



Service Tax

Scope of Charge

Levied on	Prescribed service providers carrying on the provision of services to customers in M'sia
Taxable group (1 nd schedule of Service Tax Regulations 2018)	Appendix 37.1 (pg 722 to 728)-Group G

Scope of Charge

Non application	<ul style="list-style-type: none"> •Exported services • Provide services in the Joint Development Area, •Free zone * •Licensed warehouse, * •Licensed Manufacturing warehouse <p>Special area</p>
Eg 37.1, 37.2 pg 700.701	<ul style="list-style-type: none"> •Labuan * •Langkawi * •Tioman * <p>Designated areas</p>
	<p>* Deemed outside Malaysia</p>

Imported taxable service

- ✦ Taxable services provided by overseas supplier and consumed by Msian biz enterprises irrespective of whether they are service tax registrant or not attract service tax at 6%

Single Stage Service Tax

- ✦ Levied on consumers at the consumption stage (also known as consumption tax)

Collecting Agent: restaurants, hotels, health centres or engaged in professional services such as legal firms , auditing firms,etc.

Determination of charge and value

✦ (a) **Taxable service**

- (i) the charge levied or collected
- (ii) the premium for insurance coverage

If related party / no charge/premium is levied
= providing taxable service in the ordinary course of
business to non related party

Determination of charge and value

✶ (b) **Taxable service for the sale of goods to non related party/related party/no charge**

- ✓ actual price for which goods are sold to non- related party(independent person) must be used

Licensing

- ✦ **RM500,000 and RM1,500,000(for F&B)** based on a **revolving** 12 months basis *Eg 37.3,37.4*
- ✦ The revolving 12 month would continue until the threshold reaches the prescribed amount of RM500,000 or **RM1,500,000**
- ✦ Application of service tax is required upon reaching the threshold
- ✦ Service tax license may be applied on a voluntary basis and impose service tax thereon
- ✦ Included services provided in Msia+export services +designated areas and special areas

Service tax rate

✦ **6% of the price**, of the taxable services ascertained in accordance with arm's length basis.

The levy of service tax

- ✿ Levied at the time the taxable service is provided to the customer by the taxable person
- ✿ Disbursement (specific expenses incurred on behalf of a client and form as part of the client's expenses based on actual cost incurred) is not subject to ST.
- ✿ Where profit margin is added on these expenses, then ST is applicable
- ✿ Hotel & accommodation reimbursed by client with actual cost incurred will not be subject to ST

Invoice

- ✦ Must contain the following particulars:
 - (a) *The invoice serial number;*
 - (b) *The date of the invoice;*
 - (c) *The name, address and identification number of the service tax registrant*
- ✦
 - (d) *A description sufficient to identify the taxable services provided;*
 - (e) *Any discount offered;*

Invoice

- ✦ *(f) The total amount payable excluding service tax, the rate of service tax and the total service tax chargeable shown as a separate amount;*
- ✦ *(ha) the total amount payable inclusive of the total of service tax chargeable; and*
- ✦ *(i) Any amount expressed in a currency other than Ringgit shall also be expressed in Ringgit at the selling rate of exchange prevailing in Malaysia at the time when the taxable services are provided*

It must be in the national language or English language;

Eg 37.6, pg 622

Surrender of license

- ✦ Ceases business in providing any taxable service
- ✦ Goes into a partnership, retirement or admission of partner
- ✦ a registered company acquired his business
- ✦ Becomes a taxable person on another group as specified in Sch 2
- ✦ Any change in the name, location, number of business & addresses of biz
- ✦ He is called upon by the DG

Payment of service tax

- ✦ Accounted to Customs Dept when payment for goods or services is received by the taxable persons
- ✦ ST shall be due on the day following that period of 12 mths if payment is not received within that period *Eg 37.9, pg 625*
- ✦ Payable within a month from the expiration of taxable periods

	Due date of payment of service tax
January - February	31 March
March- April	31 May
May - June	31 July
July - August	30 September
September - October	31 November
November - December	31 January

Late Payment Penalty

- ✨ A penalty (max =40%) on service tax which remains unpaid after 30-day

Say amount due on 31.5.2019	Penalty	RM20,000
1.6.2019 – 30.6.2019	10%	2,000
1.7.2019 – 30..7.2019	15%	3,000
31.7.2019 – 29.8.2019	15%	3,000
	40%	8,000

Eg 37.11 – 37.12

Service tax set off on cancelled services

✨ DG may authorise (prior approval required) the taxable person to deduct service tax so paid from the service tax return submitted every 2 calendar month if made a refund to its customer due to

- (a) Cancellation of taxable service *Eg 37.8, pg 624*
- (b) Termination of taxable service
- (c) Such other reasons as may be approved by DG

Note: The deduction must be made ≤ 1 year after the payment was made to his customer

Deduction of bad debts

- ✦ ST is only accountable to the customs department upon **payment received** from customers
- ✦ Need to account personally to the ST if collection not received \leq 12 months from the date of invoice

Irrecoverable Bad debts

✨ Allow a taxable person to claim a refund of ST paid on:

- (a) Doubtful debts provided in the accounts;
- (b) Bad debts written off

Irrecoverable Bad debts

customers	<ul style="list-style-type: none"> (i) Has been adjudged bankrupt (ii) Has been placed under receivership (iii) Has voluntarily wound up or ordered by court to wind up (iv) Filed a claim against him in court by the taxable person to recover the debt (v) Has been filed for bankruptcy by the taxable person (vi) Has not paid for the whole or any part of the payment after 6 months from the date of such service tax was paid 	<ul style="list-style-type: none"> •Whole/any part provided in the accounts as doubtful debts or written off as bad debts •Where only part of bad debts turn bad <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> $= \text{service tax paid} - A/B \times C$ </div> <p>A=payment received B=sales value + ST paid C= ST payable</p> <ul style="list-style-type: none"> • refund must be made within 6 years from the date of ST paid

● Bad debts recovered after ST refunded

✦ Shall repay DG in his return in the taxable period he receives such payment according to

$$A/B \times C$$

A= payment received i.r.o provision of such taxable service

B= Sales value of such taxable service + ST payable

C= ST payable on such service

Refund of Service Tax or Penalty

✦ **A claim can be made if service tax/penalty**

(a) has been overpaid;or

(b) has been erroneously paid; and

(c) must claim within 1 year after the
overpayment/erroneous was made

Recovery of ST /penalty erroneous refunded

✱ DG can demand from taxable person ≤ 6 years from the service tax/penalty is payable

Offences and penalties

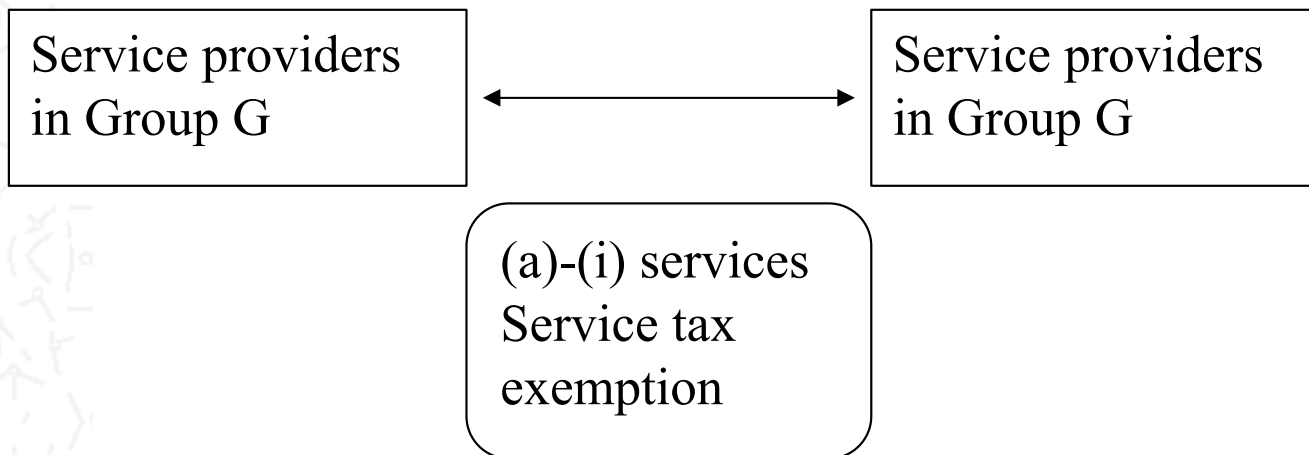
✦ Refer pg 628 to 637

Artificial separation

- ✦ RMC has the discretion to consolidate 2 or more businesses which are set up separately with the sole intention to avoid registration. Criteria used:
 - ✦ (a) common employees;
 - (b) common premises
 - (c) common shareholders providing the required financial assistance and capital
 - (d) \geq businesses are interconnected and servicing the same customers
- Can be treated as 'single taxable person' and directed by RMC for service tax registration

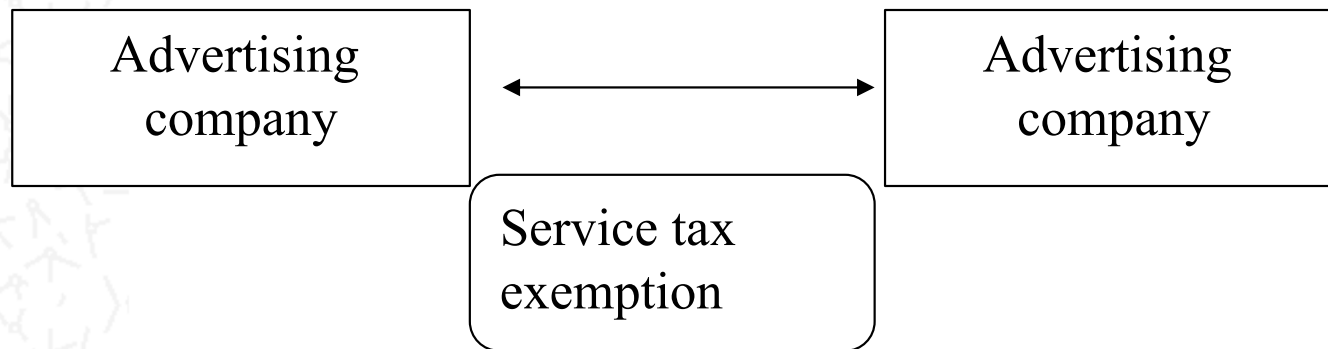
Service tax exemption -Professionals

- ✦ Service tax registrants in Group G (Professional) who acquires taxable services (of the same nature & provided to customers)) of Group G (including imported taxable service) would be exempted from ST (*other than employment services and private agency*)
- ✦ The same exemption applies to imported services of item (a) to (i) from companies within the group of companies which are outside Malaysia



Service tax exemption-Advertising

- ✦ Service tax registrants in Group I, Item 8 (advertising company) who acquires advertising services from suppliers providing advertising services within the same industry (including imported taxable service) would be exempted from ST(same nature and provided to customers)



B2B exemption-conditions

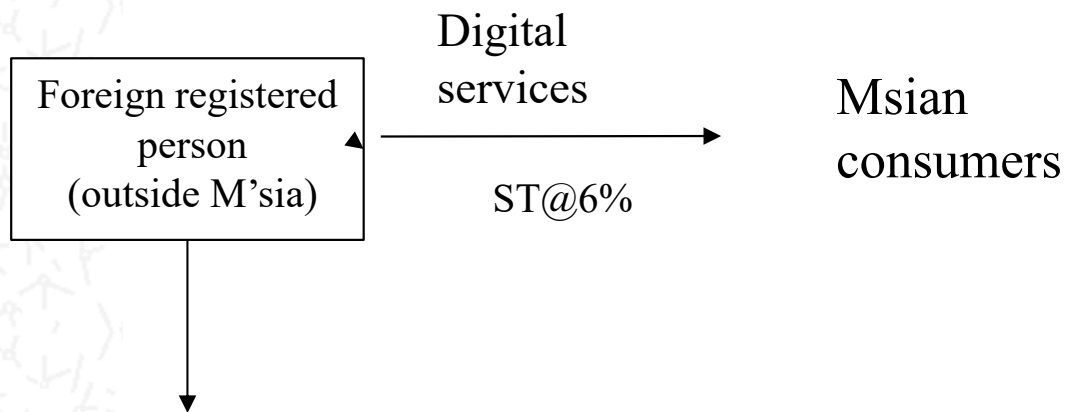
- ✚ The service provider(who does not require to charge service tax) is a registered person
- ✚ The service recipient (who entitles for exemption from payment of service tax) is a registered person
- ✚ The service acquired are for the purpose of providing services to the customers and not for personal consumption

Service tax exemption

-Services provided within group

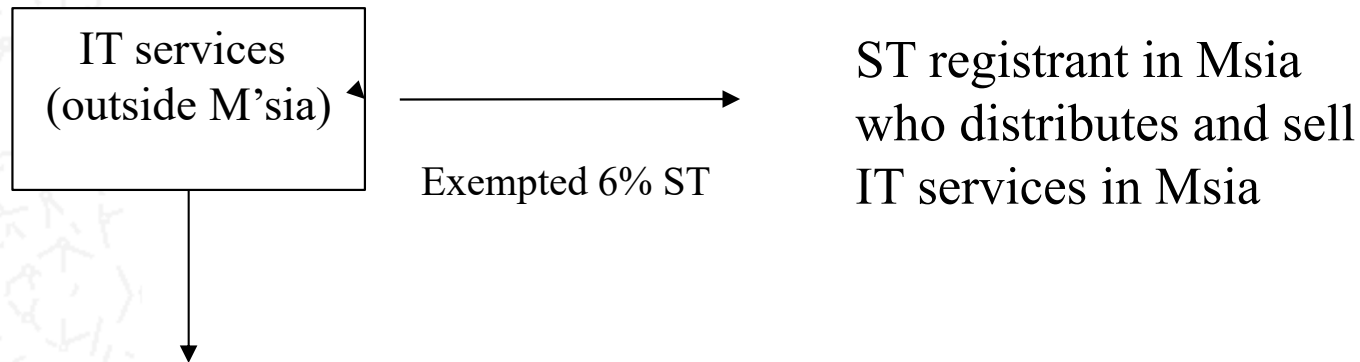
- ✎ Service tax **would not apply** for Companies providing services exclusively within the group of companies in Group G (other than employment services and private agencies) with the sole intention to share the resources or cost recovery is said to be not providing taxable service
- ✎ If the Company providing similar services to its customers and also to its related companies within the same group, the entire services are subject to service tax.
- ✎ *Effective from 1 January 2020, this rule is relaxed to allow for the same services to be rendered to persons outside the group, provided that the value of the services does not exceed 5% of the total value of services provided by that company within 12 months.*

Digital service



- Need to register as taxable person if turnover >RM500,000
- Taxable period is 3 months , SST needs to be accounted for ≤ 1 month upon the expiration of a taxable period

Information technology services



- Must be identical to the IT services distributed and sell in Msia
- Not for personal consumption

Imported taxable service – professional (*)and advertising

Conditions for exemption

- The imported taxable services are acquired by a registered person
- The registered person provides the same services as the imported taxable services(ITS) acquired
- The ITS acquired are for the furtherance of business (providing services to customers) and not for personal consumption
- The amount payable on the imported services has been made to the foreign service provider

* Exclude employment services and private agency