High Value Goods Tax

The New Branded Tax

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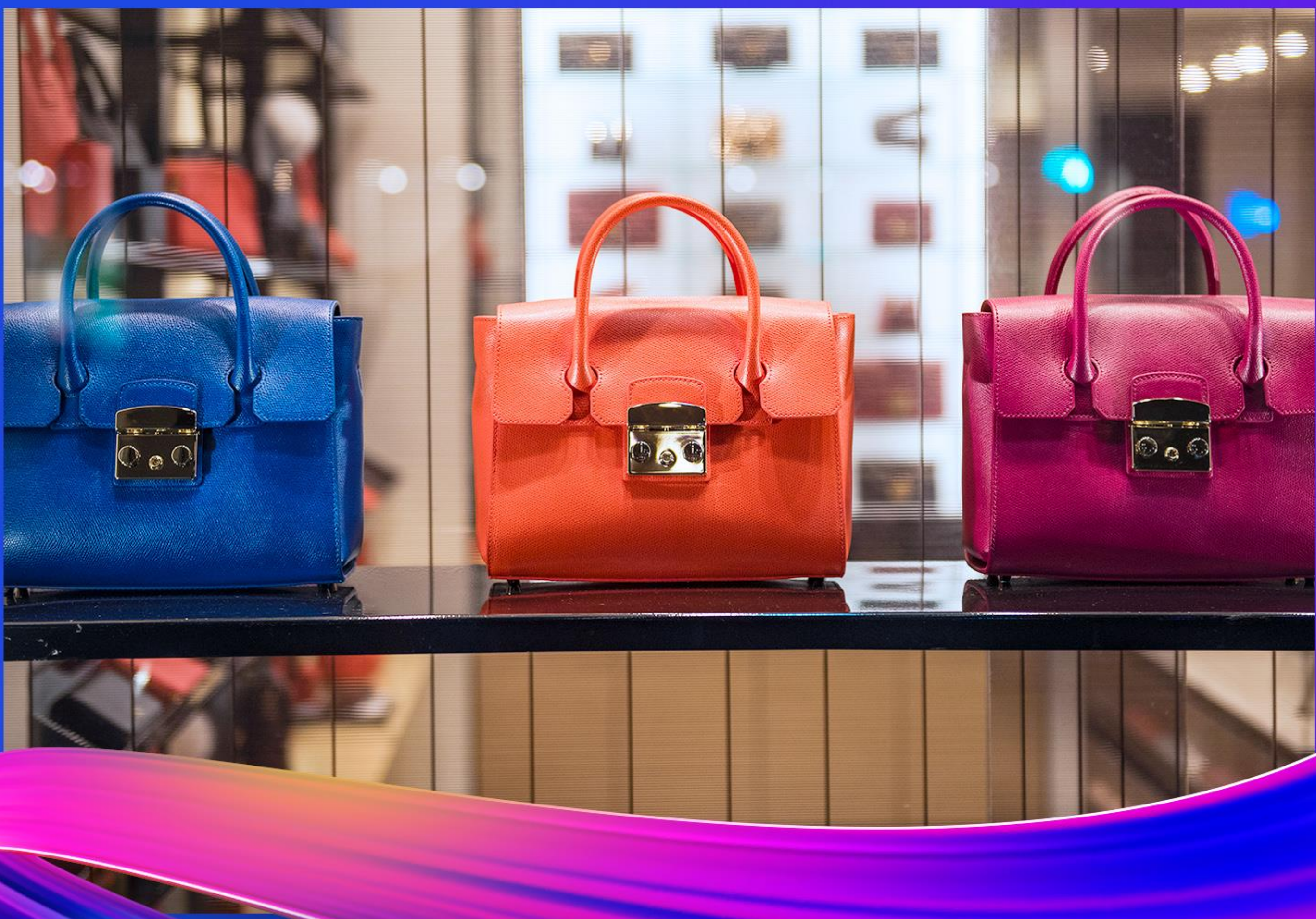
KPMG in Malaysia



Overview and Commentary

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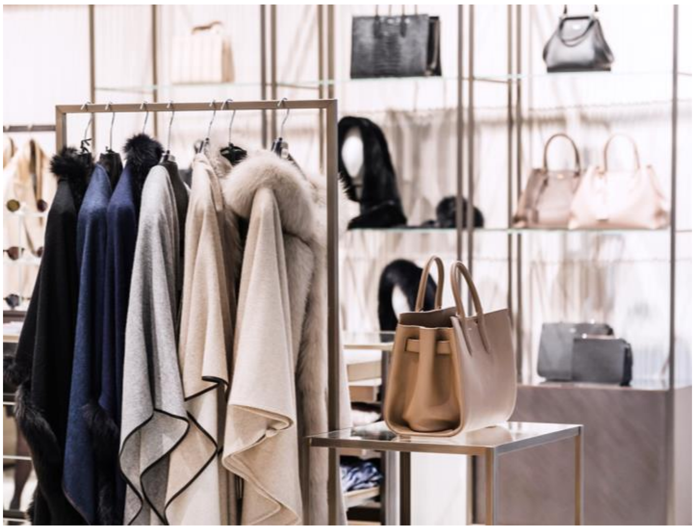
Key Message

During the 2024 Budget, the Finance Minister announced that a New Legislation will be enacted to implement the "High Value Goods Tax". Be it the "Luxury Goods Tax" as announced during the previous re-tabled budget or "High Value Goods Tax", the intention is no doubt to increase the Government's revenue.

With the limited details announced, let us reflect on how the anticipated "Luxury Goods Tax Act" or "High Value Goods Tax Act" could fit into the current landscape.

Luxury Goods Tax Act or High Value Goods Tax Act?



Prior to 24 February 2023, many of the ordinary Malaysians may not have heard of Luxury Goods Tax, until the first official announcement made during the re-tabled 2023 Budget. Since then, the Government has been engaging various stakeholders and parties (e.g. tourism association, retailer association, as well as tax professionals) to understand and study the best practices in implementing the tax.

In the 2024 Budget, the Finance Minister announced that a New Legislation will be enacted to implement the High Value Goods Tax ("HVGT"). Be it "Luxury Goods Tax" or "High Value Goods Tax", as we clearly know, the intention is no doubt to increase the Government's revenue.

As most would agree, there is no one-size-fits-all mechanism. The potential implications, complications and challenges vary depending on the respective stakeholders in the supply chain. In some of the other countries, the Luxury Tax can be either:

- a form of excise duty
- a form of consumption tax
- under a separate legislation on its own

Taking into consideration of the above, our Government could either look into amending the existing legislations (e.g. Customs Act, Excise Act, Sales Tax Act) or passing a new Act. Since the Government has "opted" for the latter, in this piece, let us reflect on how the anticipated New Legislation could fit into the current landscape.

(a) In-scope items & Tax rate 5% to 10%

As announced during the 2024 Budget, HVGT from 5% to 10% will be applied on certain high value goods such as jewellery and watches, based on price thresholds.

Importantly, the in-scope items should first be identified.

I. Services are excluded?

With references made to Luxury Goods Tax or High Value Goods Tax, and examples given in budget speeches so far alluded to tangible goods, it could be inferred that for Malaysia, services should not be caught under the HVGT – unlike some countries which imposed Luxury Tax on services such as private chartered flights.

Accordingly, service providers should not be caught under the New Legislation yet.

II. What are the types of goods included?

Quick answer – it remains to be seen.

There could be some discussion on the ground regarding the goods to be covered, which include:

- Aircrafts
- Boats
- Motor vehicles
- Watches and jewellery
- Luxury fashion items

subject to prescribed thresholds.

However, at this juncture, it may not be beneficial to speculate until a definition is officially announced.

Zooming in further

1. In cases of imposition of the tax based on a positive list and relying on description, it would more likely than not be subject to interpretation, unless specific tariff codes of the in-scope items are identified. However, tariff code alone should not be the sole determining factor, as more angles should be considered, e.g.:

    - How about the in-scope items purchased as business assets? Example – Aircrafts purchased by airlines.

    - How about the in-scope items imported temporarily? Example – Aircrafts imported for maintenance, overhaul or repair?

2. Determining the threshold is not an easy task, especially when deciding what is 'high value' is subjective depending on individual. Pending details to be announced, it may be challenging to anticipate the thresholds at this juncture. Falling back to the intention of the tax, it is understood to be a tax to be imposed on the upper class – rich if not ultra-rich who can afford the luxury items.

   In this modern day, ownership of motor vehicles, watches, jewellery and fashion items are no longer the unique privilege of the upper class. It would be imperative to determine the appropriate threshold for HVGT so that it will not unnecessarily burden the medium class.

   According to the data released by the Department of Statistics Malaysia (DOSM)[1], the average income in year 2022 across the household groups are as follows:

   - B40 – RM3,401
   - M40 – RM7,971
   - T20 – RM19,752

   and the average household income in Malaysia is RM8,479.

   With the above in mind, watches as an example, above RM10,000 (i.e. above the average household income of RM8,479) may be perceived to be a luxury item – who knows?

   There must be comprehensive and careful thought in defining the in-scope items.

   Let us not scratch our head further and put aside the complicated definition (leave it to the lawmakers' best judgement or a debate for another day when the proposed legislations are made available). For the purpose of this article, we refer "High Value Goods" as the in-scope items for HVGT purposes.

[1] Department of Statistics Malaysia (dosm.gov.my)

(b) Who is required to charge and pay HVGT? How should HVGT be calculated?

Fundamentally, the introduction of HVGT is to increase tax collection by imposing (additional) tax on the purchase of High Value Goods – ultimately, to be borne by the end consumers. With this in mind, it is only reasonable to assume that the HVGT would be imposed on the High Value Goods imported for consumption/ charged at the final leg of the supply chain (i.e. business-to-customer "B2C").

I. Importation

As it stands, goods imported into Malaysia for consumption are generally subject to import tariffs that include import duty and sales tax at rates determined by tariff codes. Import tariffs are paid to the Royal Malaysian Customs Department ("Customs") at entry port directly at the time of import clearance, calculated as follows:

Import duty = Value of goods CIF x import duty %

Excise duty = (Value of goods CIF + import duty) x excise duty %

Sales tax = (Value of goods CIF + import duty + excise duty) x sales tax %

With the New Legislation, HVGT could possibly be calculated as follows:

HVGT = (Value of goods CIF + import duty + excise duty + sales tax) x HVGT %

II. Local sales

Following the B2C concept mentioned above, the final seller (typically the retailer) would be responsible to charge HVGT on the sale of High Value Goods.

Administrative procedures such as registration, filing and payment can be revisited in due course.

Zooming in further

In most if not all cases, before the retailer, there would be resellers/ distributors/ manufacturers - should these parties be caught under the New Legislation? If yes, how should the mechanism work in resolving the tax cascading effect?

- Allowing refund?
  Would this be similar to the input tax credit under the GST regime?

- Consider exemption?
  Would this be similar to the exemption under the Sales Tax regime?

- Purchase by tourists?
  Is there any relaxation for tourists? Would it then be under a refund scheme or exemption from payment of tax?

To the extent possible and permissible, we believe that it would be in the best interest for the B2B businesses to be exempted from registration altogether to save resources and compliance cost under the New Legislation.

(c) Next steps for consideration

In the tax world, it is known and undeniable that the taxman and the businessman could sometimes never be aligned. The only wish from businesses is that, the simplest mechanism is adopted. Pending the details, the New Legislation may be a GST-alike HVGT regime or perhaps an enhanced single-stage Sales Tax system equivalent. The follow up question is, how soon will the bill (draft legislations) be ready and when is the suitable implementation date?

Meanwhile, if you think HVGT may concern your business, the following matters should be considered:

1. Products classification, prepare a list of SKUs with the corresponding tariff codes (if the company have not done so)
2. Yearly turnover for each of the product
3. Engaging the relevant channels (association, authority and tax professional) to discuss the areas of concern
4. System readiness to implement HVGT
5. Budgeting to assess the impact of the tax on the pricing competitiveness

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