Act 2018 ("STA") if there are reasonable grounds for believing that the total value of his taxable services provided in the month of January 2019 and 11 months immediately succeeding the month of January 2019 will exceed the total value of RM500,000. The registration will take effect from 1 March 2019 as provided under Section 13(3) of the STA. The registered person shall start charging Service Tax from 1 March 2019.</i></p> <p>Effect of change in taxable service – Transitional issues (provision of services spanning the change)</p> <ul style="list-style-type: none"> ▪ From taxable to non-taxable – Service Tax shall be charged on the proportion of the service which is attributed to the part of the period before the date of such change * ▪ From non-taxable to taxable – Service Tax shall be charged on the proportion of the service which is attributed to the part of the period after the date of such change ▪ From non-taxable to taxable and payment is received before the date of such change – no Service Tax shall be charged on the payment received even in connection with such service that will be provided on or after the date of change <p><i>Note: It remains to be seen whether credit note can be issued for payment received before the date of change from taxable to non-taxable (and Service Tax has already been accounted for) for the proportion of the service which is attributed to the part of the period after the date of such change.</i></p> <p>Prescribed format of Service Tax invoice for exemption purposes - Regulation 10(1A)</p> <ul style="list-style-type: none"> ▪ In addition to the prescribed format for Service Tax under Regulation 10(1) of the STR, the following additional particulars need to be included for the purpose of the exemption of Service Tax under Section 34 of the STA:
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	<p>(a) Name and address of the customer (b) The customer's Service Tax registration number; and (c) The customer's total amount of Service Tax that are exempted</p> <ul style="list-style-type: none"> ▪ However, the Director General may, upon request in writing and subject to conditions, allow any prescribed particulars not to be stated on the invoice. <p><i>Note: Businesses should ensure the invoices issued are in compliance. Otherwise, it is an offence subject to fine of RM30,000 or 2 years jail or both, per offence.</i></p> <p>Service Tax registration threshold</p> <ul style="list-style-type: none"> ▪ Notwithstanding the exemption of Service Tax under Section 34 of the STA, the value of the Service Tax exempted shall be accounted in computing the total value of Service Tax for the purpose of the Service Tax registration. <p><i>Note: It needs to be clarified whether the value of the Service Tax exempted or the value of the service which has been exempted from Service Tax is used in determining the registration threshold.</i></p> <p>Updated SST-02 and new SST-02A</p> <ul style="list-style-type: none"> ▪ An updated SST-02 return and the SST-02A declaration has been released.
<p>Service Tax (Persons Exempted From Payment of Tax) Order 2018</p>	<ul style="list-style-type: none"> ▪ The taxable person specified in column (1) Group G in the First Schedule to the STR except items 10 [employment] and 11 [private agency] is exempted from payment of Service Tax on taxable service under items (a), (b), (c), (d), (e), (f), (g), (h) and (i) of Group G in the First Schedule to the STR. <p><i>Note: The exemption is not applicable for taxable services under items (j) [employment] and (k) [guards or protection for safety or security].</i></p> <p>Conditions for Service Tax exemption:</p> <ul style="list-style-type: none"> - The taxable person exempted is a registered person. - The taxable service exempted is provided by a registered person who is a taxable person specified in column (1) Group G in the First Schedule to the STR except the taxable person specified in items 10 and 11. - The taxable service exempted is the service provided under the same items in column (2) Group G of the First Schedule to the STR by the taxable person exempted. <ul style="list-style-type: none"> ▪ The taxable person specified in column (1) item 8 Group I in the First Schedule to the STR is exempted from payment of Service Tax on provision of advertising services. <p>Conditions for Service Tax exemption:</p> <ul style="list-style-type: none"> - The taxable person exempted is a registered person - The taxable service exempted is provided by a registered person who is a taxable person in column (1) in relation to item 8 Group I in the First Schedule to the STR.



	<p><i>Note: There are prescribed Service Tax invoice format to be issued to qualify for the exemption [Regulation 10(1A) of the STR – see above]. An additional field to report the 'Total Value of Exempted Service Tax' has also been included in the updated SST-02 return.</i></p>
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Table 1 – Taxable Person, Taxable Service and Total Value of Taxable Service [Extract]

Group G: Professionals

(1) Taxable person	(2) Taxable service	(3) Total value of taxable service
<p>7. Any person who provides consultancy, training or coaching services, excluding –</p> <p>(a) approved companies with status or definition as research and development companies and contract research and development companies under section 2 of the Promotion of Investment Act 1986 [Act 327] and approved research institutes under section 34B of the Income Tax Act 1967 [Act 53]; or</p> <p>(b) the Federal or State Government, local authorities or statutory bodies</p> <p>8. Any person who provides information technology services.</p>	<p>(g) Provision of consultancy services including professional consultancy services other than specifically mentioned in this Schedule or training or coaching services with or without the issuance of certificate for which the fees are imposed, excluding –</p> <p>(i) provision of consultancy services relating to healthcare services and veterinary services;</p> <p>(ii) provision of consultancy, training or coaching services in connection with –</p> <p>(A) goods or land situated outside Malaysia; or</p> <p>(B) matters outside Malaysia other than matters specified in (A)</p> <p>(h) Provision of all types of information technology services, excluding –</p> <p>(i) Provision or sale of goods in connection with the provision of the information technology services;</p> <p>(ii) Provision of information technology in relation to –</p> <p>(A) goods or land situated outside Malaysia; or</p> <p>(B) matters outside Malaysia other than matters specified in (A)</p>	<p>RM500,000</p>

(1) Taxable person	(2) Taxable service	(3) Total value of taxable service
<p>9. Any person who provides management services, excluding –</p> <p>(a) the management and maintenance services in connection with land or building solely for residential use provided by any developer, joint management body, management corporation or residential association;</p> <p>(b) the management services provided by any person who is licensed or registered with the Securities Commission Malaysia for carrying out the regulated activity of fund management under the Capital Markets and Services Act 2007 [Act 671]; or</p> <p>(c) the management services provided by any person, Government agency, local authority or statutory body for the purposes of religious, welfare, bereavement, burial, cemeteries, cremation, sewerage, water supply, health or transport services.</p>	<p>(i) Provision of any of following management services:</p> <p>(i) project management services, full or part of the project;</p> <p>(ii) tourism management services;</p> <p>(iii) logistics management services;</p> <p>(iv) maintenance management services;</p> <p>(v) warehousing management services;</p> <p>(vi) collection and debt management services;</p> <p>(vii) car park management services;</p> <p>(viii) sports facilities management services;</p> <p>(ix) secretarial management services;</p> <p>(x) any management services other than specified in (i) to (ix) made on behalf of another person,</p> <p>excluding the provision of such services in connection with –</p> <p>(xi) goods or land situated outside Malaysia; or</p> <p>(xii) matters outside Malaysia other than matters specified in (xi)</p>	
<p>10. Any person who provides employment services.</p>	<p>(j) Provision of all types of employment services, excluding –</p> <p>(i) provision of employment services in the form of secondment of employees;</p> <p>(ii) provision of employment services for employment outside Malaysia.</p>	



Group I: Other Service Providers

(1) Taxable person	(2) Taxable service	(3) Total value of taxable service
11. Any person who operates an amusement park which is a place on which there is any building, premises or structure thereon, either temporarily or permanently, in which there are various attractions including rides, games, fun activities, with or without themes, where people are allowed to enter such place with admission charges imposed.	(a) Provision of all services including entrance fees (b) Provision or sale of food and beverages	RM500,000
12. Any person providing services in relation to the use or provision of brokerage and underwriting.	The provision of services relating to financial services for the use or provision of brokering and underwriting on any fees or commissions charged	RM500,000
13. Any person providing cleaning services, excluding cleaning services in relation to goods, land or building for religious, educational, residential or agricultural purposes.	The provision of any cleaning services in relation to goods, land or commercial or industrial building	RM500,000