



Smart decisions. Lasting value.

Crowe Chat (Special Edition)

Highlights of the Indirect Tax (Amendment) Bills 2020

24 December 2020

Indirect Tax (Amendment) Bills 2020

The following indirect tax amendment Bills were tabled for their first reading on 10 December 2020 in Parliament:

- Sales Tax (Amendment) Bill 2020
- Service Tax (Amendment) Bill 2020
- Customs (Amendment) Bill 2020
- Excise (Amendment) Bill 2020
- Free Zones (Amendment) Bill 2020
- Windfall Profit Levy (Amendment) Bill 2020
- Tourism Tax (Amendment) Bill 2020

The amendments are mostly consequential corrections. This Crowe Chat (Special Edition) discusses some of the major highlights of the Bills.

Details of Proposed Measures, Effective Dates and Commentary

Details of Proposed Measures, Effective Date and Commentary

1. Change of Sales Value for cancellation of Sales Tax and Service Tax registration

Present	Based on the existing Sales Tax Act and Service Tax Act, a registered person shall cease to be liable to be registered at the end of any month where the Director General is satisfied that the total sales value of all his taxable goods in that month and the 11 months immediately succeeding that month (i.e the coming period of 12 months) does not exceed the total sales value of taxable goods or taxable services in that same period (i.e. the prescribed threshold).
Proposed	It is proposed that a registered person who intends to cancel his Sales Tax or Service Tax registration is required to prove to the Director General of RMCD that the total value of his taxable goods or taxable services for the past 12 months does not exceed the prescribed threshold.
Effective Date	Upon coming into operation of the Sales Tax (Amendment) Act 2020 and Service Tax (Amendment) Act 2020.
Commentary	<p>Currently, registered persons are allowed to use their forecast or estimated sales value to prove that the total value of taxable goods or taxable services would not exceed the prescribed threshold (i.e. based on the future method) for the cancellation of the Sales Tax and/or Service Tax registration. However, there is a concern that the registered persons may have used forecasted or estimated values which may not be accurate and which may be subject to change depending on circumstances.</p> <p>Therefore, it is proposed that all registered persons who wish to cancel their Sales Tax and / or Service Tax registration are required to prove to the RMCD that the value of their taxable goods or taxable services in the past 12 months does not exceed the prescribed threshold (i.e. based on the historical method).</p> <p>This amendment shall not be applicable to registered persons who cease to carry on the business of providing taxable goods or taxable services (except for the registered persons who temporarily ceased or suspended providing taxable goods or taxable services). Therefore, the first group of registered persons mentioned can still proceed to cancel their Sales Tax and/or Service Tax registration.</p>

Details of Proposed Measures, Effective Date and Commentary

2. Refund of Sales Tax and Service Tax by the RMCD

Present	Taxpayers may have tax refunds of Sales Tax or Service Tax due to various reasons such as the issue of credit notes by the taxpayer to its customers. If the tax refund exceeds the tax payable by the said taxpayer in that taxable period, the net amount will not be refunded by the RMCD.
Proposed	<p>A registered person may deduct the amount of tax refund against the amount of Sales Tax or Service Tax to be paid to the RMCD in the SST-02 return. The balance of the refund amount shall be refunded by the RMCD to the registered person or credited against the Sales Tax or Service Tax to be paid in the subsequent taxable period.</p> <p>Any person who improperly obtains a deduction of the Sales Tax or Service Tax refund commits an offence and shall, on conviction, be liable to:</p> <ul style="list-style-type: none">(a) a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or to both; and(b) a penalty of 2 times the amount deducted in excess of the amount properly so deductible.
Effective Date	Upon coming into operation of the Sales Tax (Amendment) Act 2020 and Service Tax (Amendment) Act 2020.
Commentary	This new proposed measure is aimed to ease the cash flow of the taxpayers. This is especially so when a taxpayer has insufficient Sales Tax or Service Tax payable to be offset against the Sales Tax or Service Tax refund in that particular taxable period.

Details of Proposed Measures, Effective Date and Commentary

3. Remission of Service Tax, etc. to the foreign registered persons

Present	<p>Presently, Section 40 of the Service Tax Act 2018 does not give the following persons the authority to remit or reduce the Service Tax, etc, of foreign registered persons:</p> <p>(a) the Minister of Finance (“MOF”) may not remit or reduce the Service Tax due and payable; and (b) the Director General of RMCD may not remit or reduce the surcharge accrued, penalty, fee or other money payable to the RMCD.</p>
Proposed	<p>It is proposed that the same remission of Service Tax, etc. be given to foreign registered persons under Section 40 of the Service Tax Act 2018.</p>
Effective Date	<p>Upon coming into operation of the Service Tax (Amendment) Act 2020.</p>
Commentary	<p>Based on the existing legislation, the MOF or the Director General of RMCD is not empowered to remit the Service Tax, etc. of the foreign registered persons.</p> <p>With this proposed measure, foreign registered persons will benefit if they have reasonable grounds to justify the remission of their Service Tax.</p>

Details of Proposed Measures, Effective Date and Commentary

4. Liability to register for Tourism Tax by digital platform service providers

Present

Presently, only an operator who operates accommodation premises in Malaysia shall be liable to be registered for Tourism Tax (the operator is known as a “registered operator”). In short, only the registered operator can impose Tourism Tax.

Tourism Tax is a tax imposed by the government on foreign tourists who stay at accommodation premises such as hotels in Malaysia. This tax is collected by the operators of accommodation premises and is levied at RM10 per room per night.

Proposed

It is proposed that a digital platform service provider who provides services relating to online booking of accommodation premises in Malaysia shall also be liable to be registered for Tourism Tax (“registered digital platform service provider”), regardless of whether the digital platform service provider is in Malaysia or outside Malaysia.

“Service relating to online booking accommodation premises” means any online service relating to the booking of accommodation premises that is delivered automatically over the internet or any other electronic network (“Relevant Service”).

The digital platform service provider who is liable to be registered for Tourism Tax is required to apply for the registration before 1 July 2021 (i.e. effective date). The application for the said registration can be made on or after 1 April 2021 (i.e. 3 months before the effective date).

The digital platform service provider who provides the Relevant Service in respect of accommodation premises in Malaysia, is required to apply for registration within 30 days from the date the digital platform service provider provides the Relevant Service.

Details of Proposed Measures, Effective Date and Commentary

4. Liability to register for Tourism Tax by the digital platform service providers (cont'd)

Effective Date

Upon coming into operation of the Tourism Tax (Amendment) Act 2020. The proposed effective date is 1 July 2021.

Commentary

The following table summarizes the obligations of the registered digital platform service provider:

Tourism Tax Rate:	RM10 per room per night
Taxable Period:	Three (3) months
Return and Payment:	Return and payment shall be furnished and paid not later than the last day of the month following after the end of the taxable return to which the return relates.
Record Keeping:	Any record kept shall be preserved for seven (7) years from the latest date to which the records relate.

The existing exemption from payment of Tourism Tax by a Malaysian individual (i.e. Malaysian national or permanent resident of Malaysia) will also be applicable for bookings through an online platform. To properly identify the tourist, the registered digital platform service provider should obtain the identification details of the tourist (e.g. name, passport number or Identification Card number of the tourist, etc.) for each booking.

To avoid a tourist having to pay double Tourism Tax, the registered operator should not impose and collect the Tourism Tax if the tourist can prove that the Tourism Tax has been paid to the registered digital platform service provider.



Contact us

Crowe KL Tax Sdn Bhd
Level 15, Tower C
Megan Avenue 2
12, Jalan Yap Kwan Seng
50450 Kuala Lumpur
Malaysia

Tel. +603 2788 9898



Scan here to
start conversation
with us

Corporate Tax Compliance

Foo Meng Huei
Executive Director
menghuei.foo@crowe.my
+603 2788 9898 Ext 2501

Voon Yuen Hoong
Executive Director
yuenhoong.voon@crowe.my
+603 2788 9898 Ext 2522

Wong Man Yee
Executive Director
manyee.wong@crowe.my
+603 2788 9898 Ext 2519

Liza Ooi Yap Lin
Director
liza.ooi@crowe.my
+603 2788 9898 Ext 2557

Tax Advisory

Chong Mun Yew
Executive Director
munyew.chong@crowe.my
+603 2788 9898 Ext 2523

Mervyn Ong Hean Chong
Executive Director
mervyn.ong@crowe.my
+603 2788 9898 Ext 2587

Indirect Tax

Fam Fui Chien
Manager
fuichien.fam@crowe.my
+603 2788 9898 Ext 2504

Norhayati Ruslan
Manager
norhayati.ruslan@crowe.my
+603 2788 9898 Ext 2597

Transfer Pricing

Song Sylvia
Executive Director
sylvia.song@crowe.my
+603 2788 9898 Ext 2514

Global Mobility Services

Shalina Binti Jaafar
Executive Director
shalina.jaafar@crowe.my
+603 2788 9898 Ext 2505

Business Outsourcing

Esther Chan
Manager
esther.chan@crowe.my
+603 2788 9898 Ext 2546



Our offices (West Malaysia)

Kuala Lumpur

Level 16, Tower C,
Megan Avenue 2,
12 Jalan Yap Kwan Seng,
50450 Kuala Lumpur,
Malaysia

+603 2788 9898 Main
+603 2788 9899 Fax

Klang

Suite 50-3, Setia Avenue,
No. 2, Jalan Setia Prima
SU13/S,
Setia Alam, Seksyen U13,
40170 Shah Alam,
Selangor, Malaysia

+603 3343 0730 Main
+603 3344 3036 Fax

Ipoh

A-2-16, 2nd Floor, Wisma MFCB
1, Persiaran Greentown 2
Greentown Business Centre
30450 Ipoh, Perak Darul Ridzuan
Malaysia

+605 238 0411 Main

Penang

Level 6, Wisma Penang Garden,
42 Jalan Sultan Ahmad Shah,
10050 Penang, Malaysia

+604 227 7061 Main
+604 227 8011 Fax

Melaka

52 Jalan Kota Laksamana 2/15,
Taman Kota Laksamana, Seksyen 2,
75200 Melaka, Malaysia

+606 282 5995 Main
+606 283 6449 Fax

Johor Bahru

E-2-3 Pusat Komersial Bayu Tasek,
Persiaran Southkey 1,
Kota Southkey,
80150 Johor Bahru,
Johor, Malaysia

+607 288 6627 Main
+607 338 4627 Fax

Muar

8, Jalan Pesta 1/1,
Taman Tun Dr. Ismail 1,
Jalan Bakri, 84000 Muar,
Johor, Malaysia

+606 952 4328 Main
+606 952 7328 Fax



Our offices (East Malaysia)

Kuching - iCom Square

2nd Floor, C378, Block C,
iCom Square,
Jalan Pending,
93450 Kuching,
Sarawak, Malaysia

+6082 552 688 Main
+6082 266 987 Fax

Kuching - Brighton Square

2nd Floor,
Lots 11994 - 11996,
Brighton Square,
Jalan Song,
93350 Kuching,
Sarawak, Malaysia

+6082 285 566 Main
+6082 285 533 Fax

Miri

Lot 2395, Block 4,
Bulatan Business Park,
Jalan Bulatan Park, 98000 Miri,
Sarawak, Malaysia

+6085 658 835 Main
+6085 655 001 Fax

Bintulu

1st floor, Lot 4542-4543,
Jalan Abang Galau Shophouse,
Kampung Masjid, 97000 Bintulu,
Sarawak, Malaysia

+6086 333 328 Main
+6086 334 802 Fax

Sibu

1st & 2nd Floor, No. 1 Lorong
Pahlawan 7A2, Jalan Pahlawan,
96000 Sibu, Sarawak, Malaysia

+6084 211 777 Main
+6084 216 622 Fax

Labuan

Lot 36, Block D, Lazenda Centre,
Jalan OKK Abdullah, P.O. Box
81599, 87025, Labuan, Malaysia

+6087 417 128 Main
+6087 417 129 Fax

Kota Kinabalu

Damai Plaza 3, 3rd Floor, C11, Jalan
Damai 88300, P.O. Box 11003,
88811 Kota Kinabalu, Sabah, Malaysia

+6088 233 733 Main
+6088 238 955 Fax



Contact us

Crowe Malaysia PLT
Level 16, Tower C
Megan Avenue 2
12, Jalan Yap Kwan Seng
50450 Kuala Lumpur
Malaysia

Tel. +603 2788 9999

www.crowe.my

About Crowe Malaysia PLT

Crowe Malaysia PLT is the 5th largest accounting firm in Malaysia and an independent member of Crowe Global. The firm in Malaysia has 14 offices, employs over 1,300 staff, serves mid-to-large companies that are privately-owned, publicly-listed and multinational entities, and is registered with the Audit Oversight Board in Malaysia and the Public Company Accounting Oversight Board in the US.

About Crowe Global

Ranked the 8th largest accounting network in the world, Crowe Global has over 250 independent accounting and advisory firms in 146 countries. For almost 100 years, Crowe has made smart decisions for multinational clients working across borders. Our leaders work with governments, regulatory bodies and industry groups to shape the future of the profession worldwide. Their exceptional knowledge of business, local laws and customs provide lasting value to clients undertaking international projects.

This communication is prepared and issued by Crowe KL Tax Sdn. Bhd., it is meant for general information purposes only and it is not intended to be professional advice. Recipients should not act upon this communication and please consult qualified advisors for professional advice and services. Crowe KL Tax Sdn. Bhd. or any of Crowe's entities will not be responsible for any loss or consequences of anyone acting in reliance on this communication or for decisions made based on this communication.

Crowe Malaysia PLT is a member of Crowe Global, a Swiss Verein. Each member firm of Crowe is a separate and independent legal entity. Crowe Malaysia PLT and its affiliates are not responsible or liable for any acts or omissions of Crowe or any other member of Crowe and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe or any other Crowe member.

© 2020 Crowe Malaysia PLT