



GUIDELINES

TRANSITIONAL RULES FOR THE CHANGE IN SERVICE TAX RATE TO 8% ON DIGITAL SERVICE PROVIDED BY FOREIGN REGISTERED PERSON

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1. INTRODUCTION

- 1.1. In accordance with the announcement made by the Minister of Finance during the Budget 2024 speech on 13th October 2023, the service tax rate for most prescribed taxable services under Service Tax Act 2018 (“STA 2018”) including digital service provided by Foreign Registered Person will increase from 6% to 8%, effective from 01 March 2024.
- 1.2. Following the related announcement, the new tax rate will be fixed by the Minister via an order, as stipulated under section 10 of STA 2018. Meanwhile, the Service Tax (Digital Services) Regulations 2019 will be amended to include transitional rules for the change in service tax rate on digital services provided by Foreign Registered Person.
- 1.3. The purpose of this guideline is to:
 - 1.3.1. Provide details regarding the implementation of the change of service tax rate for digital services provided by Foreign Registered Persons
 - 1.3.2. Explain the transitional rules.
- 1.4. This guideline is **ONLY** applicable to **digital services** provided by Foreign Registered Persons (“FRP”) who are liable to register under STA 2018.

2. CHARGING OF SERVICE TAX ON DIGITAL SERVICE BY FOREIGN REGISTERED PERSON UNDER SERVICE TAX ACT 2018

- 2.1. Pursuant to subsection of 56A STA 2018, service tax shall be charged and levied on any digital service provided by a FRP to any consumer.
- 2.2. The service tax shall be charged and levied on the value of digital services charged by the FRP.
- 2.3. Subsection 56A(4) of STA 2018 provides that the service tax charged on the digital service provided to the consumer shall be due at the time when the payment for the digital service is received by the FRP. However, subject to conditions deemed fit, the Director General may approve service tax on any digital service provided by the FRP to be due at the time the invoice is issued, upon a written application by the FRP.
- 2.4. Subsequently, FRP shall, in respect of his taxable period, account for the service tax due in a return (DST-02 Form). FRP shall furnish the return via MySToDS system and pay the amount of service tax due and payable not later than the last day of the month following the end of his taxable period to which the return relates. For example, for the taxable period from 01 January 2024 to 31 March 2024, the FRP shall furnish the return and pay the service tax to Director General not later than 30 April 2024.
- 2.5. Effective from 01 March 2024, the service tax rate on digital services provided by FRP will increase from 6% to 8%, as announced by the Minister of Finance. Henceforth, service tax shall be charged and levied at the rate of 8% on any digital service provided from 01 March 2024 by a FRP to any consumer.
- 2.6. Notwithstanding paragraph 2.5, a transitional rule for the change of the new tax rate will be introduced to determine service tax treatment on digital services provided under prescribed circumstances including services spanning before and after effective date of the rate change which is 01 March 2024.

3. IMPLEMENTATION OF THE CHANGE OF TAX RATE FOR DIGITAL SERVICES PROVIDED BY FOREIGN REGISTERED PERSONS

3.1. For the purpose of this transitional rules, as stipulated under sub section 56A(4) and 56A(4A) of STA 2018, the service shall be due at the time:

3.1.1. when payment for the digital service is received by the FRP; or

3.1.2. if approval is granted, at the time the invoice in relation to the digital service is issued by the FRP.

3.2. The change to the new service tax rate of 8% is effective on **01 March 2024** (hereinafter referred to as “the effective date”). Transitional rules are as provided under paragraph 3, Service Tax (Rate of Digital Services Tax) (Amendment) Order 2024.

3.3. The following transitional rules are applicable to the implementation of the tax rate change for digital services provided by FRP:

3.3.1. Scenario 1: Provision of digital services and service tax due before effective date

Where any digital service is provided by FRP **before** the effective date and the service tax for the related digital service is due **before** the effective date, service tax shall be charged at the old tax rate of 6% illustrated in Figure 1 below.

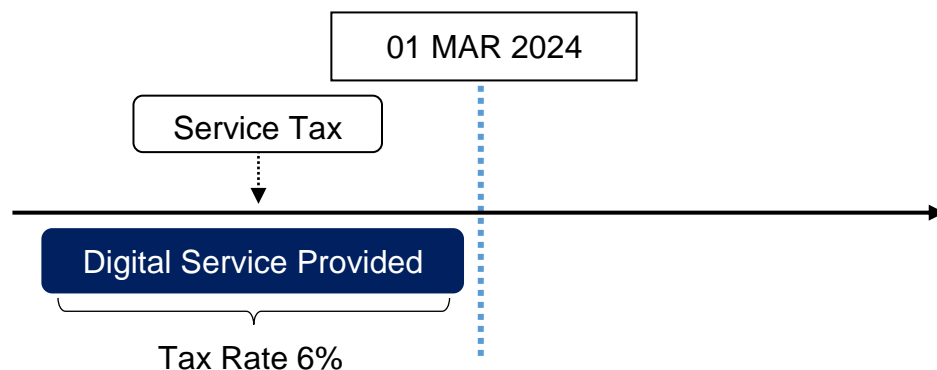


Figure 1

3.3.2. Scenario 2: Provision of digital services and service tax due on or after effective date

Where any digital service is provided by FRP **on or after** the effective date, and service tax for the related digital service is due **on or after** effective date, service tax shall be charged at the new tax rate of 8% as illustrated in Figure 2 below.

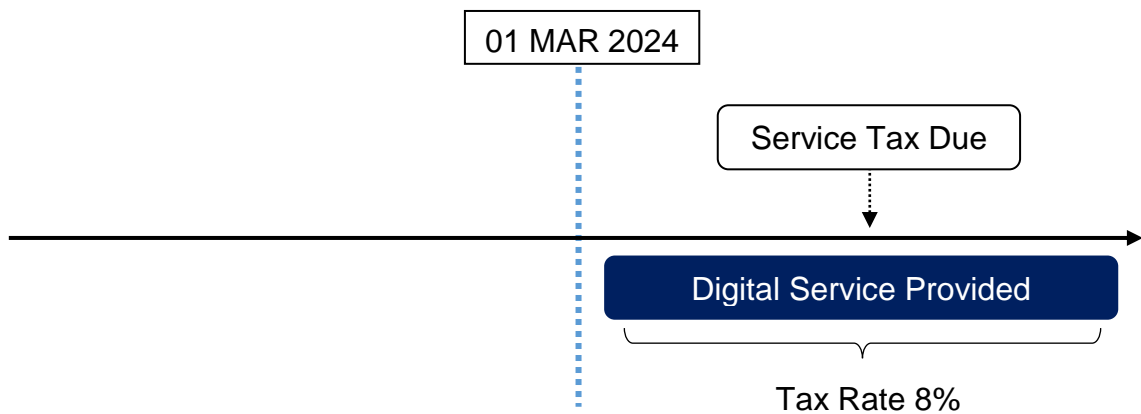


Figure 2

3.3.3. Scenario 3: Provision of digital services spanning before and after effective date

Where digital service is provided by FRP before the effective date and is spanning on or after the effective date:

- i. for the proportion of digital services attributed to the period before the effective date, service tax shall be charged at the old tax rate of 6%; and
- ii. for the proportion of digital services attributed to the period on or after the effective date, service tax shall be charged at the new tax rate of 8%.

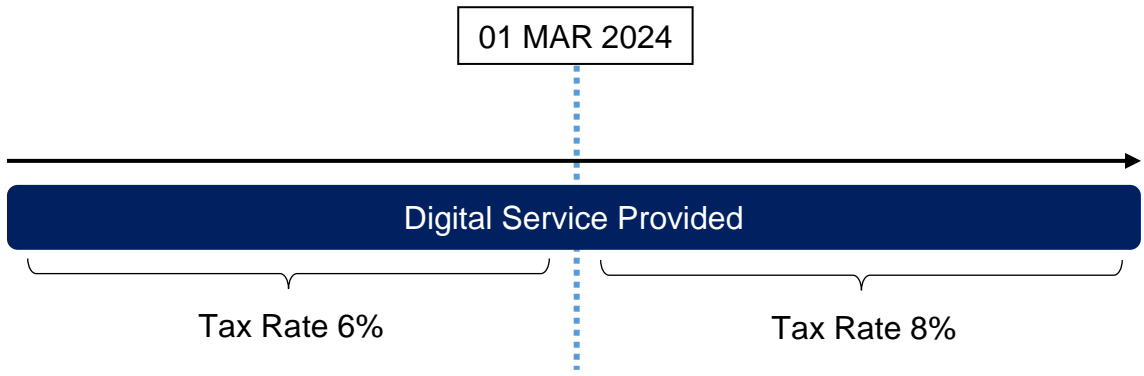


Figure 3

3.3.4. Scenario 4: Payment receive before effective date for provision of digital services on or after effective date

In a situation where payment is received before the effective date in connection with the provision of digital services that will be provided on or after the effective date, service tax shall be charged at the old tax rate of 6% on the payment received.

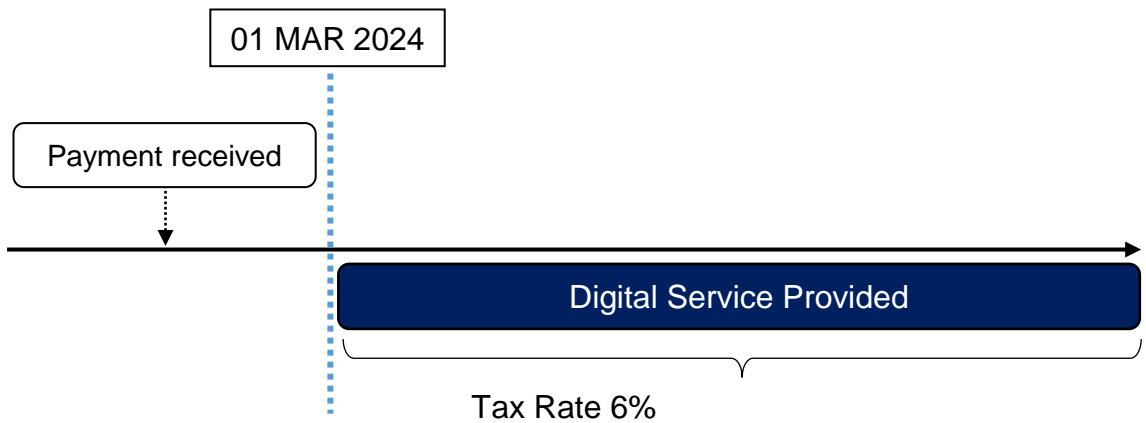


Figure 4

4. FREQUENTLY ASK QUESTION?

Q1: Cubefile Inc, is a Foreign Registered Person (FRP) and offers a various range of powerpoint template through his online platform. Consumer in Malaysia able to purchase and download the powerpoint template based on pay per file. What is the impact of service tax treatment for the provision of power point template by Cubefile Inc. starting from 01 March 2024.

A1: The provision of powerpoint template to his Malaysian consumer who purchase starting from 01 March 2024 shall subject to service tax at the new tax rate, which is 8%.

Q2 & Q3 shall refer to the Scenario 1 below:

Scenario 1:

Seexu Inc, is a Foreign Registered Person (FRP) and account service tax under payment basis as per Sec. 56A (4), Service Tax Act 2018. Seexu Inc offers powerpoint template services through his platform on a subscription basis. Ayda, who is a consumer in Malaysia purchase the services and make a full payment on 25 February 2024 but the service will be ready for 3 months activation and used starting from 01 Mac 2024.

Q2: What is the service tax treatment for the above scenario?

A2: Provision of powerpoint template services is subject to service tax at the old tax rate, which is 6% since the payment has been made before the effective date of changes in the rate of service tax.

Q3: In relation to Scenario 1, if Seexu Inc account service tax under invoice basis as per Sec. 56A (4A), Service Tax Act 2018 and he issue invoice on 15 February 2024 but the payment is received on 15 March 2024, what will be the service tax treatment for the provision of powerpoint template services?

A3: Provision of powerpoint template services is subject to service tax at the new tax rate, which is 8% since the payment is received after the effective date.

Q4: Weenyz Inc provides online architect software for one (1) year period from 01 January 2024 until 31 December 2024 to his consumer in Malaysia. The payment term for the online architect software shall be on monthly basis. What is the impact of service tax treatment for this situation?

A4: Any payment received before the effective date for the proportion of digital service that is to be provided on or after the effective date shall subject to service tax at the old tax rate, which is 6%, while for the provision of digital service where payment to be received after the effective date shall subject to service tax at the new tax rate, which is 8%.

Q5: Lazfa Corporation ('LC') is a company establish in Australia and has registered as FRP. LC provides online graphic design software. Walden who is consumer in Malaysia subscribed the software for one (1) year period starting from 01 March 2024 until 28 February 2025 and has paid for the services in full on 29 February 2024 with 6% service tax on digital service. The provision of online graphic design software shall subject to service tax at 6% or 8%?

A5: Since payment has been made in full on 29 February 2024, the provision of online graphic design software shall subject to service tax at the old tax rate, which is 6%.

Q6: In relation to situation in Q5, if there is no payment made by consumer in Malaysia, what will be the service tax treatment?

A6: Since there is no payment receive before the effective date of change in the rate of tax, thus service tax shall be charge at the new tax rate, which is 8% on the provision of online graphic design software for a period of 01 March 2024 until 28 February 2025.

5. CONTACT US

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