

Service Tax Treatment on Secondment of Employees in Malaysia

The Royal Malaysian Customs Department has clarified the meaning of “secondment of employees” for the purposes of the service tax exemption on employment services, setting out a clear, conjunctive set of conditions that an arrangement must satisfy before it can be treated as a secondment rather than a taxable supply of employment services.

1. Employment Service under the Service Tax Regulation 2018

Employment services are taxable services under item (J), column (2), Group G, First Schedule of the Service Tax Regulations 2018. There are two categories of employment services which falls outside the scope of service tax:

- (1) the provision of employment services in the form of the secondment of employees or supplying employees to work for another person for a period of time; and
- (2) the provision of employment services for employment outside Malaysia.

General Ruling No. 5/2026 issued on 12 August 2026, sets out a clear list of conditions and arrangement must be met to qualify for the exemption.

2. Conditions for a Secondment to be Exempt

Pursuant to the Ruling, an arrangement will only qualify as a secondment of employee if all of the following conditions are satisfied:

- (1) there is an employee-lending contract between the original employer and the company receiving the seconded employee.
- (2) the original employer’s business activity is not related to the provision of employment services, which includes employment agencies and professional employer organisations.
- (3) the employee is temporarily seconded by the original employer to carry out duties elsewhere for a specified period and returns to the same employer to continue their employment upon completion of the assignment.
- (4) the employee continues to be employed by the original employer throughout the secondment, with the employment relationship remaining continuous and unbroken.

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- (5) the employee works only for the company receiving the seconded employee throughout the secondment.
- (6) the company receiving the seconded employee has full control over that employee.
- (7) salary and any other allowances (at cost value) are paid by the company receiving the seconded employee, whether directly or indirectly, with no additional charge being imposed; and
- (8) the secondment period does not exceed six months within a single year and does not carry over into the following year.

If an arrangement fails to meet even one of the conditions, it will be treated as a taxable provision of employment services and will attract service tax accordingly.

3. Conclusion

The Ruling has provided clarity on secondment of employees and the requirements to be eligible for exemption from service tax. Business that lends or borrow staff need to review their arrangement as a single unmet condition is sufficient to bring the entire arrangement within the scope of service tax.

For further information, please visit the official website of the Royal Malaysian Customs Department at <https://mysst.customs.gov.my/>

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