



SERVICE TAX 2018

**GUIDE ON:
PROFESSIONAL SERVICES**

Published by:

**Royal Malaysian Customs Department
Internal Tax Division
Putrajaya**

21 September 2021

Publication

Date: 21 September 2021

The Guide on Professional Services as at 19 May 2021 is withdrawn and replaced by the Guide on Professional Services revised as at 21 September 2021.

Copyright Notice

Copyright 2021 Royal Malaysian Customs Department.

All rights reserved. Subject to the Copyright Act, 1987 (Malaysia).

The Guide may be withdrawn, either wholly or in part, by publication of a new guide. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form, including on-site for commercial purposes without written permission from the Royal Malaysian Customs Department (RMCD). In reproducing or quoting the contents, acknowledgment of source is required.

Disclaimer

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.

CONTENTS

INTRODUCTION	1
IMPOSITION AND SCOPE OF TAX	1
PROFESSIONAL SERVICES	1
Legal Services	2
Legal Services on Islamic Matters	3
Accounting Services	3
Surveying Services	4
Engineering Services	8
Architectural Services	9
Consultation Services	10
Information Technology Services	12
Management Services	13
Employment Services	14
Private Agency	15
Digital Services	15
SERVICE TAX TREATMENT ON PROFESSIONAL SERVICES IN GROUP G	18
Non-Taxable Services	21
EXEMPTION FROM PAYMENT OF SERVICE TAX (BUSINESS TO BUSINESS (B2B) EXEMPTION)	27
REGISTRATION AND RESPONSIBILITY OF A REGISTERED PERSON	30
INQUIRY	35
FURTHER ASSISTANCE AND INFORMATION ON SST	35

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 which is known as “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”. Registered person is required to charge service tax on his taxable services provided 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, the provision of professional services as listed in Group G, First Schedule, Service Tax Regulations 2018 is subject to service tax.

PROFESSIONAL SERVICES

6. The professional services which are listed under Group G, First Schedule of the Service Tax Regulations 2018 are as follows:
 - (i) Legal services,
 - (ii) Legal services on Islamic matters,
 - (iii) Accounting services,
 - (iv) Surveying services,
 - (v) Engineering services,
 - (vi) Architectural services,

- (vii) Consultancy, training and coaching services,
- (viii) Information technology services,
- (ix) Management services,
- (x) Employment services,
- (xi) Safety or security services, and
- (xii) Digital services.

Legal Services

7. Legal services refer to rendering of legal advice and dispensing legal representation in matters pertaining to laws.

8. 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.

9. 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 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.

10. 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

11. *Syarie* lawyer means any person who provide legal services on Islamic affairs whom registered under the relevant State Enactment laws.
12. The treatment of Services tax on legal services is also applicable to Islamic matters *mutatis mutandis*.
13. 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.
14. 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.

Accounting Services

15. The service provider for accounting services is a person who is a public accountant or any person registered under the written law for the time being in force.
16. 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.
17. 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

18. Licensed or registered surveyors including registered valuers, appraisers or estate agents licensed or registered under the written laws for the time being in force.

19. 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.

20. 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.

21. Activity of licensed 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.
- (xiii) Ship surveyor / other than land

22. 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.
23. 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.
24. 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.
25. 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.

26. 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.

27. 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 juridical 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

28. The engineering services provider is a person who is an engineer registered under the written laws for the time being in force.

29. Engineering services means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work.

30. 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.

31. The following services provided by any registered engineering service provider is subject to service tax :

- (i) Engineering consultancy services provided by the engineering firm;
- (ii) Provision of 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

32. The architectural service provider is a person who is registered under any written laws for the time being in force.

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

34. 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.

35. 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

36. Consultation services is a service provided by a professional who have their own specific expertise or knowledge to provide reports, 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.

37. 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 in relation to human or animal for the purpose of healthcare or veterinary services provided by laboratory.
- (iii) 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.

38. Provision of consultation services is not subject to service tax if it is provided by:

- (i) Contract research and development companies under section 2 of the promotion of Investments Act 1986 [Act 327] and approved research institute under section 34b of the Income Tax Act 1967 [Act 53]; or
- (ii) By Federal or State Government, local authorities or statutory bodies.

39. 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, 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 that has office or premise in Malaysia and registered with SSM or a specific professional body in Malaysia or an agent (registered company with SSM / Professional Body) appointed to act on behalf of a foreign consulting firm; or

- (viii) A person appointed as non-executive director on his personal capacity under **contract for service** to provide expert opinion. The director under a contract for service may charge fee to the companies and such fees are subject to service tax.
- (ix) 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 payment	Subject to Service Tax	Not Subject to Service Tax
1.	Directors' remuneration / fee	√	
2.	Directors' allowances e.g: Meeting allowance, monthly allowance, Senior Independent Director (SID) allowances and other allowances, etc.	√	
3.	Benefit-in-kind (BIK)*	√	√
4.	Reimbursement	√	
5.	Disbursement*		√

* However, the transactions below are not subject to service tax for the situations below:

a) Benefit in kind (BIK)

The BIK is also part of the remuneration package and it is a perquisites that act as added incentives for directors. The NEDs may receive the benefits such as allowance in terms of cash given directly by the appointing company which is subject to service tax.

However, the facility which paid directly by the company to the service providers for the NED to enjoy, is not subject to service tax.

b) Disbursement

Kindly refer to the Service Tax Guide on Disbursement and Reimbursement.

Information Technology Services

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

41. 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.

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

Management Services

43. 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 the following management services:

- (i) the management services in connection with land or building for residential use provided by any developer, joint management body, management corporation or residential association;
- (ii) the management services provided by any person who is licensed or registered with the Securities Commission Malaysia for carrying out the regulated activity of fund management under the Capital Markets and Services Act 2007 [Act 671];

- (iii) the management services provided by any person, Government agency, local authority or statutory body for the purposes of religious welfare, bereavement, burial, cemeteries, cremation, sewerage, water supply, health, transport, tourism or logistics services; and
- (iv) the management services in connection with goods or land situated outside Malaysia or other matters outside Malaysia.

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

Employment Services

45. Employment services cover the provision of all types of employment services. Such services includes:

- (i) 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
- (ii) supplying workers to clients' businesses for periods of time to supplement the working force of the client
- (iii) activities of providing human resources and human resource management services for others on a contract or fee basis

46. 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
- (ii) Provision of employment services for employment outside Malaysia.

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

Private Agency

48. 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.

49. 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.

50. 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.

Digital Services

51. Digital services means any service that is delivered or subscribed over the internet or other electronic network and which cannot be obtained without the use of information technology and where the delivery of the service is essentially automated.

52. These services **include** the supplies of the following (the list is not exhaustive):

(i) **Software, application & video games**

(e.g. online licensing of software, updates and ad-ons website filters, firewalls, provision of mobile applications);

(ii) **Music, e-book and film**

(e.g. provision of music, live streaming services, include subscription-based media / membership)

Example 11

Sono Music sells an album to consumer using its own website. Consumer will download the music purchased from Sono Music website. Sono Music will issue invoice to customer. Sono Music is providing digital services.

(iii) Advertisement and online platform

(e.g. offering online advertising space on intangible media platform, offering platform to trade products or services)

Example 12

ShopU.com provides online platform and at the same time sells its own application to consumer. Consumer will need to download the application purchased from the platform. ShopU.com will issue invoice to consumer for the sale of its own application. ShopU.com is providing digital services.

Example 13

Amazing.com provide online platform to trade services or goods. One of the merchants is COC whose selling online games. Customer who wanted to purchase game from COC will purchase it through Amazing.com platform. COC will issue invoice to customer. Under this scenario, COC is considered as providing the digital services.

Example 14

Amazing.com provide online platform to trade services or goods. One of the merchants is COC whose selling online games. Customer who wanted to purchase game from COC will purchase it through Amazing.com. Amazing.com will issue invoice to customer. Under this scenario, Amazing.com is considered providing digital services.

Example 15

FiST Platform KL provides accommodation booking platform to consumer. Doremi Hotel KL will advertise accommodation through FiST Platform KL. Ali (a consumer) will book Doremi Hotel KL using the platform. Under this scenario, FiST Platform KL is not providing digital services to Ali. FiST Platform KL is providing digital services to Doremi Hotel KL.

(iv) **Search engines and social networks**

(e.g. customised search-engine services)

(v) **Database and hosting**

(e.g. website hosting, online data warehousing, file-sharing and cloud storage services)

(vi) **Telecommunication services**

(e.g. Cloud-based telephony)

(vii) **Online training**

(e.g. Provision of distance teaching, e-learning, online courses, webinar)

(viii) **Others**

(e.g. Subscription to online newspapers and journals, provision of other digital content like images, text, information and payment processing services)

53. The provision of the above is not considered as digital services if:

(ix) The services can be obtained without the use of IT

Example 16

Ahmad purchases music from Orange Company Sdn Bhd. He will receive it in the form of compact disc (CD). This is not a digital service.

- (x) The transmission of the services via email

The service delivered via email is not considered, as digital services since the delivery of the services require human intervention. The delivery of the services cannot be associated with the transaction of selling and buying.

Example 17

Yeop & Co. is an architecture company in Malaysia. He requests 3D drawing from ABC Sdn Bhd. ABC Sdn Bhd will send the drawing via email to Yeop & Co. This service is not a digital service.

54. Any person who operates online platform or market place is providing taxable services if the services falls under this category:

- (xi) provide digital services;
- (xii) provide electronic medium that allows the suppliers to provide supplies to customers or transaction for provision of digital services on behalf of any person;

but excluding provision of such services in relation to matters outside Malaysia.

SERVICE TAX TREATMENT ON PROFESSIONAL SERVICES IN GROUP G

55. Service tax is charged on any taxable services made by the taxable person as listed under Group G, Service Tax Regulation 2018.

56. A taxable person 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.

57. A taxable person who provides taxable services as prescribed under item (a) to (i) and (l), Group G of First Schedule, Service Tax Regulations 2018 to a company within the group of companies, such services shall not be a taxable service. Such services are as follows:

- a) Provision of legal services;
- b) Provision of legal services on Islamic matters;
- c) Provision of accountancy services;
- d) Provision of all types of surveying services;
- e) Provision of engineering services;
- f) Provision of architectural services;
- g) Provision of consultancy services;
- h) Provision of all types of information technology services;
- i) Provision of all types of management services; or
- l) Provision of digital services.

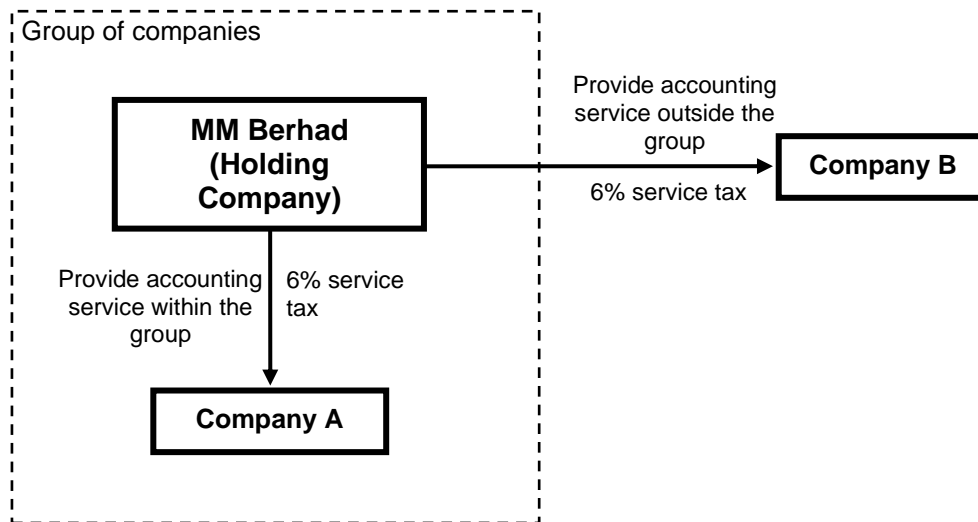
58. However, if the services (as in paragraph 58) are provided to a subsidiary within the group of companies and to a person outside of the group of companies such services are taxable services and subject to service tax.

Example 18

Services Provided to Another Person Outside the Group of Companies:

MM Berhad provide accounting services to its subsidiary, Company 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.



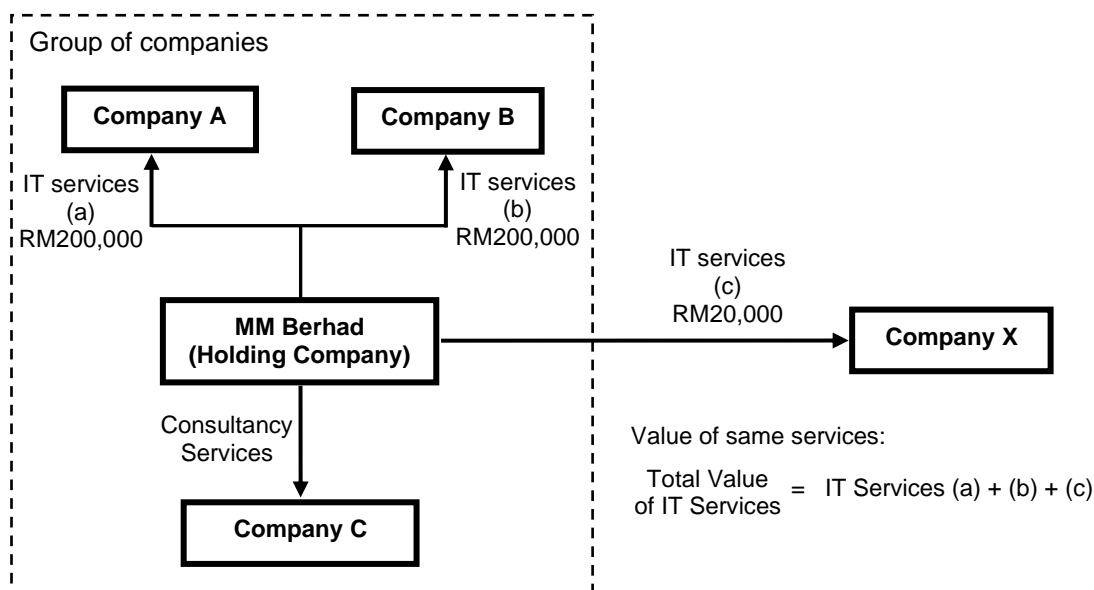
59. Effective 1 January 2020, notwithstanding paragraph 59, if the value of the taxable services provided to another person outside the group of companies in that month and the eleven months immediately succeeding that month does not exceed an amount equal to five percent of the total value of taxable service, the same taxable service provided to any company within the group of companies shall not be a taxable service.

Example 19

Services Provided to Another Person Outside the Group of Companies:

MM Berhad provide IT services to its subsidiary, Company A and Company B (companies in the same group of companies) and also consultancy services to Company C (company is the same group of companies).

Meanwhile, MM Berhad also provide IT services to Company X which is a company outside the group of companies. However, the value of IT services provided to Company X is less than 5% of the total value of IT services provided to all companies (inside and outside the group of companies). Hence, the IT services provided by MM Berhad inside and outside the group of companies are not subject to service tax.



Provided that:

Value of IT services (c) \leq 5% total value of IT services (for 12 months period)

Calculation:

IT Services (a) = RM200,000
 IT Services (b) = RM200,000
 IT Services (c) = RM20,000
 Total IT Services = RM420,000

Calculation for 5%:

= IT Services (c) / Total Value of IT Services X 100
 = RM20,000 / RM420,000 X 100
 = 4.76%

Non-Taxable Services

60. A member of a group of companies who provides taxable services as mentioned in paragraph 58 above to any company within the same group of companies, such services shall not be treated as a taxable service.

61. In order to treat a company who provides services within the same group of companies as making non-taxable services, the company shall consist 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,

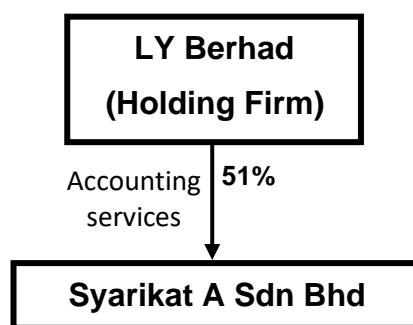
From twenty percent (20%) to fifty percent (50%) of the issued share capital of the second mentioned company and the first mentioned company has exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

62. 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 20

Directly to Subsidiary:

LY Berhad hold 51% of shares over Syarikat A Sdn. Bhd. 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, the accounting services provided within the same group of companies shall not be a taxable service.

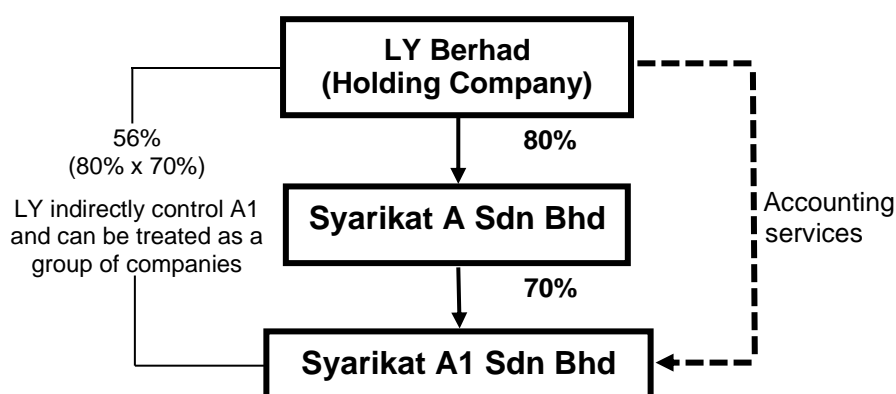


Example 21

Indirectly through subsidiary:

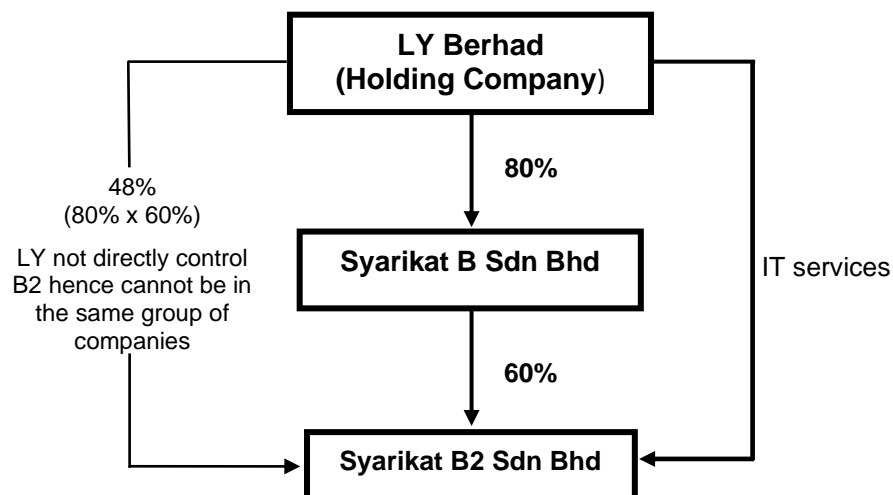
LY Berhad has a direct control over Syarikat A Sdn Bhd by holding 80% of its shares and Syarikat A Sdn Bhd controls Syarikat A1 Sdn Bhd by holding 70% of the company's shares. Indirectly, LY Berhad has the power to control Syarikat A1 Sdn Bhd by holding 56% (80% x 70%).

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. Thus, the supply of accounting services by LY Berhad to Syarikat A1 Sdn Bhd is not subject to service tax.



Example 22

LY Berhad holds 80% of share on Syarikat B Sdn Bhd and Syarikat B Sdn Bhd holds Syarikat B2 Sdn Bhd of 60% shares. Therefore, LY Berhad does not have the power to control Syarikat B2 Sdn Bhd indirectly by holding 48% (80% x 60%) of its shares. Hence, supply of IT services by LY Berhad to Syarikat B2 Sdn Bhd is subject to service tax.

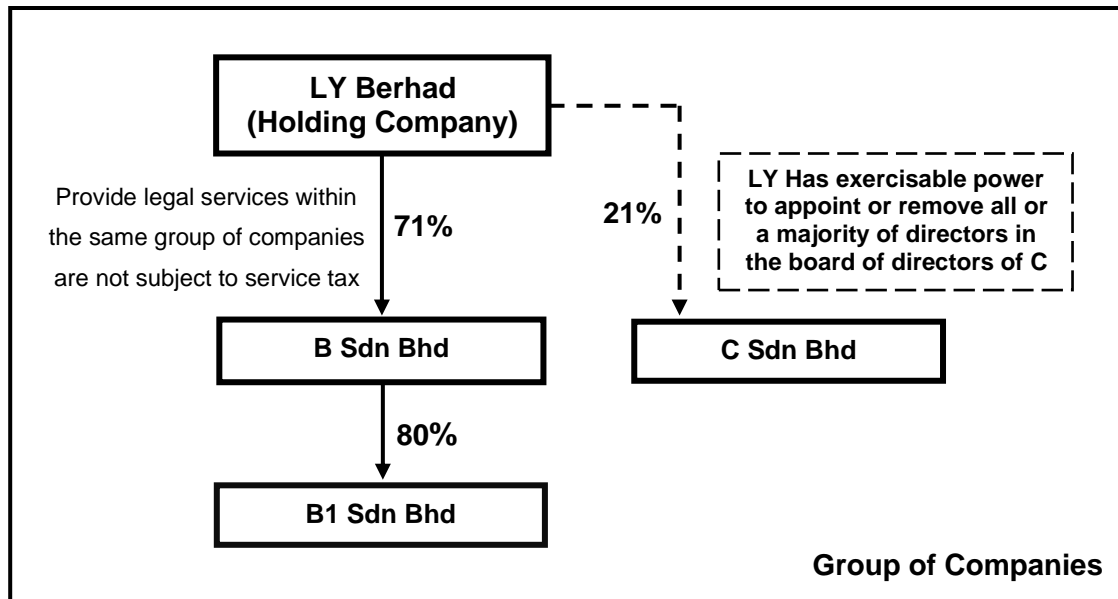


Example 23

Company to be deemed to control another company:

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 under paragraph 58 being provided within the same group of companies (between company LY, B, B1 and C) 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.



63. Where a company provides any services mentioned in paragraph 58 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 intra-group service and subject to service tax.

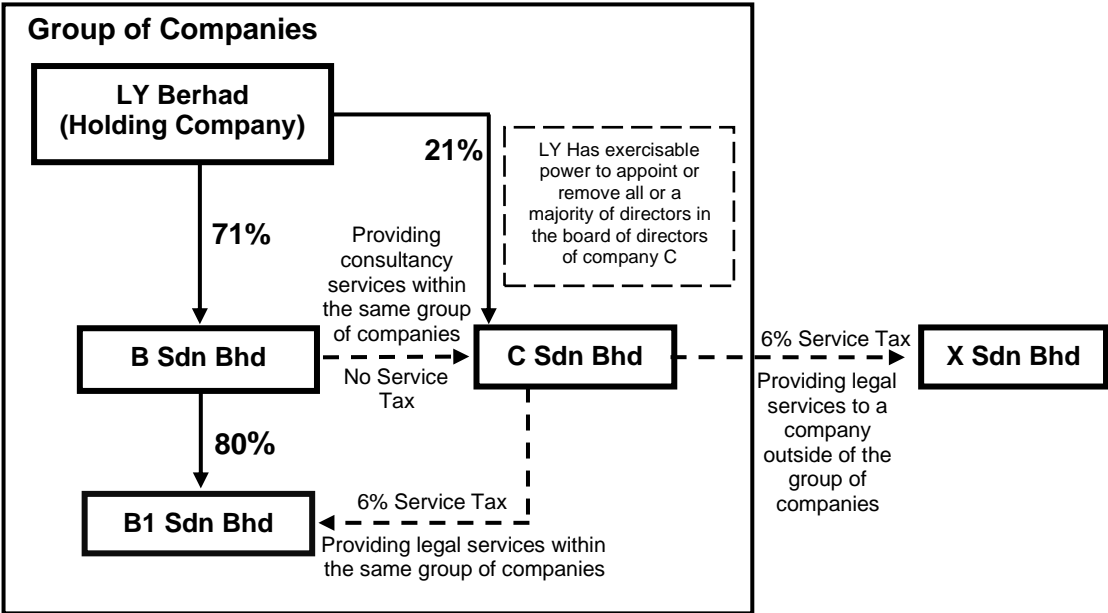
Example 24

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

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 58 above are treated as non-taxable services.

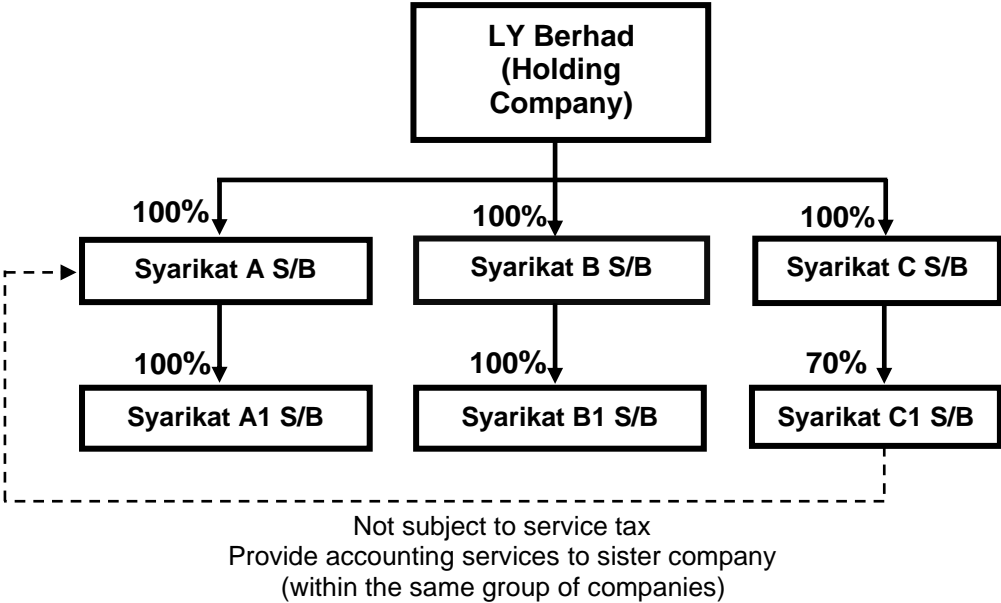
In this example, Syarikat C Sdn Bhd has provided services to his members in the group of companies, Syarikat D Sdn Bhd who is not a member of the group. Therefore, services provided by Syarikat C Sdn Bhd to LY Berhad, Syarikat B Sdn Bhd, Syarikat B1 Sdn Bhd and Syarikat D Sdn Bhd are subject to service 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.

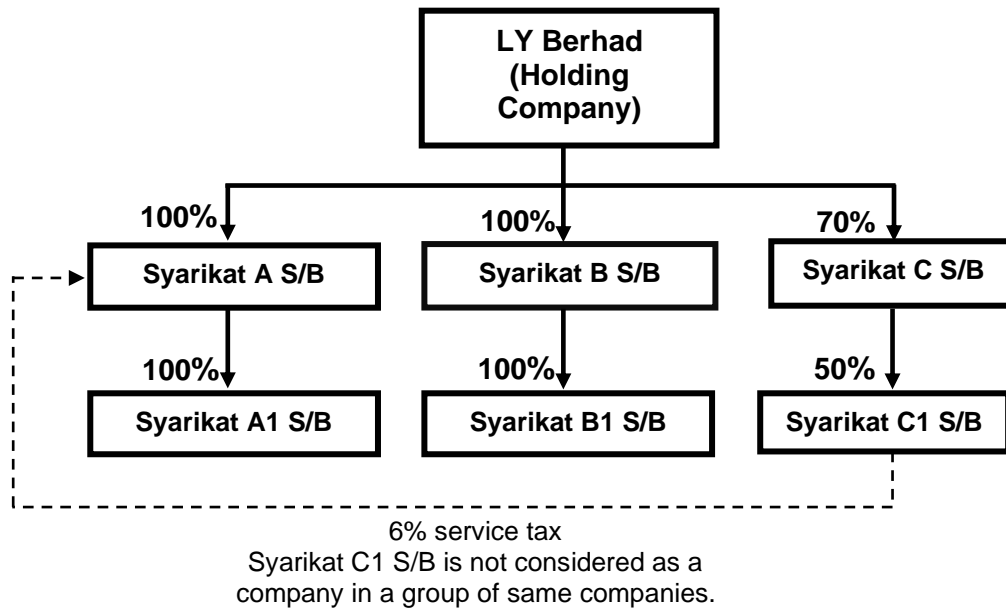


Example 25

Services provided by a sister company to members of the group of companies



Example 26



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

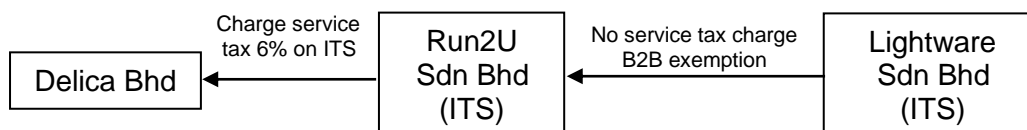
64. Effective 01 January 2019, service provider under Group G (excluding Item 10 and 11) granted exemption from payment of service tax on same services received by him. This exemption entitled to be used if fulfill conditions prescribed under item 1, Schedule of Service Tax (Person Exempted from Payment of Tax) Order 2018 as below:

- The service that is exempted is under Group G (excluding Item 10 and 11);
- Service provider who is the recipient of such exempt services must be a registered person; and
- The taxable service exempted is the same service provided by the person exempted from payment of tax.

Example 27

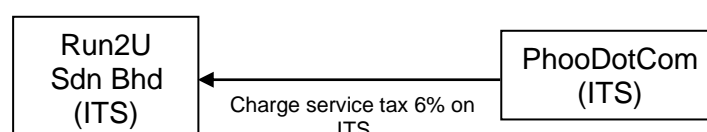
Run2U Sdn Bhd is a registered person who provides information technology services (ITS). Run2U Sdn Bhd was appointed by Delica Berhad to develop new software for the company. Run2U Sdn Bhd will then engage Lightware Sdn Bhd to develop the software. Run2U will customized the software based on Delica Berhad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

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



Example 28

In relation to example 7, for other situation Run2U Sdn Bhd engage PhooDotCom to develop software for the company itself. Run2U Sdn Bhd is now the end consumer. PhooDotCom need to charge service tax on ITS provided to Run2U Sdn Bhd. Based on this arrangement, Run2U Sdn Bhd does not entitle for exemption from payment of service tax because he is now the end consumer for the ITS.

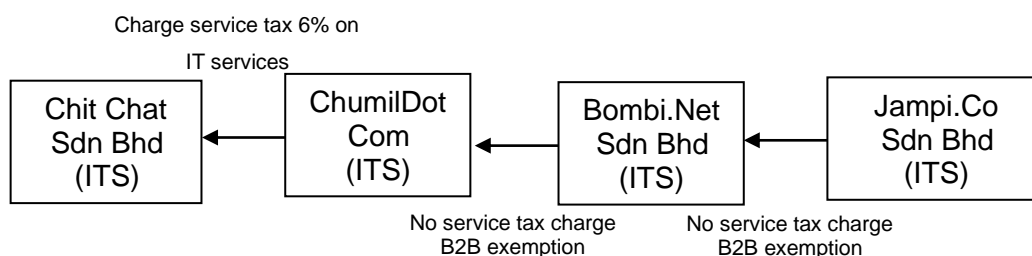


Example 29

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

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

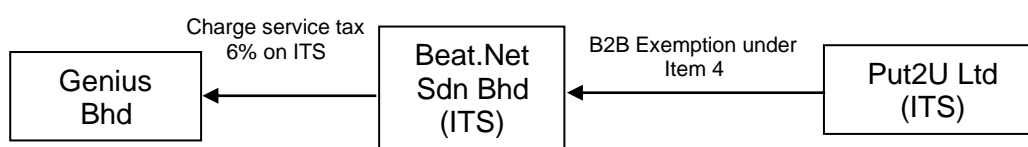
Therefore both ChumilDotCom and Bombi.Net Sdn Bhd will entitle for exemption from payment of service tax.



Example 30

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

In principal, ITS acquired by Beat.Net from Put2U Ltd is an imported taxable services and subject to service tax. With effect from 1 January 2020, under Item 4, Service Tax (Persons Exempted From Payment of Tax) (Amendment) Order 2019, the ITS imported by Beat.net is being exempted from payment of service tax. Subsequently Beat.Net is required to charge Genius Bhd service tax on ITS.



Responsibilities of registered person under B2B exemption

65. Any registered person under the category of B2B exemption, who has provided taxable services to any registered person entitled for the exemption is required to:

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

- b. Declare the Total Value of Exempted Taxable Services
Declaration of the value of service exempted from tax (B2B exemption) to be made in column 18 (c) of SST-02 form.

REGISTRATION AND RESPONSIBILITY OF A REGISTERED PERSON

66. 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.

67. 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.

68. 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 QUESTION (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 Group G of the First Schedule, Service Tax Regulations 2018 are subjected to service tax at the rate of 6%.

2. Q : **Is service tax chargeable on services which was performed on project or job 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 cost incurred and pass to customer as part of the value of service. As a registered person, you are required to account for service tax when payment is received.

Example 31

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 20 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 **I provide taxable services to my customer on 4th October 2018 and issued invoice on the 31st October 2018. It has been more than a year and I have not received any payment from my customer. Should I wait for the payment before I account for service tax?**

A Service tax has to be accounted a day after twelve months from the date of invoice issued even though you have not receive the payment from your customer.

Due to the amendment of STA 2018, effective from 1st September 2019, you have to account for service tax a day after twelve months from the date service was provided even though payment has not been received and whether or not invoice is issued.

5. 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 : Membership fees imposed by the professional bodies are not subject to service tax because there are no services provided by the professional bodies.

6. 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 taxable except professional services provided in connection with goods or land or other matters in Malaysia.

7. Q : **Is a consultant who provides professional engineering consultancy services to another consultant subject to service tax?**

A : A consultant who is a registered person providing professional engineering consultancy services to another consultant is required to charge and account for the service tax on his services. However, if the recipient of the service is also a registered person and providing the same services, the recipient is exempted from payment of service tax.

8. 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 is treated as part payment of a taxable service, then it is subject to service tax

9. Q : **How is service tax imposed when a discount is given?**

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

Example 32

<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>

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

A : Yes it is subject to service tax under imported taxable services.

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

A : The provision of legal services in relation to matters outside Malaysia is not subject to service tax.

12. **Q : What is the service tax treatment on the provision of legal services provided by a legal practitioner in Malaysia to a recipient in Designated Area (Langkawi, Tioman or Labuan)?**

A : The provision of legal services by a registered person in Malaysia to a recipient in Designated Area is subject to service tax.

13. **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 Malaysia?**

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

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

A : Legal services provided within or between the Designated Areas by a service provider whose principal place of business located in Designated Area is not subject to service tax.

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

A : Service tax is not due yet because the money in the client's account is not payment for the legal services.

16. **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. Does AA Company Berhad required to charge service tax to subsidiaries within the same group of companies?**

A : When 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 is subject to service tax.

INQUIRY

For any inquiries for this guide please contact:

Royal Malaysian Customs Department
Internal Tax Division
Level 5, 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 4 – 19 May 2021

PARA	CHANGES
Para 43	<p>Replace with new para.</p> <p>Replacing para 43 wholly with:</p> <p>“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 the following management services:</p> <ul style="list-style-type: none">(i) <i>the management services in connection with land or building for residential use provided by any developer, joint management body, management corporation or residential association;</i>(ii) <i>the management services provided by any person who is licensed or registered with the Securities Commission Malaysia for carrying out the regulated activity of fund management under the Capital Markets and Services Act 2007 [Act 671];</i>(iii) <i>the management services provided by any person , Government agency, local authority or statutory body for the purposes of religious welfare, bereavement, burial, cemeteries, cremation, sewerage, water supply, health, transport, tourism or logistics services; and</i> <p><i>the management services in connection with goods or land situated outside Malaysia or other matters outside Malaysia”.</i></p>

PARA	CHANGES																								
<p>Para 44</p>	<p>Cancel old para 44</p> <p>Cancelling para 44 as below, wholly.</p> <p><i>“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”.</i></p>																								
<p>Para 39</p>	<p>Cancel old Diagram 1 and replace with new Diagram 1</p> <p>Diagram 1:</p> <p>Service Tax Treatment on Office Holders/ Directors’ Fees</p> <table border="1" data-bbox="456 1200 1339 2047"> <thead> <tr> <th data-bbox="456 1200 555 1339">No.</th> <th data-bbox="555 1200 981 1339">Type of payment</th> <th data-bbox="981 1200 1158 1339">Subject to Service Tax</th> <th data-bbox="1158 1200 1339 1339">Not Subject to Service Tax</th> </tr> </thead> <tbody> <tr> <td data-bbox="456 1339 555 1420">1.</td> <td data-bbox="555 1339 981 1420">Directors’ remuneration / fee</td> <td data-bbox="981 1339 1158 1420">√</td> <td data-bbox="1158 1339 1339 1420"></td> </tr> <tr> <td data-bbox="456 1420 555 1771">2.</td> <td data-bbox="555 1420 981 1771">Directors’ allowances e.g: Meeting allowance, monthly allowance, Senior Independent Director (SID) allowances and other allowances, etc.</td> <td data-bbox="981 1420 1158 1771">√</td> <td data-bbox="1158 1420 1339 1771"></td> </tr> <tr> <td data-bbox="456 1771 555 1861">3.</td> <td data-bbox="555 1771 981 1861">Benefit-in-kind (BIK)*</td> <td data-bbox="981 1771 1158 1861">√</td> <td data-bbox="1158 1771 1339 1861">√</td> </tr> <tr> <td data-bbox="456 1861 555 1944">4.</td> <td data-bbox="555 1861 981 1944">Reimbursement</td> <td data-bbox="981 1861 1158 1944">√</td> <td data-bbox="1158 1861 1339 1944"></td> </tr> <tr> <td data-bbox="456 1944 555 2047">5.</td> <td data-bbox="555 1944 981 2047">Disbursement*</td> <td data-bbox="981 1944 1158 2047"></td> <td data-bbox="1158 1944 1339 2047">√</td> </tr> </tbody> </table>	No.	Type of payment	Subject to Service Tax	Not Subject to Service Tax	1.	Directors’ remuneration / fee	√		2.	Directors’ allowances e.g: Meeting allowance, monthly allowance, Senior Independent Director (SID) allowances and other allowances, etc.	√		3.	Benefit-in-kind (BIK)*	√	√	4.	Reimbursement	√		5.	Disbursement*		√
No.	Type of payment	Subject to Service Tax	Not Subject to Service Tax																						
1.	Directors’ remuneration / fee	√																							
2.	Directors’ allowances e.g: Meeting allowance, monthly allowance, Senior Independent Director (SID) allowances and other allowances, etc.	√																							
3.	Benefit-in-kind (BIK)*	√	√																						
4.	Reimbursement	√																							
5.	Disbursement*		√																						

PARA	CHANGES
	<p>* However, the transactions below are not subject to service tax for the situations below:</p>
<p>Para 39</p>	<p>Add in part (ix)</p> <p>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.</p>
<p>Para 39 (ix)</p>	<p>Add in part (a) and (b)</p> <p>a) Benefit in kind (BIK)</p> <p>The BIK is also part of the remuneration package and it is a perquisites that act as added incentives for directors. The NEDs may receive the benefits such as allowance in terms of cash given directly by the appointing company which is subject to service tax.</p> <p>However, the facility which paid directly by the company to the service providers for the NED to enjoy, is not subject to service tax.</p> <p>b) Disbursement</p> <p>Kindly refer to the Service Tax Guide on Disbursement and Reimbursement.</p>