



## TAX FLASH

MARCH 2020

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### Updates on 2020 Economic Stimulus Package

Further to the recent announcement of the 2020 Economic Stimulus Package as highlighted in our *Tax Flash – February 2020 (Special Edition No. 2)* issue, below are the updates pertaining to the proposals outlined in the Economic Stimulus Package based on latest developments:-

- i. Special Tax Relief on Domestic Travel for Individuals
  - Special tax relief of up to RM1,000 will be provided to resident individuals for the following domestic travelling expenses incurred during the period from 1<sup>st</sup> March 2020 to 31<sup>st</sup> August 2020:-
    - accommodation expenses at premises registered with Ministry of Tourism, Arts and Culture Malaysia; and
    - entrance fees to tourist attractions.
  - Applicable to year of assessment ["YA"] 2020 only

- [Moore Malaysia](#)
- [Moore Global](#)
- [Inland Revenue Board](#)

ii. Deferment of Monthly Tax Instalment for Tourisms Sector

- Businesses in tourism industry such as travel agencies, hoteliers and airlines will be allowed a deferment of their monthly tax instalments for 6 months from 1<sup>st</sup> April 2020 to 30<sup>th</sup> September 2020 as illustrated in the example below:-

Example of Deferment of Monthly Tax Instalment

Year of Assessment : 2020  
Basis Period : 01.01.2020 to 31.12.2020  
Amount of Estimated Tax Payable : RM1,200,000

*Instalment Scheme*

<b>Last Day of Payment</b>	<b>Amount Payable</b>	<b>Revised Amount Payable After Deferment</b>
	<b>RM</b>	<b>RM</b>
15.02.2020	100,000	100,000
15.03.2020	100,000	100,000
15.04.2020	100,000	-
15.05.2020	100,000	-
15.06.2020	100,000	-
15.07.2020	100,000	-
15.08.2020	100,000	-
15.09.2020	100,000	-
15.10.2020	100,000	250,000
15.11.2020	100,000	250,000
15.12.2020	100,000	250,000
15.01.2021	100,000	250,000
<b>Total</b>	<b>1,200,000</b>	<b>1,200,000</b>

iii. Revision of Estimate of Tax Payable

- Companies affected by the current economic developments due to the Covid-19 outbreak are allowed to revise the estimate of tax payable in the 3<sup>rd</sup> month (beside the 6<sup>th</sup> and 9<sup>th</sup> months) of instalment, if the 3<sup>rd</sup> instalment falls in year 2020

iv. Tax Deduction on Costs of Renovation and Refurbishment

- Tax deduction of up to RM300,000 will be given to businesses that incurred costs of renovation and refurbishment for business premises during the period from 1<sup>st</sup> March 2020 until 31<sup>st</sup> December 2020
- The above deduction will not be given if a claim for deduction / capital allowance under Schedule 2 or Schedule 3 of the Income Tax Act 1967 [“the Act”] has been made

v. Accelerated Capital Allowance on Machinery and Equipment, Including ICT Equipment

- Accelerated capital allowance will be given on qualifying expenditures incurred on machinery and equipment including information and communication technology [“ICT”] equipment at the following rates:-
  - Initial allowance of 20%; and
  - Annual allowance of 40%
- Applicable to capital expenditure incurred from 1<sup>st</sup> March 2020 to 31<sup>st</sup> December 2020

- vi. Deduction for Expenses Incurred by Companies on Disposable Personal Protective Equipment
- Expenses incurred by companies to provide employees with disposable personal protective equipment such as masks will be given tax deduction under Section 33(1) of the Act
  - Expenditure incurred on non-disposable personal protective equipment products will be allowed a claim for capital allowance
- vii. Double Deduction for Establishment of Regional Office by International Shipping Companies
- International shipping companies that establish and operate business in Malaysia will be given double deduction on pre-commencement expenditure for setting up regional offices in Malaysia
  - Applications must be made to Malaysian Investment Development Authority by 31<sup>st</sup> December 2021
- viii. Value Added Activities Carried Out in LMW and FIZ
- It is proposed that the approval and facilitation process of Licensed Manufacturing Warehouse ["LMW"] and Free Industrial Zone ["FIZ"] in conducting value-added activities to be improved and simplified at Royal Malaysian Customs Department ["RMCD"]'s level and the list of approved activities will be expanded to include supply chain management, strategic procurement operation and total support solutions
  - Effective 1<sup>st</sup> April 2020
- ix. Import Duty and Sales Tax Exemption on Importation or Local Purchase of Machinery and Equipment Used in Port Operations
- Currently, no import duty or sales tax exemption is available to port operators when the tax incentive period under the Approved Service Project ["ASP"] granted to the company has expired.
  - It is proposed import duty and sales tax exemption be given to port operators, where the tax incentives granted to the port operators under the ASP has expired, on importation or local purchase of machinery and equipment used in port operations, subject to the following:-
    - the machinery and equipment are necessary and used directly in port operations; and
    - this import duty and sales tax exemption is not applicable to spare parts and consumables including those used for maintenance purposes
  - Application must be submitted to the Ministry of Finance from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2023
- x. Relaxation of Condition for Purchase of Duty-Free Goods for Persons Entering Malaysia
- The eligibility period for purchase of duty-free goods located at the international airports by persons entering Malaysia is reduced from 72 hours to 48 hours
  - The threshold for duty-free goods will be increased from RM500 to RM1,000 for items other than those which are already eligible for exemption under the specific limit such as liquor, cigarettes, clothes, shoes, food and personal electrical appliances.
  - Effective 1<sup>st</sup> April 2020
- xi. Exemption from HRDF Levy
- Exemption from Human Resources Development Fund ["HRDF"] levy will be given to 8 categories of businesses, i.e. air travel, domestic ground transport, convention centres, shipping malls, travel tour operators, hotels, franchises and hypermarkets for a period of 6 months from 1<sup>st</sup> April 2020 to 30<sup>th</sup> September 2020

## Guidelines for Approval of DGIR under Section 44(6) of the Act

The Inland Revenue Board ["IRB"] has, on 30<sup>th</sup> January 2020, issued the updated *Guidelines for Approval of Director General of Inland Revenue ["DGIR"] under Section 44(6) of the Act* to replace and amend the previous Guidelines issued on 15<sup>th</sup> May 2019 and 5<sup>th</sup> September 2019 respectively with the following changes:-

- i. Requirement of Institution's / Organisation's Board of Trustees / Board of Directors / Committee Members [Paragraph 3.3(i) of the updated Guidelines]
  - Among others, the criteria for approval under Section 44(6) of the Act is that more than 50% of the members of the Board of Trustees / Board of Directors / committee members must consist of outsiders who is not related.
  - It is specified that the above condition of appointment only applies to institutions / organisations that registered with:-
    - the Companies Commission of Malaysia; and
    - the Legal Affairs Division of the Prime Minister's Department.
  - For institutions/organisations registered with Malaysian Registered Department, the appointment of the Board of Trustees / Board of Directors / Committee Members should be registered members who have the power to vote.
- ii. Procedure of Application [Paragraph 4.5 of the updated Guidelines]
  - When submitting the application for approval under Section 44(6) of the Act, the checklist will need to fill out, confirm and verify by submitting of documents. Otherwise, the application will not be processed.
- iii. Responsibility of an Institution/Organisation after Obtaining an Approval [Paragraph 6.1(iv)(c) of the updated Guidelines]
  - An annual audited financial statement audited by an accredited Public Auditor shall be sent by or on 30<sup>th</sup> April of each year to the IRB's Tax Policy Department together with the list of donors who donated RM20,000 (previously RM10,000) and above.
- iv. Tax Reliefs for Donors [Paragraph 10.3(ii) of the updated Guidelines]
  - The amount of donations and contributions allowed as tax relief/deduction is limited to 10% of aggregate income for individuals (previously limited to 7% for individuals) and for companies.

**Note:** For further information on the previous *Guidelines for Approval of DGIR under Section 44(6) of the Act*, kindly refer to our *Tax Flash – June 2019* and *Tax Flash – October 2019* issues.

## Withdrawal of WT Exemption on Income Received by Non-resident Company from MSC Status Company

Malaysia Digital Economy Corporation Sdn Bhd ["MDEC"] has earlier announced the withdrawal of exemption from withholding tax ["WT"] on the following income received by a non-resident company from an approved Multimedia Super Corridor ["MSC"] Status Company:-

- Payment for technical advice or technical services;
- Licensing fees in relation to technology development; and
- Interest on loans for technology development.

The *Income Tax (Exemption) (No.13) 2005 (Revocation) Order 2019* has recently been gazetted to revoke the Income Tax (Exemption (No.13) 2005 which provides for the WT exemption on the above income received by the non-resident company.

The revocation Order comes into operation on 1<sup>st</sup> January 2020.

**Note:** For further information on the above withdrawal of WT exemption, kindly refer to our *Tax Flash – September 2019* issue.

### **Extension of Application Period for Tax Exemption on Income Derived from Employment for Women Returning to Work After Career Break**

The Income Tax (Exemption) (No. 9) Order 2019 provides tax exemption on employment income up to 12 consecutive months derived by a female Malaysian citizen returning to work after a career break of at least 2 years prior to or as at 27<sup>th</sup> October 2017.

Following the Budget 2020 announcement, the *Income tax (Exemption) (No. 9) Order 2019 (Amendment) Order 2020* has been gazetted to extend the period of application for exemption to be made through Talent Corporation Malaysia Berhad for another 4 years i.e. 1<sup>st</sup> January 2020 until 31<sup>st</sup> December 2023.

**Note:** For further information on the above, kindly refer to our *Tax Flash – September 2019* issue.

### **Specific and Industry Guides**

RMCD has published the following guides (currently only made available in *Bahasa Malaysia*):-

- *Guide on Electricity Transmission and Distribution Services* as at 22<sup>nd</sup> January 2020;
- *Guide on Determination of the Value of Sales of Taxable Goods under Section 9(3) of the Sales Tax Act 2018* as at 30<sup>th</sup> January 2020; and
- *Guide on Refund, Drawback and Appeal for Sales Tax* as at 13<sup>th</sup> February 2020.

### **Service Tax Policies**

RMCD has published the following service tax policies:-

- *Service Tax Policy No. 7/2020* – Accounting of Service Tax for Persons Exempted from Payment of Service Tax Under Items 3 and 4, Service Tax (Persons Exempted from Payment of Tax) Order 2018 [“the Exemption Order”];
- *Service Tax Policy No. 8/2020* – Group Relief Facility on Provision of Taxable Services to Company within the Same Group of Companies; and
- *Service Tax Policy No. 9/2020* – Tax Treatment for Taxable Service In Group A: Accommodation, First Schedule to the Service Tax Regulations 2018 under the Economic Stimulus Package 2020.

The salient points pertaining to the abovementioned service tax policies are as summarised below:-

- i. Service Tax Policy No. 7/2020 – Accounting of Service Tax for Persons Exempted from Payment of Service Tax Under Items 3 and 4 of the Exemption Order
  - This policy is made in response to the amendments to the Exemption Order (**Note:** *Kindly refer to our [Tax Flash – January 2020](#) issue for further details.*).
  - For the purpose of Items 3 and 4 of the Exemption Order, the relevant person, who qualifies for service tax exemption on imported taxable service, is not required to declare/account for service tax in SST-02 form or SST-02A form.
  
- ii. Service Tax Policy No. 8/2020 – Group Relief Facility on Provision of Taxable Services to Company within the Same Group of Companies
  - This policy is made as a consequence of the amendments to the Service Tax Regulations 2018 (**Note:** *Kindly refer to our [Tax Flash – January 2020](#) issue for further details.*).
  - Services eligible for group relief are services under Items (a), (b), (c), (d), (e), (f), (g), (h) or (i) in column (2) of Group G, First Schedule of the Service Tax Regulations 2018.
  - The following services are **not eligible** for group relief:-
    - Provision of all types of employment services;
    - Provision of guards or protection for the personal safety or security of the property or business of such other person;
    - Provision of electronic medium that allows suppliers to provide supplies to customers; and
    - Provision of digital services including transactions for provision of digital services on behalf of any person.
  - A registered person who provides taxable services shall impose service tax to third parties and group members based on the following:-

Scenarios	Service Tax Treatment
Total value of taxable services provided to third party is $\leq$ 5% of the total taxable services for a period of 12 months	Impose service tax on the taxable services provided to third parties
Total value of taxable services provided to third party is $>$ 5% of the total taxable services for a period of 12 months	Impose service tax on the taxable services provided to third parties and group members
Unable to ascertain the percentage of taxable services provided to third parties	Impose service tax on the taxable services provided to third parties and group members (Note)

**Note:** *In the event that the total value of taxable services for a period of 12 months provided to third parties is  $\leq$  5% of the total taxable services, the registered person may make the relevant tax adjustments by issuing credit notes to its group members.*

- The group relief facility under this policy only applies to taxable services provided by registered persons in Malaysia and does not apply to imported taxable services acquired from group members located outside Malaysia.
- iii. Service Tax Policy No. 9/2020 – Tax Treatment for Taxable Service in Group A: Accommodation, First Schedule to the Service Tax Regulations 2018 under the 2020 Economic Stimulus Package (Pre 2020)
    - This policy is made subsequent to the 2020 Economic Stimulus Package announced on 27<sup>th</sup> February 2020 (**Note:** *Kindly refer to our [Tax Flash – February 2020 \(Special Edition No. 2\)](#) issue for further details.*).

- Responsibilities of accommodation premises operator include:-
  - Invoices are still required to be issued and the column for tax to state as “0%” or “exempted”.
  - SST-02 form must still be submitted within the stipulated due date.
  - Total service tax exempted must be filled in column 18(c) of the SST-02 form.
  - Imported taxable services remain to be accounted for and paid via SST-02 form.
  - No exemption on tourism tax.
- Transitional issues:-

Period for Provision of Taxable Services	Tax Treatment
From 29 <sup>th</sup> February 2020 to 1 <sup>st</sup> March 2020	Subject to service tax
From 31 <sup>st</sup> August 2020 to 1 <sup>st</sup> September 2020	Exempted from service tax
From 29 <sup>th</sup> February 2020 to 3 <sup>rd</sup> March 2020	Apportionment is required and only the taxable services provided during the period from 1 <sup>st</sup> March 2020 to 3 <sup>rd</sup> March 2020 are exempted from service tax

- For the taxable services provided for the period from 1<sup>st</sup> March 2020 to 31<sup>st</sup> August 2020:-
  - If the service tax has been collected but yet to be accounted for in the SST-02 form, the service tax collected shall be returned to the customer via issuance of credit note.
  - If the service tax has been collected and accounted for in the SST-02 form, the following actions are required to be taken:-
    - For individual customers, the accommodation premises operator is required to refund the service tax collected to the customer and apply for an approval to deduct the service tax in his SST-02 form under Section 39 of the Service Tax Act 2018.
    - For customers other than individual customers, the accommodation premises operator is required to issue credit note and make the relevant service tax adjustment.
- If the service tax for the taxable services provided for the period from 1<sup>st</sup> March 2020 to 31<sup>st</sup> August 2020 has been collected but not refunded or failed to be refunded to the customer, the accommodation premises operator is required to account for and pay the service tax to RMCD.

### Clarification on Substantial Requirement for Labuan Entities

The Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018 gazetted on 31<sup>st</sup> December 2018 specifies the requirements for adequate number of full time employees and minimum amount of annual operating expenditure in Labuan (i.e. substantial activity requirements) for Labuan entities carrying on Labuan business activity. Following this, the Labuan Financial Services Authority [“Labuan FSA”] has issued a [circular on Labuan Investment Committee \[“LIC”\] Pronouncement 2-2019 dated 11<sup>th</sup> December 2019](#) to provide clarification on issues arising from changes to the Labuan tax regime as follows:-

- Revision to the Labuan substantial activity requirements for certain Labuan entities and expanding the list of Labuan entities subject to substantial activity requirements as shown in the [Clarification to LIC Pronouncement 2-2019 dated 20<sup>th</sup> December 2019](#);
- Labuan entities that are dormant, struck off, winding up or under liquidation which are not deriving any source of income are not required to comply with the substantial activity requirements;
- Labuan Entities under-going run-off process (run-off entities) are required to comply with the substantial activity requirements; and
- Any Labuan entities that do not comply with the substantial activity requirements would be subject to tax of 24% under Labuan Business Activity Tax Act 1990.

*The LIC comprises of the Ministry of Finance (Tax Division), the Labuan FSA and the IRB Malaysia. It is mandated to recommend policies on substantial activity requirements in Labuan IBFC and monitor enforcement of the related regulations on substantial activity requirements.*

Labuan FSA has thereafter issued another [circular dated 21<sup>st</sup> January 2020](#) indicating the additional business activity carried on by a Labuan entity subject to the substantial activity requirements.

The inclusion of the additional business activities and revision to the substantial activity requirements are subject to the final release of gazetted regulations on amendments to the above Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018.

**Note:** *For further information relating to the substantial activity requirements under the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018, kindly refer to our [Tax Flash – February 2019](#) issue.*

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