KPMG

2022 Budget - Indirect Tax Perspective

1 November 2021

KPMG in Malaysia

Overview and Commentary

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Key Message

"A focused budget – carefully crafted to assist industries significantly impacted by the COVID-19 pandemic (such as the tourism and automotive industry) whilst ensuring the medium to long term sustainability of the indirect tax revenue. SVDP takes centre stage as it allows taxpayers the opportunity to address their tax affairs once and for all, at the same time replenishing the Government's coffers. Tax differentiation seems to also be the focus, as the Government takes cognisance that tax can be a powerful tool to shape the Rakyat's consumption pattern to a healthier and environmental friendly solution. All in all, a fair and objective budget given the circumstances."

1. Special Voluntary Disclosure Programme (SVDP) for Indirect Tax

As part of the Government's strategy to increase tax revenue, it was announced that a SVDP under the purview of the Royal Malaysian Customs Department (RMCD) will be introduced in due course. The SVDP will be introduced in phases whereby remission of penalties would be staggered – **100% remission of penalty in Phase 1** and **50% remission of penalty in Phase 2**.

Interesting to note that **remission of taxes will also be considered**, subject to merits/ circumstances on a case-to-case basis. Care must be taken though on how this is implemented, to ensure that initial full compliance remains the most attractive option for taxpayers (and not the SVDP).

It is not confirmed yet on the types of indirect taxes to be included under this SVDP, though it is speculated to cover all taxes under the administration of RMCD. In this regard, it is hoped that a simple and uniform process would be implemented to not only ease the disclosure made by the taxpayers, but also to facilitate the collection of taxes.

Although no further details on the framework or conditions are available at this juncture, businesses should start performing an internal review to identify any potential indirect tax exposures so that informed business decisions on whether to participate in the programme can be made in a timely manner. The date of implementation has yet to be announced.

2. Broadening the Excise Duty on Sugar Sweetened Beverages (SSB)

On 1 July 2019, Excise Duty at RM0.40 per litre was imposed on goods under:

- Heading 20.09 *["Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar other sweetening matter"]*; and
- Heading 22.02 *("Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09")*.

Through Item 38, Item 39 and Item 40 of the Excise Duties (Exemption) Order 2017, however, the following goods are exempted:

- Fruit/ vegetable juices under Heading 20.09 where total sugar content is 12g/ 100ml or less
- Beverages under Heading 22.02 containing 5g/ 100ml of total sugar or less (except beverages "based on milk of chapter 4" where total sugar content is 7g/ 100ml or less)
- Fruit/ vegetable juices under Heading 20.09 and beverages under Heading 20.02 imported or purchased from another Excise licensed manufacturer for packing for retail sale without changing the nature of the beverages

"Sugar" refers to all monosaccharides and disaccharides contained in food and beverage either naturally occurring or added, stated on the label according to Food Regulations 1985 and lab analysis report issued by any accredited lab listed by Department of Standards Malaysia.

To continue to support and implement the strategies outlined in the 3rd National Plan of Action for Nutrition of Malaysia (2016-2025) in addressing the issues of obesity, diabetes and other non-communicable diseases associated with nutrition, it is proposed that the scope of Excise Duty on SSB be expanded to include pre-mixed preparations of chocolate or cocoa based, malt, coffee and tea such as 2 in 1 or 3 in 1 pre-mixed beverages.

The expanded pre-mixed preparation products are as classified under the following tariff headings and threshold:

- Heading **18.06** ("*Chocolate and other food preparations containing cocoa*");
- Heading **19.01** ("*Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included*"); and

- Heading **21.01** ("*Extracts, essences and concentrates, of coffee, tea or maté, and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof*")

that contain sugar of more than **33.3g/ 100g**.

The Excise Duty is proposed at **RM0.47 per 100g** and to be effective **1 April 2022.**

Pending issuance of the amendments to the Excise Duties Order 2017 and Excise Duties (Exemption) Order 2017, it is unclear at this stage whether the total sugar content thresholds will be referenced to powdered mix prior to reconstitution or will it be based on the Healthier Choice Logo (HCL) 2019 guidelines or otherwise.

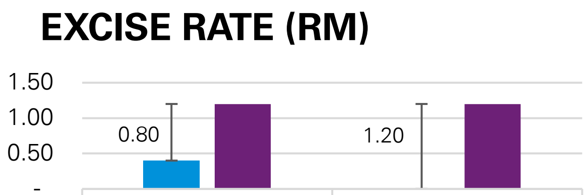
Further, it is not certain yet whether the Exemption Order will address:

- Pre-mixed products sold to food establishments (e.g. canteen, restaurants, etc.); or
- Pre-mixed products intended for further processing by manufacturers.

In the next five (5) months, importers and manufacturers should take pro-active steps and work closely with the Government and local industry association to understand the details of the proposed duty expansion on pre-mixed beverages and gather clarity to ensure that the implementation can be executed smoothly.

3. Excise Duty on Liquid or Gel Used for Electronic Cigarettes and Vape

Early this year, Excise Duty of RM0.40 per millilitre was imposed on non-nicotine contained liquid or gel used for electronic cigarettes (e-cigarettes) and vape.



	Non-nicotine Products	Nicotine Products
Current Rate	0.40	-
Effective 1 January 2022	1.20	1.20

As e-cigarettes and vape are getting more popular amongst smokers, the Government wants to regulate the use of e-cigarettes and vape comprehensively to ensure a fair tax treatment on all cigarettes and tobacco products.

To achieve this objective, the Government proposed to expand the imposition of Excise Duty to **nicotine contained liquid or gel** used for e-cigarettes and vape. The introductory rate of Excise Duty on nicotine contained liquid or gel is proposed to be at **RM1.20 per millilitre**.

Correspondingly, the Excise Duty rate for **non-nicotine contained liquid or gel** used for e-cigarettes and vape is proposed to be **increased from RM0.40 per millilitre to RM1.20 per millilitre**.

The above are proposed to be effective **1 January 2022**.

4. Exemptions on Motor Vehicles

a) Extension of Sales Tax Exemption for Purchase of Passenger Cars

Currently, Sales Tax exemption has been granted on the purchase of passenger cars as follows:

- 100% exemption on locally assembled passenger cars [Completely Knocked Down (CKD)]; and
- 50% on imported passenger cars [Completely Built-Up (CBU)] – new and used.

The period of exemption has been extended twice, i.e. to 30 June 2021 and to 31 December 2021.

To continue stimulating the automotive industry, it is proposed that the exemption be further extended until **30 June 2022**.

b) Import Duty, Excise Duty and Sales Tax Exemption for Electric Vehicle (EV)

Currently, exemptions on Import Duty, Excise Duty and Sales Tax are available for locally assembled vehicles (including EVs), which covers:

- CKD components (Import Duty exemption)
- Assembled CKD units (partial exemption of Excise Duty and Sales Tax)

In line with the Government's initiatives to reduce carbon emission and support the development of local EV industry, it is proposed that Import Duty, Excise Duty and Sales Tax exemption be granted on EVs (i.e. passenger vehicles including SUV and MPV, commercial vehicles and electric motorcycles), as follows:

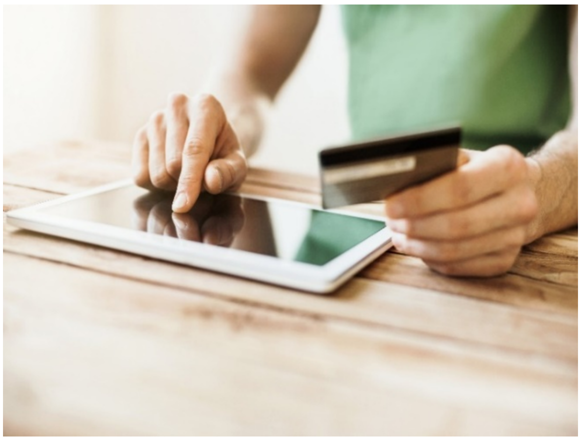
No	Proposal	Period
1	**Full Import Duty exemption** on components for locally assembled EVs	1 January 2022 to 31 December 2025
2	**Full Excise Duty and Sales Tax exemption** on CKD EVs	1 January 2022 to 31 December 2025
3	**Full Import Duty and Excise Duty exemption** on imported CBU EVs	1 January 2022 to 31 December 2023

The above are proposed to be effective **1 January 2022**.

This is indeed a welcomed move for the local EV industry players as well as consumers. As with any other exemption facilities, it is envisaged that further details such as the conditions attached therein will be released soon. Interested parties should monitor this development closely for proper planning and preparation.

5. Removal of Sales Tax Exemption on Low Value Goods

Currently low value goods i.e. customs value of RM500 or less are exempted from Sales Tax if imported via air courier service through the designated international airports in Malaysia (excluding cigarettes, tobacco and intoxicating liquor).



It is proposed that **low value goods sold online that are delivered to consumers in Malaysia via air courier service be subject to Sales Tax**. The exemption under Item 24, Schedule A of the Sales Tax (Persons Exempted from Payment of Tax) Order 2018 will be revoked.

This proposal aims to promote a level playing field for locally manufactured taxable goods which would have been subjected to Sales Tax regardless of threshold.

However, it is mentioned that there will be a new provision in the Sales Tax Act 2018. It would be interesting to see what the new provision is and how it will impact both local sellers and abroad, especially on the requirement to "register and charge Sales Tax".

The above is proposed to be effective **1 January 2023**.

6. Service Tax on Goods Delivery Services

Presently, only those who are licensed under Section 10 of the Postal Services Act 2012 that provides courier delivery services for documents or parcels not exceeding 30kg each are liable to be registered and charge Service Tax. However, this does not include other service providers who are not licensed under the said legislation and yet providing the same services. This has since created an uneven playing field amongst the delivery service providers.

In order to ensure equal treatment amongst the players, it is proposed that the provision of delivery services in respect of goods be subject to Service Tax, regardless of the status of the service providers, and this shall extend to cover the same services provided by E-commerce platform operators as well. The proposal, however, excludes the applicability of Service Tax on delivery services for food and beverages, as well as logistic services.

Whilst this move would "even out" the competition amongst the delivery service providers, consumers who frequently purchase items online could experience a slight pinch in terms of the possible increase in pricing. Also, it remains to be seen as to whether there would be any exemption made available (e.g. B2B exemption), especially where the services are outsourced.

The above is proposed to be effective **1 July 2022**.

7. Service Tax Exemption on Brokerage Services Related to Trading of Listed Shares

Currently the provision of services relating to financial services for the use or provision of brokering and underwriting are subject to Service Tax under Group I, First Schedule of the Service Tax Regulations 2018. This includes services related to trading of listed shares.

To further stimulate the economy and ensure that the stock market activity in Malaysia remains competitive on an international level, the following is proposed:

i. The recipient of brokerage services relating to the trading of shares is exempted from paying Service Tax;
ii. The service provider providing brokerage services relating to the trading of shares is exempted from charging Service Tax; and
iii. The exemptions under items (i) and (ii) are only applicable to services relating to the trading of shares listed on Bursa Malaysia.

The above is proposed to be effective **1 January 2022**.

Affected parties should take note of the transitional provisions for brokerage charges spanning the effective date.

8. Tourism Tax Exemption – Extended

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 paying Tourism Tax.

In an effort to support the tourism industry which is impacted by the Covid-19 pandemic, the imposition of Tourism Tax was suspended for the period from 1 July 2020 to 31 December 2021.

In line with the National Recovery Plan to support the efforts to boost domestic tourism as well as to attract foreign tourists to Malaysia, it is proposed that the **Tourism Tax exemption be extended for another year, effective from 1 January 2022 to 31 December 2022**.

This is also in line with the postponement of the implementation of Tourism Tax on accommodation premises booked through digital platform service providers, to 1 January 2023 (as announced on 30 September 2021).

While this is a welcomed proposal, it remains to be seen whether the current Service Tax exemption granted to an accommodation premise operator who is registered under Group A: Accommodation, First Schedule of the Service Tax Regulations 2018 for certain services, will also be accorded with such exemption extension. The current Service Tax exemption for accommodation premise operators is expected to end by 31 December 2021.

9. Entertainments Duty Exemption – Extended

Under the PEMERKASA package, an Entertainments Duty exemption is given on admission fees to entertainment venues such as theme parks, stage performances, sports events and competitions as well as cinemas in the Federal Territories (i.e. Kuala Lumpur, Putrajaya and Labuan) for the period from 1 April 2021 to 31 December 2021.

To support the recovery of the tourism industry as well as the related businesses impacted by the Covid-19 pandemic, it is proposed that the **Entertainments Duty exemption be extended for another year, effective from 1 January 2022 to 31 December 2022**. The state authorities are also advised to provide Entertainments Duty exemption on entertainment activities to support the recovery of this sector.

With this proposal, it is hoped that this will have an overall postive effect on the impacted businesses, especially those in the entertainment industry, as well as an incentive for the *Rakyat* to enjoy such recreational activities responsibly during this pandemic.

10. Crude Palm Oil (CPO) Windfall Profit Levy

Currently, the windfall profit levy is imposed at a rate of 3% for CPO prices exceeding RM2,500 per metric tonne in Peninsular Malaysia; and 1.5% for prices exceeding RM3,000 per metric tonne in Sabah & Sarawak.

It is proposed that the threshold be increased to RM3,000 and RM3,500 for Peninsular Malaysia and Sabah & Sarawak respectively. In addition, the applicable levy rate for Sabah & Sarawak will also be aligned to match the rate for Peninsular Malaysia – i.e. 3%.

	Peninsular Malaysia		Sabah & Sarawak	
	Present	Proposed	Present	Proposed
Threshold	CPO price > RM2,500 per MT	**CPO price > RM3,000 per MT**	CPO price > RM3,000 per MT	**CPO price > RM3,500 per MT**
Rate	3%	3% (No Change)	1.5%	**3%**

The above is proposed to be effective **1 January 2022**.

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