

TAX LAW

NEW SALES TAX ON THE HORIZON

Updated on 8th November 2023

INTRODUCTION

The *Sales Tax (Amendment) Act 2022* ("**Amending Act**") was passed by both Houses and received the royal assent in October 2022. With its passing, the Amending Act brings with it a new sales tax on low value goods ("**LVG**") that are being sold on online marketplaces which will come into effect on 1st January 2024¹.

The *Sales Tax (Determination of Low Value Goods) Order 2022*² read together with the Amending Act defines LVG as goods purchased online from overseas which are valued not more than RM500.00. One of the main reasoning behind the introduction of this new sales tax, we are told, is to ensure the fair treatment between low value goods manufactured in Malaysia and those that are imported from overseas manufacturers and suppliers.

CURRENT POSITION UNDER THE LAW

Currently, LVG worth RM500.00 or less are not subject to any tax when imported into the country in accordance with the *de minimis* facility and this is said to cause unfair treatment to local traders because while imported goods are not taxed, locally produced goods are subject to sales tax.

The existing law on sales tax can be found in *Part 3, s.8 of the Sales Tax Act 2018* ("**STA 2018**"). It does not make any specific reference to low value goods and in fact, the STA 2018 as a whole is silent on low value goods. s.8 merely states that a sales tax will be levied on all taxable goods whether manufactured in Malaysia or imported into Malaysia. The existing law also makes no specific reference to online marketplaces. Currently, the rate of sales tax is levied at 5%, 10% or on a specific rate.

WHAT CHANGES CAN WE EXPECT TO SEE

The *Sales Tax (Rate of Tax for Low Value Goods) Order 2022* states that the rate of taxation will be fixed at 10% for LVG. Therefore, all customers will be required to pay an additional 10% tax for any LVG purchased once the taxation takes effect.

The 10% sales tax, however, will not apply to any delivery fees or insurance cost for the purchase of the LVG from overseas to Malaysia. For example, if a person purchases a watch through an online platform and the price of the watch is RM200.00 with a delivery cost of RM50.00, then the 10% tax levied should be on the value of the watch only which is RM200.00 and not the total cost of RM250.00. This is reflected in s.8 of the Amending Act³ which substitutes the earlier provisions of the principal act.

¹ Guide on Sales Tax on Low Value Goods (LGV) by Internal Tax Division and Customs Division of the Royal Malaysian Customs Department published on 3 November 2023

² R. 2, Sales Tax (Determination of Low Value Goods) Order 2022

³ The sale value of low value goods on which sales tax is payable shall be the price of low value goods not including any tax, fee or other charges imposed on the low value goods

WHO IS AFFECTED?

The changes introduced in the Amending Act will affect both Malaysians and foreigners as s.2 of the Amending Act inserts a new s.11A which defines a seller as a person, whether in or outside Malaysia, who sells LVG on an online marketplace or operates an online marketplace for the sales and purchase of LVG.

This Amendment will also apply extraterritorially as the new s.11C⁴ states that as long as a person is a seller within the definition provided above and is a registered seller under s.13 of the principal act, then the changes will affect them. In addition to the new sales tax, registered sellers are also required to furnish to the Director General prescribed particulars which shall be displayed on the package of LVG in the manner as may be prescribed⁵.

Furthermore, this amendment will also require e-commerce platforms with the total sale value of LVG brought into Malaysia in 12 months exceeding RM500,000.00 to register as a Registered Seller. For example, any e-commerce platforms that has a sale of LVG in Malaysia that has exceeded RM500,000.00 in February 2023 must inform and notify the Director General and register as a Registered Seller before 31st December 2023⁶.

COMMENTS

The introduction of this new sales tax on LVG is seen to level out the playing field for domestic and foreign goods, as local producers are already subject to a 5% or 10% tax. Individual sellers, e-commerce platforms and business regardless of whether they are in Malaysia or overseas, that are affected under this new amendment can immediately start registering to be licensed sellers with the Royal Malaysian Customs Department by using the LVG-01 form via [MyLVG](#).

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⁴ Notwithstanding subsection (1), this Part shall apply to any person, whatever his nationality or citizenship, beyond the geographical limits of Malaysia and the territorial waters of Malaysia, if the person—

(a) is a seller; or

(b) is registered under s.13 as a registered seller.

⁵ s.2 of the Sales Tax (Amendment) Act 2022

⁶ Guide on Sales Tax on Low Value Goods (LGV) by Internal Tax Division and Customs Division of the Royal Malaysian Customs Department published on 3 November 2023