



SERVICE TAX 2018

**GUIDE ON:
PROFESSIONAL SERVICES**

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This information is intended to provide a general understanding of the relevant treatment under Service Tax legislations 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 1 September 2018.
2. Service tax is imposed on prescribed services called “taxable services”.
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. This guide is prepared to assist you in understanding the service tax treatment on the provision of professional services.

IMPOSITION AND SCOPE OF TAX

5. Effective 1 September 2018, Group G, First Schedule, Service Tax Regulations 2018, the provision of professional services under prescribed circumstances is subject to service tax.

PROFESSIONAL SERVICES

6. For the purpose of this guide, professional services cover activities which require a high degree of training, specialized knowledge and skills. The professional services are listed under Group G, First Schedule of the Service Tax Regulations 2018 as below:

- (i) Legal services,
- (ii) Legal services on Islamic matters,
- (iii) Accounting services,
- (iv) Surveying services,
- (v) Engineering services,

- (vi) Architectural services,
- (vii) Consultancy services,
- (viii) Information technology services,
- (ix) Management services,
- (x) Employment services, and
- (xi) Safety or security services.

Legal Services

7. Legal services are performed by a legal practitioner who may be an advocate or solicitor. A legal practitioner provides services as a general practitioner or specializes in one or more areas of law. These includes probate, matrimonial, employment, company, commercial, litigation and conveyance law. Generally, supply of services by a legal practitioner cover services that are listed under Order 59 Rules 7 of Rules of Court 2012.

8. Under the First Schedule of Service Tax Regulations 2018, any person who is an advocate and solicitor registered under the written laws for the time being in force such as Legal Profession Act 1976, Advocate Ordinance Sarawak 1953 or Advocates Ordinance Sabah 1953 and providing legal services including consultancy services on legal matters and other charges in connection to the provision of legal services is subject to service tax.

9. Provision of legal services including consultancy services on legal matters and other charges in connection to the provision of legal services exclude provision of such services supplied in connection with goods or land situated outside Malaysia or where the subject matter relates to a country outside Malaysia and any statutory fees imposed by any government department or statutory body.

Legal Services on Islamic Matters

10. Provision of legal services on Islamic matters including consultancy services and other charges in connection to the provision of legal services is subject to service tax.

11. Any person who provide legal services on Islamic matters on matters in connection with goods or land situated outside Malaysia or where the subject matter relates to a country outside Malaysia and any statutory fees paid to government or statutory body is not subject to service tax.

12. *Syarie* lawyer means any person who provide legal services on Islamic affairs whom registered under the relevant State Enactment laws. For example, to practice *syariah* law in Federal Territories, any *syarie* lawyer is required to register under the Administration Of Islamic Law (Federal Territories) Act 1993 [Act 505].

Accounting Services

13. The service provider for accounting services is a person who is a public accountant registered under the written law for the time being in force such as Accountant Act 1967.

14. Accounting services include provision of accounting, auditing, book keeping, consultancy or other professional services and other charges in connection to the provision of accountancy services such as recording of commercial transactions from businesses or others, preparation or auditing of financial accounts, examination of accounts and certification of their accuracy, preparation of personal and business income tax returns, consultancy activities and representation on behalf of clients before tax authorities is subject to service tax.

15. However, provision of the service in connection with goods or land situated outside Malaysia or where the subject matter relates to a country outside Malaysia and any statutory fees imposed by any government department or statutory body is not subjected to service tax.

Surveying Services

16. Surveying services include activities of valuation, appraisal, estate agency or professional consultancy services and other charges in connection to the provision of surveying services are taxable services and it is subject to service tax.

17. Provision of surveying services in connection with goods or land situated outside Malaysia and any statutory fees imposed by any government department or statutory body is not subject to service tax.

18. A licensed or registered surveyors including registered valuers, appraisers or estate agents licensed or registered under the written laws for the time being in force such as Valuers Appraisers and Estate Agents Act 1981 [Act 242], Licensed Land Surveyors Act 1958 [Act 458] or Quantity Surveyor Act 1967 [Act 487].

19. Activity of licensed land surveyor that subject to service tax such as follows:-

- (i) Cadastral Survey;
- (ii) Strata Title Survey;
- (iii) Stratum Title Survey; and Other work of Measurement Sciences
- (iv) Deformation Survey
- (v) Engineering Survey
- (vi) Hydrographic Survey
- (vii) Topographical Survey
- (viii) Photogrammetry Mapping
- (ix) Remote Sensing
- (x) Geodetic Surveying and Position Fixing
- (xi) GIS (Geography Information System)/LIS and Spatial Information Acquisition and Management.
- (xii) Gravity Survey and etc.

20. Taxable services provided by registered valuer include services as below :
- (i) Valuation of property or goods for any purposes
 - (ii) Valuation on machinery, vehicles, vessel, aircraft or plant machinery
 - (iii) Valuation to determine rental value of real estate and etc.
21. Services provided by the registered real estate agent is subject to service tax. Such services include managing a property such as management, rental arrangements and activities related to the building as required by the owner of the building.
22. Service tax will be imposed on the management and control of any land, building and any interest therein on behalf of the owner for a fee and includes the following responsibilities:
- (i) Monitoring outgoings for the property and making payments out of the income from the property;
 - (ii) Preparing budgets and maintaining the financial records for the property;
 - (iii) Enforcing the terms of leases and other agreement pertaining to the property;
 - (iv) Advising on sale and purchase decision;
 - (v) Advising on insurance matters;
 - (vi) Advising on the opportunities for the realization of development or investment potential of the property;
 - (vii) Advising on the necessity for upgrading the property or for the merging of interests; and etc.
23. The services provided by quantity surveyor (QS) that subject to service tax includes:

- (i) Preparation of initial cost estimate and project development planning costs.
- (ii) Advisory on the estimated cost of project development design.
- (iii) Advice on procurement, tender and contract procedure.
- (iv) Provision of "Bill of Quantities" or specifications for tender purposes.
- (v) Tender offer (Calling of tenders) includes calling for auction.
- (vi) Assessment of accepted tender reports.
- (vii) Provision and execution of contracts.
- (viii) Final project completion of the project.

24. Service tax also will be chargeable on the supplementary services provided by QS:

- (i) Preparing Feasibility Study of a Project
- (ii) Provide an estimate of cash flows of development expenditure and income for the project.
- (iii) Assessment of registered contractors for pre-qualifications.
- (iv) A comparison of the cost of the project during the design stage.
- (v) Project construction management.
- (vi) Study life cost and alternative design economics. (life-cycle costing and studies on economics of alternative design.)
- (vii) The "Bills of Quantities" pricing and agreed Rate Tables.
- (viii) Evaluation and auditing of claims involving litigation and arbitration cases.
- (ix) Auditing on contracts, budgets and related expenses.
- (x) Applying the material surveying service in the "turnkey project" or privatization contract.

25. The services provided by any Property Consultant and Valuers include the activities or services as below are subject to service tax:

(i) Property valuation

- (a) On movable asset including the issuance of shares, corporate planning/restructuring, financial statements and related accounts, corporatization and privatization, and etc.
- (b) On immovable property (statutory valuations) including land acquisition which involve appeal reduction assessment, stamp duty, real property gain tax, conversion premium and alienation premium.
- (c) For other purposes including the sale or purchase activities which involve loan securities, mortgages or debentures. Also, valuation activities on foreclosure, courts reference or litigation, arbitration cases for determination of rental or judicial review.

(ii) Property Management

- (a) On efficient housekeeping and maintenance of buildings to ensure that the condition of the building is in good condition excluding services provided by developer, joint management body or management corporation to the owner of a building held under a strata title.
- (b) On sorting and collection of rentals
- (c) On management expenses

(iii) Market Research / Feasibility studies

- (a) Collects information, analyze and reports for the purpose of evaluating the property market trends.

- (b) Market Research and Analysis includes study of demand and supply, financial and investment risk analysis, analysis of development strategies and others.

- (iv) Project Management
 - (a) Project management and coordination includes planning, stage construction including provision of last account.
 - (b) Pre-construction phase selection of professional teams comprising architects, engineers, material surveyor and contractor.
 - (c) Construction phase includes budget control, cost and progress schedule as stated in the contract.
 - (d) Financial control includes creating cash flow charts.
 - (e) Quality control to ensure the building is completed according to specifications.

- (v) Property consultant and valuer agency who give consultation services on activities such as value of rent, amount of hire purchase, investment marketing and consultancy.

Engineering Services

26. Engineering services including provision of engineering consultancy or other professional services are taxable services excluding provision of such services supplied in connection with goods or land situated outside Malaysia and any statutory fees imposed by any government department or statutory body.

27. The engineering services provider is a person who is a professional engineer registered under Registrations of Engineers Act 1967 [Act 138].

28. The following services provided by any registered professional engineer is subject to service tax :

- (i) Engineering consultancy services provided by the engineering firm registered with the Board of Engineers, Malaysia;

- (ii) Provision of professional engineering services;
- (iii) Reimbursement on professional engineering services;
- (iv) Supervision fee for secondment of staff at site;
- (v) Secondment of staff supplied by engineering consultant for preparation of engineering services;
- (vi) Site supervision services where the site staff are specially recruited by the engineering consultant for a particular project or are sent from his own design office;
- (vii) Services by engineering consultant regarding groundwater exploration for the assessment of water supply;
- (viii) The soil testing service provided by engineer; or
- (ix) Other services in relation to engineering services other than stated above.

Architectural Services

29. Architectural services includes provision of professional consultancy services and other charges in connection to the provision of architectural services are subject to service tax.

30. The architectural service provider is a person who is registered as an architect under the Architects Act 1967 or any other written laws in relation to architectural services for the time being in force.

31. Services provided by the registered architects that subject to service tax are as follows:

- (i) The provision of architectural services which included professional consulting services. Clerk of Work for Architects where a personnel

stationed at project site to monitor and report the progress or the development of project to customers and architects; and

- (ii) Other services related to architectural services.

32. Service tax is not chargeable on the architectural services supplied in connection with goods or land situated outside Malaysia or where the subject matter relates to a country outside Malaysia, and any statutory fees paid to the government or statutory body.

Consultation Services

33. Consultation services is a service provided by a professional who have their own specific expertise or knowledge to provide opinions or advice in order to assist the businesses to make decisions. The consultant will advise businesses on the adaptation of the best practices, expectation or feedback from customers, procurement, rebranding and image, interior design and etc.

34. Provision of consultancy services which are not subject to service tax are as follows:

- (i) Provision of consultancy services relating to medical and surgical treatment (to human or animal) provided by private clinics or specialist clinics includes consultancy services by the medical practitioner; or
- (ii) Provision of consultancy services supplied in connection with :
 - (a) Goods or land situated outside Malaysia; or
 - (b) Other than matters relating to (a) outside Malaysia.

35. However, there are certain companies who provide consultation services and not subject to service tax if the companies fulfil the conditions as below:

- (i) Research and development companies;

- (ii) Contract research and development companies under section 2 of the promotion of Investments Act 1986 [Act 327]; and
- (iii) Approved research institute under section 34b of the Income Tax Act 1967 [Act 53].

36. Services provided by consultancy services that subject to service tax such as follows:

- (i) Preparation of all types of consulting services relating to land, goods or others things in Malaysia;
- (ii) Consulting services provided by image consultant;
- (iii) Provision of consultancy services and patent and intellectual property registration in Malaysia;
- (iv) "Quality Assurance" Consultancy Services - related to the system used by organizations in all activities involve design form, marketing, production and service after sales like ISO 9000, ISO9002 etc.;
- (v) The consulting services in the computer industry includes the recommendation of hardware, program/software development, development of software implementation, selection system selection, computer information system management, formulating information technology strategies or other related consultations with computer project;
- (vi) Advice on consulting services fees technical / expert in relation to "syarie advisory service" such as Islamic banking products;
- (vii) Consulting services provided by foreign consulting company provided that it has office or premises in Malaysia and registered with SSM or a professional body specific in Malaysia or even have an agent (registered company with SSM / Professional Body) appointed to act on behalf of a consulting firm foreign; or
- (viii) A person who is:

- (a) carrying on a profession or vocation;
- (b) employed under contract for service;
- (c) accept the position of a holder of an office in his personal capacity;
- (d) employed on his expertise in his fields; or
- (e) on his personality being appointed as a company director under a contract for service

is treated as providing consultation services. The director under a contract for service may charge fee to the companies and such fees are subject to service tax. However, if a person is appointed as a director on the capacity of his post (contract of services) or under employment with the company, is not subject to service tax.

Diagram 1:

Service Tax Treatment On Office Holders/ Directors' Fees

No.	Type of services	Subject to Service Tax	Not Subject to Service Tax
1.	A person appointed as a director- a. in his personal capacity (including government pensioner) b. on his expertise (example tax consultant, economists, accountants, including management of the company but hold positions in companies that are not subsidiaries/subsidiary) c. on his personality (example politician or NGO)	√	
2.	A person is appointed as a director on the capacity of his post (contract of services): - a. civil servants, on office he held		√

No.	Type of services	Subject to Service Tax	Not Subject to Service Tax
	b. company's manager, due to his positions he held and became director in subsidiary or subsidiaries. Those who serve on a contract for services, but appointed on the capacity of the office he held and not under his personal capacity.		
3.	A chartered accountant in a listed company is appointed as a director. He also is an expert and qualified person and has his own businesses or hold positions in other companies.	√	
4.	Members of hospitals visitors' board or members of Syariah Advisor which is not under the personal capacity.		√

(ix) Other services related to consultancy services.

Information Technology Services

37. Any person who provides all types of information technology services is subject to service tax.

38. However, such services exclude the provision or sale of goods in connection with the provision of the information technology services and provision information technology services in connection with goods or land situated outside Malaysia or other than matters relating to goods or land outside Malaysia.

39. For further information, please refer to the *Guide on Information Technology Services*.

Management Services

40. Management services include provision of all types of management services and other charges in connection to the provision of management services. Such services consist of project management or project coordination but excluding provision of services supplied in connection with goods or land situated outside Malaysia, or other than matters relating to goods or land outside Malaysia.

41. The management services provided by any person who is a developer, joint management body or management corporation to the owners of a building held under a strata title, or asset and fund managers, shall not be chargeable to service tax.

42. For further information, please refer to the *Guide on Management Services*.

Employment Services

43. Employment services cover the provision of all types of employment services. As stated under Malaysian Standard Industrial Classification 2008 (MSIC), such services include activities of listing employment vacancies and referring or placing applicants for employment, where the individuals referred or placed are not employees of the employment agencies, supplying workers to clients' businesses for limited periods of time to supplement the working force of the client, and the activities of providing human resources and human resource management services for others on a contract or fee basis.

44. Thus, any person who provides employment services is subject to service tax excluding:

- (i) Provision of employment services in the form of secondment of employees or supplying employees to work for another person for a period of time; or
- (ii) Provision of employment services for employment outside Malaysia.

45. For further information, please refer to the *Guide on Employment Services*.

Private Agency

46. Any person or private agency who is licensed under the Private Agencies Act 1971 [Act 27] who provide services within the provision of guards or protection for the personal safety or security of another person or for the safety or security of the property or business of such other person including providing central monitoring system by such person will be subjected to service tax.

47. Provision of services for protection of property safety and personal safety of an auto teller machine and services collection and delivery money (cash in transit) which involved security transport services, cash management services, total record management and monitoring services is subject to service tax.

48. However, such services shall not be chargeable to service tax if the provision of such services is to guard or protect person, property or business situated outside Malaysia. Also, services provided by any private investigator is not subject to service tax.

TREATMENT OF SERVICE TAX ON PROFESSIONAL SERVICE

49. Service tax is charged on any taxable services made by the professional taxable service provider as listed under Group G, Service Tax Regulation 2018.

50. A professional service provider is required to charge service tax at the rate of 6% to the businesses or consumer on the taxable services provided and account the tax to the government.

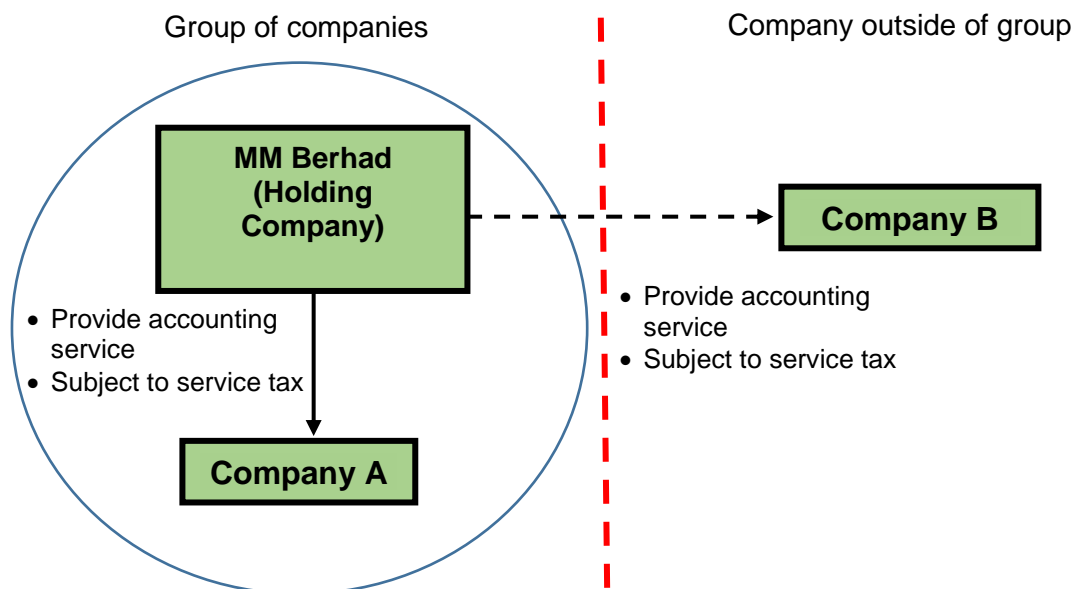
51. A professional service provider who provides taxable services as prescribed under item 'a' to 'i', Group G of First Schedule, Service Tax Regulations 2018 to a company within the group of companies are not subject to service tax. Such professional services are as follows:

- (i) Provision of legal services;
- (ii) Provision of legal services on Islamic matters;
- (iii) Provision of accountancy services;

- (iv) Provision of all types of surveying services;
- (v) Provision of engineering services;
- (vi) Provision of architectural services;
- (vii) Provision of consultancy services;
- (viii) Provision of all types of information technology services; or
- (ix) Provision of all types of management services.

52. However, if the professional service (as in paragraph 51) is provided to a subsidiary within the group of companies and to a person outside of the group of companies is a taxable service and subject to service tax.

Example 1: Services Provided To Another Person Outside The Group Of Companies.



In example 1, MM Berhad provide accounting services to its subsidiary, Syarikat A which is a company in the same group of companies. Meanwhile, MM Berhad also provide accounting services to Company B which is a company outside the group of companies. Hence, such services provided by MM Berhad is a taxable

service regardless whether the services is provided to a company within or outside the group of companies.

Non-Taxable Services

53. A member of a group of companies who provides taxable services as mentioned in paragraph 51 above to any company within the same group of companies, such services shall not be treated as a taxable service.

54. In order to treat a company who provides services within the same group of companies as making non-taxable services, the company shall consists of two or more companies and one of the company controls each of the other companies. A company shall be taken to control another company if it:

(i) The first mentioned company holds:

- (a) Directly;
- (b) Indirectly through subsidiaries; or
- (c) Together directly or indirectly from subsidiaries,

More than fifty percent (50%) of the issued share capital of the second mentioned company; or

(ii) The first mentioned company holds:

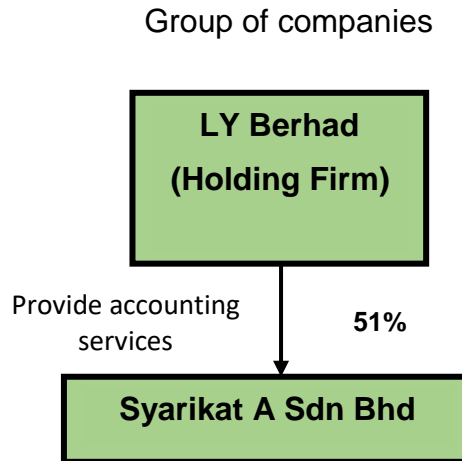
- (a) Directly;
- (b) Indirectly through subsidiaries; or
- (c) Together directly or indirectly from subsidiaries,

From twenty percent (20%) to fifty percent (50%) of the issued share capital of the second mentioned company and the first mentioned company has exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

55. Where a company is controlled by virtue of paragraph 54(ii) by two or more companies, such company (second mentioned company) shall be taken to be controlled by the first mentioned company which has the exercisable power to

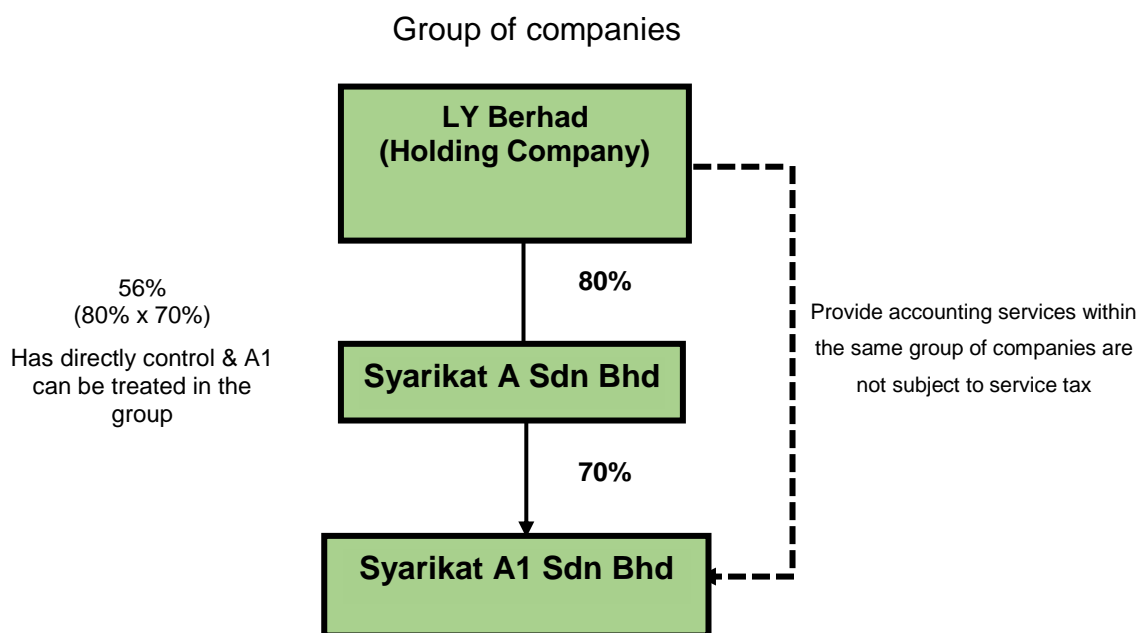
appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

Example 2: Directly to subsidiary



LY Berhad hold 51% of shares over Syarikat A Sdn. Bhd. For service tax purposes, LY Berhad has full and direct control over Syarikat A Sdn Bhd and they are eligible to be treated as companies within a group of companies. Therefore, any services provided within the same group of companies shall not be a taxable service.

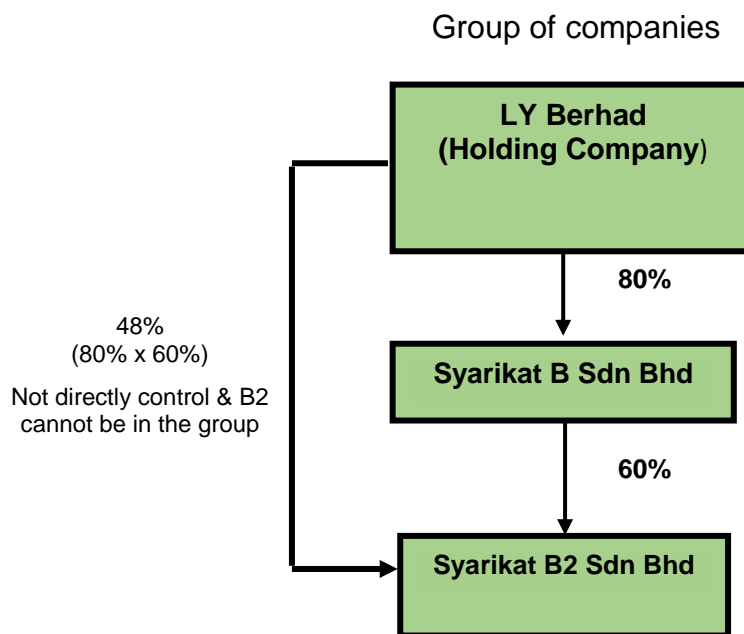
Example 3: Indirectly through subsidiaries



Example 3

Indicate that LY Berhad has a direct control over Syarikat A Sdn Bhd by holding 80% of its shares and Syarikat A Sdn Bhd controls Syarikat A1 Sdn Bhd by holding 70% of the company's shares. Indirectly, LY Berhad has the power to control Syarikat A1 Sdn Bhd by holding 56% (80% x 70%). For service tax purposes, LY Berhad, Syarikat A Sdn Bhd and Syarikat A1 Sdn Bhd are eligible to be treated as companies within a group of companies. Therefore, any services provided within the same group of companies shall not be treated as taxable services. Thus, the supply of accounting services by LY Berhad to Syarikat A1 Sdn Bhd is not chargeable to service tax.

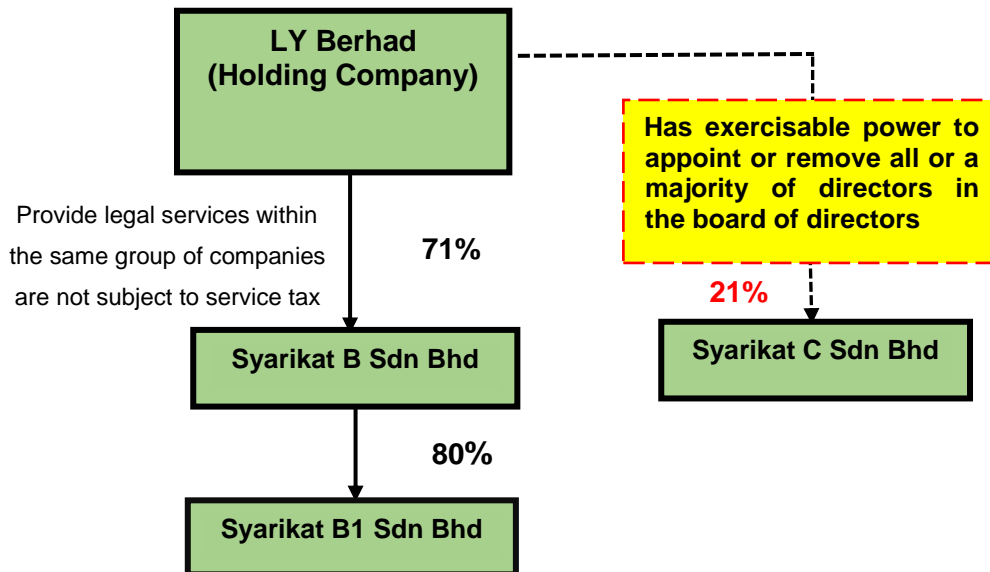
Example 4: Company holds together directly or indirectly from subsidiaries



Example 4:

Shows that a company shall be taken to control another company if the first mentioned company LY Berhad hold together directly or indirectly from subsidiaries more than 50% of the issue shares capital of the second mentioned company. Hence, LY Berhad holds 80% of share on Syarikat B Sdn Bhd and Syarikat B Sdn Bhd taken to control Syarikat B2 Sdn Bhd of 60% shares. Therefore, LY Berhad does not have the power to control Syarikat B2 Sdn Bhd by holding 48% (80% x 60%) of its shares. Hence, supply of legal services by LY Berhad to Syarikat B Sdn Bhd and Syarikat B2 Sdn Bhd are subject to service tax.

Example 5: Company deemed to be taken to control another company.

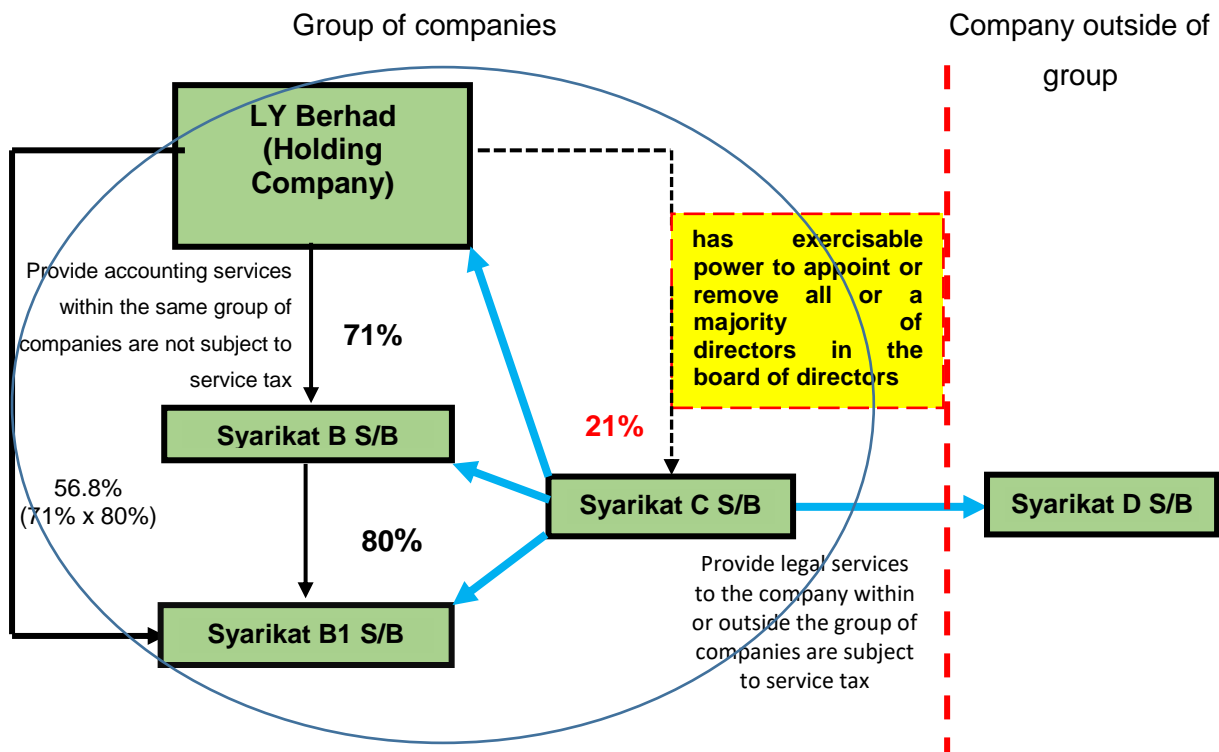


Example 5:

LY Berhad has form up a group of companies with Syarikat B Sdn Bhd and Syarikat B1 Sdn Bhd. At the same time, LY Berhad also owns 21% of shares in Syarikat C Sdn Bhd. Despite LY Berhad only owns 21% of shares in Syarikat C Sdn Bhd, the company still can form a group of companies with Syarikat C Sdn Bhd because the company has the exercisable power to appoint or remove all or a majority of directors in the board of directors in Syarikat C Sdn Bhd. Therefore, any services provided within the same group of companies shall not be treated as taxable services. Thus, the supply of legal services by LY Berhad to Syarikat B Sdn Bhd, Syarikat B1 Sdn Bhd and Syarikat C Sdn Bhd is not chargeable to service tax.

56. Where a company provides any services mentioned in paragraph 51 as above to another person outside the group of companies, such services shall be treated as taxable service regardless to whom the service is performed and shall not eligible to be treated as inter group service and subject to service tax.

Example 6: Services provided by a member of the group of companies to company outside of the group.



Example 6:

LY Berhad, Syarikat B Sdn Bhd, Syarikat B1 Sdn Bhd and Syarikat C Sdn Bhd has form up a group of companies. Therefore, the supply of any services within the same group of companies made by any service provider under Group G (Professionals) of First Schedule, Service Tax Regulations 2018, as paragraph 51 above are treated as non-taxable services. In this example, Syarikat C Sdn Bhd has provided services to his members in the group of companies, Syarikat D Sdn Bhd who is not a member of the group. Therefore, services provided by Syarikat C Sdn Bhd to LY Berhad, Syarikat B Sdn Bhd, Syarikat B1 Sdn Bhd and Syarikat D Sdn Bhd are subject to service tax. However, the services provided by LY Berhad, Syarikat B Sdn Bhd and Syarikat B1 Sdn Bhd to Syarikat C Sdn Bhd which are still made within the same group of companies are not subject to service tax.

REGISTRATION AND RESPONSIBILITY OF A REGISTERED PERSON

57. An employment 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*.

58. A registered person is responsible to:

- (i) Charge service tax on his taxable services;
- (ii) Issue invoices and receipts to his customers in respect of any transaction relating to the provision of taxable services;
- (iii) Submit service tax return SST-02 via electronic and pay service tax before due date; and
- (iv) Keep proper records with regards to his business.

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

FREQUENTLY ASKED QUESTIONS (FAQs)

1. Q : **What is the service tax implication on professional services?**

A : For the purpose of service tax, professional services which are listed in the First Schedule of the Service Tax Regulations 2018 are subjected to service tax at the rate of 6%.

2. Q : **Is service tax chargeable on services which have been performed on project or job which was put on hold or cancelled?**

A : Service tax is chargeable on the proportion of the services which have been performed, even though the project or job was put on hold or cancelled.

3. Q : **As a registered person who provide professional services, how do I charge and account for service tax?**

A : As a registered person, service tax is chargeable on the services provided based on the value of the services performed including all charges in respect of miscellaneous expenses, cost of extra work, commissions, travelling or accommodation expenses, reimbursement, charges for normal copying and stationeries etc. As a registered person, you are required to account for service tax when payment is received according to the taxable period.

Example 10:

JB & Co who is a registered person provides architectural services to client B. The services started in 1 September 2018 and completed on 31 December 2018. An invoice issued shall include the value of services and value of all other services in connection with architectural services such as commissions, miscellaneous expenses, cost of extra work, travelling and accommodation expenses, and other taxable services incurred. The date of completion of services i.e. on 31 December 2018 and payment received on 2

January 2019. Assuming the payment is received in January-February taxable period, JB & Co has to make payment and submit for service tax return before 31 March 2019.

4. Q : **Are the membership fees imposed by the professional bodies such as Bar Council, Board of Engineers Malaysia, Board of Architects Malaysia, Malaysian Institute of Accountant and etc. subject to service tax?**

A : Any fees as regulated under any respective law in Malaysia and being imposed by the professional bodies are not subject to service tax.

5. Q : **If I am engaged by local firm to undertake an engineering project overseas, do I have to account for service tax?**

A : All professional services provided outside Malaysia is not subject to service tax except supply made in connection with goods or land or other matters situated in Malaysia.

6. Q : **Is sub-consultant who provides professional engineering consultancy services to the prime consultant subject to service tax?**

A : Sub-consultant who is a registered person supplying professional engineering consultancy services to the prime consultant is required to charge and account for the service tax on his services.

7. Q : **Is service tax chargeable on deposit received from a client?**

A : Deposit received in the form of security is not subject to service tax. However, if the deposit received as part of a payment, then it is subject to service tax

8. Q : **How does service tax apply when I discount my billing?**

A : Service tax is chargeable on the discounted or reduced amount of services provided by a registered person.

Example 11:

<i>Legal fees</i>	=	<i>RM5,000</i>
<i>Discount 10%</i>	=	<i>(RM500)</i>
<i>Discounted amount payable</i>	=	<i>RM4,500</i>
<i>Service tax @ 6%</i>	=	<i>RM 270</i>
<i>Total amount payable</i>	=	<i>RM4,770</i>

9. Q : **What will happen if my customer does not pay me after I have issued an invoice for the service performed?**

A : Service tax is based on payment basis. If the payment is not received from the customer within a period of 12 months from the date of the invoice issued, you are required to account and make payment on the service tax according to the taxable period after the 12 months period ends.

10. Q : **Does local consultants obtaining services from foreign consultant required to account for service tax on the imported services?**

A : Imported services is not subject to service tax.

11. Q : **If I provide legal services to a person outside Malaysia but the billing is charged and paid by a person in Malaysia. Do I have to account for service tax?**

A : The provision of legal services to a person outside Malaysia but billing is charged and paid by a person in Malaysia is not subject to service tax provided that it is relates to land or goods situated outside Malaysia or where the subject matter relates to a country outside Malaysia.

12. Q : **Who has to account for service tax on legal services performed in Malaysia by a foreign legal practitioner registered in Singapore?**

A : The provision of legal services in Malaysia by a foreign legal practitioner is treated as imported services and not subject to service tax.

13. Q : **What is the service tax treatment on the supply of legal services provided by a legal practitioner in Principal Customs Area (PCA) to a recipient in Designated Area (Langkawi, Tioman or Labuan)?**

A : A provision of legal services by a registered person in the Principal Customs Area to a recipient in Designated Area or Special Area is subject to service tax.

14. Q : **What is the service tax treatment on the provision of legal services provided by a registered legal practitioner in the Designated Area to a recipient in the Principal Customs Area?**

A : Legal services provided by a registered practitioner who resides in the Designated Area or Special Area to a recipient in the Principal Customs Area is subject to service tax.

15. Q : **Are legal services provided within or between the Designated Areas subjected to service tax?**

A : Legal services rendered within or between the Designated Areas or Special Area are not subjected to service tax.

16. Q : **When is the service tax due and payable for a legal practitioner who received money/payment and deposited it into the client's account or client's trust account?**

A : Under The Solicitors' Accounts Rules 1990 [P.U. (A) 301/1990], a solicitor may receive or hold client's money in connection with his practice as a solicitor, agent, bailee, stakeholder or in any other capacity and includes solicitor trust money. A service tax registered legal practitioner who received payment for the provision of legal services including consultancy services on legal matter or other charges in connection to the provision of legal services shall account for service tax according to the taxable period based on the date of payment received, whether or not the payment is received directly to client's account or trust account. However, service tax shall not be chargeable on the statutory fees paid to the government or statutory body. The legal practitioner may make an adjustment on their account and SST-02 return if the client or the solicitor choose not to proceed the services or the case is aborted and the money was returned to the client.

17. **Q : AA Company Berhad provides accounting services to his subsidiaries within the same group of companies. The value of the services is RM 600,000. Subsequently, AA Company Berhad entered into an agreement to provide accounting service to BB Company Sdn Bhd who is not a member of the group of companies. Do AA Company Berhad required to apportion the service tax in his return?**

A : If the management services provided by AA Company Berhad who hold more than 50% of shares and have the power to control his subsidiaries within the same group of companies, such services is not chargeable to service tax. However, if the accounting services is extended to BB Company Sdn Bhd who is not a member of the group of companies, the accounting services provided to his subsidiaries and other company outside the group is subject to service tax. No apportionment is allowed.

18. **Q : What is the service tax treatment for a person who hold both position as a director of service (employee of a company) and as a director for service under his own personal capacity and expertise in another company?**

A : Director's fees chargeable under a contract for service to the companies under his own personal capacity and expertise are subject to service tax. However, on the proportion of the director's fees charged on the capacity of his post (contract of services) or under employment with the company, is not subject to service tax.

INQUIRY

For any inquiries for this guide please contact:

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

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on SST can be obtained from:

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

SUMMARY OF DOCUMENT CHANGE

Version 3 - 4 September 2018

Para	Changes
Para 36	Renumber (viii) to (ix) and added new paragraph as (viii)
Question 18	Added new question and answer.