SST: New Taxable Services and Taxable Goods

A. What's New?

As part of the Budget 2025 announcement on 18th October 2024, it was proposed that the scope of Sales Tax and Service Tax (collectively referred to as "SST") is expanded during the year 2025. In fact, shortly after the announcement, avocado and salmon become the talk of the town for being cited as example of items to be included in the expanded scope.

To implement the proposed expansion, the Government has released five (5) Ministerial orders yesterday with *1st July 2025* being the effective date. The impact of these orders is much wider than just avocado and salmon. The 2025 Budget estimates an *additional fiscal revenue of RM5 billion* for the Government from additional items subject to SST.

Concurrently, the Royal Malaysian Customs Department ("RMCD") has issued several industry guides on the SST changes.

In this e-Alert, we bring to you our preliminary analysis of the new regulatory changes, and their business implications.

B. New Taxable Services

The table provides an overview of the key sectors affected by the new taxable services.

No.	Sector / Broad Service Type	Tax Rate	Registration Threshold	Notable Exemptions and Reliefs
1	Education (Private Schools *etc.*)	6%	NIL	Students with fee below RM60,000 per

No.	Sector / Broad Service Type	Tax Rate	Registration Threshold	Notable Exemptions and Reliefs
				academic year is excluded.
2	Higher education	6%	NIL	All Malaysian citizens are excluded
3	Healthcare	6%	RM 1.5 million	All Malaysian citizens are excluded
4	Rental and leasing (both movable and immovable properties) – for example, rental of commercial property, lease of business equipment, hiring of motor vehicles or hiring of animals	8%	RM500,000	- Housing accommodation - Reading materials - Assets outside of Malaysia - Finance lease - MSME tenant with annual revenue not exceeding RM500,000* - B2B exemption - Group relief* - Exemption up to 12 months for non-reviewable contracts*
5	Construction Works	6%	RM 1.5 million	- Construction of residential building (not part of mixed development) - B2B exemption - Exemption up to 12 months for non-reviewable contracts*

No.	Sector / Broad Service Type	Tax Rate	Registration Threshold	Notable Exemptions and Reliefs
6	Financial Services	8%	RM500,000	- B2B exemption, for Labuan and Bursa Malaysia related transactions
7	Beauty Services	8%	RM500,000	

Table 1: Key Sectors Impacted by the New Service Tax Scope

Note: Exemptions / reliefs marked with * in the table above are not part of the law at the time of writing but are included herein based on an announcement by the Ministry of Finance ("MoF").

Further details are as follows:

Education *(excluding Higher Education and Language Schools)*

All private educational institutions registered under the Education Act 1996 are covered, except for special schools. Hence, services provided at the pre-school, primary, lower secondary, upper secondary or post-secondary levels are *subject to service tax if the total fee per academic year exceed RM60,000 per student – regardless of whether the student is a foreigner or a Malaysian citizen*. Based on the provisions of the Service Tax Regulations, it appears that service tax would apply to all fees (not just course fees) imposed by the operator (save for limited exceptions such as overseas study tours).

There is no registration threshold. Hence, if an educational institution charges more than RM60,000 per annum to even one student, the institution is required to register for service tax and comply with the provisions of Service Tax Act 2018.

There is an exemption in place for services provided to OKU card holders who are Malaysian citizens.

Higher Education and Language Centres

Only services provided to non-citizens are regarded as taxable services with respect to higher education and language centres. Service tax on fees charged to foreign students applies regardless of the amount.

Given that there is no registration threshold, even if a higher education institution or language centre has only one foreign student, the entity would be required to register for service tax and comply with the provisions of Service Tax Act 2018.

Higher education institutions must carefully assess the service tax treatment on scholarships granted to foreign students as there are provisions in Service Tax Act 2018 that require service tax to be accounted on 'market value' for all transactions. Likewise, the service tax treatment for charges to students during student exchange program period must also be well considered.

Healthcare

The expanded scope of taxable services (and taxable persons) encompasses the following three (3) groups:

- Healthcare services provided by any person with registration or licensing under the Private Healthcare Facilities and Services Act 1998 (subject to a few exceptions).
- Traditional and complementary medicine services provided by any provider or operator (other than those under the Private Healthcare Facilities and Services Act 1998).
- Allied health services (other than those under the Private Healthcare Facilities and Services Act 1998) – inclusive of physiotherapy, nutrition, clinical psychology, speech-language therapy, radiation therapy and so on.

There is an *exemption for services provided to Malaysian citizens*. So far, there is no mention of an exemption for permanent residents or MM2H holders.

The registration threshold for the service providers is RM 1.5 million. However, given that the services to Malaysian citizens are technically regarded as 'taxable, but exempt', the value of these services must still be counted in determining whether the registration threshold is exceeded. As an example, if a hospital has total revenue of RM 5 million, of which only RM 1 million is from non-citizens, the hospital is still required to register for service tax as the total value of healthcare services exceed the threshold of RM1.5 million. Nevertheless, service tax would only be imposed on the RM1 million portion attributable to non-citizens, as the RM4 million portion related to Malaysian citizens is exempt.

From preliminary readings of the regulations, it appears that the hospital in the said example would be required to reflect the value of service tax exempt services on the invoices issued to Malaysians and report such values in the SST-02 return. Such a requirement may prove to be a tedious task for some operators. It remains to be seen whether RMCD would provide any relaxation of these requirements for simplicity and ease of compliance.

Lease and Rental (movable and immovable properties)

This category covers all types of rentals or leasing of tangible assets, *except for the following*:

- Housing accommodation (inclusive of small-office-home-office units, serviced apartments, serviced condominiums, serviced suites or residential suites);
- Reading materials;

- Assets outside of Malaysia; and
- Financial leases (the distinction between an operating lease and a financial lease is based on several factors applied to the specific facts of the respective arrangement).

The registration threshold is RM500,000 per annum, based on the value of taxable services provided by the service provider within any 12-month period.

Common examples of transactions subject to service tax under this group are:

Rental of commercial property (official building, shop lot etc), but only when its part of lessor's 'business activity' with value exceeding RM500,000 per annum*	Rental of equipment - e.g. photocopier, industrial machine, water dispenser machiner (excluding 'finance lease' - as defined)	Hiring of motor vehicles, rental of books, animals etc.

* the RM500,000 threshold applies on total value of taxable supply, i.e. not separately for each property.

Diagram 1: Rental / Lease – Common Examples of Taxable Services

Rental and lease services are eligible for Business-to-Business (B2B) Exemption, subject to various conditions. For a lease charged by A to B to qualify for the B2B exemption, the following conditions apply:

1. Both A and B must be service tax registered in respect of the taxable service under Group K;

2. B must provide (aka. 'onward supply') the same taxable service (i.e. leasing under Group K) to another party (say, C); and
3. The service (lease) is provided by A to B for the purposes of subletting or subleasing, and not for B's own personal consumption.

RMCD's guidelines clarify that B2B exemption still applies even if B occupies part of the property and sub-leases only a portion of it. Of course, the exemption is applicable only for charges from A to B in respect of the area being sublet by B.

Based on information available at this juncture, the scope of B2B exemption for lease and rental applies only on domestic transactions. As such, there may be cascading or compounding effects when an asset is leased from a foreign vendor and then subleased.

Further, MoF's announcement indicate exemptions would apply in the following cases:

(i) Tenants who are Micro, Small & Medium Enterprises (MSMEs) with annual revenue not exceeding RM500,000;
(ii) Group relief for transactions within the same group of companies; and
(iii) To facilitate a smooth transaction, an exemption up to 30th June 2026 for existing non-reviewable contracts.

Details of the three (3) exemptions stated above are yet to be announced or legislated.

Construction Works

A higher registration threshold of RM 1.5 million is applicable, but the scope of construction services is not confined to contractors licensed by CIDB.

Instead, 'construction' is defined as construction, extension, installation, repair, renewal, removal, renovation, alteration, dismantling, demolition of, or facility maintenance in the construction works period:

(a) Any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
(b) Any road, harbour works, railway, cableway, canal or aerodrome;
(c) Any drainage, irrigation or river control works;
(d) Any electrical, mechanical, petrochemical or telecommunication works;
(e) Any gasworks or waterworks; or
(f) Any bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation works,

which includes any works which form an important and integral part of or are preparatory to or temporary for the works specified in paragraphs (a) to (f).

Although the law only refers to 'construction works', RMCD has expressed in its guidelines that *service tax could be imposed on any billing in respect of works and value of materials affixed*. It remains to be clarified whether materials, if itemised and billed separately (i.e., not part of a lump sum contract), can be excluded from service tax.

There is an exclusion for construction of residential buildings (and public facility related to residential building).

However, *residential buildings within a mixed development do not qualify for this relief*.

B2B exemption is available for construction works to avoid cascading or compounding effects. The conditions to qualify for this exemption is similar to those described for 'Lease and Rental' above.

Further, an exemption up to 12 months has been announced for existing non-reviewable contracts. Details of this exemption is yet to be announced or legislated.

Financial Services

While certain services provided by banks and insurance companies were already subject to service tax, the expansion primarily covers the following:

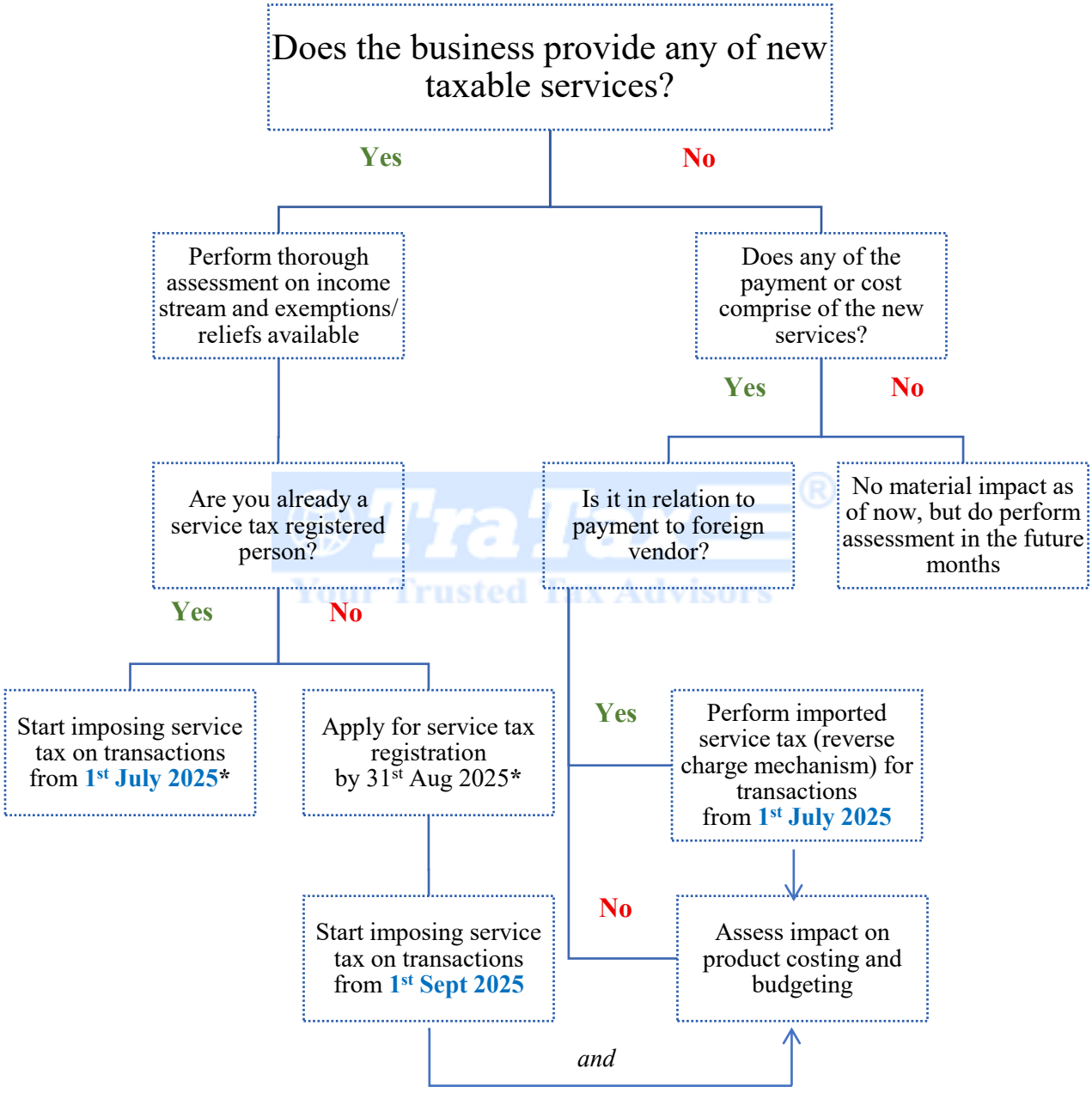
1. Imposition of service tax on fee-based services (excluding interest and basic banking services such as fees for ATM card and ATM withdrawal charges) provided by any person regulated by BNM, Securities Commission or Labuan FSA.
2. Financial leasing, factoring, trade financing, credit facilities or syariah-compliant financing services provided by any person.

Conditional exemptions apply to reduce cascading effects and to maintain attractiveness of Labuan and capital markets.

Beauty Services

Wellness centre and massage parlours have been in the list of taxable services since 2018. MoF's announcement emphasises that beauty services such as facial, hairdressing, manicure, pedicure, tattoos, personal make-up, slimming treatments and herbal baths are taxable services. It remains to be seen if service tax on these items would be enforced only prospectively effective from 1st July 2025.

The diagram below provides is a simple guidance for various businesses with regards to the new taxable services.



*Note: The above is on the assumption that the new taxable service exceeds the threshold value of RM500,000, NIL or RM1,500,000 respectively, as the case may be, for the period 1st July 2025 to 30th June 2026.

Diagram 2: Service Tax Impact - Guidance for Business

C. Action Steps for Businesses Affected by the Service Tax Expansion

This chapter serves as a guide for businesses impacted by the service tax expansion.

1. Assess Applicability of Service Tax

Review all current income streams to identify any item that falls within the expanded scope of service tax. This involves understanding the scope of the newly prescribed taxable services, the grouping applicable to services provided by the business and applicability of any of the exemptions or reliefs.

When performing these assessments, businesses must not confine the analysis to the newly gazetted information. For example, a newly gazetted taxable service may stand to benefit from an existing relief or exemption mechanism.

Where necessary, businesses should consult tax professionals to ensure proper classification and treatment of their income stream(s) of the business under the SST regime.

2. Identify Key Risks and Ambiguities

Each business is unique in the way it conducts its affairs. Hence, it is possible that grey areas exist in the interpretation and application of the new law in the context of existing business arrangements.

Such grey areas and risk areas must be identified and acted upon. Depending on the complexity involved, various actions such as obtaining written confirmation from RMCD or clarification from MoF could be useful to avoid risk of disputes in the future.

3. Determine Registration Requirements

If any income streams are found to be taxable, estimate the total taxable turnover over a 12-month period starting from 1st July 2025. If the value of taxable services exceeds the registration threshold prescribed in the fourth column of Table 1 above, application for service tax registration must be made by 31st August 2025. This can be done via MySST portal.

The registration threshold is based on value of taxable services, and not the total revenue. As an example, if a property holding company earns annual rental of RM 3 million from residential properties and RM300,000 annually from commercial properties, the company is not required to register for service tax as the value of taxable services is below RM500,000.

Sectors such as education (private schools) and higher education bear NIL as the registration threshold – i.e. businesses must register for service tax even if they have RM1 of taxable service. But these sectors benefit from the 'narrow definition' of taxable service as described above.

For healthcare sector, the scope of taxable services includes services provided to both citizens and non-citizens. Although the former is exempt, it is still part of the value of taxable services for the purpose of determination of registration liability. Hence, the higher registration threshold of RM 1.5 million appears to have been well-thought.

4. System Changes and Update to Document Layouts

In today's digitalised environment, it is inevitable that businesses rely on various billing, ERP and accounting systems to monitor transactions and pre-assign the SST treatment. Such standardisation and automation reduce room for human error.

The required system changes must happen quickly. To be specific, by *1st September 2025* for businesses that are not already service tax registered as of today. If a business that is already service tax registered is affected by the expanded scope, the necessary system changes must take place by *1st July 2025*.

Also, the contents of invoices in relation to taxable services must contain the prescribed particulars including:

- Service tax registration number
- Rate of service tax
- Total amount of service tax

The list above is not exhaustive. See Service Tax Regulations 2018 for full list of prescribed particulars.

More importantly, where a transaction is exempt from service tax, the invoice must state the customer's name, address and service tax registration number as well as the total amount of service tax exempted. This requirement applies to exemptions (such as B2B exemption for transactions within the same service tax group), but does not apply to exclusions and reliefs (such as relief for transactions within the same group of companies).

Prescribed particulars must be included on credit notes and debit notes too.

We would like to emphasise that the list of particulars for Service Tax purposes goes beyond the list for e-Invoicing. *Businesses should not assume that meeting e-Invoicing standards automatically satisfies the requirements of the Service Tax Regulations (or Sales Tax Regulations).* As an example, the list of prescribed particulars for credit notes include the date of the invoice

to which the credit note relates, and the reason for issuance of the credit note – these two particulars are not part of the e-Invoicing data fields.

5. Process Flow to File SST-02 Return

All service tax registrants must submit bi-monthly SST-02 returns via the MySST portal (a total of six (6) returns in a calendar year).

Although usually each taxable period is a 2-month period, for some taxpayers the RMCD may prescribe a shorter 1-month taxable period at the initial stage so that the subsequent taxable periods coincide with the financial year end of the taxpayer. These details are mentioned in the service tax registration approval letter issued by RMCD.

The SST-02 return is to be submitted within one (1) month from the end of each taxable period. The same due date applies for payment of SST to the RMCD.

Businesses should establish the process flow for data extraction and analysis to determine the data fields to be reported as part of SST-02 return. It must be borne in mind that service tax is not accounted for based on the date of invoice but rather on the *date of receipt of payment for the transaction*.

As an example, if an invoice with service tax is issued in September and payment for such invoice is received in November, the transaction must be included in the SST-02 return for the taxable period that encompasses November.

As an exception, if the invoice remains unpaid for a 12-month period from the date the taxable service was provided, the service

tax must be accounted for in the taxable period in which the 12th month anniversary falls despite not having received any payment.

The details to be reported in the SST-02 return include value of exempt services during the taxable period.

6. **Evaluate the Appropriateness to Change the Accounting Basis**
Although the 'receipt of payment' basis for accounting for service tax to RMCD benefits the businesses from a cash flow perspective, some may regard it as a complication to the compliance process and an additional risk if the data extraction process cannot be automated.

As such, there is a mechanism that allow businesses to make an application to RMCD to be allowed to account for service tax on 'invoice basis', i.e. based on invoice dates regardless of whether payment is received. *Businesses should make carefully weigh the pros and cons to make an informed decision on the matter.*

Ideally, any application to convert to 'invoice basis' should be made prior to the effective date of service tax registration with sufficient lead time for RMCD's processing.

7. **Communicate with customers and determine which party bears the additional tax**
For the newly prescribed taxable services, there is an additional cost to be borne by customers. Many have not factored this cost in their budget or Purchase Order ("PO"). It is best to initiate communication at the earliest to avoid administrative complications.

Section 21(3) of Service Tax Act 2018 provides that service tax is to be collected *in addition* to the value and any other amount due and payable by the customer in respect of the taxable service.

However, terms of certain commercial agreements may be such that the service tax is borne by the service provider. This must be examined on a case-by-case basis.

Further, sometimes the transaction itself may not be subject to SST but the supplier's cost may have unexpectedly risen due to changes in SST law. In such cases, the *commercial terms must be examined* to determine whether the agreed sum can be revised in light of the regulatory changes.

Where there are concerns as to which party bears the additional cost arising from the new SST measures, it is advisable to seek professional advice.

8. Mechanism to Deal with Transitional Matters

A conscious examination of various transactions spanning the transition date is vital to avoid oversight.

As an example, say an *invoice is issued during (or before) June 2025* by a service tax registered business for a particular service. The invoice does not include any service tax on the basis that the particular service is not a 'taxable service' at the time of issuance. If the service becomes a newly prescribed taxable service effective from 1st July 2025, the amount covered in such an invoice would be *subject to service tax*, unless:

- the service is fully complete by 30th June 2025; or
- payment for the invoice is received before 1st July 2025.

The example above is line with Regulation 3A of Service Tax Regulations 2018.

Hence, businesses should make a deliberate attempt to analyse their Accounts Receivable ("AR") as at the transitional date to assess if

there is a need to impose service tax on any of the amount which has already been billed.

It has also been announced that *exemption for non-reviewable contracts* would be granted in respect of rental, lease as well as construction services. However, the qualifying criteria for these exemptions are not known yet. Businesses should carefully examine the qualifying criteria before claiming the exemption.

9. Review Accounts Payable ("AP") transactions in respect of transactions with foreign vendors

Evaluate transactions with foreign vendors to determine whether imported service tax applies under the expanded scope. This applies to both service tax registrants and non-registrants (i.e., sales tax registrants, or other non-service tax registrants carrying on a business that acquires imported taxable services). Businesses that are not service tax registered are required to account for imported service tax via the SST-02A return if they acquire any taxable service from foreign vendors (except where such transaction is exempt).

Imported service tax is distinct from withholding tax ("WHT"). *A transaction with foreign vendor may very well be subjected to both WHT and imported service tax (alongside requirements to issue a self-billed e-Invoice).*

10. Evaluate Financial Impact & Pricing Decisions

Business must carefully evaluate impact of the SST expansion on their product's inventory/service cost as well as the organisation's budgets.

This evaluation should be performed even if a given business is not required to register for SST. Importers and distributors are examples

of *businesses that are not required to register for SST-registration but their cost structure and hence pricing may have to be adjusted in light of the regulatory change*.

Some businesses may be impacted both in respect of sales and acquisition. As an example, construction companies are required to register for Service Tax and charge 6% service tax to its customers. At the same time, their costs are likely to include construction materials for which sales tax exemption is not continued after 30th June 2025. There is no B2B exemption as sales tax and service tax are governed by different laws.

In any case, businesses should ensure that the procurement processes carefully evaluate various exemptions and reliefs available to avoid incurring any 'avoidable SST costs'. Such conscious decisions could be helpful for a business to maintain their competitiveness in the marketplace.

Pricing decisions should also factor in the requirements of the Price Control and Anti-Profiteering Act 2011.

11. Mechanism to Monitor Updates

The RMCD has issued guidelines and FAQs for specific industries, including education, rental or leasing, construction, and beauty services. However, guidelines for financial services and healthcare services have yet to be published. These materials are subject to revision from time to time, and additional guidelines and FAQs may be published as necessary..

The contents therein are subject to change from time to time. It is vital for businesses to have a mechanism in place to be always up-to-date on the developments.

12. Policy on Correction Mechanism

In an endeavour such as this within a limited time frame, it is wise to *expect the unexpected*.

It is quite possible for erroneous charging or omission of SST to take place despite best efforts to comply – particularly during the initial months. There must be a coherent policy on how errors are dealt with. Otherwise, the operations or billing team would not be able to act on any discovery in relation to compliance shortfall.

It is noted in the Ministry of Finance's media announcement states that penalty will not be imposed until 31st December 2025 on businesses that make necessary actions to comply with the law. In this regard, it appears there may be avenues for voluntary correction of any mistake during this grace period.

13. Conduct a Post-Registration SST Health Check

While timely implementation is important, it is also important to conduct compliance review from time to time to ensure there is no compliance gap.

The review would help identify any non-compliance issues or gaps at an early stage, allowing timely rectification. Proactive measures are vital in mitigating penalty and avoiding repeated offences. Periodic health checks must be included in the implementation plan, or rather the post-implementation plan.

D. Sales Tax

The sales tax rate for goods are determined based on the tariff code of the products. All goods known to mankind is classified into about 11,500 tariff codes.

The Ministerial Orders released yesterday affect the sales tax treatment of about 3,500 of these codes, i.e. about one-third of all codes. Over 3,000 codes are being re-classified from sales tax exempt to a 5% sales tax rate. See Diagram 3 for example of sectors / taxable goods groups affected.

The changes affect not only importers but also manufacturers (except for fresh agricultural produce as such items are not 'manufactured' in Malaysia). *All manufacturers – especially entities that are not sales tax registered at present – must conduct an impact assessment on an urgent basis.*

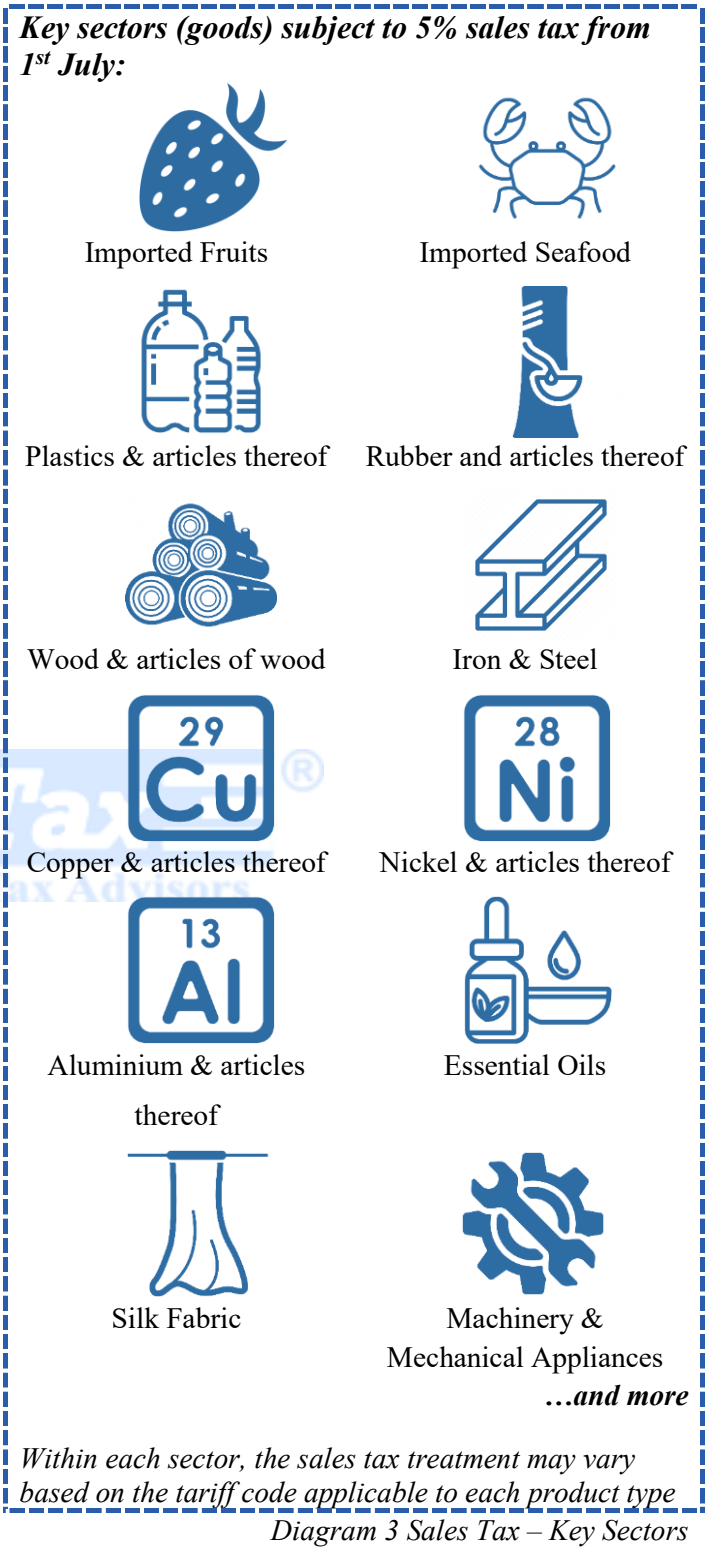


Diagram 3 Sales Tax – Key Sectors

While Diagram 3 provides an overview, its not exhaustive. Also, for the sectors stated in the diagram, it does not mean that all products therein are subject to a 5% sales tax. The changes are technical in nature and are based on the tariff code of goods. It is important to recognise the proper classification of the goods taking into account the

General Rules for the Interpretation of the Harmonized System along with relevant chapter notes, heading notes, and subheadings.

Ultimately, businesses have the responsibility to apply sales tax rate based on the correct tariff classification for each of the goods that it manufactures. Classifications cannot be made based on media reports. When in doubt, seek written opinion from tax consulting firms or RMCD. Our team is well-equipped to assist where required.

If the newly prescribed taxable goods are manufactured by a person who is already sales tax registered, the new sales tax rates must be complied with on transactions from *1st July 2025*. However, if the person is not yet sales tax registration, the threshold of RM500,000 applies. If annual sales value of the taxable goods exceeds this threshold, application for sales tax registration must be submitted by 31st August and sales tax charged on transactions from *1st September 2025*.

Even for goods that are clearly prescribed a 5% or 10% sales tax rate, a sales tax registered manufacturer does not necessarily have to impose sales tax on all its sale transactions. It's quite possible that the *goods may be bought by your customer for purposes that qualify for an exemption* – for example, as manufacturing inputs or qualifying manufacturing aids. Careful examination of facts and coordination with customers is essential.

In a nutshell, businesses should ask the following key questions:

1. Are we selling any of the goods for which the sales tax rate has been varied?
2. Does our business activity in respect of the said goods satisfy the definition of 'manufacturing' under the Sales Tax Act 2018?
3. Are we importing any of the goods for which the sales tax rate has been varied?
4. Are we procuring any of the goods for which the sales tax rate has been varied (e.g. as a retailer or a construction company)?
5. Is there any exemption applicable to the transaction?

Depending on the outcome to the questions above, some may have an obligation to register for sales tax and submit the bi-monthly SST-02 return, while others may be subject to changes to their cost structure without any additional compliance obligation.

The impact and considerations are broadly similar to those described in the foregoing chapter in respect of service tax and hence the same is not repeated here in the interest of brevity. A notable practical difference is that sales tax is accounted for at the time the goods are sold *etc.* (while service tax is based on 'receipt of payment' as described earlier). Consequently, there are differences in the treatment of transactions spanning the transition period for the purpose of service tax and sales tax.

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