



SERVICE TAX ON DIGITAL SERVICES

September 2019 Edition

During the Budget 2019 speech on 2 November 2018, the Minister of Finance announced that Malaysia will look to broaden the scope of service tax to foreign service providers who provide digital services to consumers in Malaysia. The government proposed to implement the imposition of service tax on digital services on 1 January 2020.

With the abolishment of Goods and Services Tax (GST) with effect from 31 August 2018 and the re-introduction of Sales Tax and Service Tax ("SST"), the government of Malaysia has taken a bold step to introduce Service Tax on digital services provided by foreign service providers.

With the much-anticipated service tax on digital services in Malaysia, the Royal Malaysian Customs Department ("RMCD") has issued a guideline on 21 August 2019 to assist foreign service providers to understand the service tax implication on digital tax services.

We would like to highlight the key areas covered in the guide:-

Definitions (based on Service Tax Act 2018)

- **“Digital service”** means any service that is delivered or subscribed over the internet or other electronic network and which cannot be obtained without the use of information technology and where the delivery of the service is essentially automated.
- **“Foreign service provider (FSP)”** means any person who is outside Malaysia providing any digital service to a consumer and includes any person who is outside Malaysia operating an online platform for buying and selling goods or providing services (whether or not such person provides any digital services) and who makes transactions for provision of digital services on behalf of any person.
- **“Consumer”** means any person who fulfils any **two (2)** of the following:
 - a) Makes payment for digital services using credit or debit facility provided by any financial institution or company in Malaysia;
 - b) Acquires digital services using an internet protocol address registered in Malaysia or an international mobile phone country code assigned to Malaysia;
 - c) Resides in Malaysia.

Scope of Tax on Digital Services

- Software, application and video games.
 - Music, e-books and films.
 - Advertisement and online platform.
 - Search engines and social networks.
 - Database and hosting.
 - Internet based telecommunication.
 - Online training.
 - Others - Subscription of journals, provision of other digital content and payment processing.
- The above list is not exhaustive.

The rate of service tax for Digital Services

6%

Liability to register for Service Tax in Malaysia

The foreign service provider is required to register for service tax in Malaysia if the total value of digital services provided to consumers in Malaysia exceeds RM500,000 within a 12-months period.

Note: Early registration for foreign service providers will commence from 1 October 2019 to 31 December 2019.

What this means

With the implementation of service tax on digital services, foreign service providers who provide digital services to consumers in Malaysia need to be aware of their service tax obligations in Malaysia.

As provided in the Malaysian Service Tax legislation, failure to comply with the above provisions is an offence and subject to penalties *inter alia*:

- Failure or late application for registration;
- Late payment of service tax on digital service;
- Failure to keep records and etc.

If you have any queries pertaining to digital service tax matters, please do not hesitate to contact:

Mr. A.B. Ng

Executive Tax Director
ngab@rsmmalaysia.my

Ms. Mayadevi Karpayah

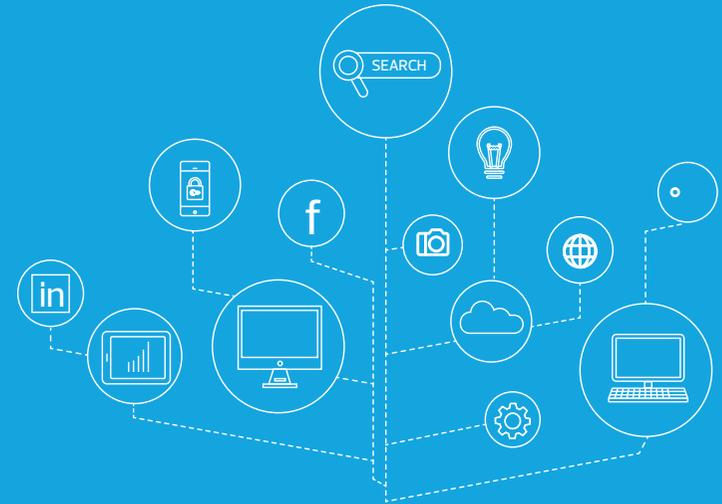
Tax Director
mayadevi@rsmmalaysia.my

Mr. Kalvinder Singh

Senior Tax Manager
kalvinders@rsmmalaysia.my

Tel : +603 2610 2888
Email : askus@rsmmalaysia.my

Connect to
www.rsmmalaysia.my



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