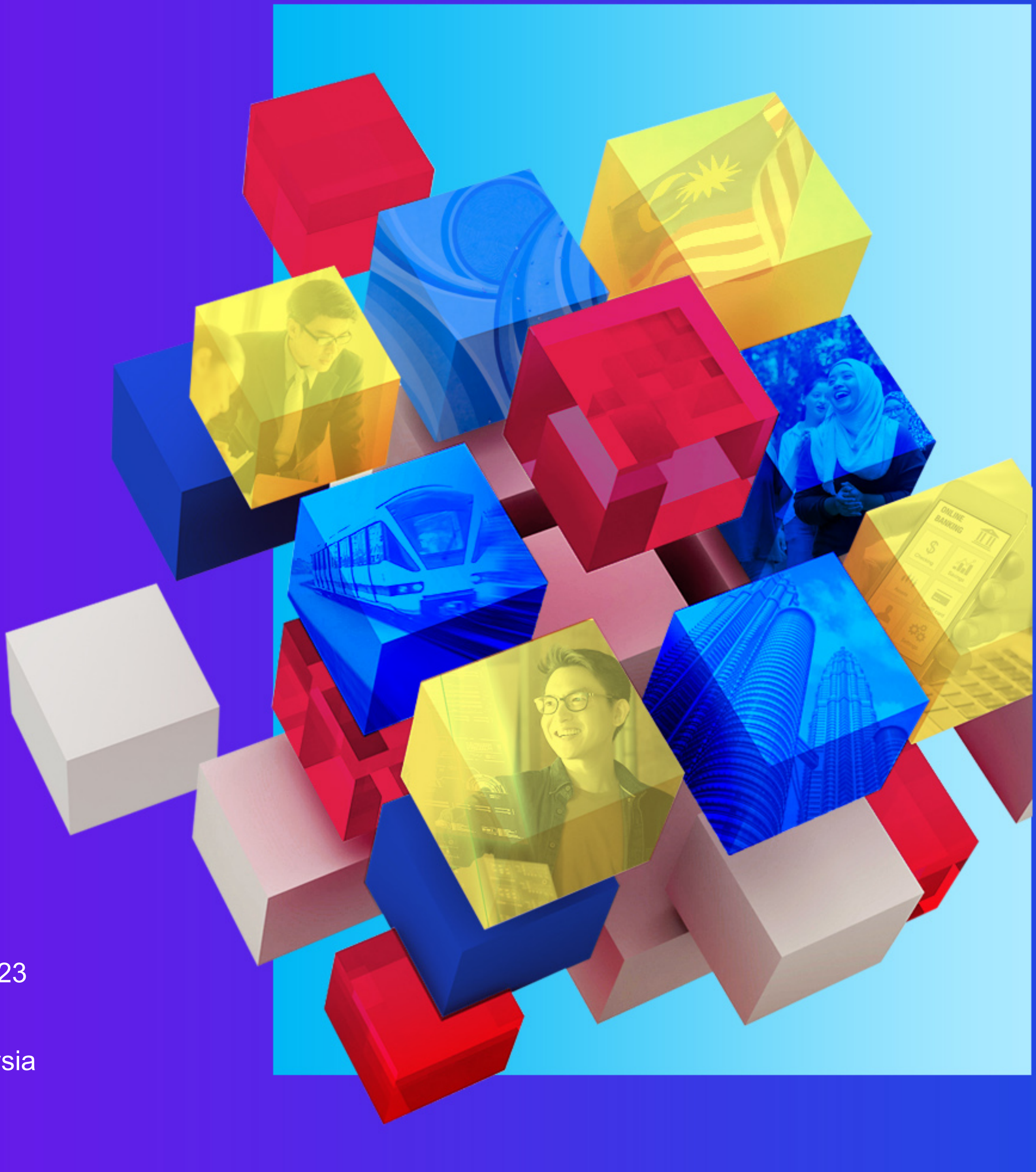
KPMG

2023 Budget – Indirect Tax Perspective

February 2023 update



27 February 2023

KPMG in Malaysia

Overview and Commentary

Ng Sue Lynn
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Key Message

2023 (Re-tabled) Budget – There are no major indirect tax reforms; the Government has informed that it is not the time to introduce a broad based consumption tax like the Goods and Services Tax ("GST"). Instead, a more progressive tax in the form of a Luxury Goods Tax is in the pipeline this year, to expand the tax base of those who can afford.

The re-introduction of the Special Voluntary and Disclosure Programme is also welcomed as it encourages taxpayers to be compliant and at the same time replenish the coffers of the Government. There are also a number of proposals in relation to Duties and Sales Tax exemptions, which reflects the Government's understanding of the current needs of the rakyat as well as to promote the current economic activities.

Luxury Goods Tax

The Government is taking a progressive approach to widen the scope of taxation by introducing a Luxury Goods Tax, where it is proposed that the Luxury Goods Tax be introduced in year 2023 and be applicable on luxury goods of a certain value and type. Some examples of goods highlighted in the 2023 Budget Speech are luxury watches and luxury fashion items.

Although new in Malaysia, such a tax on luxury goods has been introduced in other countries (e.g. China, Taiwan, Indonesia and South Korea) in some form or manner, whether through consumption taxes or Customs Duties, generally at a higher tax rate.

No further details have been made available at this juncture, and thus, it remains to be seen the types or value of luxury and high-end goods that would be caught under this Luxury Goods Tax, as well as how it would be taxed.

While the Luxury Goods Tax could be seen as a new and progressive way of increasing the Government's revenue targetting at the wealthy whilst not impacting the vast majority of the population, it is hoped that a simple and uniform implementation would take place so as to not burden businesses' compliance, but to facilitate the collection of the Luxury Goods Tax. It is certainly hopeful to many that the framework and mechanism on such tax are well in place for an effective implementation in time to come. At this juncture, the date of implementation has yet to be announced.

Please refer to our Thought Leadership on "Luxury Goods Tax – A Tax on High Value Items" (here) where we share our thoughts on this new and progressive tax as well as how it is treated in some other countries.

Reintroduction of the Voluntary Disclosure and Amnesty Programme (VA) for Indirect Tax

The initial VA Programme for indirect tax introduced by the Royal Malaysian Customs Department (RMCD) was categorized into two phases:

a) Phase 1 from 1 January 2022 to 30 June 2022; and
b) Phase 2 from 1 July 2022 to 30 September 2022.

Blanket taxes and penalties remissions, at various rates, were granted to taxpayers under these two phases, depending on the facts of each disclosure. In addition, RMCD also indicated that no tax audit shall be conducted within a stipulated timeframe on those who participated in the programme.

The initial VA Programme covered duty/ tax/ levy/ penalty/ surcharge that arose and remained outstanding on or before 31 October 2021.

It is now proposed that the VA Programme be reintroduced for the period from **1 June 2023 to 31 May 2024** where a 100% penalty remission will be given.

As no futher details have been provided just yet, it remains to be seen whether this reintroduced VA Programme will be leveraging on the same framework, conditions or even processes as the initial VA Programme. Nevertheless, businesses should immediately perform an internal review to identify any potential indirect tax exposure so that informed business decisions on whether to participate in this VA Programme can be made in a timely manner and thus, reduce potential penalties that may otherwise be imposed.

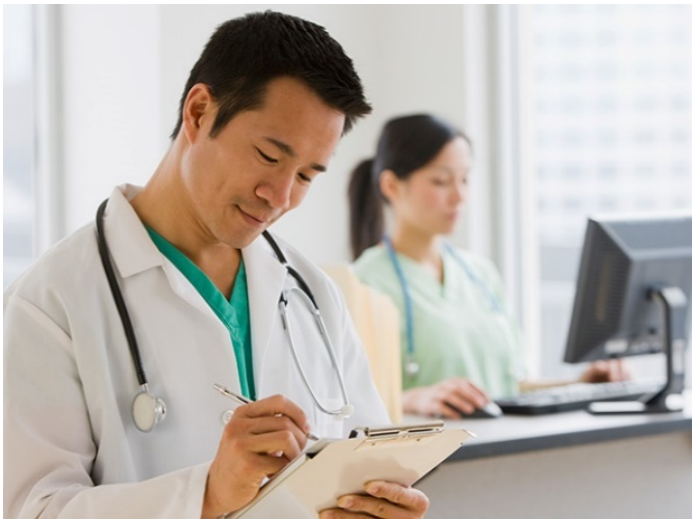
Excise Duty on nicotine contained liquid or gel used for e-cigarettes and vape

At present, nicotine contained liquid or gel used for e-cigarettes and vape classified under tariff code 2404.12.1000 attracts 10% Sales Tax only.

To discourage vaping, the Government has proposed to impose Excise Duty on nicotine contained liquid or gel used for e-cigarettes and vape. However, details such as the rate of Excise Duty, mechanism and effective date have yet to be announced.

Industry players are encouraged to start engaging with the Authorities to find out more details about the proposed implementation.

Import Duty and Sales Tax exemptions on Nicotine Replacement Therapy (NRT) products



In 2015, the Government expanded its smoking cessation services from government clinics and hospitals to private health facilities under the mQuit Programme, with NRT Products used as one of its treatment options.

To support the mQuit programme and to encourage the use of NRT products as a treatment option, it is proposed that Import Duty and Sales Tax exemptions be provided to nicotine gum and nicotine patch for 3 years.

The following NRT products are subject to Import Duty and Sales Tax at present.

Product	Tariff Code	Import Duty Rate	Sales Tax Rate
Nicotine Gum	2404.91.1000	15%	5%
Nicotine Patch	2404.92.1000	0%	10%

It is proposed that the above is applicable for applications received by the Ministry of Finance ("MOF") from **1 April 2023 to 31 March 2026**.

Exemptions on Electric Vehicle (EV)

To boost the demand for EV and in line with the Government's initiatives on carbon emission reduction, the following have been proposed:

i) Import Duty Exemption on Components for Locally Assembled EVs

Currently, full Import Duty exemption is granted on components for locally assembled EVs for the period from 1 January 2022 to 31 December 2025.

It is proposed that the exemption be further extended until **31 December 2027**.

ii) Excise Duty and Sales Tax Exemptions on Completely Knocked-Down (CKD) EVs

Currently, full Excise Duty and Sales Tax exemptions are granted on CKD EVs for the period from 1 January 2022 to 31 December 2025.

It is proposed that the exemption be further extended until **31 December 2027**.

iii) Import Duty and Excise Duty Exemption

Currently, full Import Duty and Excise Duty exemptions are granted on Completely Built-Up (CBU) EVs for the period from 1 January 2022 to 31 December 2023.

It is proposed that the exemption be further extended until **31 December 2025**.

Exemptions from payment of Excise Duty and Sales Tax on the sale, transfer, private use or disposal of specific type of taxis and hired cars

Currently, Excise Duty and Sales Tax exemptions are provided by the Government on the sale, transfer, private use or disposal of budget taxis and hired cars that are individually owned and more than 7 years in age (from the date of registration).

To assist private owners of taxis who are adversely impacted by the COVID-19 pandemic, it is proposed that the exemptions be reviewed as follows:

i. To be extended to include the sale, transfer, private use or disposal of:

- taxis (budget taxis, executive taxis and TEKS1M);
- airport taxis (budget and family); and
- hired cars.

ii. Vehicle age condition is to be relaxed to at least 5 years from the date of registration.

It is proposed that the above is applicable for applications received by the RMCD from **1 March 2023**.

Import Duty and Sales Tax exemptions on studio and filming production equipment

Currently, certain equipment for the use of creative industry such as cameras, broadcasting equipment, audio and video systems, studio equipment and filming production equipment are subject to Import Duty at the rates ranging from 5% to 30% as well as Sales Tax at 10%.

It is proposed that Import Duty and Sales Tax exemptions on such equipment be given to studio equipment providers and production service providers including post-production for a period of 3 years. It is hoped that this would encourage industry players to produce high quality creative content for both domestic and international markets as well as to attract overseas producers to carry out filming activities in Malaysia.

It is proposed that the above is applicable for applications received by the MOF from **1 April 2023 to 31 March 2026**.

Import Duty and Sales Tax exemptions on equipment for Carbon Capture and Storage (CCS) Technology

In line with the National Energy Policy 2022 – 2040 to achieve Low Carbon Nation Aspiration by year 2040, the Government has identified an initiative to control the emission of carbon dioxide (CO_2) using the CCS technology. This CCS technology, which is primarily used in the oil and gas, and power generation industries, comprises of 3 activities:

i. Carbon capture;

ii. Transportation of captured CO_2; and

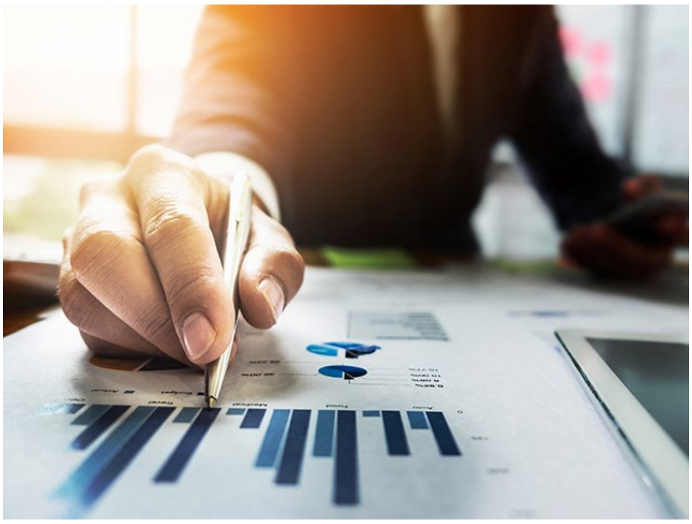
iii. Underground or sea bed carbon storage.

Given the 12th Malaysia Plan 2021-2025 has a goal of achieving net zero carbon emissions by year 2050, the energy sector will need to be aligned and strongly positioned to support this. To recognise CCS activites as a new source of economic growth as well as to achieve net zero greenhouse gas emission, it is proposed that, amongst others, companies undertaking CCS in-house activity as well as companies undertaking CCS services be given full Import Duty and Sales Tax exemptions on equipment for CCS technology commencing from **1 January 2023 to 31 December 2027**.

It is proposed that the above is applicable for applications received by the MOF from **25 February 2023 to 31 December 2027**.

Extension of Import Duty exemption for BioNexus status company

Currently, a company undertaking biotechnology activity and approved with BioNexus status is given, amongst others, Import Duty exemption on raw materials/ components and machinery/ equipment. This is for applications received by the Malaysian Bioeconomy Development Corporation from 1 January 2021 to 31 December 2022.



To encourage more companies to undertake biotechnology activity, it is proposed that the application period for the tax incentives, including the Import Duty exemption, be extended for 2 years, from **1 January 2023 to 31 December 2024**.

Excise Duty exemption on baby and infant milk formula

Separately, the MOF's "Budget 2023 Touchpoints" mentioned that Excise Duty exemption will be given on baby and infant milk formula to ensure its price remain reasonable.

Currently, such milk products are caught under the expanded Excise Duty for pre-mixed beverages (which was proposed in Budget 2022), for which the implementation date has been deferred until further notice.

This proposed exemption is a fair move as baby and infant milk formula are necessities which should not be categorised together with other pre-mixed beverages such as chocolate based, coffee and tea, and hence unfairly taxed.

It is hoped that the exemption will be updated in the Excise Duties (Exemption) Order 2017 soon.

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