

Indirect Tax Alert

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Budget 2022

The 2022 Budget Speech was laid before the Dewan Rakyat today. At the time of writing, the Finance Bill, which will enact the changes into law has not been released.

We summarise below the proposed indirect tax amendments set out in the Budget Speech:

1. Introduction of Special Voluntary Disclosure Program

Currently, there is no provision in the indirect tax legislation for remission of tax and/or penalties for voluntary disclosures of underpayments or erroneously reported indirect taxes administered by Customs. Any remission on penalties and/or indirect taxes is subject to approval of the Minister of Finance or Director General of Customs on a case by case basis via application by the taxpayer.

It is proposed that a Special Voluntary Disclosure Program ("SVDP") for indirect taxes will be introduced in phases with the following penalty remission incentives:

- First phase: Remission on penalties of 100%; and
- Second phase: Remission on penalties of 50%.

In addition, remission of the primary tax underpaid will also be considered in certain cases.

PwC Comment

The date of implementation and the period of the SVDP have not been proposed. We expect further details and guidance to be provided by Customs in respect of this as well as the type of indirect taxes covered under this SVDP and the application procedure and conditions of the SVDP.

In anticipation of the introduction of the SVDP, companies should review their risk areas to determine if there are any indirect taxes that have not been paid, or have been underestimated or erroneously reported to Customs. In that case, companies should take the opportunity to disclose such underpayment or error to avail themselves of the penalty remission concessions noted above (100% in first phase, or 50% in second phase) with certainty.

2. Imposition of service tax on delivery services

(Effective date: 1 July 2022)

Currently, any courier delivery services for documents or parcels weighing less than 30kg by a service provider licensed under the Postal Services Act 2012 is subject to service tax. All other delivery services are not subject to service tax.

To achieve a level playing field, it has been proposed that service tax will be imposed on delivery services provided by any service provider including e-commerce platforms (but excluding food and beverage delivery services as well as logistics services).

PwC Comment

Service providers of delivery services will now be required to register for service tax and impose service tax on their delivery services, irrespective of whether they are licenced under the Postal Services Act 2012. Further clarification is required to be sought from Customs on the scope of taxable delivery services (for example, whether it matters if the parcel weighs more than 30kg) and the excluded delivery services (for example, would the delivery of fresh product be excluded as food and beverage delivery services). In addition, it is also not clear if the intended service providers that will be liable to be registered include removalists and transporters of industrial equipment.

3. Service tax exemption on brokering services in relation to trading of listed stocks
(Effective date: 1 January 2022)

Currently, services in relation to financial services for the use or provision of brokerage services is subject to service tax. Brokerage service providers are liable to impose service tax on the services provided, which includes brokerage services related to the trading of listed stocks.

To ensure the Malaysian stock market activity remains competitive, it is proposed that the brokerage services relating to the trading of shares listed on Bursa Malaysia be exempted from service tax.

PwC Comment

Effective from 1 January 2022, brokerage service providers who provide services in relation to the trading of shares listed on Bursa Malaysia will no longer be required to charge 6% service tax. Brokerage service providers who may no longer be liable to be registered for service tax would need to submit an application to cancel their service tax registration.

4. Imposition of sales tax on low value goods
(Effective date: 1 January 2023)

Currently, an importer of low value goods (LVG - goods whose value does not exceed RM500) is exempted from paying sales tax on importation, subject to the following conditions:

- The imported goods does not exceed RM500 per consignment;
- The goods are imported using air courier service through the prescribed international airports;
- Cigarettes, tobacco and intoxicating liquor are not eligible for this exemption.

To ensure equal tax treatment for locally manufactured and imported goods, it has been proposed that the above sales tax exemption for LVG be abolished and sales tax be imposed on such LVG that are sold online and imported using air courier service into Malaysia.

The Budget Speech further indicated that local and foreign sellers who sell such LVG to Malaysian customers are required to register for and impose sales tax on the sale.

PwC Comment

Imported LVG will no longer be exempted from sales tax, hence sales tax will be imposed at the point of importation by the Royal Malaysian Customs Department ("Customs"). We expect e-commerce platforms

and foreign sellers who offer their goods for sale online will be impacted by this proposal.

In addition, if local and foreign sellers are required to register and charge sales tax on the online sale of such LVG, this will potentially lead to double taxation, if not mitigated. This is because sales tax would either have been levied on the LVG by Customs upon their importation (since the LVG exemption is removed) or charged by local manufacturers on their local sales. Further clarification is required to be sought from Customs on how any potential double taxation is to be avoided.

5. Extension for sales tax exemption on passenger motor vehicles

(Extended period: 1 January 2022 to 30 June 2022)

Currently, sales tax exemption is available from 15 June 2020 to 31 December 2021 on the following:

- 100% exemption in relation to the sale of locally assembled passenger motor vehicles (including SUV and MPV); and
- 50% exemption in relation to imported passenger motor vehicles.

This exemption was initially provided under PENJANA and further extended under the PEMERKASA stimulus package.

It is proposed that the sales tax exemption be further extended for 6 months to 30 June 2022.

PwC Comment

The extension of the sales tax exemption allows consumers to continue enjoying the exemption which will assist to boost the demand for new passenger motor vehicles in the local market.

6. Extension of tourism tax exemption

(Extended period: 1 January 2022 to 31 December 2022)

Currently, accommodation premises operators registered under the Tourism Tax Act 2017 are exempted from charging tourism tax until 31 December 2021. This exemption was initially provided under the Short-Term Economic Recovery Plan (PENJANA) and further extended under the Strategic Programme to Empower the People and Economy (PEMERKASA) stimulus package.

It is proposed that the exemption from charging tourism tax will be further extended for one year to 31 December 2022.

PwC Comment

The extension of the tourism tax exemption will help in the recovery of the domestic tourism industry currently affected by the COVID-19 pandemic and to attract foreign tourists into Malaysia.

7. Extension of entertainment duty exemption for entertainment premises in Federal Territories

(Extended period: 1 January 2022 to 31 December 2022)

Currently, entertainment premises such as theme parks, performance stages, sport & competition events and movie theatres in the Federal Territories are exempted from paying entertainment duty on the admission fees from 1 April 2021 to 31 December 2021.

It is proposed that the exemption be extended for a further year to 31 December 2022.

PwC Comment

The extension of the entertainment duty exemption will help to lessen the burden on the entertainment premises which have been badly affected by the COVID-19 pandemic.

8. Exemption of import duty, excise duty and sales tax on imported and locally manufactured electronic vehicles

(Effective date: 1 January 2022)

Currently, imported CBU Electric Vehicles (EVs) are subject to import duty, excise duty and sales tax with a few exceptions. For locally manufactured EVs, the CKD components are exempted from import duty, while the locally assembled vehicles (CKD) are given partial excise duty exemption and sales tax exemption.

It is proposed that full excise duty and sales tax exemption be granted on the locally manufactured EVs from 1 January 2022 to 31 December 2025. Full exemption on import duty, excise duty and sales tax will also be given to imported CBU EVs from 1 January 2022 to 31 December 2023.

PwC Comment

The exemptions proposed should encourage more people to switch to EVs which are more environmentally friendly.

9. Excise duty on liquid or gel containing nicotine used in e-cigarette and vape

(Effective date: 1 January 2022)

Currently, excise duty is imposed on electronic cigarettes (e-cigarettes), vape and nicotine-free liquids or gels used in e-cigarette and vape devices.

It is proposed that excise duty be imposed at a rate of RM1.20 per milliliter on liquid or gel products containing nicotine which are used in e-cigarettes and vape devices . It is also proposed that the excise duty for nicotine-free liquids or gels used in e-cigarettes and vape devices be increased from RM0.40 per milliliter to RM1.20 per milliliter.

PwC Comment

By standardizing the excise duty treatment on liquid or gel products used in e-cigarette and vape devices irrespective of whether they contain nicotine or not , it is hoped that there will be a reduction in smoking as well as on Customs to administer and enforce the excise duty on these items.

10. Excise duty on pre-mixed preparation of sugar sweetened beverages

(Effective date: 1 April 2022)

Currently, only certain ready-to-drink sugar sweetened beverages (SSB) exceeding a certain amount of sugar content are subject to excise duty.

It is proposed that excise duty be extended to certain pre-mixed preparations of SSB containing a total sugar content exceeding 33.3 grams per 100 grams.

PwC Comment

It appears to be consistent with the policy of subjecting ready-to-drink SSB to excise duty, to extend the excise duty to pre-mixed preparations of SSB since the latter is very similar to ready-to-drink SSB as it

can be quickly prepared for consumption.

11. Increase in the threshold for windfall profit levy on palm oil exportation
(Effective date: 1 January 2022)

Currently, Windfall Profit Levy is levied on palm oil exportation at the following rates and threshold:

- Peninsular Malaysia : 3% for Crude Palm Oil (CPO) threshold value of RM2,500 per metric tonne
- Sabah and Sarawak : 1.5% for CPO threshold value of RM3,000 per metric tonne

It is proposed that the CPO threshold value for Sabah and Sarawak and Peninsular Malaysia to be adjusted as follows:

- Peninsular Malaysia : 3% for the CPO threshold value of RM3,000 per metric tonne
- Sabah and Sarawak : 3% for CPO threshold value of RM3,500 per metric tonne

PwC Comment

The standardization of the rate at 3% should facilitate Customs to administer the levy. The upward adjustment of the threshold is to reflect the current high CPO value and this should benefit the producers and exporters.

12. Expansion export duty exemptions on petroleum products
(Effective: 1 January 2020 to 31 December 2029)

Currently, export duty exemptions are given to petroleum products produced from marginal field projects.

It is proposed that export duty exemptions be expanded to petroleum products produced under Late-Lift Assets (LLA) projects. LLA is a project carried out in an oil field (brownfield) that has a remaining economic life span not exceeding 10 years starting from the year award of contract.

PwC Comment

The proposed exemptions would encourage Oil and Gas operators to invest in these LLA projects.

We hope this issue of Indirect Tax Alert is useful to you in highlighting the indirect tax impact of Budget 2022. If you wish to discuss any aspects of these updates, do reach out to us.

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