

A8 INDIRECT TAXES

A8.1

EXTENSION OF TAX INCENTIVE UNDER THE RETURNING EXPERT PROGRAMME

Existing Legislation

Presently, any returning Malaysian professionals are able to enjoy import duty and excise duty exemptions on the purchase of locally assembled motor vehicles (Completely Knocked Down (CKD)) or fully imported motor vehicles (Completely Built-Up (CBU)) up to a maximum amount of RM100,000, for each CBU or CKD motor vehicle purchased.

Proposed Legislation

It is proposed that the excise duty exemption to be extended for another 4 years on the purchase of CKD motor vehicle.

Reference

To be gazette by way of statutory order.

Effective Date

Applications received by the Talent Corporation Malaysia Berhad from 1 January 2024 to 31 December 2027.

Likely Tax Effects and Implications

This proposal aims to encourage global talent circulation and attract professional Malaysian diaspora to return to Malaysia with the benefit of enjoying excise duty exemption on CKD motor vehicle.

A8.2

IMPORT DUTY AND SALES TAX EXEMPTIONS ON MANUFACTURING AIDS

Existing Legislation

Presently, there are no import duty and sales tax exemptions given to manufacturers for the importation and local acquisition of manufacturing aids under the Customs Act 1967 and Sales Tax Act 2018.

Proposed Legislation

It is proposed for import duty and sales tax exemptions to be granted to eligible manufacturers on the importation and local acquisition of manufacturing aids, subject to the designated industries and categories of goods.

Reference

To be gazetted by way of statutory order.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposal aims to enhance the competitiveness of the manufacturing sector.

A8.3

ENTERTAINMENTS DUTY REDUCTION OR EXEMPTION IN THE FEDERAL TERRITORIES

Existing Legislation

Presently, entertainments duty at the rate of 25% is imposed on admission fees to entertainment places or events such as theme parks, stage performances, sports events and competitions as well as film screening in cinemas.

Proposed Legislation

It is proposed that the current entertainments duty rate to be reduced or exempted for selected type of entertainments held in the Federal Territories as follows:

No.	Type of Entertainments	Current Entertainments Duty Rate	New Entertainments Duty Rate
1.	Stage performance by international artist/Light Show/Circus	25%	10%
2.	Film screening (Cinema)/Theatre		
3.	Exhibition/Zoo/Aquarium		
4.	Sports Event/E-Sports/Bowling/Snooker/Pool/Billiard/Karaoke		5%
5.	Theme Park/Family Recreation Centre/Indoor Games Centre/Simulator		0%
6.	Stage performance by local artist		

Reference

To be gazetted by way of statutory order.

Effective Date

For applications received by the Ministry of Finance from 1 January 2024 to 31 December 2028.

Likely Tax Effects and Implications

This proposal aims to support the development of the national creative industry, nurture cultural unity and strengthen family bonding.

A8.4

REVIEW OF EXCISE DUTY RATE ON READY-TO-DRINK SUGAR SWEETENED BEVERAGES

Existing Legislation

Effective 1 July 2019, ready-to-drink sugar sweetened beverages are subject to excise duty at the rate of RM0.40 per litre based on the sugar content threshold as follows:

<i>Tariff Code Heading</i>	<i>Product Description</i>	<i>Sugar Content Threshold</i>
22.02	Beverages including carbonated drink, containing added sugar or other sweetening matter or flavoured, including other non-alcoholic beverages	>5g/100ml
22.02	Flavoured milk-based beverages containing lactose	>7g/100ml
20.09	Fruit juices and vegetable juices, whether or not containing added sugar or other sweetening matter	>12g/100ml

Proposed Legislation

It is proposed that the rate of excise duty for ready-to-drink sugar sweetened beverages will be increased from RM0.40 per litre to RM0.50 per litre.

Reference

To be gazetted by way of statutory order.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposal aims to prevent diabetic disease and obesity which is in line with the effort to improve the health and well-being of the *rakyat*.

A8.5

IMPOSITION OF EXCISE DUTY ON CHEWING TOBACCO

Existing Legislation

Smokeless tobacco products such as chewing tobacco and snuff tobacco are subject to import duty, excise duty and sales tax as follows:

<i>Type of Duty / Tax</i>	<i>Chewing Tobacco</i>	<i>Snuff Tobacco</i>
Import duty	5% + RM50/kg	5% + RM40/kg
Excise duty	Not applicable	5% + RM27/kg
Sales tax	10%	10%

Proposed Legislation

It is proposed for excise duty to be imposed at the rate of 5% + RM27/kg on chewing tobacco under the tariff code 2403.99.5000.

Reference

To be gazetted by way of statutory order.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposal aims to discourage the consumption of chewing tobacco with a view to improve the health and well-being of the *rakyat*.

A8.6

EXPANSION OF SCOPE OF TAXABLE SERVICES AND INCREASE OF SERVICE TAX RATE

Existing Legislation

Presently, service tax is imposed on taxable services specified under the First Schedule of the Service Tax Regulations 2018 with the tax rates as follows:

Group	Taxable Services	Tax Rate
A	Accommodation	6%
B	Food and Beverage	
C	Night Clubs, Dance Halls, Cabarets, Health and Wellness Centres, Massage Parlours, Public Houses and Beer Houses	
D	Private Club	
E	Golf Club and Golf Driving Range	
F	Betting and Gaming	
G	Professionals	
H	Credit Card and Charge Card	RM25 per annum
I	Other Service Providers	6%

Proposed Legislation

It is proposed for the existing taxable services to be expanded to include new types of taxable service as follows:

- (i) Group C: Karaoke centre services;
- (ii) Group I:
 - (a) Delivery services (except for delivery of food and beverage);
 - (b) Brokerage and underwriting services for non-financial services such as brokerage for ship and aircraft space, commodity, and real estate; and
 - (c) Logistic services.

In addition, it is proposed for the service tax rate to be increased from 6% to 8% on all taxable services, except for the following:

- (i) Group B: Food and beverage;
- (ii) Group I: Telecommunication services;

- (iii) Group I: Vehicle parking space services; and
- (iv) Group I: Logistic services.

Reference

To be gazetted by way of statutory order.

Effective Date

1 March 2024.

Likely Tax Effects and Implications

This proposal aims to increase tax revenue of the Government by way of expanding the scope of taxable services and increasing the tax rate from 6% to 8% for certain services.

A8.7

HIGH VALUE GOODS TAX

Existing Legislation

Presently, there is no High Value Goods Tax legislation in Malaysia.

Proposed Legislation

It is proposed in the Budget Speech that the High Value Goods Tax will be imposed at the rate ranging from 5% to 10% on high value goods such as jewelry and watches, which exceed a specific threshold.

Reference

Paragraph 28 of the 2024 Budget Speech and Paragraph 3 of the Appendix I - Touchpoints Budget 2024.

Effective Date

1 May 2024.

Likely Tax Effects and Implications

The proposal aims to expand the tax structure and increase tax revenue for the Government.

A8.8

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 11 OF THE CUSTOMS ACT 1967

Existing Legislation

Section 11 — Power of Minister to fix customs duties by orders to be approved by the Dewan Rakyat

For purposes of this discussion, the relevant subsections of Section 11 of the Customs Act 1967 are provided, as follows:

- (2) Any order made under subsection (1) shall, at the next meeting of the *Dewan Rakyat* be laid on the table of the *Dewan Rakyat* and shall, at the expiration of one hundred and twenty days from being so laid or of such extended period as the *Dewan Rakyat* may, by resolution, direct, cease to have effect if and in so far as it is not confirmed by a resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.

- (3) Where an order ceases to have effect in whole or in part as provided by subsection (2), then any customs duty levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect shall, subject to subsection (4), be repayable to the person from whom such duty was levied.
- (4) Unless the Minister shall otherwise direct, no customs duty repayable under subsection (3) shall be repaid, unless the person entitled to such repayment makes a claim therefor to the Director General within one year from the day on which the order ceases to have effect in whole or in part as provided by subsection (2).
- (5) Such claim shall be made in writing and shall contain such particulars as the Director General may, by general or special order, require.

Proposed Legislation

It is proposed that Section 11 of the Customs Act 1967 to be amended as follows:

- (a) in the shoulder note, by deleting the words “to be approved by the *Dewan Rakyat*”;
- (b) by substituting for subsection (2) the following subsection:
“(2) Any order made under subsection (1) shall be laid before the *Dewan Rakyat*.”; and
- (c) by deleting subsections (3), (4) and (5).

Reference

Section 11 of the Customs Act 1967.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to simplify the process on any orders made under Section 11 of the Customs Act 1967 to be laid before the *Dewan Rakyat*.

A8.9

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 11(2) OF THE DEPARTURE LEVY ACT 2019

Existing Legislation

Section 11(2) of the Departure Levy Act 2019 provides that, any order made under subsection (1) shall—

- (a) be laid before the *Dewan Rakyat* at the next meeting of the *Dewan Rakyat*; and
- (b) at the expiration of one hundred and twenty days from being laid under paragraph (a) or of such extended period as the *Dewan Rakyat* may, by resolution, direct, cease to have effect in whole if the order is not confirmed, or in part in so far as the order is not confirmed, by resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.

Proposed Legislation

It is proposed that Section 11(2) of the Departure Levy Act 2019 to be amended by substituting for subsection (2):

“(2) Any order made under subsection (1) shall be laid before the *Dewan Rakyat*.”

Reference

Section 11(2) of the Departure Levy Act 2019.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

The proposed amendment aims to simplify the process on any orders made under Section 11(2) of the Departure Levy Act 2019 to be laid before the *Dewan Rakyat*.

A8.10

SIMPLIFYING THE PROCESS TO ONLY LAY REGULATIONS BEFORE THE DEWAN RAKYAT UNDER SECTION 23 OF THE ENTERTAINMENT DUTY ACT 1953

Existing Legislation

Section 23(2) of the Entertainment Duty Act 1953 provides that all regulations made under this Act shall be laid as soon as conveniently may be before the *Dewan Rakyat* and if a resolution of the Dewan is passed within the next three months after any such regulations are laid before it that any regulation shall be annulled as from a specified date such regulation shall be void as from that date but without prejudice to the validity of anything done under any such regulation before the date or to the making of any new regulations.

Proposed Legislation

It is proposed that Section 23(2) of the Entertainment Duty Act 1953 to be amended by substituting subsection (2) the following subsection:

“(2) Any regulations made under this Act shall be laid before the *Dewan Rakyat*”.

Reference

Section 23(2) of the Entertainment Duty Act 1953.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to simplify the process on any regulations made under Section 23 of the Entertainment Duty Act 1953 to be laid before the *Dewan Rakyat*.

A8.11

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 6 OF THE EXCISE ACT 1976

Existing Legislation

For purposes of this discussion, the relevant subsections of Section 6 of the Excise Act 1976 are provided, as follows:

- (2) Any order made under subsection (1) shall, at the next meeting of the *Dewan Rakyat*, be laid on the table of the *Dewan Rakyat* and shall, at the expiration of one hundred and twenty days from being so laid or of such extended period as the *Dewan Rakyat* may, by resolution direct, cease to have effect if

and in so far as it is not confirmed by a resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.

- (3) Where an order ceases to have effect in whole or in part as provided by subsection (2), then any duty levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect shall, subject to subsection (4), be repayable to the person from whom such duty was levied.
- (4) Unless the Minister shall otherwise direct, no duty repayable under subsection (3) shall be repaid unless the person entitled to such repayment makes a claim therefor to the Director General within one year from the day on which the order ceases to have effect in whole or in part as provided by subsection (2).
- (5) Any such claim shall be made in writing and shall contain such particulars as the Director General may, by general or special order, require.

Proposed Legislation

It is proposed that Section 6 of the Excise Act 1976 to be amended as follows:

- (a) by substituting for subsection (2) the following subsection:
“(2) Any order made under subsection (1) shall be laid before the *Dewan Rakyat*.”; and
- (b) by deleting subsections (3), (4) and (5).

Reference

Section 6 of the Excise Act 1976.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to simplify the process on any orders made under Section 6 of the Excise Act 1976 to be laid before the *Dewan Rakyat*.

A8.12

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 3 OF THE GOODS VEHICLE LEVY ACT 1983

Existing Legislation

Section 3(3) of the Goods Vehicle Levy Act 1983 provides that, any order made under subsection (2) shall, at the next meeting of the *Dewan Rakyat* be laid on the table of the *Dewan Rakyat* and shall, at the expiration of one hundred and twenty days from being so laid or of such extended period as the *Dewan Rakyat* may, by resolution, direct, cease to have effect if and in so far as it is not confirmed by a resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.

Proposed Legislation

It is proposed that Section 3(3) of the Goods Vehicle Levy Act 1983 to be amended by substituting for subsection (3):

- “(3) Any order made under subsection (2) shall be laid before the *Dewan Rakyat*.”

Reference

Section 3(3) of the Goods Vehicle Levy Act 1983.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

The proposed amendment aims to simplify the process on any orders made under Section 3 of the Goods Vehicle Levy Act 1983 to be laid before the *Dewan Rakyat*.

A8.13

CLARIFICATION ON THE DEFINITION OF THE TERM “SELLER” FOR LOW VALUE GOODS UNDER SECTION 11A OF THE SALES TAX ACT 2018

Existing Legislation

Section 11A of the Sales Tax Act 2018 is provided, as follows:

“seller” means a person, whether in or outside Malaysia, who sells low value goods on an online marketplace or operates an online marketplace for the sales and purchase of low value goods.

Proposed Legislation

It is proposed that the definition of “seller” under Section 11A of the Sales Tax Act 2018 to be amended by substituting for the words “low value goods on an online marketplace”, the words “low value goods on an online platform”.

Reference

Section 11A of the Sales Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

The proposed amendment aims to clarify the definition of the term “seller” for low value goods.

A8.14

CLARIFICATION ON THE FIRST TAXABLE PERIOD TO BE 3 MONTHS FOR SALES TAX ON LOW VALUE GOODS PURPOSES UNDER SECTION 25(1), SCHEDULE OF THE SALES TAX ACT 2018

Existing Legislation

Section 25(1), Schedule of the Sales Tax Act 2018 provides that, the first taxable period of every taxable person shall begin from the date he should have been registered under section 13 and end on the last day of the following month and the subsequent taxable period shall be a period of three months ending on the last day of any month of any calendar year.

Proposed Legislation

It is proposed that Section 25(1), Schedule of the Sales Tax Act 2018 is to be amended by substituting for the words “following month” the words “following two months”.

Reference

Section 25(1), Schedule of the Sales Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to clarify the first taxable period to be 3 months for Sales Tax on Low Value Goods purposes.

A8.15

ENABLING THE ISSUANCE OF CREDIT NOTE AND DEBIT NOTE AS WELL AS EXPANDING THE POWER OF MINISTER TO EXEMPT AND REFUND SALES TAX ON LOW VALUE GOODS UNDER SECTION 11B(2) OF THE SALES TAX ACT 2018

Existing Legislation

Section 11B(2) of the Sales Tax Act 2018 provides that Parts VIII, IX, IXA and XIII, and Sections 3, 14, 15, 16, 23, 32, 35, 36, 37, 40, 41A, 43, 44, 45, 46, 47, 57A, 76 and 96 shall not apply to low value goods.

Proposed Legislation

It is proposed that Section 11B(2) of the Sales Tax Act 2018 to be amended by substituting for the words “Sections 3, 14, 15, 16, 23, 32, 35” the words “Sections 3, 14, 15, 16, 32”.

Reference

Section 11B(2) of the Sales Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to enable the issuance of credit note and debit note for low value goods. Further, the proposed amendment also empowers the Minister to exempt and refund sales tax on low value goods.

A8.16

NON-APPLICABILITY OF SALES TAX ON IMPORTATION WHERE SALES TAX ON LOW VALUE GOODS HAS BEEN LEVIED UNDER NEW SECTION 11E OF THE SALES TAX ACT 2018

Proposed Legislation

The Sales Tax Act 2018 is amended by inserting after Section 11D the following section:

SECTION 11E – SALES TAX ON IMPORTATION IS NOT APPLICABLE ON LOW VALUE GOODS

Notwithstanding paragraph 8(1)(b), no sales tax shall be levied on the low value goods if it is proven to the proper officer of sales tax that the sales tax has been charged by the registered seller and being paid on the low value goods.

Reference

To be gazetted by way of statutory order.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposal aims to ensure that no sales tax is imposed on the importation of low value goods which has been proven to the proper officer of sales tax that the related sales tax has been charged by the registered seller and duly paid.



REMOVAL OF PROVISIONS RELATED TO PRESCRIBED FORMS UNDER SECTION 106(2) OF THE SALES TAX ACT 2018

Existing Legislation

Section 106(2) of the Sales Tax Act 2018 provides that without prejudice to the generality of subsection (1), Minister may prescribe—

- (a) all matters relating to registration of manufacturers and sellers;
- (b) all matters relating to taxable period;
- (c) all matters relating to determination of sale value of taxable goods and low value goods;
- (d) all matters relating to furnishing of returns and payment of sales tax;
- (e) all matters relating to refund, drawback and remission of sales tax;
- (f) all matters relating to public ruling and customs ruling;
- (g) all matters relating to electronic service;
- (h) all matters relating to invoices, credit notes and debit notes;
- (i) all matters relating to the offices for the administration of sales tax;
- (j) all fees required by this Act to be prescribed;
- (k) all forms to be prescribed for the purposes of this Act;
- (ka) all matters relating to low value goods;
- (l) all matters relating to petroleum; or
- (m) any other matters required by this Act to be prescribed.

Proposed Legislation

It is proposed that Section 106(2) of the Sales Tax Act 2018 to be amended by deleting paragraph (2)(k).

Reference

Section 106(2) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to clarify that the Minister will not prescribe any forms for the purposes of this Act as this will be determined by the Director General which is consistent with the amendments made to the relevant sections of the Sales Tax Act 2018.

A8.18

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 10 OF THE SALES TAX ACT 2018

Existing Legislation

For the purposes of this discussion, the relevant subsections of Section 10 of the Sales Tax Act 2018 are provided, as follows:

- (3) Any order made under subsection (2) shall—
 - (a) be laid before the *Dewan Rakyat* at the next meeting of the *Dewan Rakyat*; and
 - (b) at the expiration of one hundred and twenty days from being laid under paragraph (a) or of such extended period as the *Dewan Rakyat* may, by resolution, direct, cease to have effect in whole if the order is not confirmed, or in part in so far as the order is not confirmed, by a resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.
- (4) Where an order ceases to have effect in whole or in part as provided under subsection (3), any sales tax charged and levied in pursuance of such order or such part of the order as ceases to have effect shall, subject to subsections (5) and (6), be refundable to the person by whom such sales tax was paid.
- (5) Unless the Minister otherwise directs, no sales tax refundable under subsection (4) shall be refunded, unless the person by whom the sales tax was paid makes a claim in writing to the Director General within one year from the date on which the order ceases to have effect in whole or in part, and the claim shall contain such particulars as the Director General may require.
- (6) The Director General may reduce or disallow any sales tax refundable under subsection (4) to the extent that the refund would unjustly enrich the person by whom the sales tax was paid.

Proposed Legislation

It is proposed that Section 10 of the Sales Tax Act 2018 to be amended, as follows –

- (a) by substituting for subsection (3) the following subsection:

“(3) Any order made under subsection (2) shall be laid before the *Dewan Rakyat*.”; and
- (b) by deleting subsections (4), (5) and (6).

Reference

Section 10 of the Sales Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to simplify the process on any orders made under Section 10 of the Sales Tax Act 2018 to be laid before the *Dewan Rakyat*.

A8.19

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR SALES TAX REGISTRATION APPLICATION UNDER SECTION 13(1) OF THE SALES TAX ACT 2018

Existing Legislation

Section 13(1) of the Sales Tax Act 2018 provides that any manufacturer who is liable to be registered under Section 12 shall apply to the Director General for registration as a registered manufacturer in the prescribed form not later than the last day of the month following the month in which he is liable to be registered as referred to in paragraph 12(2)(a) or (b).

Proposed Legislation

It is proposed that Section 13(1) of the Sales Tax Act 2018 to be amended by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Reference

Section 13(1) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for sales tax registration application.

A8.20

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR SALES TAX VOLUNTARY REGISTRATION APPLICATION UNDER SECTION 14(1) OF THE SALES TAX ACT 2018

Existing Legislation

Section 14(1) of the Sales Tax Act 2018 provides that any manufacturer who is not liable to be registered under Section 12 may apply to the Director General for registration as a registered manufacturer.

Proposed Legislation

It is proposed that Section 14(1) of the Sales Tax Act 2018 to be amended by inserting after the words “registered manufacturer” the words “in the form and manner as determined by the Director General”.

Reference

Section 14(1) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for the sales tax voluntary registration application.

A8.21

EMPOWERMENT OF DIRECTOR GENERAL TO EXCLUDE ANY PRESCRIBED PARTICULARS IN CREDIT NOTE OR DEBIT NOTE UPON APPLICATION IN WRITING UNDER SECTION 23 OF THE SALES TAX ACT 2018

Existing Legislation

Section 23 of the Sales Tax Act 2018 provides that where any taxable goods are sold by any registered manufacturer which involves the issuance and receipt of credit notes or debit notes under the prescribed circumstances and conditions, the registered manufacturer shall make deduction or addition of sales tax in his returns accordingly, and the credit notes and debit notes shall contain the prescribed particulars.

Proposed Legislation

It is proposed that Section 23 of the Sales Tax Act 2018 to be amended, as follows –

- (a) by renumbering the existing provision as subsection (1); and
- (b) by inserting after the renumbered subsection (1) the following subsection:

“(2) Notwithstanding subsection (1), the Director General may, upon request in writing by the registered manufacturer and subject to such conditions as he thinks fit to impose, approve any one or more of the prescribed particulars not to be contained on a credit note or debit note.”

Reference

Section 23 of the Sales Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to enable the Director General to approve any application in writing to exclude any prescribed particulars in a credit note or debit note.

A8.22

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR RETURNS AND PAYMENT OF SALES TAX UNDER SECTION 26(1) OF THE SALES TAX ACT 2018

Existing Legislation

Section 26(1) of the Sales Tax Act 2018 provides that every taxable person shall, in respect of his taxable period, account for the sales tax due in a return as may be prescribed and the return shall be furnished to the Director General in the prescribed manner not later than the last day of the month following the end of his taxable period to which the return relates.

Proposed Legislation

It is proposed that Section 26(1) of the Sales Tax Act 2018 to be amended by substituting for the words “as may be prescribed and the return shall be furnished to the Director General in the prescribed manner” the words “in the form and manner as determined by the Director General”.

Reference

Section 26(1) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner with respect to the furnishing the returns and payment of sales tax due and payable by a taxable person.

A8.23

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR APPLICATION TO CLAIM A REFUND FOR SALES TAX, SURCHARGE, PENALTY, FEE OR OTHER MONEY OVERPAID OR ERRONEOUSLY PAID UNDER SECTION 39(1) OF THE SALES TAX ACT 2018

Existing Legislation

Section 39(1) of the Sales Tax Act 2018 provides that any person who:

- (a) has overpaid or erroneously paid any sales tax, surcharge, penalty, fee or other money; or
- (b) is entitled to the refund under Sections 35(6) or 41(3),

may make a claim for refund in the prescribed form.

Proposed Legislation

It is proposed that Section 39(1) of the Sales Tax Act 2018 to be amended by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Reference

Section 39(1) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for the application to claim a refund for sales tax, surcharge, penalty, fee or other money overpaid or erroneously paid.

A8.24

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR CUSTOMS RULING APPLICATION UNDER SECTION 43(1) OF THE SALES TAX ACT 2018

Existing Legislation

Section 43(1) of the Sales Tax Act 2018 provides that any person may apply, in the prescribed form together with the prescribed fee, to the Director General for a customs ruling in respect of any one or more of the following matters:

- (a) the classification of taxable goods;
- (b) the determination of a taxable person;
- (c) the principles to be adopted for the purposes of determination of sales value of taxable goods; or
- (d) any other matters as determined by the Director General.

Proposed Legislation

It is proposed that Section 43(1) of the Sales Tax Act 2018 to be amended by substituting for the words “Any person may apply, in the prescribed form together with the prescribed fee, to the Director General” the words “Any person may apply to the Director General, in the form and manner as determined by the Director General together with the prescribed fee.”.

Reference

Section 43(1) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for a customs ruling application.

A8.25

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER RELATED TO INFORMATION ON SEIZED GOODS UNDER SECTION 82(4)(b) OF THE SALES TAX ACT 2018

Existing Legislation

Presently, Section 82(3) and Section 82(4) of the Sales Tax Act 2018 provide as follows:

- (3) If there is a claim or a written application made within the period of thirty days referred to in subsection (1) and there is no prosecution with regard to the goods, the senior officer of sales tax shall, on the expiration of the period of thirty days, refer the claim or the application to the Director General.
- (4) Upon reference by the senior officer of sales tax under subsection (3), the Director General may direct such senior officer of sales tax –
 - (a) to release such goods or the proceeds of sale of such goods or the security furnished under paragraph 71(1)(a) or subsection 71(2); or
 - (b) by information in the prescribed form, to refer the matter to a Sessions Court Judge for a decision.

Proposed Legislation

It is proposed that Section 82(4)(b) of the Sales Tax Act 2018 to be amended by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Reference

Section 82(4)(b) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner of the information to be submitted to a Sessions Court Judge in relation to seized goods.

A8.26

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER TO BE SUBMITTED BY ANY PERSON WHO TRANSACTS IN MATTERS RELATED TO REFUND, REMISSION, EXEMPTION OR ANY OTHER MATTERS ON BEHALF OF THE TAXABLE PERSON UNDER SECTION 90(2)(b) OF THE SALES TAX ACT 2018

Existing Legislation

For purposes of this discussion, the relevant subsections of Section 90 of the Sales Tax Act 2018 provide, as follows:

- (1) Subject to section 89, no person shall transact any business in relation to this Act on behalf of any taxable person, except on matters with regard to any refund, remission, exemption, or any other matters as approved by the Director General, under this Act.
- (2) The person who transacts business on any of the matters stated in subsection (1) on behalf of a taxable person shall—
 - (a) produce a letter of authorization from the taxable person whom he represents; and
 - (b) where any prescribed form is required to be submitted for the purposes of the matters being transacted, submit the form that has been signed by the taxable person, except where otherwise allowed by a senior officer of sales tax.

Proposed Legislation

It is proposed that Section 90(2) of the Sales Tax Act 2018 to be amended by substituting for paragraph (b) the following paragraph:

- “(b) produce any thing in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.”.

Reference

Section 90(2)(b) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner to be submitted by any person who transacts in the application for refund, remission, exemption or any other matters as may be approved by the Director General on behalf of the taxable person.

A8.27

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER RELATED TO APPLICATION FOR REVIEW UNDER SECTION 96(2) OF THE SALES TAX ACT 2018

Existing Legislation

Section 96 of the Sales Tax Act 2018 provides, as follows:

- (1) Any person aggrieved by any decision of the Director General may apply to the Director General for review of any of his decision within thirty days from the date the person has been notified of such decision provided that no appeal has been made on the same decision to the Customs Appeal Tribunal or court.
- (2) An application for review under subsection (1) shall be made in the prescribed form.
- (3) Where an application for review has been made under subsection (1), the Director General shall make the review and notify the decision of the review to the person, where practicable, within sixty days from the date of the receipt of such application.
- (4) No review may be made in any matter relating to compound.
- (5) Any person aggrieved by any decision of the Director General under subsection (3) or any other provision of this Act, except any matter relating to compound, may appeal to the Customs Appeal Tribunal in writing within thirty days from the date of notification of the decision to the aggrieved person.
- (6) Any sales tax due and payable under this Act shall be paid notwithstanding any review or appeal has been made under this section.

Proposed Legislation

It is proposed that Section 96(2) of the Sales Tax Act 2018 to be amended by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Reference

Section 96(2) of the Sales Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for the application for review.

EXPANSION OF THE POWER OF MINISTER TO EXEMPT AND REFUND SALES TAX ON LOW VALUE GOODS UNDER SECTION 35, SCHEDULE OF THE SALES TAX ACT 2018

Existing Legislation

Section 35, Schedule of the Sales Tax Act 2018 is provided, as follows:

- (1) The Minister may, by order published in the Gazette and subject to such conditions as he deems fit, exempt—
 - (a) any goods or class of goods from the whole or any part of the sales tax; or
 - (b) any person or class of persons from payment of the whole or any part of the sales tax which may be charged and levied on any taxable goods manufactured or imported.
- (2) Any order made under subsection (1) shall be laid before the *Dewan Rakyat*.
- (3) The Minister may, in any particular case and subject to such conditions as he deems fit—
 - (a) exempt any person or class of persons from payment of the whole or any part of the sales tax which may be charged and levied on any taxable goods manufactured or imported;
 - (b) exempt any registered manufacturer or class of registered manufacturers from charging and collecting sales tax on taxable goods; or
 - (c) direct the Director General to make a refund to any person or class of persons of the whole or any part of the sales tax or penalty paid by such persons or class of persons.
- (4) Where a registered manufacturer sold any taxable goods to a person or class of persons exempted under paragraph (1)(b) or (3)(a), the registered manufacturer shall be exempted from charging and collecting sales tax due and payable on such taxable goods.
- (5) Where any person who is exempted under paragraph (1)(b) or (3)(a) fails to comply with any conditions to which the exemption relates, any sales tax that has been the subject of the exemption shall become due and payable by the person on the date on which any of the conditions failed to be complied with.
- (6) Where a person who has been granted exemption under paragraph (1)(b) or (3)(a) has paid any of the sales tax to which the exemption relates and has been granted approval by the Minister for a refund of the amount of the sales tax which has been paid, the person shall be entitled to such refund.

Proposed Legislation

It is proposed that Section 35, Schedule of the Sales Tax Act 2018 is to be amended by:

1. Substituting for the words “taxable goods manufactured or imported” wherever appearing the words “sale of low value goods”.
2. Substituting for the words “taxable goods” wherever appearing the words “low value goods”.

Reference

Section 35, Schedule of the Sales Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

This proposed amendment aims to expand the application of Section 35, Schedule of the Sales Tax Act 2018 to low value goods.

CLARIFICATION ON THE APPLICATION FOR SERVICE TAX DEDUCTION UNDER SECTION 39(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 39(1) of the Service Tax Act 2018 provides that the Director General may approve, subject to such conditions as he deems fit, an application by any registered person to deduct from time to time from his return referred to in Section 26 the amount of service tax paid but subsequently refunded to his customer by reason of–

- (a) cancellation of taxable service;
- (b) termination of taxable service; or
- (c) such other reasons as may be approved by the Director General.

Proposed Legislation

It is proposed that Section 39(1) of the Service Tax Act 2018 is to be amended by inserting after the words "his customer" the words "who is not doing business".

Reference

Section 39(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to clarify the application for deduction under Section 39 of the Service Tax Act 2018 made by any registered person is only applicable for his customer who is not doing business.

REMOVAL OF PROVISIONS RELATED TO PRESCRIBED FORMS UNDER SECTION 91(2) OF THE SERVICE TAX ACT 2018

Existing Legislation

For purposes of this discussion, the relevant subsections of Section 91 of the Service Tax Act 2018 are provided, as follows:

- (1) Without prejudice to the generality of subsection (1), Minister may prescribe:
 - (a) all matters relating to registration of registered person;
 - (b) all matters relating to taxable period;
 - (c) all matters relating to determination of value of taxable service;
 - (d) all matters relating to furnishing returns declarations and payment of service tax;
 - (e) all matters relating to refund and remission of service tax;
 - (f) all matters relating to public ruling and customs ruling;
 - (g) all matters relating to electronic service;
 - (h) all matters relating to invoices, credit notes and debit notes;

- (i) all matters relating to the offices for the administration of service tax;
 - (j) all fees required by this Act to be prescribed;
 - (k) all forms to be prescribed for the purposes of this Act;
 - (l) any other matters required by this Act to be prescribed; or
 - (m) all matters relating to digital services.
- (2) Any regulations made under this section may prescribe an act or omission in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding two years or both for such offence.

Proposed Legislation

It is proposed that Section 91 of the Service Tax Act 2018 to be amended as follows:

- (a) by deleting paragraph (2)(k); and
- (b) by renumbering subsection (2) after the existing paragraph (2)(m) as subsection (3).

Reference

Section 91(2) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to clarify that the Minister will not prescribe any forms for the purposes of this Act as this will be determined by the Director General which is consistent with the amendments made to the relevant sections of the Service Tax Act 2018.

A8.31

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 10 OF THE SERVICE TAX ACT 2018

Existing Legislation

For the purpose of this discussion, the relevant subsections of Section 10 of the Service Tax Act 2018 are provided, as follows:

- (1) Any order made under subsection (2) shall:
 - (a) be laid before the *Dewan Rakyat* at the next meeting of the *Dewan Rakyat*; and
 - (b) at the expiration of one hundred and twenty days from being laid under paragraph (a) or of such extended period as the *Dewan Rakyat* may, by resolution, direct, cease to have effect in whole if the order is not confirmed, or in part in so far as the order is not confirmed, by a resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.
- (2) Where an order ceases to have effect in whole or in part as provided under subsection (3), any service tax charged and levied in pursuance of the order or such part of the order as ceases to have effect shall, subject to subsections (5) and (6), be refundable to the persons by whom such service tax was paid.

- (3) Unless the Minister otherwise directs, no service tax refundable under subsection (4) shall be refunded, unless the person by whom the service tax was paid makes a claim in writing to the Director General within one year from the date on which the order ceases to have effect in whole or in part, and the claim shall contain such particulars as the Director General may require.
- (4) The Director General may reduce or disallow any service tax refundable under subsection (4) to the extent that the refund would unjustly enrich the person by whom the service tax was paid.

Proposed Legislation

It is proposed that Section 10 of the Service Tax Act 2018 to be amended as follows:

- (a) by substituting for subsection (3) the following subsection:
“(3) Any order made under subsection (2) shall be laid before the *Dewan Rakyat*.”; and
- (b) by deleting subsections (4), (5) and (6).

Reference

Section 10 of the Service Tax Act 2018.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

The proposed amendment aims to simplify the process on any orders made under Section 10 of the Service Tax Act 2018 to be laid before the *Dewan Rakyat*.

A8.32

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR SERVICE TAX REGISTRATION APPLICATION UNDER SECTION 13(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 13(1) of the Service Tax Act 2018 provides that any person who is liable to be registered under Section 12 shall apply to the Director General for registration as a registered person in the prescribed form not later than the last day of the month following the month in which he/she is liable to be registered as referred to in paragraph 12(2)(a) or (b) or subsection 12(3).

Proposed Legislation

It is proposed that Section 13(1) of the Service Tax Act 2018 to be amended by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Reference

Section 13(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for service tax registration application.

A8.33

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR BRANCHES OR DIVISIONS REGISTRATION APPLICATION UNDER SECTION 17(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 17(1) of the Service Tax Act 2018 provides that where any business of a registered person is carried on by one or more branches or divisions, the registered person may apply to the Director General, in the prescribed form, for any of the branches or divisions to be registered in the name of the branch or division.

Proposed Legislation

It is proposed that Section 17(1) of the Service Tax Act 2018 is to be amended by substituting the words “in the prescribed form” with the words “in the form and manner as determined by the Director General”.

Reference

Section 17(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for the service tax registration application for branches or divisions.

A8.34

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR SERVICE TAX VOLUNTARY REGISTRATION APPLICATION UNDER SECTION 14(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 14(1) of the Service Tax Act 2018 provides that any person who is not liable to be registered under Section 12 may apply to the Director General for registration as a registered person.

Proposed Legislation

It is proposed that Section 14(1) of the Service Tax Act 2018 to be amended by inserting after the words “registered person” the words “in the form and manner as determined by the Director General”.

Reference

Section 14(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for the service tax voluntary registration application.

A8.35

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR RETURNS AND PAYMENT OF SERVICE TAX UNDER SECTION 26(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 26(1) of the Service Tax Act 2018 provides that every taxable person shall, in respect of his/her taxable period, account for the service tax due in a return as may be prescribed and the return shall be furnished to the Director General in the prescribed manner not later than the last day of the month following the end of his taxable period to which the return relates.

Proposed Legislation

It is proposed that Section 26(1) of the Service Tax Act 2018 to be amended by substituting the words “as may be prescribed and the return shall be furnished to the Director General in the prescribed manner” with the words “in the form and manner as determined by the Director General”.

Reference

Section 26(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for furnishing of returns and payment of service tax due and payable by a taxable person.

A8.36

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR DECLARATION AND PAYMENT OF SERVICE TAX UNDER SECTION 26A(1)(a) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 26A(1) of the Service Tax Act 2018 provides that any person other than a taxable person who, in carrying on his/her business, acquires any imported taxable service shall–

- (a) account for the service tax due in a declaration as may be prescribed and the declaration shall be furnished to the Director General; and
- (b) pay to the Director General the amount of service tax due and payable by him/her,

not later than the last day of the month following the end of the month in which the payment on the service has been made by him or invoice is received by him.

Proposed Legislation

It is proposed that Section 26A(1)(a) of the Service Tax Act 2018 is to be amended by substituting the words “as may be prescribed and the declaration shall be furnished to the Director General” with the words “in the form and manner as determined by the Director General”.

Reference

Section 26A(1)(a) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner of furnishing of declaration and payment of service tax due and payable by a person other than a taxable person.

A8.37

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR APPLICATION TO CLAIM A REFUND FOR SERVICE TAX, SURCHARGE, PENALTY, FEE OR OTHER MONEY OVERPAID OR ERRONEOUSLY PAID UNDER SECTION 38(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 38(1) of the Service Tax Act 2018 provides that any person who–

- (a) has overpaid or erroneously paid any service tax, surcharge, penalty, fee or other money; or
- (b) is entitled to the refund under subsection 34(6) or 40(3),

may make a claim for refund in the prescribed form.

Proposed Legislation

It is proposed that Section 38(1) of the Service Tax Act 2018 to be amended by substituting the words “in the prescribed form” with the words “in the form and manner as determined by the Director General”.

Reference

Section 38(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for the application to claim a refund for service tax, surcharge, penalty, fee or other money overpaid or erroneously paid.

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR CUSTOMS RULING APPLICATION UNDER SECTION 42(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 42(1) of the Service Tax Act 2018 provides that any person may apply, in the prescribed form together with the prescribed fee, to the Director General for a customs ruling in respect of any one or more of the following matters:

- (a) the determination of a taxable service;
- (b) the determination of a taxable person;
- (c) the principles to be adopted for the purposes of determination of value of taxable service;
- (d) any other matters as determined by the Director General.

Proposed Legislation

It is proposed that Section 42(1) of the Service Tax Act 2018 to be amended by substituting the words “Any person may apply, in the prescribed form together with the prescribed fee, to the Director General” with the words “Any person may apply to the Director General, in the form and manner as determined by the Director General together with the prescribed fee”.

Reference

Section 42(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for customs ruling application.

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR SERVICE TAX REGISTRATION APPLICATION FOR FOREIGN SERVICE PROVIDER UNDER SECTION 56C(1) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 56C(1) of the Service Tax Act 2018 provides that any foreign service provider who is liable to be registered under subsection 56B(2) shall apply to the Director General for registration in the prescribed form not later than the last day of the month following the month in which he/she is liable to be registered as referred in paragraph 56B(2)(a) or (b).

Proposed Legislation

It is proposed that Section 56C(1) of the Service Tax Act 2018 to be amended by substituting the words “prescribed form” with the words “form and manner as determined by the Director General”.

Reference

Section 56C(1) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner for service tax registration application for foreign service provider.

A8.40

EMPOWERMENT OF DIRECTOR GENERAL TO RE-DETERMINE THE TAXABLE PERIOD FOR FOREIGN REGISTERED PERSON UNDER SECTION 56H OF THE SERVICE TAX ACT 2018

Existing Legislation

For purposes of this discussion, the relevant subsections of Section 56H of the Service Tax Act 2018 are provided as follows:

- (3) The Director General may, upon receiving any application under subsection (2) –
 - (a) allow the application and the taxable period shall be the period as applied for;
 - (b) refuse the application and the taxable period shall remain as determined under subsection (1); or
 - (c) vary the length of the taxable period.
- (4) A foreign registered person shall, in respect of his taxable period, account for the service tax due in a return as may be prescribed and the return shall be furnished to the Director General in the prescribed manner not later than the last day of the month following the end of his taxable period to which the return relates.
- (4A) A foreign registered person who ceases to be liable to be registered under section 56D shall furnish a return not later than thirty days or such later date containing particulars as the Director General may determine in respect of that part of the last taxable period during which the foreign registered person was registered.

Proposed Legislation

It is proposed that Section 56H of the Service Tax Act 2018 is to be amended as follows:

- (a) by inserting after subsection (3) the following subsection:
 - (3A) The Director General may, as he thinks fit, re-determine any taxable period other than the period as determined under subsection (1) or (3) for the foreign registered person.
- (b) by substituting subsection (4) with the following subsection:
 - (4) A foreign registered person shall, in respect of his taxable period, account for the service tax due, in a return, as may be determined by the Director General and the return shall be furnished to the Director General in the manner as determined by the Director General not later than the last day of the month following the end of his taxable period to which the return relates.

(c) by inserting after subsection (4A) the following subsection:

(4B) Subject to subsections (4) and (4A), a return shall be deemed to be furnished upon receiving by the Director General in the form and manner as determined by the Director General.

Reference

Section 56H of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment is to empower the Director General to re-determine the taxable period for any foreign registered person other than the period that has been assigned including matters in relation to taxable period and accounting for service tax.

A8.41

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER TO BE SUBMITTED BY ANY PERSON WHO TRANSACTS IN MATTERS RELATED TO REFUND, REMISSION, EXEMPTION OR ANY OTHER MATTERS ON BEHALF OF ANY PERSON UNDER SECTION 75(2) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 75(2) of the Service Tax Act 2018 provides that the person who transacts business on any of the matters stated in subsection (1) on behalf of the person referred to in that subsection shall—

- (a) produce a letter of authorization from the person whom he represents; and
- (b) where any prescribed form is required to be submitted for the purposes of the matters being transacted, submit the form that has been signed by the person, except where otherwise allowed by a senior officer of service tax.

Proposed Legislation

It is proposed that Section 75(2) of the Service Tax Act 2018 to be amended by substituting paragraph (b) with the following paragraph:

“(b) produce any thing in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.”.

Reference

Section 75(2) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner to be submitted by any person who transacts in the application for refund, remission, exemption or any other matters as may be approved by the Director General on behalf of any person.

A8.42

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER RELATED TO APPLICATION FOR REVIEW UNDER SECTION 81(2) OF THE SERVICE TAX ACT 2018

Existing Legislation

Section 81 of the Service Tax Act 2018 is provided, as follows:

- (1) Any person aggrieved by any decision of the Director General may apply to the Director General for review of any of his decision within thirty days from the date the person has been notified of such decision provided that no appeal has been made on the same decision to the Customs Appeal Tribunal or court.
- (2) An application for review under subsection (1) shall be made in the prescribed form.
- (3) Where an application for review has been made under subsection (1), the Director General shall make the review and notify the decision of the review to the person, where practicable, within sixty days from the date of the receipt of such application.
- (4) No review may be made in any matter relating to compound.
- (5) Any person aggrieved by any decision of the Director General under subsection (3) or any other provision of this Act, except any matter relating to compound, may appeal to the Customs Appeal Tribunal in writing within thirty days from the date of notification of the decision to the aggrieved person.
- (6) Any service tax due and payable under this Act shall be paid notwithstanding any review or appeal has been made under this section.
- (7) This section shall not apply to a foreign registered person.

Proposed Legislation

It is proposed that Section 81(2) of the Service Tax Act 2018 be amended by substituting the words “in the prescribed form” with the words “in the form and manner as determined by the Director General”.

Reference

Section 81(2) of the Service Tax Act 2018.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General to determine the form and manner of the application for review.

REMOVAL OF SECTION 66 OF THE TOURISM TAX ACT 2017 TO ALIGN WITH THE OTHER AMENDMENTS BEING MADE IN THE SAME ACT

Existing Legislation

Section 66 of the Tourism Tax Act 2017 provides that:

- (1) Where any form has been prescribed under this Act, no person shall, for the purposes of this Act, use any form which is not printed or issued by the authority of the Director General.
- (2) The Director General may, at his discretion and subject to such conditions as he deems fit to impose, permit any person to use forms which are not printed or issued as aforesaid or the use of any form submitted through electronic service.
- (3) Any person who contravenes subsection (1) commits an offence.

Proposed Legislation

It is proposed that Section 66 of the Tourism Tax Act 2017 to be removed.

Reference

Section 66 of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to align with the other amendments being made in the Tourism Tax Act 2017.

REMOVAL OF PROVISIONS RELATED TO PRESCRIBED FORMS UNDER SECTION 70 OF THE TOURISM TAX ACT 2017

Existing Legislation

Section 70 of the Tourism Tax Act 2017 provides that:

- (1) The Minister may make regulations as may be necessary or expedient for the purposes of carrying into effect the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes:
 - (a) to prescribe matters relating to registration of operator;
 - (b) to prescribe the offices for the administration of the tourism tax and for the days and times during which the offices may be opened for business;
 - (c) to prescribe the forms to be used under and for purposes connected with this Act;

- (d) to provide for offences and penalties not exceeding a fine of thirty thousand ringgit or imprisonment not exceeding one year or both for the contravention of any provision of the regulations;
- (e) to prescribe matters relating to electronic service; and
- (f) to prescribe matters relating to digital platform service provider.

Proposed Legislation

It is proposed that Section 70 of the Tourism Tax Act 2017 to be amended by deleting paragraph (2)(c).

Reference

Section 70 of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to clarify that the Minister will not prescribe any forms for the purposes of this Act as this will be determined by the Director General which is consistent with the amendments made to the relevant sections of the Tourism Tax Act 2017.

A8.45

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS BEFORE THE DEWAN RAKYAT UNDER SECTION 8 OF THE TOURISM TAX ACT 2017

Existing Legislation

For purposes of this discussion, the relevant subsections of Section 8 of the Tourism Tax Act 2017 are provided, as follows:

- (3) Any order made under subsection (1) shall be laid before the *Dewan Rakyat* at the next meeting of the *Dewan Rakyat* and shall, at the expiration of one hundred and twenty days of being so laid or of such extended period as the *Dewan Rakyat* may by resolution direct, cease to have effect if and insofar as it is not confirmed by resolution passed by the *Dewan Rakyat* within the said one hundred and twenty days or, if such period has been extended, within such extended period.
- (4) Where an order ceases to have effect in whole or in part as provided for in subsection (3), any tourism tax charged and levied in pursuance of the order or such part thereof, as the case may be, as ceases to have effect shall, subject to the provisions of subsection (5), be refundable to the person by whom the tourism tax was paid.
- (5) Unless the Minister otherwise directs, no tourism tax refundable under subsection (4) shall be refunded unless the person by whom the tourism tax was paid makes a claim in writing to the Director General within one year from the date on which the order ceases to have effect in whole or in part and the claim shall contain such particulars as the Director General may require.

Proposed Legislation

It is proposed that Section 8 of the Tourism Tax Act 2017 to be amended as follows:

- (a) by substituting for subsection (3) the following subsection:
“(3) Any order made under subsection (1) shall be laid before the *Dewan Rakyat*.” and
- (b) by deleting subsections (4) and (5).

Reference

Section 8 of the Tourism Tax Act 2017.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

The proposed amendments aim to simplify the process on any orders made under Section 8 of the Tourism Tax Act 2017 to be laid before the *Dewan Rakyat*.

A8.46

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR TOURISM TAX REGISTRATION APPLICATION UNDER SECTION 10(1) OF THE TOURISM TAX ACT 2017

Existing Legislation

Presently, Section 10(1) of the Tourism Tax Act 2017 provides that every operator shall be liable to be registered under this Act and for such purpose shall apply to the Director General to be registered, in the manner as may be prescribed.

Proposed Legislation

It is proposed that Section 10(1) of the Tourism Tax Act 2017 to be amended by substituting for the words "in the manner as may be prescribed" the words "in the form and manner as determined by the Director General".

Reference

Section 10(1) of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to empower the Director General in determining the form and manner of the Tourism Tax registration application for operator.

A8.47

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR TOURISM TAX REGISTRATION APPLICATION UNDER SECTION 11(1) OF THE TOURISM TAX ACT 2017

Existing Legislation

Presently, Section 11(1) of the Tourism Tax Act 2017 provides that every operator who immediately before the coming into operation of this Part operates accommodation premises shall, within thirty days from the date of the coming into operation of this Part, apply to the Director General to be registered, in the manner as may be prescribed.

Proposed Legislation

It is proposed that Section 11(1) of the Tourism Tax Act 2017 to be amended by substituting for the words “in the manner as may be prescribed” the words “in the form and manner as determined by the Director General”.

Reference

Section 11(1) of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to empower the Director General in determining the form and manner of the tourism tax registration application for operator who operates accommodation premises before commencement of the Tourism Tax Act 2017.

A8.48

EMPOWERMENT OF DIRECTOR GENERAL TO EXCLUDE ANY PRESCRIBED PARTICULARS IN AN INVOICE UPON APPLICATION IN WRITING UNDER SECTION 14(1) OF THE TOURISM TAX ACT 2017

Existing Legislation

Presently, Section 14(1) of the Tourism Tax Act 2017 provides that every operator shall, within thirty days from the date the accommodation is provided or such extended period as may be approved by the Director General, issue an invoice, receipt or other document in the national language or in the English language to a tourist in respect of the accommodation provided and shall state the rate and amount of tourism tax payable separately from the charges for the accommodation provided by the operator.

Proposed Legislation

It is proposed that Section 14 of the Tourism Tax Act 2017 to be amended by inserting after subsection (1) the following:

“(1A) Notwithstanding subsection (1), the Director General may, upon request in writing and subject to such conditions as he thinks fit to impose, approve any one or more of the prescribed particulars not to be contained in an invoice”.

Reference

Section 14(1) of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to enable the Director General to approve any application in writing to exclude any prescribed particulars in an invoice.

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR RETURNS AND PAYMENT OF TOURISM TAX UNDER SECTION 19 OF THE TOURISM TAX ACT 2017

Existing Legislation

Presently, Section 19 of the Tourism Tax Act 2017 are provided as follows:

- (1) Every operator shall, in respect of his taxable period, account for the tourism tax received in a return as may be prescribed and the return shall be furnished to the Director General in the prescribed manner not later than the last day of the month following after the end of the operator's taxable period to which the return relates.
- (2) Where the whole or any part of the tourism tax is not received by the operator from the tourist within a period of twelve calendar months from the date of the invoice for the accommodation provided, the operator shall account for the tourism tax in the return in the taxable period following after the end of that period of twelve calendar months and the return shall be furnished to the Director General in the prescribed manner.

Proposed Legislation

It is proposed that Section 19 of the Tourism Tax Act 2017 to be amended as follows:

- (a) in subsection (1), by substituting for the words "as may be prescribed and the return shall be furnished to the Director General in the prescribed manner" the words "in the form and manner as determined by the Director General"; and
- (b) in subsection (2), by substituting for the words "the return in the taxable period following after the end of that period of twelve calendar months and the return shall be furnished to the Director General in the prescribed manner" the words "a return in the form and manner as determined by the Director General in the taxable period following after the end of that period of twelve calendar months".

Reference

Section 19 of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General in determining the form and manner for the furnishing of returns and payment of tourism tax for operator.

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR REGISTRATION APPLICATION OF DIGITAL PLATFORM SERVICE PROVIDER UNDER SECTION 20C OF THE TOURISM ACT 2017

Existing Legislation

Section 20C of the Tourism Tax Act 2017 is provided as follows:

- (1) Every digital platform service provider shall be liable to be registered under this Part and for such purpose shall apply to the Director General to be registered, in the manner as may be prescribed.
- (2) The application for registration referred to in subsection (1) shall be made within thirty days from the date the digital platform service provider provides the service relating to online booking accommodation premises in which the accommodation premises is in Malaysia.
- (3) Every digital platform service provider who provides service relating to online booking accommodation premises in which the accommodation premises is in Malaysia before the coming into operation of this Part, shall not later than three months before the date of the coming into operation of this Part, apply to the Director General to be registered in the manner as may be prescribed.
- (4) Every digital platform service provider who contravenes subsection (1) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Proposed Legislation

It is proposed that Section 20C of the Tourism Tax Act 2017 to be amended by substituting for the words “in the manner as may be prescribed” wherever appearing the words “in the form and manner as determined by the Director General”.

Reference

Section 20C of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

This proposed amendment aims to empower the Director General in determining the form and manner for registration application of digital platform service provider.

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR RETURNS AND PAYMENT OF TOURISM TAX UNDER SECTION 20I(1) OF THE TOURISM TAX ACT 2017

Existing Legislation

Section 20I(1) of the Tourism Tax Act 2017 provides that every digital platform service provider shall, in respect of his taxable period, account for the tourism tax received in a return as may be prescribed and the return shall be furnished to the Director General in the prescribed manner not later than the last day of the month following after the end of the digital platform service provider’s taxable period to which the return relates.

Proposed Legislation

It is proposed that Section 20I(1) of the Tourism Tax Act 2017 to be amended by substituting for the words “as may be prescribed and the return shall be furnished to the Director General in the prescribed manner” the words “in the form and manner as determined by the Director General”.

Reference

Section 20I(1) of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to empower the Director General in determining the form and manner for the furnishing of returns and payment of tourism tax for digital platform service provider.

A8.52

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER FOR REFUND OF TOURISM TAX UNDER SECTION 22(1) OF THE TOURISM TAX ACT 2017

Existing Legislation

Section 22(1) of the Tourism Tax Act 2017 provides that any person who has overpaid or erroneously paid any tourism tax, penalty, surcharge or any other money may make a claim thereof in the prescribed form to the Director General within six years from the time the overpayment or erroneous payment occurred.

Proposed Legislation

It is proposed that Section 22(1) of the Tourism Tax Act 2017 to be amended by substituting for the words “in the prescribed form to the Director General” the words “in the form and manner as determined by the Director General”.

Reference

Section 22(1) of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to empower the Director General in determining the form and manner for the refund of tourism tax.

EMPOWERMENT OF DIRECTOR GENERAL TO MAKE A PUBLIC RULING UNDER SECTION 31A OF THE TOURISM TAX ACT 2017

Proposed Legislation

The Tourism Tax Act 2017 is to be amended by inserting after Section 31 the following:

SECTION 31A – PUBLIC RULING

- (1) The Director General may, at any time, make a public ruling on the application of any provision of this Act in relation to any person or class of persons, or any type of business activities.
- (2) The Director General may amend or withdraw, either wholly or partly, any public ruling made under this section.
- (3) Notwithstanding any provision of this Act, where a public ruling under subsection (1) applies to any person in relation to a business activity and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and the business activities in accordance with the ruling.

Reference

To be gazetted by way of statutory order.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to empower the Director General to make a public ruling on the application of any provision under the Tourism Tax Act 2017 to any person or class of persons or to any type of business activities.

EMPOWERMENT OF DIRECTOR GENERAL TO DETERMINE THE FORM AND MANNER TO BE SUBMITTED BY ANY PERSON WHO TRANSACTS IN MATTERS RELATED TO REFUND, REMISSION, EXEMPTION OR ANY OTHER MATTERS ON BEHALF OF THE OPERATOR OR DIGITAL PLATFORM SERVICE PROVIDER UNDER SECTION 65(2)(b) OF THE TOURISM TAX ACT 2017

Existing Legislation

Section 65 of the Tourism Tax Act 2017 is provided as follows:

- (1) No person shall transact any business in relation to this Act on behalf of an operator or a digital platform service provider, except on matters with regard to—
 - (a) refund;
 - (b) remission;
 - (c) exemption; or
 - (d) any other matters as may be approved by the Director General.

- (2) The person who transacts business on any of the matters stated in subsection (1) on behalf of an operator shall—
- (a) produce a letter of authorization from the operator or digital platform service provider whom the person represents; and
 - (b) where any prescribed form is required to be submitted for the purposes of the matter being transacted, submit the form that has been signed by the operator or digital platform service provider, except where otherwise allowed by a senior officer of customs.

Proposed Legislation

It is proposed that Section 65(2)(b) of the Tourism Tax Act 2017 to be amended by substituting it with the following:

- (b) produce anything in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.

Reference

Section 65(2)(b) of the Tourism Tax Act 2017.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

The proposed amendment aims to empower the Director General to determine the form and manner to be submitted by any person who transacts in the application for refund, remission, exemption or any other matters as may be approved by the Director General on behalf of the operator or digital platform service provider.

A8.55

SIMPLIFYING THE PROCESS TO ONLY LAY ORDERS IN DETERMINING THE AMOUNT OF LEVY BEFORE THE DEWAN RAKYAT UNDER SECTION 7 OF THE WINDFALL PROFIT LEVY ACT 1998

Existing Legislation

Section 7 of the Windfall Profit Levy Act 1998 is provided, as follows:

SECTION 7 – ORDER TO BE TABLED

- (1) An order determining the amount of levy to be levied under this Act shall, at the next meeting of the *Dewan Rakyat*, be laid on the table of the *Dewan Rakyat*.
- (2) An order laid on the table of the *Dewan Rakyat* shall cease to have effect on the expiration of the period of 120 days from the date it is so laid or of such extended period as the *Dewan Rakyat* may by resolution direct, if it is not confirmed by a resolution passed by the *Dewan Rakyat* within such period or extended period.

Proposed Legislation

It is proposed that Section 7 of the Windfall Profit Levy Act 1998 to be amended by substituting it with the following section:

“SECTION 7 – ORDER TO BE LAID BEFORE DEWAN RAKYAT

An order determining the amount of levy to be levied under this Act shall be laid before the *Dewan Rakyat*.”

Reference

Section 7 of the Windfall Profit Levy Act 1998.

Effective Date

Upon the coming into operation of the Finance Act.

Likely Tax Effects and Implications

The proposed amendment aims to simplify the process on any orders in determining the amount of levy levied under Section 7 of the Windfall Profit Levy Act 1998 to be laid before the *Dewan Rakyat*.