



Tax Chat

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Income Tax Exemption for Religious Services Rendered by Non-Residents

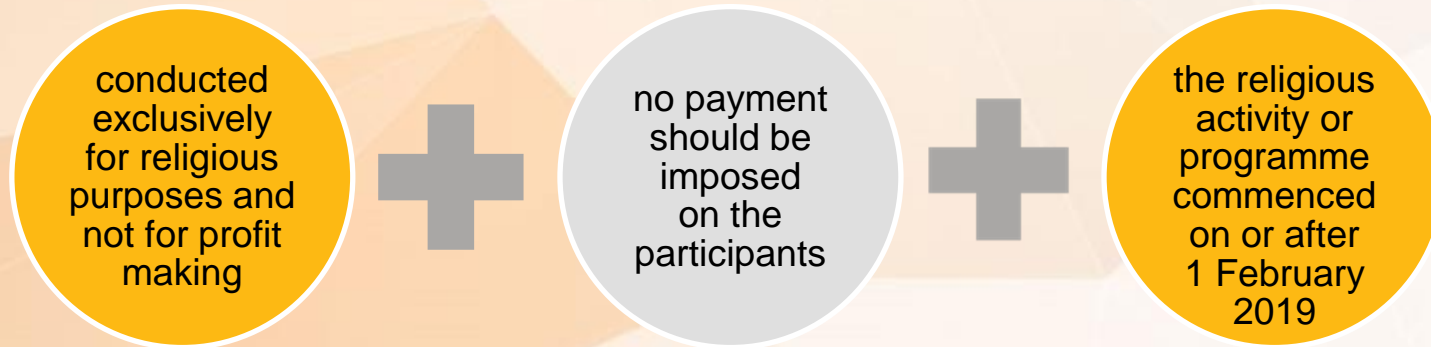
Income Tax Exemption for Religious Services Rendered by Non-Residents

Presently, income derived from Malaysia by any non-resident person is taxable in Malaysia. In the case of persons from countries which have a double tax treaty with Malaysia, they are taxable if certain conditions are met.

The [Income Tax \(Exemption\) \(No. 3\) Order 2019](#) was recently gazetted and came into force on 1 February 2019. This Order gives income tax exemption to a non-resident person in Malaysia in respect of payments received from any religious institution or organisation for provision of the following services:

- a) religious lectures;
- b) study (including translation) of a holy book or religious book; and
- c) presiding prayers or rites of worship according to the ritual of each religion.

However, the exemption is subject to the following conditions:



Note: The religious institution or organisation must be:

- ✓ *established in Malaysia*
- ✓ *exclusively for managing the place of worship or advancement of the religion*
- ✓ *not primarily for making profit*
- ✓ *registered with the Registrar of Societies Malaysia*

Withholding Tax Exemption for Payments Made to Non-Residents in Relation to Software for Personal Use

• Withholding Tax Exemption for Payments Made to Non-Residents in Relation to Software for Personal Use

Presently, payments made to non-residents in relation to software are subject to withholding tax because such payments for the “use of or the right to use” software are treated as “royalties”. Royalties are subject to withholding tax if the payment is made to a non-resident and the royalty is not attributable to a business carried on by the non-resident in Malaysia according to Section 109 of the Income Tax Act 1967.

[The Income Tax \(Exemption\) \(No. 4\) Order 2019](#) was recently gazetted and came into force on 1 March 2019 to provide exemption from withholding tax for payments made by individual residents to non-residents in relation to software for personal use.

The key points of this Exemption Order are as follows:



Payment is made by an individual resident of Malaysia



Applies to purchased software or rights to use software for personal use



Not purchased for usage in the individual’s business



Applicable to shrink-wrapped software, site-license, downloadable software or software bundled with personal computer hardware, smartphone or tablet

Guideline on Taxation of Electronic Commerce Transactions

Guideline on Taxation of Electronic Commerce Transactions

The Inland Revenue Board of Malaysia (IRBM) previously had issued a Guideline on Taxation of Electronic Commerce dated 1 January 2013. This previous guideline has now been superseded by a new [Guideline on Taxation of Electronic Commerce Transactions](#) which was issued on 13 May 2019.

This Guideline serves as a guidance to taxpayers on the income tax treatment in respect of e-commerce transactions.

Definition of “e-commerce transaction”

“e-commerce transaction” means any sale or purchase of goods or services, conducted over any networks by methods specifically designed for the purpose of receiving or placing of orders. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organisations.

The Guideline covers, among others, the scope of liability of e-commerce transactions such as:

- ❖ business income;
- ❖ special classes of income (under Section 4A of the Income Tax Act 1967); and
- ❖ royalty (based on the new definition which is effective from year of assessment (YA) 2017).

Some examples were also given to explain the tax treatment of certain e-commerce transactions.

Guideline on Taxation of Electronic Commerce Transactions

The Guideline also identified a few new e-commerce business models, such as:

Online trading / service provider

Sale or purchase of goods/services conducted over computer networks



App store

A digital distribution platform for software whereby a consumer can browse, view, purchase and automatically download an App on their devices



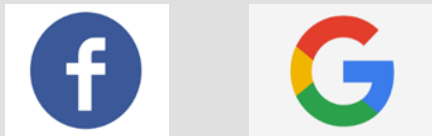
Payment services

Payment via online transaction between online purchasers and sellers



Online advertising

The Internet is used to target and deliver marketing messages to customers through display ads and search engine ads



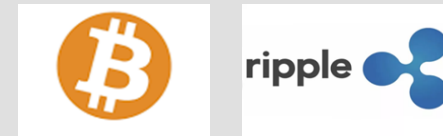
Cloud computing

- Infrastructure-as-a-service
- Platform-as-a-service
- Content-as-a-service
- Data-as-a-service



Digital currency / token

Buying and selling digital currency or digital token



Generally, the IRBM adopts the concept of neutrality when it comes to e-commerce transactions. What this means is that there is no difference between a seller who sells goods in a physical shop and a seller who sells goods on a website (online shop) – both of them are subject to the provisions under the Income Tax Act 1967.

Amendment on GST Final Return

An article by Chris Yee,
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Crowe KL Tax Sdn Bhd

Amendment on GST Final Return

It had been months since the previous GST system had been abolished and repealed. As stated in the Goods and Services Tax (Repeal) Act 2018, the final GST return was required to be filed by all GST registered persons no later than one hundred and twenty (120) days from the appointed date of 1 September 2018. The final date for the submission of this final GST return fell on 28 December 2018.

The one hundred and twenty (120) days period allocated by the authorities was intended to allow sufficient time for businesses to compile data for the GST return and ensure that all input tax which the GST registered businesses are eligible for, are included and claimed in this final GST return. However, I am sure that most business owners had felt that this period had passed too soon as a number of ambiguities and uncertainties have not been properly clarified when the deadline came around.

“Some customers may have rejected such tax invoices simply due to the fact that the retention sum is not yet due.”

Retention sums

Retention sums that relate to work done prior to June 2018 but due for payment only after 28 December 2018 was one of the areas in which the technical treatment was uncertain. Some service providers had chosen to prematurely issue tax invoices to their customers in order for the service providers to account for the output tax whilst allowing the customers to claim input tax by using the said tax invoice.

Naturally, such arrangements may have created a host of other problems. Some customers may have rejected such tax invoices simply due to the fact that the retention sum is not yet due. This left a number of service providers stranded in a position whereby they had already accounted for the output tax but were unable to collect the retention sums from their customers.

Amendment on GST Final Return

Long outstanding debts

This was another area of concern that most GST registered business were unable to resolve as they were facing obstacles due to these outstanding debts. A typical scenario is the case of a company not being able to collect the GST amount due from its customers.

To address these ambiguities, the Royal Malaysian Customs Department (RMCD) had published two separate Guides on these matters in May 2019. These Guides are:

- GST Guide on Declaration and Adjustment After 1 September 2018 – this Guide is mainly to explain the types of adjustments that can be made to the final GST return in relation to bad debt relief and the amount owing to suppliers; and
- GST Guide on Tax Invoice, Debit Note, Credit Note and Retention Payment After 1 September 2018 – this Guide is mainly to explain adjustments that can and should be made for taxable supplies provided.

These two Guides had clarified a number of uncertainties, especially on the decision made by the RMCD to state that retention sums that are to be received after 1 September 2018 would not be subject to GST anymore. The Guides also clarified that adjustments to taxable supplies are still allowed to be made through the issuance of credit notes or debit notes.

As stated in these two Guides, businesses are now given until 31 August 2020 to perform one last round of adjustments to their final GST return that was previously submitted. It would be advisable for you to read through these two Guides and make the necessary amendments.

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Start the Conversation

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