



# LAWS OF MALAYSIA

---

REPRINT

---

**Act 151**

## **SERVICE TAX ACT 1975**

*Incorporating all amendments up to 1 January 2006*

PUBLISHED BY  
THE COMMISSIONER OF LAW REVISION, MALAYSIA  
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968  
IN COLLABORATION WITH  
PERCETAKAN NASIONAL MALAYSIA BHD  
2006

**SERVICE TAX ACT 1975**

Date of Royal Assent	...	...	...	...	30 January 1975
Date of publication in the <i>Gazette</i>	...				30 January 1975

*PREVIOUS REPRINTS*

<i>First Reprint</i>	...	...	...	...	...	1997
<i>Second Reprint</i>	...	...	...	...	...	2001

**LAWS OF MALAYSIA****Act 151****SERVICE TAX ACT 1975**

---

**ARRANGEMENT OF SECTIONS**

---

**PART I****PRELIMINARY**

## Section

1. Short title, application and commencement
2. Interpretation

**PART II****CHARGE TO TAX**

3. Charge to tax
4. Determination of charge and value
5. Rate of tax
6. Powers of Minister to exempt and refund

**PART III****TAXABLE PERSONS—LICENSING**

7. Person chargeable to tax
- 7A. Direction to treat persons as a single taxable person
8. Application for licence, issue, *etc.*
- 8A. Voluntary licensing
9. Surrender and revocation of licences

**PART IV****INVOICES, RECORDS, RETURNS AND ASSESSMENT**

10. Invoices and receipts

## Section

- 10A. Production of invoices or receipt by computer
11. Duty to keep records
12. Furnishing of returns
13. Assessment of tax

## PART V

## COLLECTION, RECOVERY, REFUND AND REMISSION

14. When tax becomes due and payable
15. Recovery of tax
16. Penalty for late payment of tax
17. Joint and several liability of directors, *etc.*
18. Persons about to leave Malaysia
- 18A. Recovery of service tax, *etc.*, from persons leaving Malaysia
19. Power to collect service tax, *etc.*, from person owing money to taxable person
20. Payment of service tax, *etc.*, short paid or erroneously refunded and payment by instalments
21. Return of service tax or penalty overpaid or erroneously paid
- 21A. Deduction from return of refunded service tax
- 21B. Refund for bad debt
- 21C. Repayment of refund
22. Remission

## PART VI

## INSPECTION, SEARCH, SEIZURE AND ARREST

23. Persons bound to give information
24. Access to buildings, places, books, *etc.*
25. Magistrate may issue search warrant
26. When search may be made without warrant
- 26A. Access to recorded information or computerized data
27. Seizure of books, documents, *etc.*
28. Power of arrest

PART VII

OFFENCES

Section

29. Failure to comply with notice, *etc.*
30. Penalty for incorrect return
31. Penalty for charging or collecting service tax by non-taxable person
32. Penalty for evasion of service tax
33. Attempts and abetments
34. General penalty
35. Offences by corporate bodies

PART VIII

PROVISIONS AS TO TRIALS AND PROCEEDINGS

36. (*Deleted*)
37. Sessions Court to have jurisdiction
- 37A. Obligation of secrecy
38. Protection of informers from discovery
39. Compounding of offences
40. Conviction under other law
- 40A. Court order

PART IX

REGULATIONS

41. Regulations

PART X

ADMINISTRATION AND MISCELLANEOUS  
MATTERS

42. Functions and powers of Director General and other officers
43. Officers to be public servants
44. Authority cards, *etc.*, to be produced
45. No costs or damages arising from seizure to be recoverable unless seizure without reasonable or probable cause

## Section

46. Service of notices, *etc.*
47. Clerks and servants may transact business
- 47A. Transaction of business on behalf of taxable person
48. Rewards
49. Forms to be used
50. Disputes and appeal
51. Liquidator of company to give notice of winding up, and set aside tax
52. Appointment of receiver to be notified to the Director General

# LAWS OF MALAYSIA

## Act 151

### SERVICE TAX ACT 1975

An Act to make provision for the charging, levying and collecting of service tax.

[1 March 1975, P.U. (B) 52/1975]

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

#### PART I

#### PRELIMINARY

#### **Short title, application and commencement**

1. (1) This Act may be cited as the Service Tax Act 1975 and shall apply throughout Malaysia excluding Langkawi, Labuan and Tioman.

(1A) This Act shall not apply to the area known as the Joint Development Area.

(2) This Act shall come into force on such date as the Minister may by notification in the *Gazette* appoint.

#### **Interpretation**

2. (1) In this Act, unless the context otherwise requires—

“calendar month” means a month reckoned according to the Gregorian calendar;

“computer” has the meaning assigned thereto in section 3 of the Evidence Act 1950 [Act 56];

“Customs” means the Royal Customs and Excise Department;

“Director General” means the Director General of Customs and Excise, appointed under subsection 3(1) of the Customs Act 1967 [Act 235];

“document” has the meaning assigned thereto in section 3 of the Evidence Act 1950;

“electronic data interchange” means the transfer, from computer to computer, of commercial and administrative transactions using an agreed message standard to structure the data pertaining to a transaction;

“goods” includes every kind and type of food, drink or thing whatsoever;

“Joint Development Area” has the meaning assigned thereto in section 2 of the Malaysia-Thailand Joint Authority Act 1990 [Act 440];

“Labuan” means the Island of Labuan and its dependent islands, namely, Rusukan Besar, Rusukan Kecil, Keraman, Burong, Papan and Daat;

“Langkawi” means Langkawi Island and all adjacent islands lying nearer to Langkawi Island than to the mainland;

“Minister” means the Federal Minister charged with the responsibility for finance;

“penalty” means any charge due and payable under section 16;

“person” includes an individual, a firm, a society, an association, a company and every other juridical person;

“prescribed” means prescribed by regulations made under this Act;

“proper officer” means any officer acting in the fulfilment of his duties under this Act, whether such duties are assigned to him specially or generally, or expressly or by implication;

“regulations” means regulations made under this Act;

“senior officer of customs” means any senior officer of customs as defined in subsection 2(1) of the Customs Act 1967;

“surcharge” means any charge that is due and payable under subsection 20(3);

“taxable period” means, subject to subsection 12(2), two calendar months or part thereof ending on the last day of the second calendar month;

“taxable person” means any person who is prescribed to be a taxable person;

“taxable service” means any service which is prescribed to be a taxable service;

“Tioman” means the Island of Tioman and the islands of Soyak, Rengis, Tumok, Tulai, Chebeh, Labas, Sepoi and Jahat.

(2) (*Deleted by Act A1182*).

**2A.** For the purposes of this Act, a free zone shall be deemed to be a place outside Malaysia.

In this section, the expression “free zone” has the same meaning assigned to it under section 2 of the Free Zones Act 1990 [Act 438].

## PART II

### CHARGE TO TAX

#### **Charge to tax**

**3.** Service tax shall be charged and levied in accordance with this Act on any taxable service provided by any taxable person.

#### **Determination of charge and value**

**4.** For the purposes of this Act, the charge, premium or value on which service tax is payable shall be ascertained as follows:

(a) in the case of taxable service for the—

(i) sale of goods by a taxable person to—

(A) a person independent of the taxable person, the actual price for which the goods are sold; or

- (B) a person not independent of the taxable person, the price at which the goods would have been sold in the ordinary course of business to a person independent of the taxable person;
  - (ii) provision of goods, where no charge is levied for the provision of the goods, the price at which the goods would have been sold in the ordinary course of business to a person independent of the taxable person;
- (b) in the case of taxable service, other than the taxable service specified in paragraph (a)—
  - (i) provided by a taxable person to a person independent of the taxable person—
    - (A) the charge levied or collected; or
    - (B) the premium for insurance coverage, for the taxable service;
  - (ii) provided by a taxable person to a person not independent of the taxable person, the charge or premium levied or collected for the taxable service which would have been provided in the ordinary course of business to a person independent of the taxable person;
  - (iii) where no charge or premium is levied or collected, the charge or premium which would have been levied or collected in the ordinary course of business for providing taxable service to a person independent of the taxable person.

### **Rate of tax**

5. (1) The Minister may by order published in the *Gazette* fix the rate of service tax to be charged and levied under this Act.

(2) The Minister may from time to time by order published in the *Gazette* vary or amend the rate of tax fixed under subsection (1).

(3) Any order made under subsections (1) and (2) shall at the next meeting of the House of Representatives be laid on the table of that House and shall, at the expiration of one hundred and twenty days of being so laid or of such extended period as the House of Representatives may by resolution direct, cease to have effect if and insofar as it is not confirmed by resolution passed by the House of Representatives within the said one hundred and twenty days or, if such period has been extended, within such extended period.

(4) Where an order ceases to have effect in whole or in part as provided in subsection (3), then any service tax levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect shall, subject to the provisions of subsection (5), be repayable to the person by whom such service tax was paid.

(5) Except otherwise directed by the Minister no service tax repayable under the provisions of subsection (4) shall be repaid, unless the person entitled to such repayment makes a claim thereof to the Director General within one year from the date on which the order ceases to have effect in whole or in part as provided by subsection (3); and such claim shall be made in writing and shall contain such particulars as the Director General may by order require.

### **Powers of Minister to exempt and refund**

6. The Minister may, in any particular case, subject to such conditions as he may deem fit to impose—

- (a) exempt any person or class of persons from the payment of the whole or any part of the service tax which otherwise would have been payable by that person or that class of persons;
- (b) exempt any service or class of service from the whole or any part of the service tax which otherwise would have been payable;
- (c) direct the refund to any person or class of persons of the whole or any part of the service tax paid by that person or that class of persons; or

- (d) direct the refund to any person or class of persons of the whole or any part of the penalty paid by that person or that class of persons.

### PART III

#### TAXABLE PERSONS—LICENSING

##### **Person chargeable to tax**

7. Subject to this Act, service tax shall be charged on and paid by any taxable person who carries on business of providing taxable service referred to in section 3.

##### **Direction to treat persons as a single taxable person**

7A. (1) Notwithstanding sections 7, 8 and 8A, where the Director General is satisfied that any separation of business activities is artificial, he may make a direction under this section directing that the persons named in that direction shall be treated as a single taxable person carrying on the activities of the business described in that direction and that single taxable person shall not continue to carry on the activities of such business unless he is licensed within twenty-one days from the date the direction is served on the last of such persons or from such later date as may be specified in that direction.

(2) For the purposes of subsection (1), in determining whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those business activities are closely bound to one another by financial, economic and organizational links.

(3) The Director General may make a direction under this section naming any person if the Director General is satisfied—

- (a) that the person is providing or has provided taxable service;
- (b) that the activities in the course of which the person provides or has provided that taxable service form only part of certain activities in the business and that the other activities in that business (whether or not they are similar to the activities carried on by that person) are being carried on concurrently or previously, or both, by one or more other persons; and

- (c) that if all the taxable service provided in that business were taken into account, the person carrying on that business would, at the time of such direction, be required to be licensed by virtue of section 8.

(4) Any direction made under this section shall be served on each of the persons named in it.

(5) Where, after a direction has been given under this section specifying a description of the business, it appears to the Director General that any person who has not been named in that direction is providing taxable service in the course of activities which should be regarded as part of the activities of the business, the Director General may make and serve on that person a supplementary direction referring to the earlier direction and the description of business specified in it, and adding that person's name to those of the persons named in the earlier direction with effect from—

- (a) the date on which that person began to provide the taxable service; or
- (b) if the date of the earlier direction was later than the date mentioned in paragraph (a), the date with effect from which the single taxable person referred to in the earlier direction is licensed under subsection (1).

(6) Where, immediately before any direction (including a supplementary direction) is made under this section, any person named in the direction is licensed in respect of taxable service provided by him as mentioned in subsection (3) or (5), his licence shall be revoked by the Director General with effect from—

- (a) the date the single taxable person is licensed under subsection (1); or
- (b) such later date as may be specified in that direction,

and upon the revocation of his licence he together with all the persons named in the direction shall be treated as a single taxable person under this section.

(7) In relation to a business specified in a direction under this section, the persons named in such direction together with any person named in a supplementary direction relating to that business (being the persons who together are to be treated as a single taxable person) are in subsections (8) and (9) referred to as “the constituent members”.

(8) Where any direction is made under this section, then for the purposes of this Act—

- (a) the single taxable person carrying on the business specified in the direction shall be licensed in such name as the persons named in the direction may jointly nominate by notice in writing given to the Director General not later than fourteen days after the date the direction is served on the last of such person or, in default of such a nomination, in such name as may be specified in the direction;
- (b) any taxable service provided by one of the constituent members in the course of the activities of the single taxable person shall be treated as being taxable service provided by the single taxable person;
- (c) each of the constituent members shall be jointly and severally liable for any service tax payable by the single taxable person;
- (d) without prejudice to paragraph (c), any failure by the single taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and
- (e) subject to paragraphs (a) to (d), the constituent members shall be treated as a partnership carrying on the business of the single taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.

(9) Where it appears to the Director General that any person who is one of the constituent members should no longer be regarded as such for the purposes of paragraphs 8(c) and (d) and the Director General gives notice to that effect, that person shall not have any liability by virtue of those paragraphs for anything done after the date specified in that notice and accordingly on that date he shall be treated as having ceased to be a member of the partnership referred to in paragraph (8)(e).

#### **Application for licence, issue, etc.**

**8.** (1) Every taxable person who carries on a business of providing taxable service shall apply to the senior officer of customs in the prescribed form for a licence, and no taxable person shall carry on such a business unless he is in possession of a licence issued under subsection (2).

(2) Subject to subsection (3), the Director General shall issue a licence in the prescribed form.

(2A) Notwithstanding any other provisions in this Act or any regulations, any person who is licensed under this section or section 8A shall remain as a taxable person providing taxable service, and the provisions of this Act shall apply to him until his licence is revoked.

(3) Before any licence is issued under this section, or where a licence has been issued under this section, the Director General may require the person applying for the licence, or the holder of the licence, as the case may be, to give such security for the due compliance by that person with the provisions of this Act and generally for the protection of the revenue as the Director General thinks fit; and where the Director General is at any time dissatisfied with any security given, he may require a new security in lieu thereof, or in addition thereto; and in default of such new security being given the Director General may suspend any licence previously issued. During any such suspension the holder of any licence issued shall be deemed to be unlicensed.

(4) Any person licensed under this section shall carry on the business only at the place or premises specified in the licence issued under subsection (2).

(5) Where the whole or any part of a taxable person's business of providing taxable service is transferred to another person, then for the purpose of determining whether that other person is required to be licensed under this section he shall be treated as having carried on the business of providing taxable service before as well as after the transfer of that business to him.

### **Voluntary licensing**

**8A.** (1) Where any person who is not required to be licensed under section 8 satisfies the Director General that he—

- (a) provides taxable service; or
- (b) is intending to carry on a business of providing taxable service,

that person may apply to the Director General in the prescribed form to be licensed under this Act and the Director General may issue a licence to that person.

(2) Where any person is licensed under subsection (1), he shall be treated as a taxable person, and the provisions of this Act shall apply to him.

### **Surrender and revocation of licences**

**9.** (1) If any taxable person ceases to carry on business he shall forthwith surrender his licence to the Director General.

(1A) Subject to this Act, where any person who is licensed ceases to be a taxable person, he may apply in writing to the Director General to surrender his licence.

(1B) Upon receipt of a person's application under subsection (1A), the Director General may—

- (a) if he is satisfied that the person has ceased to be a taxable person, accept the surrender of his licence and that person shall cease to be a taxable person; or
- (b) if he is not satisfied that the person has ceased to be a taxable person, reject his application to surrender his licence and that person shall continue to be a taxable person.

(2) Without prejudice to subsection 7A(6), if any taxable person—

- (i) ceases to carry on a business of providing taxable service;
- (ii) dies;
- (iii) fails to provide taxable service by the date on which the licence issued under section 8A is to take effect; or
- (iv) being a company, is dissolved,

the Director General shall revoke the licence.

(3) If any taxable person fails to comply with, or is found acting contrary to, the provisions of section 10, 10A, 11, 12 or 14, the Director General may revoke the licence, and if that person continues to carry on the business in respect of which the licence was issued, he shall be deemed to carry on the business without a licence under this Act.

(4) Before revoking a licence under subsection (2), the Director General shall serve a notice of revocation of the licence on the person to whom the licence was issued and that licence is revoked with effect from the date as specified in the notice.

(5) Before revoking a licence under subsection (3), the Director General shall serve a notice on the person to whom the licence was issued informing him of the proposed revocation and giving him an opportunity to make representation on the matter.

(6) Where the Director General is satisfied, after considering the representation of a person made under subsection (5) that the licence of the person should be revoked, he shall serve a notice of revocation of the licence on the person informing him that his licence is revoked from the date specified in the notice.

#### PART IV

#### INVOICES, RECORDS, RETURNS AND ASSESSMENT

##### **Invoices and receipts**

**10.** (1) Every taxable person who provides any taxable service shall, unless otherwise prescribed by regulations, issue an invoice and a receipt in the national language or in the English language to the customer in respect of the transaction and shall state in the invoice and receipt the amount of service tax payable separately from the charges for the taxable service provided.

(2) The amount of service tax payable shall be recoverable by the taxable person from the customer.

(3) No invoice showing an amount which purports to be service tax shall be issued—

(a) on the provisions of any service which is not taxable service; or

(b) *(Deleted by Act A1060)*

(c) by a person who is not a taxable person.

##### **Production of invoices or receipts by computer**

**10A.** (1) Subject to subsection (2), for the purposes of any provision under this Act in relation to an invoice or a receipt, a taxable person shall be treated as having issued an invoice or a receipt to a customer notwithstanding that there is no delivery of any equivalent document in paper form to the customer if the requisite information is recorded in a computer and—

(a) is transmitted to the customer by electronic means; or

(b) is produced on any material other than paper and is delivered to the customer.

(2) No provision in relation to invoices or receipts produced by computer shall be treated as having been complied with unless the taxable person and the customer—

(a) have obtained the Director General's approval in writing—

(i) to transmit the document by electronic means, or to produce the document by means of a computer on any material other than paper and to deliver that document; or

(ii) to receive the document through that transmission or delivery,

subject to such conditions as he may deem fit to impose; and

(b) comply with such requirements as may be determined by the Director General.

### **Duty to keep records**

**11.** (1) Every taxable person shall keep in such books of account or other records as the Director General may direct, full and true records written up to date of all transactions which affect or may affect his liability to service tax and shall keep those books of account or other records in the national language or English.

(2) The books of account and other records which are required to be kept in accordance with this section and duplicate copies of invoices issued under section 10 shall be preserved for a period of six years from the latest date to which the books of account, records and invoices relate.

### **Furnishing of returns**

**12.** (1) Every taxable person shall within twenty-eight days or such extended period as may be allowed by the Director General after the end of each taxable period deliver to the proper officer a return in the prescribed form setting forth the aggregate amount of the proceeds received during that taxable period in respect of charges levied or collected for providing taxable service, the amount of service tax payable and such other particulars as may be required

by the Director General; and the return shall be verified by declaration in the prescribed form.

(1A) Notwithstanding subsection (1), where any taxable person ceases to carry on a business of providing taxable service or to be a taxable person or where the licence of any taxable person is suspended or revoked by the Director General such taxable person shall immediately deliver to the proper officer—

- (a) a return in the prescribed form for the last taxable period; and
- (b) if a return for the taxable period immediately preceding the last taxable period is required to be delivered under subsection (1), that return.

(1B) The return referred to in paragraph (1A)(a) shall state—

- (a) the service tax, for the whole or any part of the payment for any taxable service provided, not received within a period of twelve calendar months preceding the last taxable period; and
- (b) the service tax on all taxable service provided in the last taxable period.

(2) For the purposes of this section—

- (a) where a taxable person closes his monthly business account on a date other than the last day of a calendar month, the taxable period shall be the period of two months ending on that date;
- (b) the last taxable period is the period of two calendar months or part of it ending on the day the taxable person ceases to carry on the business of providing taxable service or to be a taxable person or the day the taxable person's licence is suspended or revoked by the Director General.

### **Assessment of tax**

**13.** (1) Any return furnished under section 12 may be accepted by the proper officer as sufficient proof of the matters therein contained, and service tax may be assessed by the proper officer accordingly.

(2) If the proper officer has reason to believe that the amount of service tax shown in a return made by any taxable person under section 12 as payable on any taxable service is less than the amount payable under this Act, he may assess the tax at such greater amount as he deems fit and a notice in writing of the amount shall be served on that person.

(3) If the proper officer has reason to believe that service tax is payable in respect of any taxable service under this Act, by any person who has not made a return in respect thereof, he may assess the service tax at such amount as he deems fit and a notice in writing of the amount shall be served on that person.

## PART V

### COLLECTION, RECOVERY, REFUND AND REMISSION

#### **When tax becomes due and payable**

**14.** (1) The service tax chargeable under this Act shall be due at the time when payment is received for the taxable service provided to the customer by the taxable person.

(2) Where the whole or any part of the payment for any taxable service provided by the taxable person is not received from the customer within a period of twelve calendar months from the date of the invoice for the taxable service provided, service tax shall be due on the day following that period of twelve calendar months.

(3) Any service tax which falls due under subsection (1) or (2) during any taxable period shall be payable to the Director General within twenty-eight days from the expiration of that taxable period.

(4) Notwithstanding subsection (1), (2) or (3), service tax required to be accounted in any return made under subsection 12(1A) shall be due and payable on the day the return is required to be delivered to the proper officer.

#### **Recovery of tax**

**15.** (1) Without prejudice to any other remedy, any service tax due and payable and any penalty or surcharge payable under this Act may be recovered as a civil debt due to the Government.

(2) In any suit to recover the service tax, penalty or surcharge, if any, under subsection (1), the production of a certificate signed by the Director General giving the name and address of the taxable person and the amount of the service tax, penalty or surcharge, if any, due by him shall be sufficient evidence of the amount so due by him and sufficient authority for the court to give judgment for the said amount.

(3) Any penalty or surcharge imposed under this Act shall, for the purposes of this Act and the Limitation Act 1953 [*Act 254*], the Limitation Ordinance of Sabah [*Sabah Cap. 72.*] or the Limitation Ordinance of Sarawak [*Swk. Cap. 49*], as the case may be, be recoverable as if it were service tax due and payable under this Act and accordingly section 6(4) of the Limitation Act 1953, section 3 of the Limitation Ordinance of Sabah or section 3 of the Limitation Ordinance of Sarawak, as the case may require, shall not apply to that penalty or surcharge.

(4) Where an invoice shows a provision of taxable service as having taken place with service tax chargeable on it, there shall be recoverable from the taxable person who issued the invoice an amount equal to—

- (a) that which is shown in the invoice as service tax; or
- (b) so much of the total amount shown as payable as is to be taken as representing service tax, if service tax is not separately shown in the invoice,

for the provision of such taxable service.

(5) Subsection (4) shall also apply where—

- (a) the invoice, in which is stated an amount which purports to be service tax as chargeable, is not an invoice issued under section 10 or 10A;
- (b) the invoice was issued by a person who was not a taxable person and who had provided either a taxable service or a non-taxable service for which an amount which purports to be service tax was chargeable; or
- (c) the invoice was issued by a taxable person who had provided a non-taxable service for which an amount which purports to be service tax was chargeable,

and any amount which purports to be service tax shall be paid immediately by that person and, in default of payment, may be recovered as a civil debt due to the Government.

**Penalty for late payment of tax**

**16.** Where any amount of service tax deemed payable remains unpaid after the last day on which it is payable under section 14 or repayable under section 21C, as the case may be—

- (a) a penalty equal to ten per cent of such unpaid amount shall thereupon be payable;
- (b) if the service tax due and payable remains unpaid for more than thirty days after the last day on which it was so payable or repayable the rate of penalty under paragraph (a) on such unpaid service tax shall be increased by ten per cent for the second period of thirty days after such last day and for every succeeding period of thirty days or part thereof during which such amount remains unpaid to a maximum penalty of fifty percent.

**Joint and several liability of directors, etc.**

**17.** Where service tax, penalty or surcharge is due and payable by—

- (a) a company;
- (b) a firm; or
- (c) a society, an association or other body of persons,

then notwithstanding anything to the contrary in this Act or in any other Act, the directors of such company or the partners of such firm or members of such society, association or other body of persons, as the case may be, shall, together with such company, firm, society, association or other body of persons be jointly and severally liable for the service tax, penalty or surcharge:

Provided that in relation to a company that is being wound up, the directors of such company shall only be so liable where the assets of the company are insufficient to meet the amount due, after paying any sums having priority under the Companies Act 1965 in relation to the application of the assets of the company in such winding up over the service tax or penalty.

**Persons about to leave Malaysia**

**18.** If the Director General has reason to believe that a taxable person is about to leave Malaysia before any service tax due by him becomes payable in accordance with the provisions of this

Act, the service tax shall, if the Director General deems fit, be payable on such earlier date as he may determine and, if the whereabouts of the taxable person are known by the Director General, the taxable person shall be notified accordingly.

### **Recovery of service tax, etc., from persons leaving Malaysia**

**18A.** (1) Where the Director General has reason to believe that any person is about or is likely to leave Malaysia without paying—

- (a) any service tax payable by him;
- (b) any penalty payable by him under section 16;
- (c) any surcharge payable by him under subsection 20(3); or
- (d) any other moneys recoverable from him under this Act,

he may issue to any Director of Immigration a certificate containing particulars of the service tax, penalty, surcharge or other moneys so payable with a request that such person be prevented from leaving Malaysia unless and until he pays the service tax, penalty, surcharge or other moneys so payable, or furnishes security to the satisfaction of the Director General for their payment.

(2) Subject to any order issued or made under any written law for the time being in force relating to banishment or immigration, any Director of Immigration who receives a request under subsection (1) in respect of a person shall exercise all measures which may include the removal and retention of any certificate of identity, passport, exit permit or other travel documents in relation to that person as may be necessary to give effect to the request.

(3) The Director General shall cause a notice of the issue of a certificate under subsection (1) to be served personally or by registered post on the person to whom the certificate relates:

Provided that the non-receipt of the notice by that person shall not invalidate anything done under this section.

(4) Where the person in respect of whom a certificate has been issued under subsection (1) produces on or after the date of the certificate a written statement signed by the Director General stating that all the service tax, penalty, surcharge or other moneys specified in the certificate have been paid, or that security has been furnished for its payment, that statement shall be sufficient authority for allowing that person to leave Malaysia.

(5) No legal proceedings shall be instituted or maintained against the Government, a State Government or any other public officer in respect of anything lawfully done under this section.

(6) In this section, “Director of Immigration” means any Director of Immigration appointed under subsection 3(1A) of the Immigration Act 1959–1963 [Act 155].

**Power to collect service tax, etc., from person owing money to taxable person**

**19.** (1) Where any sum by way of service tax, penalty or surcharge is due and payable by a taxable person, the Director General may, by notice in writing (a copy of which shall be forwarded to the taxable person at his last known address) require—

- (a) any person by whom any money is due or accruing or may become due to the taxable person;
- (b) a person who holds or may subsequently hold money for or on account of the taxable person; or
- (c) any person having authority from some other person to pay money to the taxable person,

to pay to him forthwith, or within such period as the Director General may allow, such money (not being salary or wages due to the taxable person) or so much thereof as is sufficient to pay the sum due and payable by the taxable person as aforesaid.

(2) All payments made pursuant to a notice under this section shall be deemed to have been made on behalf of the taxable person and with his authority and the authority of all other persons concerned.

**Payment of service tax, etc., short paid or erroneously refunded and payment by instalments**

**20.** (1) Where—

- (a) the whole or any part of any service tax, penalty or other moneys payable under this Act has not been paid; or
- (b) the whole or any part of any service tax, penalty or other moneys after having been paid has been erroneously refunded,

then, provided a demand is made within three years from the date on which the service tax, penalty or other moneys were payable,

or the deficient service tax, penalty or other moneys were paid, or the refund was made, as the case may be, the person—

(aa) liable to pay—

(i) the service tax, penalty or other moneys; or

(ii) the deficient service tax, penalty or other moneys;  
or

(bb) to whom the refund was erroneously made,

shall pay the service tax, penalty or other moneys, or the deficient service tax, penalty or other moneys, or repay the refund erroneously paid to him, as the case may be.

(2) The Director General may allow the service tax or penalty referred to in subsection (1) to be paid by instalments, under such circumstances as may be prescribed by regulations, in such amounts and on such dates as he may determine; and where the amount of service tax is allowed to be paid by instalments under this subsection, paragraph 16(b) shall not be applicable to such amount as from the date the Director General allows such payment by instalments.

(3) If there is a default in the payment of any one instalment under subsection (2) on its due date for the payment of the balance of the amount payable, then the whole outstanding balance shall become due and payable on that date and shall, without any further notice being served on the person liable to pay the amount due, be subject to a surcharge equal to ten per cent of that balance and such surcharge shall be recoverable as if it were due and payable under this Act.

### **Return of service tax or penalty overpaid or erroneously paid**

**21.** It shall be lawful for the Director General, if it is proved to his satisfaction that any service tax or penalty has been overpaid or erroneously paid under this Act, to order the refund of the service tax or penalty that was overpaid or erroneously paid subject to such limit as may be prescribed by regulations:

Provided that—

(a) no such refund shall be allowed unless a claim in respect of it is made in the prescribed form within one year after the overpayment or erroneous payment was made; and

- (b) the Director General may reduce or altogether disallow any refund due under this section to the extent that the refund would unjustly enrich the claimant.

### **Deduction from return of refunded service tax**

**21A.** (1) The Director General may approve, subject to such conditions as he may deem fit to impose, an application by any taxable person to deduct from time to time from his tax return referred to in subsection 12(1) the amount of service tax paid but subsequently refunded to his customer by reason of—

- (a) cancellation of taxable service;
- (b) termination of taxable service; or
- (c) such other reasons as may be approved by the Director General.

(2) The taxable person shall make the deduction referred to in subsection (1) within one year after the payment was made, or such extended period as may be approved by the Director General.

### **Refund for bad debt**

**21B.** (1) Any person who is or has ceased to be a taxable person may make a claim to the Director General for a refund of the whole or any part of the service tax paid by him in respect of taxable service if—

- (a) the service tax has been paid by such person on or after 1 January 2003;
- (b) the whole or any part of the service tax payable to such person has been written off in his accounts as bad debts; and
- (c) the Director General is satisfied that all reasonable efforts have been made by such person to recover the service tax.

(2) Where the person mentioned in subsection (1)—

- (a) has not received any payment in respect of the provision of taxable service, such person may make a claim for the whole of the service tax paid; or

(b) has received any payment in respect of the provision of taxable service, such person may make a claim for the difference between the service tax paid and an amount calculated in accordance with the following formula:

$$\frac{A}{B} \times C$$

where

A	is the payment received in respect of the provision of such taxable service;
B	is the sale value of such taxable service plus service tax payable on such service; and
C	is the service tax payable on such service.

(3) The person mentioned in subsection (1) may make a claim for the refund within six years from the date the service tax is paid by him.

(4) For the purpose of this section, “bad debt” means the outstanding amount for the payment in respect of the provision of taxable service including service tax which is due to the person but has not been paid to, and is irrecoverable by the person.”

### **Repayment of refund**

**21c.** Where a refund of service tax has been made under section 21B by the Director General to a person and any payment in respect of the provision of taxable service for which the service tax is payable is subsequently received by the person, the person shall repay to the Director General an amount calculated in accordance with the following formula:

$$\frac{A}{B} \times C$$

where

A	is the payment received in respect of the provision of such taxable service;
B	is the sale value of such taxable service plus service tax payable on such service; and
C	is the service tax payable on such service.

**Remission**

22. The Minister may, if he thinks it just and equitable to do so, and subject to such conditions as he may deem fit to impose, remit the whole or any part of any service tax or other moneys due and payable under this Act, or the whole or any part of any penalty payable under the provisions of section 16.

**PART VI****INSPECTION, SEARCH, SEIZURE AND ARREST****Persons bound to give information**

23. (1) Every person having information about any matter into which it is the duty of the proper officer to inquire shall upon being required by him to do so, give such information.

(2) Every person required by the proper officer to produce a document or other thing which is within the power of such person to produce, and which is a document or thing required under this Act or a document or thing used in any transaction relating to service tax or a document or thing into which it is the duty of the proper officer to inquire under this Act, shall produce such document or thing.

**Access to buildings, places, books, etc.**

24. (1) Any proper officer shall for the purposes of this Act at all times have full and free access to all buildings, places, books, data, documents or other records for the purpose of ascertaining the amount of service tax to be payable by any person under this Act, and may, without fee or reward, inspect, copy or make extracts from any such books, data, documents or other records.

(2) Any proper officer may take possession of any such books, data, documents or other records where in his opinion—

- (a) the inspection, copying or extraction thereof cannot reasonably be performed without taking possession thereof;
- (b) the books, data, documents or other records may be interfered with or destroyed unless possession thereof is taken; or
- (c) the books, data, documents or other records may be required as evidence in proceedings for an offence against this

Act or in proceedings for the recovery of service tax, penalty, surcharge or other moneys payable under this Act.

(3) *(Deleted by Act A1111).*

(4) *(Deleted by Act A1111).*

### **Magistrate may issue search warrant**

**25.** (1) Whenever it appears to any Magistrate, upon written information upon oath and after any inquiry which he may think necessary, that there is reasonable cause to believe that in any dwelling house, shop or other building or place or on board any vessel or aircraft, there are concealed or deposited any books, documents or things which may afford evidence of an offence against this Act, the Magistrate may issue a warrant authorizing any proper officer named therein, at any time and with or without assistance to enter the dwelling house, shop or other building, place, vessel or aircraft and there to search for and seize the books, documents or things.

(2) The officer authorized in accordance with subsection (1) may if it is necessary so to do—

- (a) break open any outer or inner door of the dwelling house, shop or other building, place or vessel or aircraft and enter every part thereof, if necessary forcibly;
- (b) remove by force any obstruction to such entry, search or seizure as he is empowered to effect;
- (c) detain every person found in the dwelling house, shop or other building, place, vessel or aircraft until the search has been completed.

### **When search may be made without warrant**

**26.** Whenever it appears to the senior officer of customs that there is reasonable cause to believe that in any dwelling house, shop or other building, or place, or on board any vessel or aircraft, there are concealed or deposited any books, documents or things which may afford evidence of an offence against this Act, and if he has reasonable grounds for believing that by reason of the delay in

obtaining a search warrant the books, documents or things are likely to be removed, he may exercise in, upon and in respect of the dwelling house, shop or other building, place, vessel or aircraft all the powers mentioned in section 25 in the same manner as if he were empowered so to do by a warrant issued under that section.

### **Access to recorded information or computerized data**

**26A.** (1) Any proper officer exercising his powers under sections 24, 25 and 26 shall be given access to any recorded information or computerized data, whether stored in a computer or otherwise.

(2) In addition, a proper officer exercising his powers under sections 24, 25 and 26—

(a) may inspect and check the operation of any computer and any associated apparatus or material which he has reasonable cause to suspect is or has been used in connection with that information or data; and

(b) may require—

(i) the person by whom or on whose behalf the proper officer has reasonable cause to suspect the computer is or has been so used; or

(ii) the person having charge of, or is otherwise concerned with, the operation of the computer, apparatus or material,

to provide him with such reasonable assistance as he may require for the purposes of this section.

(3) For the purposes of subsection (1), “access” includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of recorded information or computerized data.

### **Seizure of books, documents, etc.**

**27.** All books, documents or things in respect of which the senior officer of customs or the proper officer has reasonable cause to suspect that there has been committed any offence against this Act or a breach of any condition subject to which any licence has been issued under this Act and any books, documents or things which may reasonably be believed to have a bearing on the case, may be seized by that officer.

**Power of arrest**

**28.** (1) Any senior officer of customs and proper officer may arrest without warrant—

- (a) any person found committing or attempting to commit or employing or aiding any person to commit or abetting the commission of, an offence against this Act;
- (b) any person whom he may reasonably suspect to have in his possession any books, documents or things liable to seizure under this Act;
- (c) any person whom he may reasonably suspect to have committed an offence against this Act,

and that officer may search or cause to be searched any person so arrested:

Provided that—

- (a) any person arrested by a proper officer who requests that his person be searched in the presence of a senior officer of customs shall not be searched except in the presence of and under the supervision of that officer, but that person may be detained until the arrival of that officer, or taken to any office or police station where that officer may be found;
- (b) any belonging of any person who requests to be present when it is searched and so presents himself within a reasonable time shall not be searched except in his presence;
- (c) no female shall be searched except by another female with strict regard to decency.

(2) Every person arrested under this section shall be taken to a police station or detained in the custody of the proper officer.

(3) If any person liable to arrest under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time thereafter be arrested and dealt with as if he had been arrested at the time of committing the offence.

- (4) Every person so arrested may be released from custody—
- (a) on his depositing such reasonable sum of money as the proper officer may require;
  - (b) on his executing a bond, with such surety, as the proper officer may require; or
  - (c) on his depositing such reasonable sum of money as the proper officer may require and his executing a bond, with such surety as the proper officer may require.

(5) Any person who has been released from custody under subsection (4) may be arrested without warrant by any proper officer—

- (a) if such officer has reasonable grounds for believing that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be breached; or
- (b) on being notified in writing by the surety of such person that such person is likely to breach any condition on or subject to which such person was released and that the surety wishes to be relieved of his obligation as surety.

## PART VII

### OFFENCES

#### **Failure to comply with notice, etc.**

**29.** Without prejudice to any other liability incurred under this Act, any person who—

- (a) fails or refuses to comply with the requirements of section 7, 7A, 8, 10, 10A, 11, 12, 14 or 19;
- (b) carries on business at any place or premises not specified in the licence issued under section 8 or 8A;
- (c) fails or refuses to produce any book, document or thing for the examination or retention by the proper officer in accordance with the requirements of this Act;
- (d) fails or refuses to give correct information or refuses to give any information which he is required to give relating to service tax;

- (e) pays a lesser amount of service tax than is required by this Act;
- (ea) contravenes subsection 47A(2);
- (f) in any way obstructs any proper officer in the discharge of his functions under this Act; or
- (g) contrary to subsection 10(3) issues an invoice showing an amount which purports to be service tax,

shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment not exceeding two years or to both.

### **Penalty for incorrect return**

**30.** Any person who makes an incorrect return under this Act or the regulations by omitting therefrom any information or gives any incorrect information in relation to any matter affecting his own liability to service tax or the liability of any other person or a firm or an association of persons shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Penalty for charging or collecting service tax by non-taxable person**

**31.** (1) No person shall charge or collect from any person any sum of money for the purpose of paying service tax levied under this Act in respect of any service provided by him or on his behalf unless he is liable under this Act to pay such service tax.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding five thousand ringgit or to an imprisonment of two years or to both.

### **Penalty for evasion of service tax**

**32.** (1) Any person who wilfully with intent to evade or to assist any other person to evade service tax—

- (a) omits from a return made under this Act or the regulations any information in relation to any matter affecting the amount of his or other person's chargeability to service tax;

- (b) makes a false statement or entry in any return, claim or application made under this Act or the regulations;
- (c) gives any false answer whether verbally or in writing to any question or request for information asked or made in pursuance of this Act or the regulations;
- (d) prepares or maintains or authorizes the preparation or maintenance of any false book of accounts, false invoices or other false records, or falsifies or authorizes the falsification of any book of accounts, invoices or records; or
- (e) makes use or authorizes the use of any fraud, art or contrivance,

shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Where in any proceedings under this section it is proved that a false statement or false entry (whether by omission or otherwise) has been made in any return, claim or application furnished under this Act or the regulations by or on behalf of any person or in any books of account, invoices or other records maintained by or on behalf of any person, that person shall be presumed until the contrary is proved to have made that false statement or entry with intent to evade service tax.

(3) A reference in this section to a person who makes use of any fraud, art or contrivance, or authorizes the use of any fraud, art or contrivance, to evade service tax includes a reference to a person who, without the authority of the Director General—

- (a) destroys, damages, erases or otherwise manipulates the data stored in, or used in connection with, a computer;
- (b) introduces into or records or stores in a computer, by any means, data for the purpose of—
  - (i) destroying, damaging, erasing or altering other data stored in that computer; or
  - (ii) interfering with, interrupting or obstructing the lawful use of that computer, or the data stored in that computer; or

(c) otherwise uses a computer,

the purpose or effect of which is to evade service tax.

(4) For the purposes of subsection (3), “data” includes any computer program or part of a computer program being a program approved by the Director General for use under section 10, 10A, 11, or any regulations.

### **Attempts and abetments**

**33.** Whoever attempts to commit an offence against this Act, or abets the commission of such offence, shall be punished with the punishment provided for such offence.

### **General penalty**

**34.** Any omission or neglect to comply with and any act done or attempted to be done contrary to the provisions of this Act or the regulations, and in respect of which no penalty is expressly provided shall be an offence against this Act and the offender shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Offences by corporate bodies**

**35.** (1) Where an offence under this Act or the regulations has been committed by a company, a firm, a society, an association or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society, association or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any clerk, servant or agent, or of the clerk or servant of that agent provided that such act, omission, neglect or default was committed by that clerk or servant in the course of his employment or by that agent when acting on behalf of that person or by the clerk or servant of that agent when acting

in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

## PART VIII

### PROVISIONS AS TO TRIALS AND PROCEEDINGS

**36.** *(Deleted by Act A1111).*

#### **Sessions Court to have jurisdiction**

**37.** Notwithstanding the provisions of any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act and to impose punishment under this Act for any such offence.

#### **Obligation of secrecy**

**37A.** (1) Except as provided under section 38, the name and address of an informer and the substance of the information received from an informer shall be kept secret and shall not be disclosed by any proper officer or any person who in the ordinary course of his duties comes into possession of or has control of or access to such information to any person except the designated proper officer authorized by the Director General.

(2) Any person who contravenes subsection (1) shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

#### **Protection of informers from discovery**

**38.** (1) Except as hereinafter provided, no witness in any civil or criminal proceedings under this Act shall be obliged or permitted to disclose the name or address of an informer, or the substance of the information received from him, or state any matter which might lead to his discovery.

(2) Subject to subsection (3), if any books, documents or papers which are produced in evidence or liable to inspection in any civil or criminal proceeding under this Act, contain any entry in which

any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated, but only to the extent necessary to protect the informer from discovery.

(3) If on trial for any offence under this Act, the court, after full enquiry into the case, believes that the informer wilfully made in his complaint a material statement which he knew to be false or did not believe to be true, or if in any other proceedings the court is of opinion that justice cannot fully be done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry and require full disclosure concerning the informer.

### **Compounding of offences**

**39.** Any senior officer of customs may compound any offence which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding five thousand ringgit.

### **Conviction under other law**

**40.** Nothing contained in this Act shall prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law for the time being in force in Malaysia or any part thereof:

Provided that no person shall be punished more than once for the same offence.

### **Court order**

**40A.** Where any person is found guilty of an offence under section 29 or 32, the court before which that person is found guilty shall order that person to pay to the Director General the amount of service tax due and payable, or any penalty payable under this Act, if any, as certified by the Director General and such service tax or penalty shall be recoverable in the same manner as a fine as provided under section 283 of the Criminal Procedure Code [*Act 593*].

PART IX  
REGULATIONS

**Regulations**

- 41.** The Minister may make regulations to prescribe and regulate—
- (a) the issue of licence;
  - (b) the place at which the service tax is to be paid and collected;
  - (c) the remission at the discretion of the Director General of small amounts of service tax;
  - (ca) the circumstances under which payment by instalments may be allowed;
  - (cb) the issuance of invoices or receipts;
  - (cc) the production of invoices or receipts by computer;
  - (cd) all matters relating to bad debts for the purposes of this Act;
  - (d) the forms to be used under and for purposes connected with this Act;
  - (e) anything required or permitted in this Act to be prescribed or regulated;
  - (f) generally to give effect to the provisions of this Act.

PART X

ADMINISTRATION AND MISCELLANEOUS MATTERS

**Functions and powers of Director General and other officers**

**42.** (1) The Director General shall have the superintendence of all matters relating to the service tax, subject to the direction and control of the Minister.

(2) Subject to the general direction and supervision of the Director General, all officers of Customs and Excise appointed under section 3 of the Customs Act 1967 and holding the rank of Superintendent or any rank higher than that of Superintendent shall have and exercise all powers conferred on the Director General by or under this Act.

(3) It shall be the duty of any proper officer to enforce, and ensure due compliance with, the provisions of this Act, and to make all due enquiries in relation thereto.

(4) Every person employed on any duty or service relating to the service tax by the order or with the concurrence of the Director General (whether previously or subsequently expressed) shall be deemed to be the proper officer for that duty or service.

### **Officers to be public servants**

**43.** Every person employed on any duty or service relating to the service tax shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

### **Authority cards, etc., to be produced**

**44.** (1) Every officer when acting against any person under this Act, shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such badge or authority card as he has been directed to carry under subsection 9(1) of the Customs Act 1967.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any officer acting or purporting to act under this Act, if such officer is not in uniform and refuses to declare his office and produce his badge or authority card on demand being made by such person.

### **No costs or damages arising from seizure to be recoverable unless seizure without reasonable or probable cause**

**45.** No person shall in any proceedings before any court in respect of the seizure of any thing seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the thing or the payment of its value unless the seizure was made without reasonable or probable cause.

### **Service of notices, etc.**

**46.** (1) Every notice, direction or other document required by this Act to be served on any person may be served—

(a) personally upon that person; or

(b) by sending it to that person by registered post.

(2) A notice, direction or other document sent by registered post to a person shall be deemed to have been served on that person at the time at which it would have been delivered to that person in the ordinary course of the post if such notice, direction or other document was addressed—

(a) in the case of a company, a firm, a society, an association or other body of persons—

(i) to its registered office;

(ii) to its last known address; or

(iii) to any person authorized by it to accept service of process; and

(b) in the case of an individual, to his last known address.

### **Clerks and servants may transact business**

**47.** The clerks or servants of any person may transact business generally with any proper officer on behalf of the person:

Provided that an officer may refuse to transact business with the clerk or servant unless the person identifies such clerk or servant to the officer as empowered to transact.

### **Transaction of business on behalf of taxable person**

**47A.** (1) Subject to section 47, no person shall transact any business in relation to this Act on behalf of any taxable person, except on matters with regard to—

(a) refund;

(b) remission;

(c) exemption; or

(d) such other matters as may be approved by the Director General.

(2) The person who transacts business on any of the matters stated in subsection (1) on behalf of a taxable person shall—

(a) produce a letter of authorization from the taxable person whom he represents; and

- (b) where any prescribed form is required to be submitted for the purposes of the matters being transacted, submit the form that has been signed by the taxable person, except where otherwise allowed by a senior officer of customs.

### **Rewards**

**48.** The Director General may order such rewards as he may deem fit to be paid to any officer or other person for services rendered in connection with the detection of any offences against this Act.

### **Forms to be used**

**49.** Where any form has been prescribed under section 41 no person shall, for the purpose of this Act, use any form which is not printed or issued by authority of the Director General:

Provided that the Director General may, at his discretion and subject to such conditions as he may deem fit to impose, permit any person to use forms which are not so printed or issued as aforesaid, or permit the use of any form submitted through an electronic data interchange.

### **Disputes and appeal**

**50.** (1) Where any person disputes the decision of a proper officer acting in the course of duty under section 42 he may appeal therefrom to the Director General whose decision on such dispute shall, subject to subsection (2), be final.

(2) Any person aggrieved by a decision of the Director General may within thirty days after being notified of such decision—

- (a) in cases relating to the refund of the service tax under section 21B, appeal to the court; or
- (b) in other cases and matters, appeal to the Minister, whose decision shall be final and not be subject to review in any court.

### **Liquidator of company to give notice of winding up, and set aside tax**

**51.** (1) Where after the passing of this Act an effective resolution is passed or an order is made for the winding up of a company to which a licence under section 8 or 8A is issued, the liquidator of the company shall give notice thereof to the Director General

within fourteen days after the passing of the resolution or the making of the order, and shall before disposing of any of the assets of the company set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any service tax that there is or will thereafter become payable in respect of the company, and shall pay such service tax.

(2) A liquidator of any such company who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the service tax as required by that subsection shall be personally liable for any service tax that is or becomes payable as aforesaid.

(2A) Any liquidator who fails to comply with subsection (1) shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding ten thousand ringgit.

(3) Where two or more persons are appointed liquidators or are required by law to carry out the winding up of any such company the obligations and liabilities attaching to a liquidator under this section shall attach to all such persons jointly and severally, subject to a right of contribution between themselves as in cases of contract.

### **Appointment of receiver to be notified to the Director General**

**52.** (1) Where a receiver is appointed of the property of a taxable person to whom a licence under section 8 or 8A is issued, the receiver shall give notice thereof to the Director General within fourteen days after the appointment being made, and shall before disposing of any of the assets of that taxable person set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any service tax that there is or will thereafter become payable in respect of the taxable service that have been provided by that taxable person before the appointment of the receiver, and shall pay such service tax.

(2) A person appointed as receiver who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the service tax as required by that subsection shall be personally liable for any service tax that is or becomes payable as aforesaid.

(2A) Any receiver who fails to comply with subsection (1) shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding ten thousand ringgit.

(3) Where two or more persons are appointed receivers, the obligations and liabilities attaching to a receiver under this section shall attach to all such persons jointly and severally, subject to a right of contribution between themselves as in cases of contract.

---

## LAWS OF MALAYSIA

### Act 151

## SERVICE TAX ACT 1975

### LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A309	Service Tax (Amendment) Act 1975	30-05-1975
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
P.U. (A) 357/80	Subordinate Courts Act (Extension) Order 1980	01-06-1981
Act 293	Finance Act 1983	21-10-1983
Act 328	Finance Act 1986	24-10-1986
Act 329	Finance (No. 2) Act 1986	01-01-1987
Act 421	Finance (No. 2) Act 1990	28-10-1989
Act 438	Free Zones Act 1990	05-09-1991
Act 451	Finance Act 1991	01-01-1991
Act 476	Finance Act 1992	01-01-1992
Act A876	Service Tax (Amendment) Act 1994	04-03-1994
Act A923	Service Tax (Amendment) Act 1995	21-07-1995
Act A962	Service Tax (Amendment) Act 1996	13-09-1996
Act 557	Finance Act 1997	25-10-1996
Act A1060	Service Tax (Amendment) Act 1999	01-01-2000

*Service Tax*

45

Amending law	Short title	In force from
Act A1165	Service Tax (Amendment) Act 2002	01-09-2002
Act A1165	Service Tax (Amendment) (No. 2) Act 2002	01-01-2003

---

**LAWS OF MALAYSIA**  
**Act 151**  
**SERVICE TAX ACT 1975**

LIST OF AMENDMENTS

Section	Amending authority	In force from
1	Act 329 Act 421 Act A962 Act A1165	01-01-1987 28-10-1989 13-09-1996 01-09-2002
2	Act 329 Act 421 Act 451 Act A876 Act A962 Act 557 Act A1060 P.U. (A) 117/2000 Act A1111 Act A1165 Act A1182	01-01-1987 28-10-1989 01-01-1991 04-03-1994 13-09-1996 25-10-1996 01-01-2000 30-03-2000 06-07-2001 01-09-2002 01-01-2003
2A	Act 438	05-09-1991
3	Act 476 Act 557 Act A1060 Act A1182	01-01-1992 25-10-1996 01-03-2000 01-01-2003
4	Act 476 Act A1060	01-01-1992 01-01-2000
5	Act 293	21-10-1983
6	Act A1060	01-01-2000
7	Act 476 Act A1060	01-01-1992 01-01-2000
7A	Act A1060	01-01-2000
8	Act 476 Act A1060	01-01-1992 01-01-2000

Section	Amending authority	In force from
8A	Akta A1060	01-01-2000
9	Act A1060	01-01-2000
10	Act A1060	01-01-2000
10A	Act A1060 Act A1111	01-01-2000 06-07-2001
12	Act A923 Act A1060	21-07-1995 01-01-2000
13	Act A1060	01-01-2000
14	Act A923 Act 557 Act A1060	21-07-1995 25-10-1996 01-01-2000
15	Act A1060 Act A1111	01-01-2000 06-07-2001
16	Act 328 Act A1060 Act A1182	24-10-1986 01-01-2000 01-01-2003
17	Act A1060 Act A1111	01-01-2000 06-07-2001
18	Act A1060	01-01-2000
18A	Act A1060	01-01-2000
19	Act A1060	01-01-2000
20	Act A1060	01-01-2000
21	Act A1060	01-01-2000
21A	Act A1060	01-01-2000
21B	Act A1182	01-01-2003
21C	Act A1182	01-01-2003
24	Act A1060 Act A1111	01-01-2000 06-07-2001
26A	Act A1111	06-07-2001
28	Act A1111	06-07-2001

Section	Amending authority	In force from
29	Act A1060	01-01-2000
31-32	Act A1060	01-01-2000
35-36	Act A1111	06-07-2001
37	P.U. (A) 357/1980	01-06-1981
37A	Act A1111	06-07-2001
39	Act A1060	01-01-2000
40A	Act A1060	01-01-2000
41	Act A1060 Act A1111 Act A1182	01-01-2000 06-07-2001 01-01-2003
44	Act A1060	01-01-2000
46	Act A1060 Act A1111	01-01-2000 06-07-2001
47	Act A1060	01-01-2000
47A	Act A1060	01-01-2000
49	Act A876	04-03-1994
50	Act A1182	01-01-2003
51	Act A1060	01-01-2000
52	Act A309 Act A1060	30-05-1975 01-01-2000