



NATIONAL INVESTMENT SEMINAR ON SERVICE TAX 2018

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The information presented in the slides aim to provide a better under standing of SST treatment and is not intended to address all possible SST issues. The information is correct as at the date of presentation. While all effort has been made to ensure that this information is consistent with the prevailing law and procedures, should there be any changes, RMCD reserves the rights to vary our position accordingly.

AGENDA:

- Overview
- Taxable Services
- Registration
- Special Treatment
- Service Tax Facilities



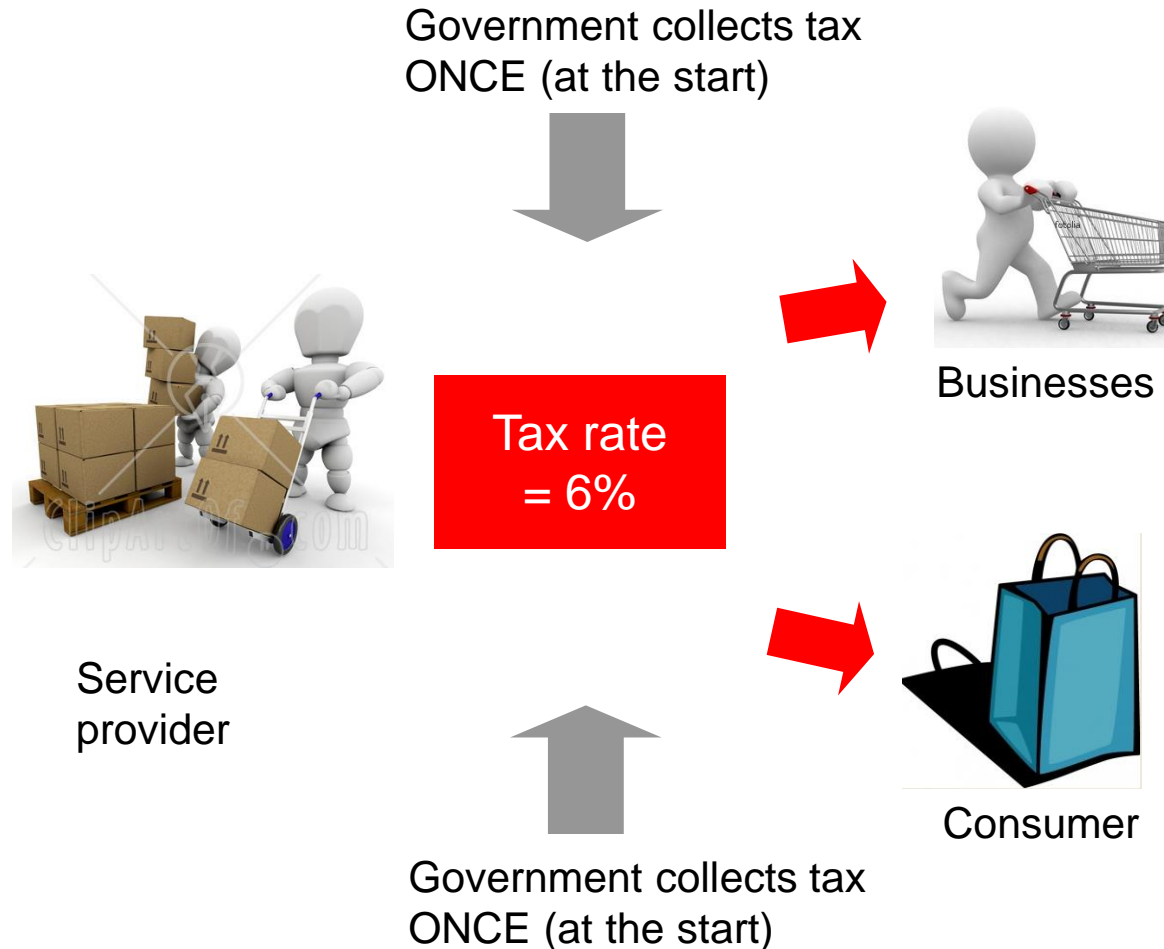
Overview

Overview of Service Tax



- Implementation date – 1st September 2018
- Self-assessment system
- Scope of tax
 - Provision of services in Malaysia
- Rate of tax
 - 6%
 - Specific: RM25 per year for credit / charge card
- Single stage tax
 - Registered business under STA is tax collecting agent
- Tax on consumption

How Service Tax Works?





Service Tax Legislation

Act

- **Service Tax Act 2018**

Regulations

- **Service Tax Regulations 2018**
- **Service Tax (Customs Ruling) Regulations 2018**
- **Service Tax (Compounding of Offences) Regulations 2018**

Order

- ***Service Tax (Amount Of Value of Taxable Service) Order 2018***
- ***Service Tax (Rate Of Tax) Order 2018***
- ***Service Tax (Imposition of Tax In Respect Of Designated Areas) Order 2018***
- ***Service Tax (Imposition Of Tax In Respect Of Special Areas) Order 2018***
- ***Service Tax (Appointment of Date of Coming Into Operation) Order 2018***

Scope & Charge



Service tax is charged on:-

- taxable services;
- provided in Malaysia;
- by a registered person carrying on his business

Service tax is not chargeable on:

- imported services
- Certain exported services



Taxable Services

Scope of Taxable Services



Group	Category	Note
A	Accommodation	
B	Food & Beverages	
C	Night-clubs, Dance Halls, Health Centres, Massage Parlours, Public Houses And Beer Houses	
D	Private Club	
E	Golf Club And Golf Driving Range	
F	Betting And Gaming	
G	Professionals	
H	Credit Card And Charge Card	
I	Other Service Providers	

Taxable Services



Group A: Accommodation

Service Provider	Any person operating accommodation including hotel, inns, lodging house, service apartment, homestay and any other similar establishment.
Person Excluded	<ul style="list-style-type: none">- i. fed.gov,- ii.statutory body or local authority- iii.private higher educational ins. Reg under Private Higher Educational Ins Act 1996 (Act 555)

Taxable Service	<ul style="list-style-type: none">✓ Provision of all services✓ Provision or sale of food, drinks and tobacco products
Taxable value	RM500,000

Taxable Services



Group B: Food and Beverage

Service Provider	<ol style="list-style-type: none">1. Any person operating restaurant, bar, snack-bar, canteen, coffee house or any place which provides food and drinks, whether wholly or partly eat-in or take-away2. Any person providing catering services.3. Any person operating food court.
Person Excluded	<ul style="list-style-type: none">▪ canteen -<ul style="list-style-type: none">• located in an educational institution (school, university)• operated by a religious institution or body.
Taxable Service	Provision by the service provider of — <ul style="list-style-type: none">▪ all services including prepared or served food or drinks; and▪ sale of alcoholic and non-alcoholic beverages
Taxable value	RM1.5M

Taxable Services



Group C: Night-clubs, Dance Halls, Health Centres, Massage Parlours, Public Houses And Beer Houses

Service Provider	<ol style="list-style-type: none">1. Night Clubs; dance hall; cabaret ; First, Second or Third Class Public House or First or Second Class Beer House2. Any person operating health or wellness center; massage parlour or similar places which is approved by local authorities or lawfully registered
Person Excluded	<ul style="list-style-type: none">▪ Private healthcare facilities providing health or wellness centre; government healthcare facilities, teaching hospital

Taxable Service	<ul style="list-style-type: none">✓ Provision of all services✓ Provision or sale of food, drinks and tobacco products
Taxable value	RM500,000

Taxable Services



Group D: Private Club

Service Provider	Private clubs operator
Person Excluded	-
Taxable Service	<ul style="list-style-type: none">✓ Provision of all services✓ Provision or sale of food, drinks and tobacco products
Taxable value	RM500,000

Taxable Services



Group E: Golf Club And Golf Driving Range

Service Provider	Golf Club And Golf Driving Range Provider
Person Excluded	-
Taxable Service	<ul style="list-style-type: none">✓ Provision of all services✓ Provision or sale of food, drinks and tobacco products
Taxable value	RM500,000

Taxable Services



Group F: Betting And Gaming

Service Provider	Casino, Gaming Operator, Racecourse licensed under relevant written law
Person Excluded	Illegal gaming & gambling operator
Taxable Service	<ul style="list-style-type: none">✓ Provision of Betting and gaming services<ul style="list-style-type: none">• sweepstakes, lotteries, gaming machines or games of chance✓ Conducting tournaments✓ Card games by casino
Taxable value	RM500,000

Taxable Services



Group G: Professional

Service Provider

1. advocate and solicitor registered under the written laws
2. *syarie* lawyer registered under the relevant State Enactment
3. public accountant registered under the written laws
4. licensed or registered surveyors including registered valuers, appraisers or estate agents licensed or registered under the written laws
5. professional engineer registered under the written laws
6. architect registered under the written laws
7. any person who provides consultancy services
8. any person who provides management services
9. any person who provides employment services.
10. any person who is a private agency licensed under the Private Agencies Act 1971

Taxable Services



Group G: Professional

Person Excluded	For consultancy services <ul style="list-style-type: none">• research and development companies under section 2 of the Promotion of Investments Act 1986• approved research institute under section 34B of the Income Tax Act 1967 For management services <ul style="list-style-type: none">• the developer, joint management body or management corporation to the owners of a building held under a strata title; or• asset and fund managers
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Taxable Services



Group G: Professional

Taxable Service	<ol style="list-style-type: none">1. Provision of relevant professional services2. other charges in connection to the provision of professional services excluding statutory fees imposed by Government or Statutory body3. Provision of consultancy services excluding consultancy services relating to medical and surgical treatment provided by private clinics or specialist clinics4. Provision of all types of management services including project management or project coordination5. Provision of all types of employment services excluding<ul style="list-style-type: none">• secondment of employees or supplying employees to work for another6. Provision of guards or protection for the personal safety or security of another person or for the safety or security of the property or business of such other person
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Taxable Services



Group G: Professional

Service Excluded	<ul style="list-style-type: none">• Professional services, consultancy services and management services supplied in connection with goods or land situated outside Malaysia• Provision of employment services for employment outside Malaysia• provision of safety or security services to guard or protect person, property or business situated outside Malaysia.
Taxable value	RM500,000 Note: any person providing service under Group G having a total value of taxable service, whether combined or singly, of more than RM 500,000 of any one or more taxable service

Group G: Professional

Inter group service

- professional services and management services is not taxable if company in a group provides any taxable service to any company within the same group of companies
- two or more companies are eligible to be treated as companies within a group of companies if one company controls each of the other companies.
- Where a company provides any professional services and management services to another person outside the group of companies, the service provided to any company outside or within the group of companies shall be a taxable service.

Taxable Services

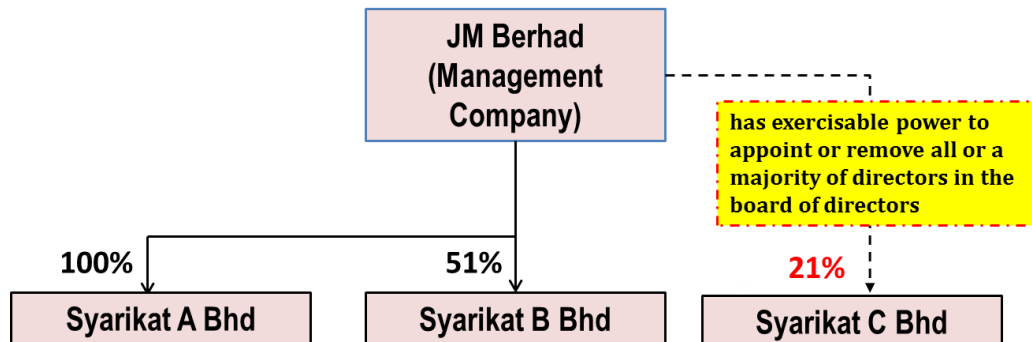


Group G: Professional

A company shall be taken to control another company if the first mentioned company holds ---

- directly;
 - indirectly through subsidiaries; or
 - together directly or indirectly through subsidiaries,
- ✓ more than 50% of the issued share capital of the second mentioned company.
- Or
- ✓ from 20% to 50% percent of the issued share capital of the second mentioned company and the first mentioned company has exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

Example of group



Taxable Services



Group H: Credit Card and Charge Card

Service Provider	Any person who is regulated by Bank Negara Malaysia to provide credit card or charge card services
Person Excluded	Charge card services <ul style="list-style-type: none">• By any petroleum company• Which usable only within the premises of a workplace, an education institution or a golf or sports club
Taxable Service	✓ Provision of credit card or charge card services through the issuance of a principal credit card, principal charge card, supplementary credit card or supplementary charge card, whether or not annual subscription or fee is imposed
Taxable value	nil

Taxable Services



Group I: Other Service Provider

Service Provider	1. Licensed insurance or takaful provider
Taxable Service	<ul style="list-style-type: none"> ✓ all types of insurance contract or takaful certificate to individual ✓ all types of insurance contract or takaful certificate policies to all business organizations
Excluded service	<ul style="list-style-type: none"> • medical insurance or medical takaful and life insurance contract or family takaful certificate • insurance contract or takaful certificate to business organizations with regards to <ul style="list-style-type: none"> ✓ risks relating to the international transportation of goods or passengers ✓ coverage on educational institution and religious organization ✓ to cover against any risks incurred in the making of advances or the granting of credit directly relating to the export of goods, services or investments outside Malaysia ✓ to cover risks outside Malaysia
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	2. Any person providing telecommunication services and paid television broadcasting services who is registered under the Communications and Multimedia Act 1998
Taxable Service	<ol style="list-style-type: none">1. Provisions of telecommunication services; and2. Provision of other services in connection with telecommunication services3. Provision of paid television broadcasting services.
Excluded service	<ul style="list-style-type: none">• Provisions of services to another telecommunication service provider in Malaysia or outside Malaysia
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	3. Any person who is given permission to act as an agent under section 90 of the Customs Act 1967
Taxable Service	Provision of services for clearing of goods from customs control
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	4. Any person who operates or provides parking spaces.
Taxable Service	Provision of parking spaces for motor vehicles where parking charges are imposed.
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	5. Any person who operates or provides motor vehicle service or repair centers.
Taxable Service	Provision of general servicing, engine repairs and tuning, changing, adjusting and fixing of parts, wheel balancing, wheel alignment or body repairs including knocking, welding or repainting of motor vehicles.
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	6. Any person who provides courier services licensed under Section 10 of Postal Services Act 2012.
Taxable Service	Provision of courier delivery services for documents or parcels not exceeding 30 kilograms each
Excluded Service	International courier delivery service
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	7. Any person who provides hire-and-drive passenger vehicle and hire-passenger vehicle services.
Taxable Service	Provision of hire-and-drive or hire passenger motor vehicle with or without chauffeur licensed by <ul style="list-style-type: none">✓ Suruhanjaya Pengangkutan Awam Darat✓ Commercial Vehicles Licensing Board Act 1987✓ Tourism Vehicles Licensing Act 1999
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	8. Any person who provides advertising services .
Taxable Service	Provisions of all advertising services excluding provision of such services for promotion outside Malaysia.
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	9. Any person who provides information technology services.
Taxable Service	Provision of all types of information technology services
Excluded service	<ul style="list-style-type: none">• the provision or sales of goods in connection with the provision of the information technology services• provision information technology services in connection with goods or land or things situated outside Malaysia
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	10. Any person who provides transmission and distribution of electricity.
Taxable Service	Provision of electricity to domestic consumers excluding for the first 600 kWh for a minimum period of twenty-eight days per billing cycle.
Taxable value	RM500,000

Taxable Services



Group I: Other Service Provider

Service Provider	11. Any person who is granted air service licence under section 35 of Malaysian Aviation Commission Act 2015 [Act 771] or air service permit under section 36 of Malaysian Aviation Commission Act 2015
Taxable Service	<ul style="list-style-type: none">✓ Provision of domestic passenger air transport service✓ Provision of all services in connection with domestic passenger air transport service.
Excluded Service	by an operator for the route as specified under the Rural Air Services Agreement
Taxable value	RM500,000



Registration



Registration

Become liable to register for Service Tax if

- make **taxable services** of prescribed services

AND

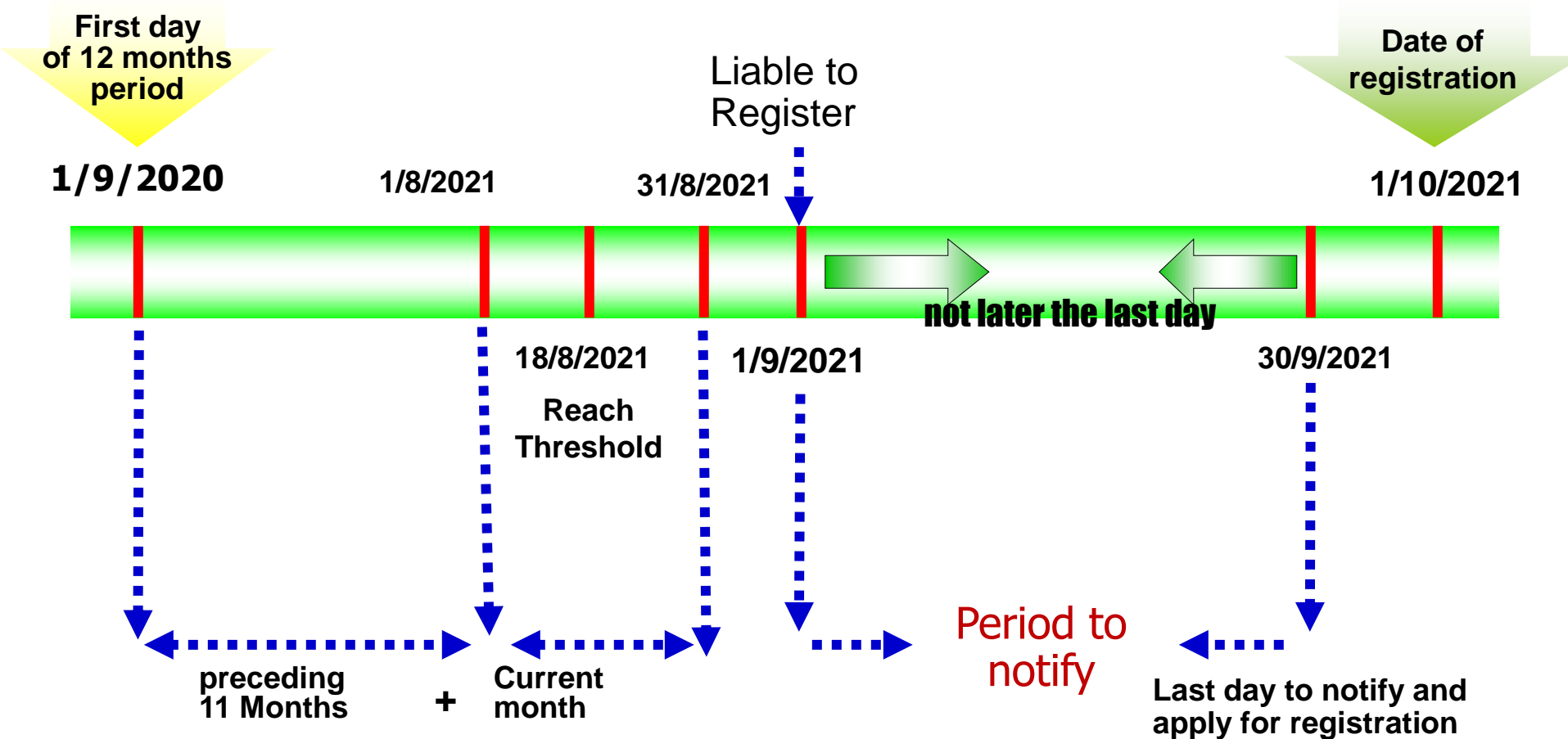
- business taxable turnover has exceeded the **prescribed threshold**

- **Liability to register is determined by**
 - ✓ **historical turnover \geq prescribed value**
(based on turnover of the current month + preceding 11 months) or
 - ✓ **future turnover \geq prescribed value**
(based on turnover of the current + next 11 months)
 - ✓ **Apply not later than last day of the following month**
- **Registration process before implementation date of Service Tax (1.9.2018)**
 - ✓ **Service provider who is currently GST registered person will be notified**
 - ✓ **Non GST registered person has to apply on line**

Service Tax Registration



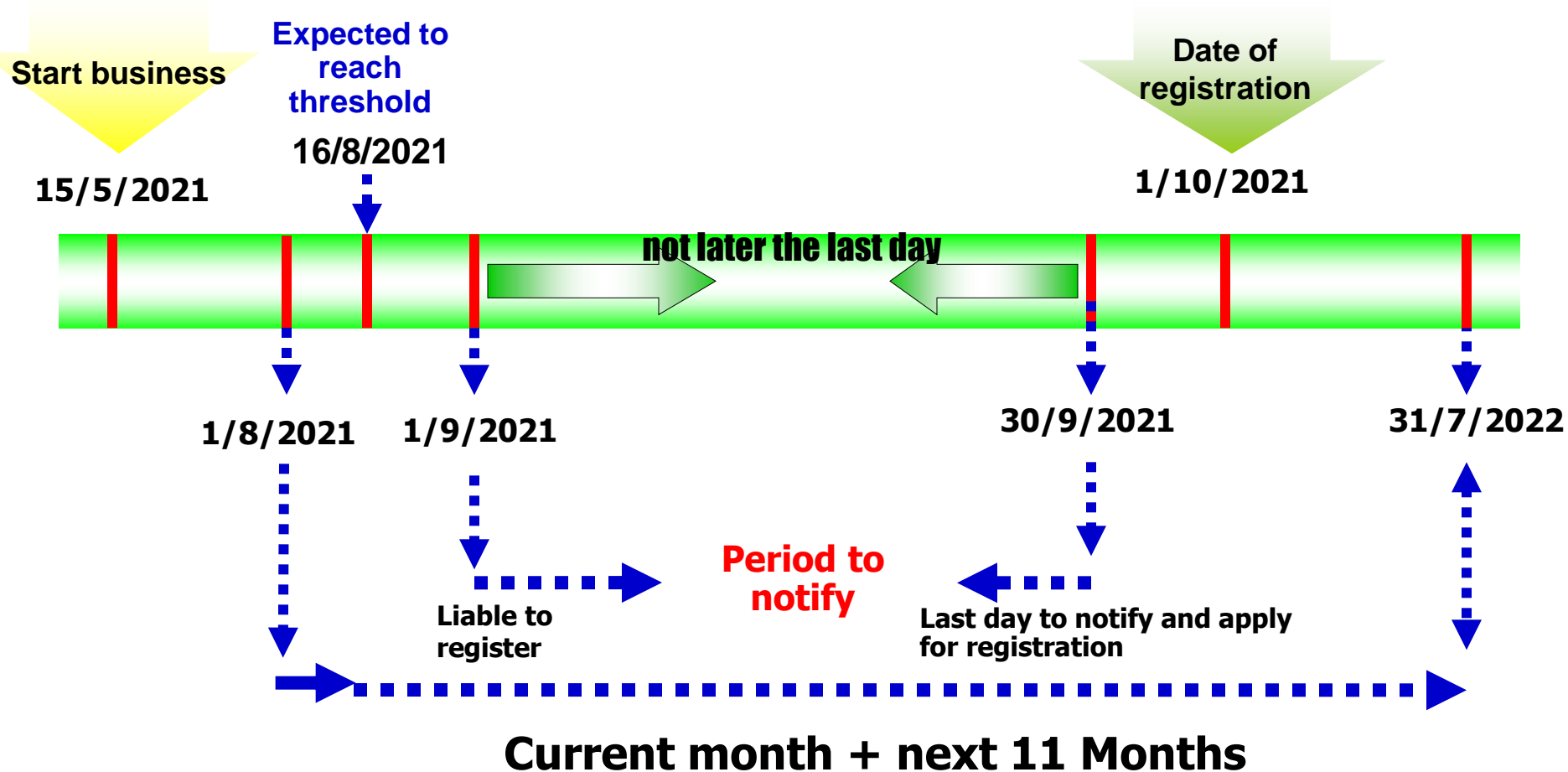
Historical Method



Service Tax Registration



Future Method



GST Registration in transitional period



- **Automatic Registration on 1st September 2018**
 - GST registered person;
 - Provide taxable services \geq threshold value on the effective date;
 - Date of registration: **1 September 2018**
 - Service tax to be charged beginning 1st September 2018.



GST Registration in transitional period



- **Registration on 1st October 2018**
 - Not GST registered person;
 - Provide taxable services on effective date
 - Turnover \geq threshold value (on the future method)
 - Application: **September 2018**
 - Service tax to be charged beginning 1st October 2018.





Group Registration

- Not applicable under ST

Branch or Division Registration

- A business having branches or divisions may apply to register its branches or divisions separately
- Determination of threshold is based on total taxable supplies of all the branches and divisions



Branch or Division Registration

- ✓ Difficulty in submitting a single return for all branches or divisions
- ✓ Each branch or division maintains separate account
- ✓ Each branch or division has separate business activities or in separate location , and
- ✓ Each branch or division has same taxable period



Branch or Division Registration (cont.)

- Separately registered branch or division :
 - ✓ will have separate ST Registration No
 - ✓ to issue its own tax invoice
 - ✓ to submit separate return and payment of tax
- However, the registered person is still accountable for Service Tax liability of all branches and divisions
- Must remain registered as branch for ≥ 2 years



Branch or Division Registration (cont.)

- DG may cancel the registration if :
 - ✓ Failure to comply with any condition or requirement imposed
 - ✓ Failure to fulfill the condition for branch/division registration
 - ✓ Provide false information in application
 - ✓ Necessary for protection of revenue



Cancellation of registration

- Ceased to carry on business of providing taxable services
- Ceased to be liable to be registered
 - ✓ **future turnover < prescribed value**
*(based on turnover of the current month
+ the next 11 months)*
- Breached required conditions imposed for voluntary registration

Failure to register:

- Prosecution
 - Fine not exceeding RM 30,000 , or
 - imprisonment not exceeding 2 yrs or both
- Compound not more RM15,000
- DG may assess to the best judgement
 - Amount of service tax due
 - Amount of penalty payable



Special Treatment

ST treatment in Designated Area



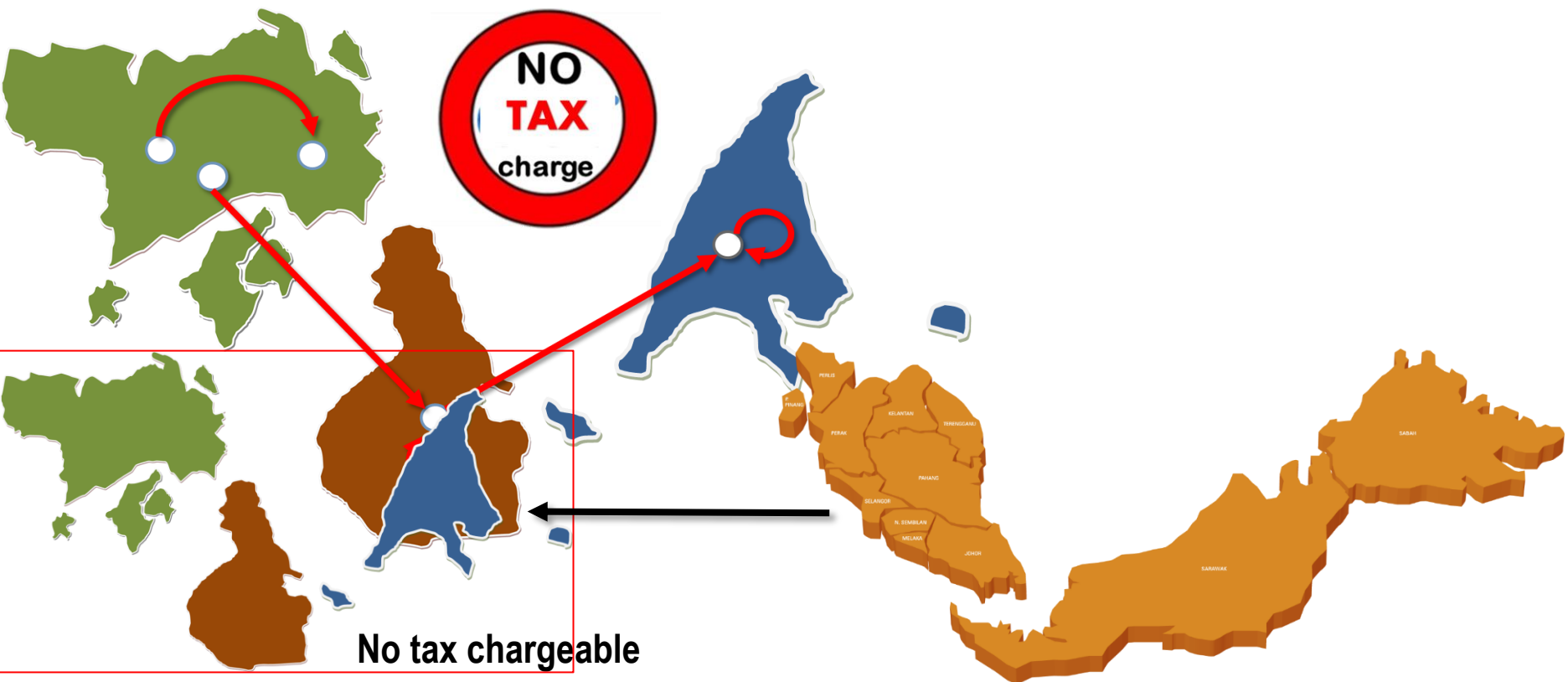
Designated Area



ST treatment in Designated Area



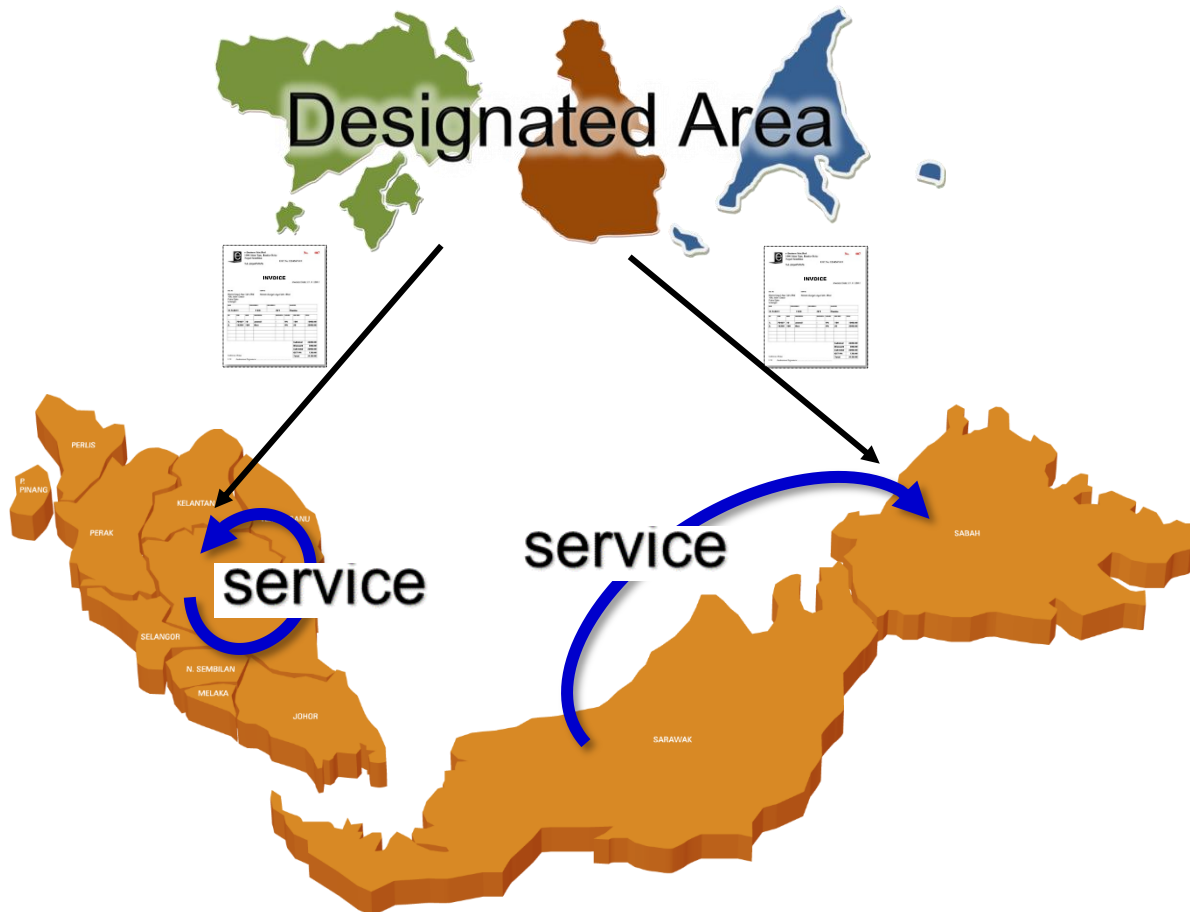
- no tax shall be charged on any taxable services provided
 - within or between the designated areas
 - between the designated areas and special areas
- unless the Minister otherwise directs in an order under section 51.



ST treatment in Designated Area



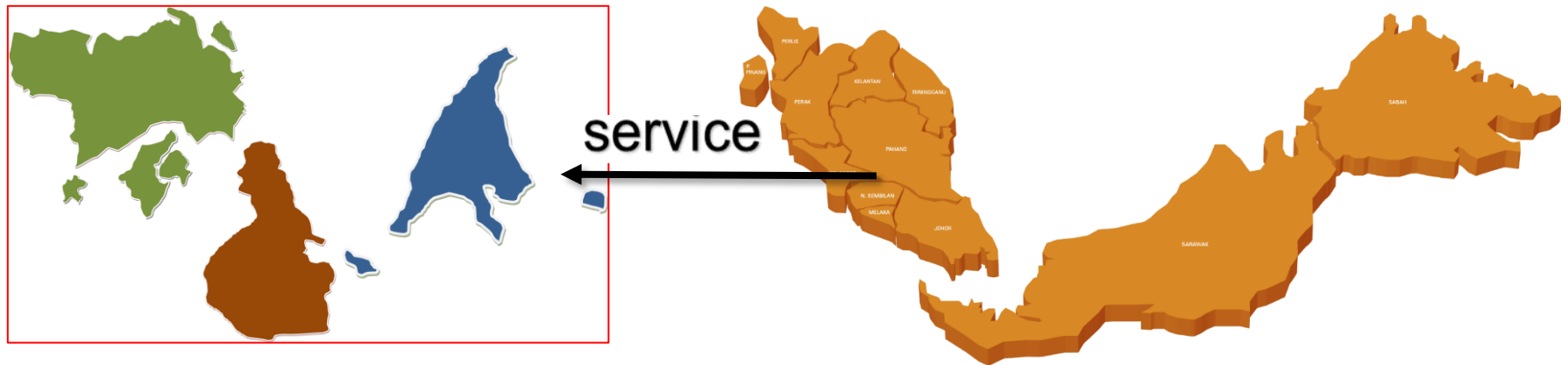
- *Service provider whose principal place of business in DA*
 - ✓ Service *within Malaysia* is subject to ST



ST treatment in Designated Area



- *Service provider whose principal place of business in Malaysia*
 - ✓ Service *to DA* is subject to ST



ST treatment in Special Area



Special Area

“**free zone**” has the meaning assigned to it under subsection 2(1) of the Free Zones Act 1990 [*Act 438*].



“**licensed warehouse**” means any warehouse or place licensed under section 65 of the Customs Act 1967 [*Act 235*];

“**licensed manufacturing warehouse**” means a licensed warehouse in respect of which an additional licence to carry on any manufacturing process has been granted under section 65a of the Customs Act 1967;



“**Joint Development Area**” has the meaning assigned to it under section 2 of the Malaysia-Thailand Joint Authority Act 1990 [*Act 440*];

ST treatment in Special Area



- no tax shall be charged on any taxable services provided
 - **within or between** the special areas
 - **between** the special areas and designated areas
- unless the Minister otherwise directs in an order under section 56.
- *Service provider whose principal place of business in SA*
 - ✓ Service **within Malaysia** is subject to ST
- *Service provider whose principal place of business in Malaysia*
 - ✓ Service **to SA** is subject to ST



ST Facilities

Refund of Service Tax in relation to Bad Debts (s.35)

- Can be claimed by a Registered person or ceased to be registered person.
- Can claim within 6 years from the date of service tax was paid
- Subject to conditions & satisfaction of the DG

Amount of refund

- If no payment received – the whole service tax
- If part payment received – the difference of between service tax paid and amount calculated with the formula:

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

A - is the payment received in respect of the provision of such taxable services;

B - is the value of such taxable services plus service tax payable on such taxable services; and

C - is the service tax payable on such taxable services.

- Claim by JKDM no. 2 form for each relevant provision of taxable service

Refund of service tax (s.38)

- Any person who has
 - Overpaid or erroneously paid ST, penalty, surcharge, fee
- Any person who has been granted by Minister
 - Exemption of service tax
 - Remission of service tax

Claim to be made

- In prescribed form JKDM No. 2
- Within one year from
- Overpayment or erroneously payment
- entitlement of refund

Contra System (deduction from return of refunded service tax) **(s.39)**

- **Registered persons are allowed to deduct service tax paid but subsequently refunded to customer because of**
 - (a) cancellation of taxable service;
 - (b) termination of taxable service; or
 - (c) such other reasons as may be approved by the Director General.
- **Deduction made through SST-02 return**
- **The deduction has to be made within one year from the payment of service tax made**

Customs Ruling (s.42)

- **any persons may apply for ruling of**
 - (a) the determination of a taxable service;
 - (b) the determination of a taxable person;
 - (c) the principles to be adopted for the purposes of determination of value of taxable service;
 - (d) any other matters as determined by the Director General
- **Application may be made via prescribed form together with prescribed fee**
 - (a) at any time before any service is provided; or
 - (b) at any later time, if permitted by the Director General

Q & A
