

A BILL

i n t i t u l e d

An Act to amend the Service Tax Act 2018.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Service Tax (Amendment) Act 2022.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 26A

2. The Service Tax Act 2018 [*Act 807*], which is referred to as the “principal Act” in this Act, is amended in the national language text, in subsection 26A(1), by substituting for the words “perkhidmatan bercukai” the words “perkhidmatan bercukai diimport”.

New section 38A

3. The principal Act is amended by inserting after section 38 the following section:

“Refund of service tax, etc., to a foreign registered person

38A. (1) Where the Director General is satisfied that the refund under section 38 is to be made to a foreign registered person, the Director General may withhold the whole or any part of such refundable amount to be credited to any following or subsequent taxable period.

(2) The Director General shall treat the amount credited as payment or part payment received from the foreign registered person.”.

Amendment of section 56A

4. Section 56A of the principle Act is amended by inserting after subsection (4A) the following subsection:

“(4B) Where a foreign registered person ceases to be liable to be registered under section 56D, the service tax shall be due and payable on the day the return is furnished to the Director General under subsection 56H(4A).”.

Amendment of section 56D

5. Section 56D of the principal Act is amended—

(a) in paragraph (a), by deleting the word “or” at the end of the paragraph; and

(b) by inserting after paragraph (a) the following paragraph:

“(aa) the Director General is satisfied that the total value of all digital services provided by him in that month and the eleven months immediately preceding that month does not exceed the total value of digital services prescribed under subsection 56B(1); or”.

Amendment of section 56E

6. Section 56E of the principal Act is amended in subsection (1)—
- (a) in paragraph (a), by deleting the word “or” at the end of the paragraph;
 - (b) by inserting after paragraph (a) the following paragraph:

“(aa) ceases to be liable to be registered under paragraph 56D(aa); or”; and
 - (c) in paragraph (b), by substituting for the words “section 13” the words “subsection 13(2) or (4)”.

New sections 90A and 90B

7. The principal Act is amended by inserting after section 90 the following sections:

“Power to extend period

90A. Where, by this Act, a period is specified within which an act or thing is to be done by a person, and the Minister is satisfied that the act or thing could not be completed in that period due to the occurrence of public emergency or public health crisis, the Minister may, upon such terms and conditions as the Minister thinks fit, extend the period for the completion of the act or thing before the expiration of the period.

Power to modify terms and conditions

90B. (1) Where terms and conditions are imposed pursuant to this Act, the Minister may, on the advice of the Director General, from time to time modify the terms and conditions for the purpose of carrying out the objects of this Act.

(2) Before modifying the terms and conditions, notice must be given to the person bound by the terms and conditions stating—

- (a) the terms and conditions as modified; and

- (b) the date the terms and conditions as modified take effect.
- (3) The modified terms and conditions shall not take effect in less than fourteen days from the date the notice is issued under subsection (2).
- (4) For the purposes of this section, “modify” means add to, delete or vary.”.
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EXPLANATORY STATEMENT

This Bill seeks to amend the Service Tax Act 2018 (“Act 807”).

2. *Clause 1* contains the short title and the power of the Minister to appoint the commencement date of the proposed Act.
3. *Clause 2* seeks to amend subsection 26A(1) of Act 807, in the national language text, by substituting for the words “perkhidmatan bercukai” the words “perkhidmatan bercukai diimport”.
4. *Clause 3* seeks to introduce a new section 38A into Act 807 to empower the Director General to withhold the whole or any part of the refundable amount under section 38 of Act 807 to a foreign registered person to be credited to any following or subsequent taxable period, and treat such amount as payment or part payment received from the foreign registered person.
5. *Clause 4* seeks to insert a new subsection (4B) into section 56A of Act 807 to provide that with regard to a foreign registered person who ceases to be liable to be registered under section 56D of the Act, the service tax shall be due on the day the return is furnished to the Director General under subsection 56H(4A).
6. *Clause 5* seeks to amend section 56D of Act 807 to introduce a new paragraph (aa) to provide that a foreign registered person ceases to be liable to be registered if the Director General is satisfied that the total value of all digital services in that month and the eleven months immediately preceding that month does not exceed the total value of digital services prescribed under subsection 56B(1) of Act 807.
7. *Clause 6* seeks to amend section 56E of Act 807 to introduce a new paragraph (1) (aa) to provide that a foreign registered person shall notify the Director General in writing within thirty days from the date the foreign registered person ceases to be liable to be registered under subsection 56D(aa) of Act 807.
8. *Clause 7* seeks to introduce new sections 90A and 90B into Act 807.

The proposed section 90A seeks to empower the Minister to extend the period to perform an act or a thing which is required to be completed within a certain period under Act 807 if he is satisfied that the act or thing could not be completed within the period due to the occurrence of any public emergency or public health crisis.

The proposed section 90B seeks to empower the Minister to add to, delete or vary any terms and conditions imposed pursuant to Act 807 for the purpose of carrying out the objects of Act 807, provided that reasonable notice is given to the person bound by the terms and conditions.

9. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

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