



SERVICE TAX 2018

**GUIDE ON :
INFORMATION TECHNOLOGY
SERVICES**

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The Guide on Information Technology Services at 25 June 2019 is withdrawn and replaced by the Guide on Information Technology Services revised as at 9 August 2019.

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Disclaimer

This information is intended to provide a general understanding of the relevant treatment under Services Tax Legislation and aims to provide a better general understanding of taxpayers' tax obligations. It is not intended to comprehensively address all possible tax issues that may arise. While RMCD has taken the initiative to ensure that all information contained in this Guide is correct, the RMCD will not be responsible for any mistakes and inaccuracies that may be contained, or any financial loss or other incurred by individuals using the information from this Guide. All information is current at the time of preparation and is subject to change when necessary.

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INTRODUCTION

1. Service Tax is a consumption tax governed by the Service Tax Act 2018 and its subsidiary legislation. The effective date of the Service Tax Act 2018 is 1st September 2018.
2. Service tax shall be imposed on taxable services provided by a taxable person as prescribed under the First Schedule, Service Tax Regulations 2018.
3. A person who provides taxable services exceeding a specified threshold is required to be registered under the Services Tax Act 2018 and is known as a “registered person” who is required to charge service tax on his taxable services made to his customers.
4. The Guide is prepared to assist you in understanding the service tax treatment on information technology services.

IMPOSITION AND SCOPE OF TAX

5. Effective 1st September 2018, under Group G, Item 8, First Schedule of the Service Tax Regulations 2018, the provision of information technology services are subject to service tax.

TERMINOLOGY

6. The following words have these meanings in this guide unless the contrary intention appears:
 - (i) “**Designated Areas**” (DA) means Labuan, Langkawi and Tioman. (*Section 47, Service Tax Act 2018*);
 - (ii) “**Special Areas**” (SA) means any free zone, licenced warehouse and licenced manufacturing warehouse and Joint Development Area (*Section 52, Service Tax Act 2018*).

GENERAL OPERATIONS OF THE INDUSTRY

Overview of Information Technology Services

7. Information technology is the use of any computers, storage, networking and other physical devices, infrastructure and processes to create, process, store, secure and exchange all forms of electronic data.

8. Information technology services (ITS) are services that generally involves the provision of IT systems. ITS include services associated with the following terms:

- (i) Computing services
- (ii) Coding & programming
- (iii) Application development
- (iv) Software development
- (v) System integration
- (vi) Web development
- (vii) Platforms
- (viii) Networks integration
- (ix) Data processing, administration
- (x) Cloud services
- (xi) Artificial Intelligence
- (xii) Internet of Things

CHARGING SERVICE TAX

9. Service tax shall be charged on the ITS at the rate of 6%. In the case of provision of services for information technology, the value of the taxable service for the charging of service tax is the actual value of services charged to his clients.

10. Service tax on the provision of service shall be charged when the services is provided.

SERVICE TAX TREATMENT FOR INFORMATION TECHNOLOGY SERVICES (ITS)

11. Provision of all types of ITS are prescribed taxable services excluding:

- (i) The provision or sales of goods in connection with the provision of the ITS;

Example 1

Company A's main business is selling of personal computer (PC) and off the shelf software. The sale of PC and pre packaged or off the shelf software is not subject to service tax. This is because the software is treated as ancillary to the sale of goods.

- (ii) Provision of ITS in connection with:
 - (a) Goods or land situated outside Malaysia; or
 - (b) Matters other than matters relating to (a) outside Malaysia.

Example 2

ABC Sdn Bhd has a contract with XY Sdn Bhd to provide maintenance of software for a server located outside Malaysia (goods outside Malaysia). The service is done remotely from Malaysia provided by ABC Sdn. Bhd, is not subject to service tax.

Example 3

DEF Sdn Bhd has a contract with Singapore Cycling Club to develop navigation applications for cyclist to cycle along the routes all over Singapore. The service provided by DEF Sdn. Bhd is not subject to service tax (relates to land outside Malaysia).

Example 4

XYZ Sdn. Bhd. developed system for banking transaction for a private bank in Thailand. The IT service provided are not subjected to service tax because it is in relation to matters outside

Malaysia.

12. Service provider who provides ITS can be any individual, company, statutory bodies or government agencies where the place of business is in Malaysia.

13. ITS provided within or between DA or SA is not subject to service tax if the service provider's principal place of business is in DA or in SA.

14. Foreign ITS provider with no establishment in Malaysia that provide services to recipient in Malaysia is not subject to service tax. However, this is treated as an import of taxable services. In such situations, the Malaysian recipient of the services has to account for service tax on the services acquired from the overseas provider. The requirement to account for imported taxable service applicable to taxable person and person other than taxable person in carrying on business.

15. ITS which is subject to service tax includes:-

- (i) Provision of software by the software developer ;
- (ii) Services relating to the development, customization or provision of computer system. A computer system refers generally to IT equipment and software that works together to perform some specified functions, eg HR system, central monitoring scada system etc.
- (iii) Installation or setting up of computer system, where the service is not part of a purchase of hardware ;

Example 5

Company A buy a system from Company B (owner and developer of the system). Then Co. A appointed Company C for installation of the system. The service provided by Company C is a taxable services under ITS.

Example 6

Company X buy Microsoft Office software together with the installation from Company Z (reseller). The selling of the

software and installation services by Company Z is not a taxable services because the selling of the software and installation comes in one package.

- (iv) Installation of software into hardware where the service is not part of a purchase of hardware;
- (v) Software support and maintenance;
- (vi) Periodic payments, subscription or maintenance for continued use and updates website related services, eg development, customization, maintenance of webpage, websites, web portal and online platforms;
- (vii) Updating to new version, upgrading or modification of data, system or software;

Example 7

Company A is a software developer. From time to time, the company will provide software upgrading for its customer. The fee charged for the upgrading is subject to service tax.

- (viii) Managed data centre services, eg managed service, connection charges. Hardware cost such as rental of rack space and hardware are not taxable;
- (ix) Digital data services delivered through the internet (eg ebooks, content, newspapers, journals, media streaming services). This includes subscription to the service mentioned;

Example 8

OnlineMuvi Sdn Bhd is providing online movie services through monthly subscription. Customers need to subscribe and by using the internet network customers will be able to watch their favourite movies. The services provided by OnlineMuvi Sdn Bhd is a taxable service.

- (x) Administrative fee for data, system or software;

Example 9

Company A appoints Company B to develop a platform for customers to get data or information that is housed by Company A. Customers will get the data through the platform that Company B provide. Company B will charge the customers for using and getting the data. The service provided by Company B to the customers is an IT-enabled service which is considered as a taxable service.

- (xi) IT advisory or consultation in relation to data, systems (hardware and/or software), including security of such;
- (xii) Management on IT;

Example 10

Provision of IT department services (as an outsource provider);

- (xiii) Training services (subject to service tax under Consultancy Services effective 1 January 2019) (Refer to Training Guide).

16. ITS which is not subject to service tax includes:

- (i) Charge on storage or co-location of hardware or server;
- (ii) Physical security of hardware or server;

Example 11

Company A engaged Company B to provide personal security (security guard) to guard the hardware and server storage. The security guard service is a taxable service under item k, Group G of the Service Tax Regulations 2018.

- (iii) Sale and renewal of licence for data, system and software by reseller, retailer or distributor of software.

Example 12

Company A is a software reseller. His customer needs to renew the software every 12 months. The renewal of the software is not considered as IT services i.e customer will be given a key to activate the renewal of software. The fee charged on the renewal of software is not subject to service tax.

Example 13

Company A provides a license of an anti-virus software to Company B (the anti-virus software belongs to an overseas provider). Company A is considered as a retailer by providing the software to Company B. Thus, it is not subject to service tax.

Example 14

Company B is reseller of Antivirus software. The company does not provide any value added service to the software and merely a trading situation. The fee charged by Company B is not subject to service tax.

- (iv) Leasing or rental of computer, hardware and server;
- (v) Assembly of computer, hardware or server; Operating system software embedded in hardware;

Example 15

All smartphones come with operating system (software). The purchase of the smartphone is a purchase of goods. Whenever a customer sent their smartphone for repair on the operating system (software), this will not be considered as taxable services because the operating system is embedded in the smartphone.

17. There will be situations where a contract may include the provision of hardware, software, maintenance and training as a package. Service tax treatment with regards to this scenario is as below:

Example 16

Company A enters into a long-term contract with a customer for the purchase of 100 personal computers (PC) that comes with the installation, software, and training. The contract will be considered as a provision of goods and not subject to service tax.

Example 17

Company A enters a contract with a customer for the provision of computer system comprising the provision of hardware (inclusive of software) and training. The contract will be considered as a provision of ITS and subject to service tax, except for the hardware provided.

Example 18

An ITS company has been appointed to provide an integrated system that will integrate the function of radar and missile system on a navy battleship. In providing the comprehensive system, the company will provide software, hardware, networking, maintenance and training. The provision of the integrated system is subject to service tax excluding the hardware.

Example 19

A telco company has its own IT system. To support the system, the telco company appoint an ITS provider to provide Business Support System (BSS). Among other services provided by the ITS provider are supply of hardware, software and other services such as installation, upgrading, integration and etc. The BSS is a taxable service which subject to service tax excluding hardware.

Example 20

In relation to examples 18, any maintenance services is subject to service tax under maintenance management.

EXEMPTION FROM PAYMENT OF SERVICE TAX (BUSINESS TO BUSINESS (B2B) EXEMPTION)

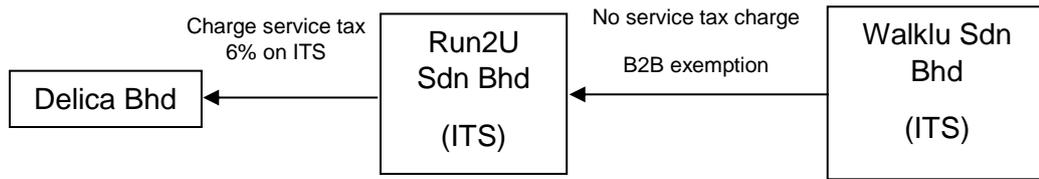
18. Effective 01 January 2019, ITS provider granted exemption from payment of service tax on ITS received by him. This exemption is subjected to fulfillment of conditions as prescribed under item 2, Schedule of Service Tax (Person Exempted from Payment of Tax) Order 2018 as below:

- The service that is exempted is an ITS, not other services received by ITS provider;
- ITS provider who is the recipient of such ITS must be a registered person;
- The ITS is provided by an ITS provider who is a registered person.

Example 21

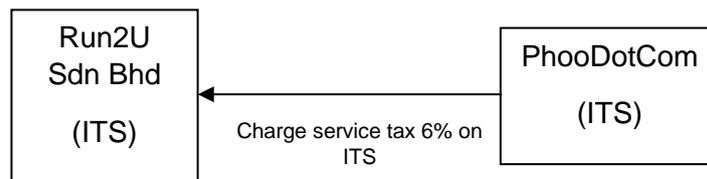
Run2U Sdn Bhd is a registered person who provides ITS. Run2U Sdn Bhd was appointed by Delica Berhad to develop new software for the company. Run2U Sdn Bhd will then engage Walklu Sdn Bhd to develop the software. Run2U will customized the software based on Delica Berhad requirement. Based on that arrangement, Walklu Sdn Bhd will charge Run2U Sdn Bhd for their services rendered.

Assuming that Walklu Sdn Bhd is a registered person under the category of ITS provider. In principal, ITS provided by Walklu Sdn Bhd is a taxable services and subject to service tax. However, since Walklu Sdn Bhd provides ITS to Run2U Sdn Bhd who is also a registered person under the category of ITS provider, then Walklu Sdn Bhd does not have to charge service tax for ITS. Walklu Sdn Bhd, is entitled for exemption of service tax.



Example 22

In relation to example 21, for other situation Run2U Sdn Bhd engaged PhooDotCom to develop software for the company itself. Run2U Sdn Bhd is now the end consumer. PhooDotCom need to charge service tax on ITS provided to Run2U Sdn Bhd. Based on this arrangement, Run2U Sdn Bhd does not entitled for exemption from of service tax because he is now the end consumer for the ITS.

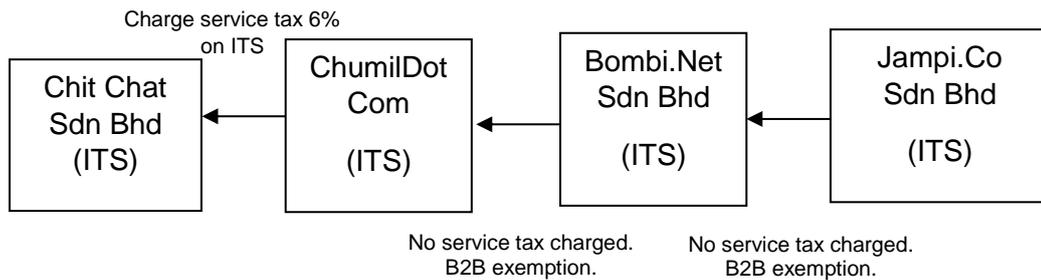


Example 23

ChitChat Sdn Bhd is in the business of ITS. The company engaged ChumilDotCom to develop a software for the company. ChumilDotCom decided to engage another ITS, Bombi.Net Sdn Bhd to customize the software. Bombi.Net Sdn Bhd will then appoint another ITS provider, Jampi.Co Sdn Bhd to provide coding and programming service.

Assume that all companies are registered person under the category of ITS.

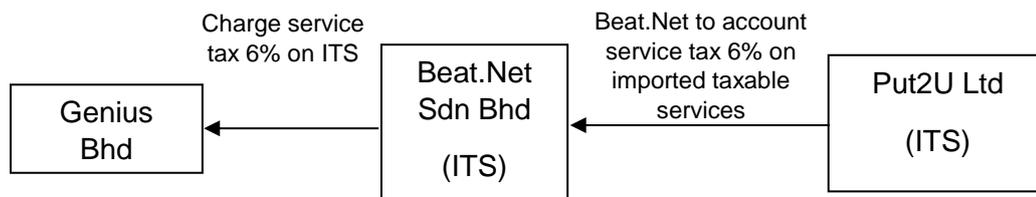
Therefore both ChumilDotCom and Bombi.Net Sdn Bhd will entitle for exemption from payment of service tax.



Example 24

Beat.Net Sdn Bhd is a registered person who provides ITS. Beat.Net Sdn Bhd was appointed by Genius Berhad to develop new software for the company. Beat.Net Sdn Bhd will then engage Put2U Ltd. in London to develop the software. Beat.Net will customized the software based on Genius Berhad requirement.

In principal, ITS provided by Put2U Ltd is an imported taxable services and subject to service tax. Beat.Net does not qualify as a person exempt from payment of service tax since Put2U Ltd is not a registered person. Hence, Beat.Net need to account service tax on the imported taxable services. Beat.Net will also charge Genius Bhd service tax on ITS.



Responsibilities of ITS provider under B2B exemption

19. Any registered person under the category of providing ITS, who has provided ITS to any registered person entitled for the exemption is required to:

- a. Issue invoices with the following additional particulars:
 - i. name and address of the customer;
 - ii. the customer's service tax registration number;
 - iii. the customer's total amount of service tax that are exempted

b. Declare the Total Value of Exempted Taxable Services

Declaration of the value of service exempted from tax (B2B exemption) to be made in column 18 (c) of SST-02 form.

TREATMENT ON IMPORTED TAXABLE SERVICES

20. Starting from 1 January 2019, a tax to be known as service tax shall be charged and levied on any imported taxable services. Any person who acquire taxable services from person outside Malaysia in carrying on his business is subject to service tax.

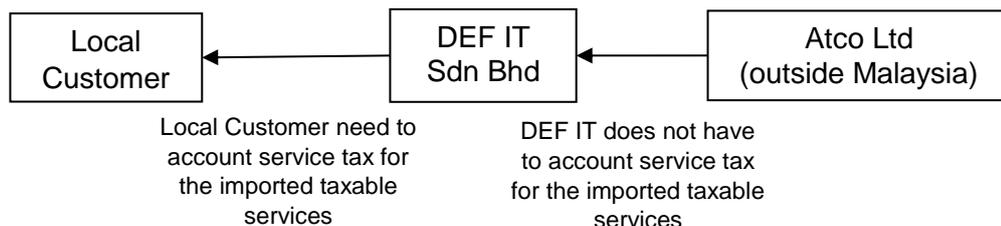
21. Taxable services are services as prescribed in the First Schedule, Service Tax Regulations 2018. Hence, any person acquired ITS from person outside Malaysia will need to account for service tax.

Example 25

AdZin.Com, an ITS company in Russia provided ITS to EZ.Dil Sdn Bhd. EZ.Dil Sdn Bhd shall account the imported taxable services of 6% to RMCD.

Example 26

DEF IT Sdn Bhd is the distributor for a software develop by Atco Ltd, a company outside Malaysia. Atco has appointed DEF IT to issue invoice on its behalf to the customer in Malaysia. Atco will issue invoice under its own name to the customer in Malaysia. The IT services provided by Atco to the customer in Malaysia is an imported taxable service. The imported taxable service will be account by the customer in Malaysia. DEF IT will provide a notification to account the service tax in the invoice issued to the customer in Malaysia.



22. In the case of imported taxable services, service tax is due at the time when the payment is made or invoice is received for the service, whichever is earlier.

Example 27

AdZin.Com, an ITS company in Russia provided ITS to EZ.Dil Sdn Bhd in February 2019. EZ.Dil Sdn Bhd received invoice from AdZin.Com on March 2019. EZ.Dil Sdn Bhd shall account the imported taxable services of 6% to RMCD on invoice received.

23. The value of imported taxable services acquired by a person in Malaysia who is not connected with the person who is outside Malaysia is the actual value of the imported taxable services.

Example 28

ABC Sdn Bhd acquiring ITS from an oversea company. The invoice value is RM10,000 inclusive of withholding tax of 10%. Imported taxable services will be imposed on the value of the invoice which is RM10,000.

24. For the purpose of intra-group services, Paragraph 3, First Schedule, Service Tax Regulation 2018 shall not apply to any imported taxable services acquired by a company in Malaysia from any company within the same group of companies outside Malaysia.

25. However, exemption has been given by the Ministry of Finance under Section 34(3), Service Tax Act where exemption is given for the services acquired by a company in Malaysia from any company within the same group of companies outside Malaysia. For more information, please refer to Guide on Imported Taxable Services.

RESPONSIBILITY OF REGISTERED PERSON

26. An ITS service provider whose total turnover for the period of 12 months exceeds the prescribed threshold of taxable services is required to be registered under the Service Tax Act 2018. For further guidance and details on registration including an auto-registration, please refer to the *Guide on Service Tax Registration*.

27. A registered person is responsible to :
- (i) Charge service tax on his taxable services,
 - (ii) Issue invoices and receipts with specific particulars,
 - (iii) Submit service tax return sst-02 electronically and pay service tax before due date, and
 - (iv) Keep proper records with regards to his business.

For further information with regards to the responsibilities of a registered person, please refer to the *General Guide on Service Tax* and relevant Specific Guide.

FREQUENTLY ASKED QUESTIONS (FAQs)

1. Q : **How to be a registered person?**

A : ITS provider who provides prescribed taxable services and having sales value more than RM500,000 have to apply for registration via online by submitting SST-01 form to MySST system. However, if the sales value of ITS is not exceeding RM500,000 but the total sales value of other services under Group G, First Schedule of the Service Tax Regulations 2018 is exceeding RM500,000, ITS provider is liable to register.

2. Q : **How to submit service tax return and make payment?**

A : A registered person needs to submit service tax return SST-02 Form and make payment via electronic (MySST) or by post to Customs Processing Centre in Kelana Jaya. The payment methods are either cheque or bank draft. For more information refer to *Return and Payment Guide*.

3. Q : **Does a registered person need to issue an invoice?**

A : Every transaction by a registered person must be issued with an invoice. However, the registered person can apply to use other documents to replace the invoice and but subject to approval by the Director General. For more information, please refer *General Guide*.

4. Q : **For the calculation of threshold, are all IT and IT related services subject to service tax?**

A : For the calculation of threshold, only prescribed services under IT services will be subjected to service tax.

5. Q : **Is the webpage vendor services subject to service tax?**

A : The ITS from the vendor to client is subject to service tax.

6. Q : **Is the maintenance of server subject to service tax?**

A : Only the maintenance of software or operating system in the server is subject to service tax under ITS. The maintenance of server (hardware) is

not subject to service tax under ITS. However, the maintenance of hardware may be subject to service tax under taxable service of maintenance management.

7. Q : **ABC Sdn Bhd engaged into maintenance contract of an MRI machine with a hospital. What is the tax treatment on the maintenance services?**

A : The maintenance of the MRI machine is a taxable service under maintenance management services.

8. Q : **In relation question 7, DEF Sdn Bhd was appointed to provide maintenance services on the software of the MRI machine. What is the tax treatment on the maintenance of software?**

A : The maintenance of software is a taxable service under ITS and will be subjected to service tax.

9. Q : **A registered ITS company in Pahang has a branch in Labuan (DA) and providing ITS within Labuan. Is the ITS subject to service tax?**

A : The branch in Labuan (DA) which provide ITS within Labuan is not subject to service tax provided that the invoice issued by the branch (DA).

10. Q : **A registered ITS company in Johor Bahru providing ITS within Langkawi. Is the service subject to service tax?**

A : ITS within Langkawi (DA) is subject to service tax because the principal place of business of the company is in Malaysia.

INQUIRY

For any inquiries for this guide please contact:

Internal Tax Division
Royal Malaysian Customs Department
Level 3 - 7, Block A, Menara Tulus,
No. 22, Persiaran Perdana, Presint 3,
62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on can be obtained from:

- (i) SST website : <https://customs.gov.my>
- (ii) Customs Call Centre:
 - Tel : 03-7806 7200 / 1-300-888-500
 - Fax : 03-7806 7599
 - Email: ccc@customs.gov.my

SUMMARY OF DOCUMENT CHANGE

Version 6 - 9 August 2019

Para	Changes
Para 15 (viii)	By inserting the words " <i>such as rental</i> " after the word cost.
Example 23	By replacing the word " <i>advertising</i> " to the word " <i>IT</i> " in the illustration.
FAQ 7	By deleting the following sentence: <i>"However, any management services for the purpose of health is excluded from service tax."</i>