

A BILL

i n t i t u l e d

An Act to amend the Sales Tax Act 2018.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Sales Tax (Amendment) Act 2019.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Sales Tax Act 2018 [*Act 806*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) in the definition of “designated areas”, by substituting for the words “and Tioman” the words “, Tioman and Pangkor”;

- (b) in the definition of “special areas”, by substituting for the words “and the Joint Development Area” the words “the Joint Development Area, and a petroleum supply base licensed under section 77B of the Customs Act 1967”; and
- (c) by inserting after the definition of “taxable person” the following definition:

‘ “Pangkor” means the Pangkor Island, Mentagor Island, Giam Island, Simpan Island, Tukun Terindak Island, Pelanduk Island, Anak Pelanduk Island, Landak Island, Batu Orang Tua and Batu Jambal;’.

Amendment of section 3

3. The principal Act is amended by substituting for paragraph 3(1)(b) the following paragraph:

“(b) in relation to petroleum, the process of refining that includes the separation, conversion, purification and blending of refinery streams or petrochemical streams.”.

Amendment of section 9

4. Subsection 9(2) of the Principal Act is amended by substituting for the words “sale value” the word “value”.

Amendment of section 26

5. Section 26 of the Principal Act is amended—

- (a) by renumbering the existing subsection (8) as subsection (9);
- (b) by renumbering the existing subsection (9) as subsection (8);
- (c) in subsection (10)—
 - (i) by substituting for the words “subsection (8)” the words “subsection (9)”; and

- (ii) by substituting for the words “paragraph 9(c)” the words “paragraph 8(c)”;

(d) in subsection (11)—

- (i) by substituting for the words “The court” the words “In addition to any fine imposed by the court under subsection (9), the court”;
- (ii) by substituting for the words “subsection (8)” the words “subsection (9)”;
- (iii) by substituting for the words “subsection (9)” the words “subsection (8)”;

(e) in subsection (12)—

- (i) by substituting for the words “subsection (8)” the words “subsection (9)”;
- (ii) by substituting for the words “subsection (9)” wherever appearing the words “subsection (8)”.

New section 27A

6. The principal Act is amended by inserting after section 27 the following section:

“Offsetting unpaid tax against refund or drawback

27A. Notwithstanding any provision of this Act, where any person has failed to pay, in whole or in part—

- (a) any amount of sales tax due and payable, any surcharge accruing, or any penalty, fee or other money payable under this Act;
- (b) any amount of sales tax due and payable, any surcharge accruing, or any penalty or other money payable under the Sales Tax Act 1972 [*Act 64*];
- (c) any amount of service tax due and payable, any surcharge accruing, or any penalty or any money payable under the Service Tax Act 1975 [*Act 151*];

- (d) any amount of service tax due and payable, any surcharge accruing, or any penalty, fee or other money payable under the Service Tax Act 2018 [Act 807];
- (e) any amount of goods and services tax due and payable, any surcharge accruing, or any penalty or other money payable under the Goods and Services Tax Act 2014 [Act 762];
- (f) any amount of customs duty, or any surcharge accruing, or any penalty, fee or other money payable under the Customs Act 1967; or
- (g) any amount of excise duty, or any surcharge accruing, or any penalty, fee or other money payable under the Excise Act 1976,

the Director General may offset, against the unpaid amount referred to in paragraph (a), (b), (c), (d), (e), (f) and (g), any amount or any part of any amount of refund or drawback due to that person and the Director General shall treat the amount offset as payment or part payment received from that person.”.

Amendment of section 41A

7. Section 41A of the principal Act is amended—

- (a) by substituting for the shoulder note the following shoulder note:

“Application for deduction of sales tax by registered manufacturer”;

- (b) in subsection (1), by substituting for paragraph (a) the following paragraph:

“(a) any percentage of sales tax to be deducted in respect of taxable goods purchased by any registered manufacturer;”;

(c) in subsection (2), by substituting for the words “components or packaging materials” the words “components, or packing and packaging materials”; and

(d) by inserting after subsection (2) the following subsections:

“ (2A) A registered manufacturer may make an application to the Director General for a deduction on the amount of sales tax paid in the form and manner as prescribed under subsection (1).

(2B) Where the Director General approves the application for deduction of sales tax under subsection (2A), such deduction shall be in accordance with the percentage and conditions as prescribed by the Minister under subsection (1).”.

New section 84A

8. The principal Act is amended by inserting after section 84 the following section:

“Imprisonment for non-payment of fine

84A. Notwithstanding sections 283 and 284 of the Criminal Procedure Code, the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act, or in respect of the default of a sufficient distress to satisfy any such fine, shall be such period of such description, as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum period as follows:

(a) where the fine does not exceed five thousand ringgit, the maximum period shall be two months;

(b) where the fine exceeds five thousand ringgit but does not exceed ten thousand ringgit, the maximum period shall be four months;

- (c) where the fine exceeds ten thousand ringgit but does not exceed twenty thousand ringgit, the maximum period shall be six months,

with two additional months for every ten thousand ringgit after the first twenty thousand ringgit of the fine.”.

New section 86A

9. The principal Act is amended by inserting after section 86 the following section:

“Evasion of sales tax on taxable goods imported

86A. (1) Any person who, with intent to evade or to assist any other person to evade sales tax on importation of taxable goods commits an offence.

(2) Any person who commits an offence under subsection (1) shall, on conviction—

- (a) be liable for the first offence, to a fine of not less than ten times the amount of the sales tax or fifty thousand ringgit, whichever is the higher amount, and of not more than twenty times the amount of the sales tax or five hundred thousand ringgit, whichever is the higher amount, or to imprisonment for a term not exceeding five years or to both; and
- (b) be liable for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the sales tax or one hundred thousand ringgit, whichever is the higher amount, and of not more than forty times the amount of the sales tax or one million ringgit, whichever is the higher amount, or to imprisonment for a term not exceeding seven years or to both.”.

New section 101A

10. The principal Act is amended by inserting after section 101 the following section:

“Service of summons

101A. (1) Every summons issued by a court against any person in connection with any civil or criminal proceedings under this Act may be served on the person named therein—

- (a) by delivering the summons to the person or any adult member of his family or any of his servants residing with him at his usual or last-known place of residence;
- (b) by leaving the summons at his usual or last-known place of residence or business in an envelope addressed to the person;
- (c) by sending the summons by registered post addressed to the person at his usual or last-known place of residence or business; or
- (d) where the person is a company, a limited liability partnership, a firm, a society, an association or other body of persons—
 - (i) by delivering the summons to the secretary or other like officer of the company, limited liability partnership, firm, society, association or other body of persons at its registered office or principal place of business; or
 - (ii) by sending the summons by registered post addressed to the company, limited liability partnership, firm, society, association or other body of persons at its registered office or principal place of business.

(2) Any summons sent by registered post to any person in accordance with subsection (1) or by delivering the summons to the person or to any adult member of his family or any of his servant residing with him shall be deemed to be duly served on the person.

(3) When a summons issued by a court is served, an affidavit of the service purporting to be made before an officer duly authorized to administer an oath shall be admissible in evidence.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Sales Tax Act 2018 [Act 806].

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.
3. *Clause 2* seeks to amend section 2 of Act 806. *Subclauses 2(a)* and *(b)* seeks to amend the definition of “designated areas” to include Pangkor as one of the designated areas and the definition of “special areas” to include a petroleum supply base as one of the special areas. *Subclause 2(c)* seeks to introduce a new definition of “Pangkor” into section 2 of Act 806.
4. *Clause 3* seeks to substitute paragraph 3(1)(b) of Act 806 to provide clarity to the meaning of manufacture in petroleum where the refining process is the main process.
5. *Clause 4* seeks to amend subsection 9(2) of Act 806 to provide clarity to the valuation of imported taxable goods which is based on the value as provided in the Customs (Rules of Valuation) Regulations 1999 [P.U. (A) 507/99] made under the Customs Act 1967 [Act 235].
6. *Clause 6* seeks to introduce a new section 27A into Act 806 to provide that where a refund or drawback of sales tax under Act 806 is due to a person who has failed to pay any amount of sales tax, service tax, customs duty, etc., the Director General may offset the amount of such refund or drawback against the amount such person has failed to pay.
7. *Clause 7* seeks to amend section 41A of Act 806 to clarify the existing provision and to empower the Director General to approve any application for deduction of sales tax.
8. *Clause 8* seeks to introduce a new section 84A into Act 806 to provide for the period of imprisonment to be imposed by any court in respect of non-payment of fines.
9. *Clause 9* seeks to introduce a new section 86A into Act 806 to make it an offence and provide penalty for any person who evades sales tax on taxable goods imported.

10. *Clause 10* seeks to introduce a new section 101A into Act 806 which deals with the manner of service of summons.

11. Other amendments not specifically dealt with in this Statement are amendments which are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3166]