

A BILL

i n t i t u l e d

An Act to amend the Sales Tax Act 2018.

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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 2022.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different parts or different provisions of this Act.

(3) Notwithstanding subsection (2), the Minister may, by notification in the *Gazette*, appoint the effective date for the charging and levying of sales tax on low value goods under this Act.

New Part IIIA

2. The Sales Tax Act 2018 [*Act 806*], which is referred to as the “principal Act” in this Act, is amended by inserting after Part III the following part:

“PART IIIA**IMPOSITION OF SALES TAX ON LOW VALUE GOODS****Interpretation**

11A. For the purposes of this Part and any regulations made under this Act in relation to this Part—

“low value goods” means any prescribed goods or class of goods outside Malaysia which are sold at a price not more than a prescribed amount and brought into Malaysia in the manner as prescribed;

“seller” means a person, whether in or outside Malaysia, who sells low value goods on an online marketplace or operates an online marketplace for the sales and purchase of low value goods;

“registered seller” means any seller who is registered under section 13.

Application

11B. (1) The provisions of this Act, except as otherwise provided in this Part and subject to the modifications in the Schedule, shall apply to low value goods.

(2) Parts VIII, IX, IXA and XIII, and sections 3, 14, 15, 16, 23, 32, 35, 36, 37, 40, 41A, 43, 44, 45, 46, 47, 57A, 76 and 96 shall not apply to low value goods.

Territorial and extra-territorial application

11c. (1) This Part shall apply both within and outside Malaysia.

(2) Notwithstanding subsection (1), this Part shall apply to any person, whatever his nationality or citizenship, beyond the geographical limits of Malaysia and the territorial waters of Malaysia, if the person—

(a) is a seller; or

(b) is registered under section 13 as a registered seller.

Display of information on package

11D. Every registered seller shall furnish to the Director General prescribed particulars which shall be displayed on the package of low value goods in the manner as may be prescribed.”.

Amendment of section 19

3. Section 19 of the principal Act is amended by inserting after subsection (4) the following subsection:

“(5) The Director General may, on the application of a registered manufacturer, cancel the registration of the registered manufacturer if the registered manufacturer has been exempted from registration pursuant to subsection 20(1).”.

New of section 57A

4. The principal Act is amended by inserting after section 57 the following section:

“Deficiency in quantity of taxable goods in a special area

57A. (1) If it appears to the Director General at any time that in a special area there is a deficiency in the quantity of taxable goods which in normal circumstances ought to be found therein, any person being or holding himself out to be the owner, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the goods shall—

(a) in the absence of proof to the contrary, be presumed to have illegally transported such goods to Malaysia; and

(b) be liable to pay the sales tax leviable on the date when the quantity of the goods were found to be deficient as if the goods were imported into Malaysia.

(2) Notwithstanding subsection (1), if it is shown to the satisfaction of the Director General that such deficiency has been caused by any unavoidable leakage, breakage or other accident, the Director General may remit the whole or part of the sales tax leviable on the goods found deficient.”.

Amendment of section 91

5. Section 91 of the principal Act is amended in paragraph (a) by inserting after the words “being an employee of a taxable person” the words “, an employee under section 89”.

Amendment of section 106

6. Section 106 of the principal Act is amended in subsection (2)—

(a) in paragraph (a), by substituting for the words “registration of manufacturers” the words “registration of manufacturers and sellers”;

(b) in paragraph (c), by substituting for the words “taxable goods” the words “the taxable goods and low value goods”; and

(c) by inserting after paragraph (k) the following paragraph:

“(ka) all matters relating to low value goods;”.

New sections 106A and 106B

7. The principal Act is amended by inserting after section 106 the following sections:

“Power to extend period

106A. Where, by this Act, a period is specified within which an act or thing is to be done by a person, and the Minister is satisfied that the act or thing could not be completed in that period due to the occurrence of public emergency or public health crisis, the Minister may, upon such terms and conditions as the Minister thinks fit, extend the period for the completion of the act or thing before the expiration of the period.

Power to modify terms and conditions

106B. (1) Where terms and conditions are imposed pursuant to this Act, the Minister may, on the advice of the Director General, from time to time modify the terms and conditions for the purpose of carrying out the objects of this Act.

(2) Before modifying the terms and conditions, notice must be given to the person bound by the terms and conditions stating—

- (a) the terms and conditions as modified; and
- (b) the date the terms and conditions as modified take effect.

(3) The modified terms and conditions shall not take effect in less than fourteen days from the date the notice is issued under subsection (2).

(4) For the purposes of this section, “modify” means add to, delete or vary.”.

New schedule

8. The principal Act is amended by inserting after section 109 the following schedule:

“SCHEDULE

[Section 11B]

**MODIFICATIONS TO THE PROVISIONS OF THE SALES TAX ACT 2018
WHICH APPLY TO LOW VALUE GOODS**

(1)	(2)
<i>Provisions of this Act</i>	<i>Modifications</i>
Section 2	In the definition of “taxable person”, substitute for the words “a registered manufacturer or a manufacturer” the words “a registered seller or a seller”.

(1)

Provisions of this Act

(2)

Modifications

Section 8

Substitute for section 8 the following section:

“Imposition and scope of sales tax

8. (1) Sales tax shall be charged on low value goods sold by a taxable person.

(2) The Minister may, by order published in the *Gazette*, determine low value goods based on the following criteria:

- (a) goods or class of goods;
- (b) the price of goods; and
- (c) the manner in which the goods are brought into Malaysia.

(3) Any order made under subsection (2) shall be laid before the Dewan Rakyat.

(4) This Act shall be construed as one with the Customs Act 1967 and the Excise Act 1976 with regard to the goods brought into Malaysia including goods in transit and the movement of goods under customs control or excise control.

(5) Where there is any inconsistency between the provisions of the Customs Act 1967 or the Excise Act 1976 and the provisions of this Act, the provisions of this Act shall prevail.”.

Section 9

Substitute for section 9 the following section:

“Determination of sale value of low value goods

9. The sale value of low value goods on which sales tax is payable shall be the price of low value goods not including any tax, fee or other charges imposed on the low value goods.”.

Section 10

1. In subsection (1)—

- (a) substitute for the words “the taxable goods sold, used or disposed of or imported” the words “the low value goods sold”; and
- (b) substitute for the words “the sale value of the taxable goods” the words “the sale value of the low value goods”.

2. Delete subsections (4), (5) and (6).

(1) <i>Provisions of this Act</i>	(2) <i>Modifications</i>
Section 11	Substitute for section 11 the following section: “Sales tax due 11. The sales tax chargeable under section 8 shall be due at the time when the low value goods are sold by the taxable person.”.
Part IV (except as otherwise provided)	<ol style="list-style-type: none">1. Substitute for the words “taxable goods” the words “low value goods”.2. Substitute for the word “manufacturer” the word “seller”.3. Substitute for the words “registered manufacturer” the words “registered seller”.4. Substitute for the word “manufacture” the word “sell”.
Section 12	<ol style="list-style-type: none">1. In paragraph 3(b), substitute for the words “the manufacturer’s registration” the words “the seller’s registration”.2. Delete subsection (4).
Section 17	Substitute for the word “manufacturing” the word “selling”.
Section 18	Substitute for the words “section 13 or 14” the words “section 13”.
Section 19	<ol style="list-style-type: none">1. In subsection (1), substitute for the words “the manufacturer’s registration” the words “the seller’s registration”.2. Substitute for subsection (3) the following subsection: “(3) Where the Director General is satisfied that on the date on which a seller was registered under section 13, the seller was not liable to be registered under section 12 or has ceased to sell low value goods, the Director General may cancel the registration of the seller with effect from the date as determined by the Director General in the notification in writing to such seller.”.3. Delete subsection (4).

(1)
Provisions of this Act(2)
Modifications

Part V
(except as
otherwise
provided)

1. Substitute for the words “taxable goods” the words “low value goods”.
2. Substitute for the word “manufacturer” the word “seller”.
3. Substitute for the words “registered manufacturer” the words “registered seller”.
4. Substitute for the word “manufacture” the word “sell”.

Section 21

1. Substitute for the shoulder note the following shoulder note:

“Invoice and document”.

2. In subsection (1), substitute for the words “an invoice” the words “an invoice or any document”.
3. In subsection (2), substitute for the words “No invoice” the words “No invoice or document”.

Section 22

1. Substitute for the shoulder note the following shoulder note:

“Production of invoice or document by computer”.

2. Substitute for the words “For the purposes of any provision under this Act relating to an invoice, a registered manufacturer shall be treated as having issued an invoice to a purchaser” the words “For the purposes of any provision under this Act relating to an invoice or a document issued under subsection 21(1), a registered seller shall be treated as having issued an invoice or a document under subsection 21(1) to a purchaser”.

Section 24

1. Substitute for subsection (1) the following subsection:

“(1) Each taxable person shall keep up to date complete and true written records of all transactions which affect or may affect his liability to sales tax.”.

(1)
Provisions of this Act

(2)
Modifications

2. Substitute for subsection (2) the following subsection:

“(2) Any record kept under this section shall be preserved for a period of seven years from the latest date to which the record relates.”.

3. Delete subsection (4).

4. In subsection (6), substitute for the words “subsection (1), (2), (3) or (4)” the words “subsection (1), (2) or (3)”.

Section 25

1. In subsection (1), substitute for the words “two months” the words “three months”.

2. Delete subsection (2).

3. In subsection (5), substitute for the words “subsection (1), (2) or (4)” the words “subsection (1) or (4)”.

Section 26

1. Delete subsection (4).

2. In subsection (6), substitute for the words “subsections (1), (2), (3) and (4)” the words “subsections (1), (2) and (3)”.

3. In subsection (7), substitute for the words “subsection (1), (2), (3) or (4)” the words “subsection (1), (2) or (3)”.

Section 27

1. Delete subsections (4), (5) and (6).

2. In subsection (8), substitute for the words “under subsection (1), (2), (4), (6) or (7)” the words “under subsection (1), (2) or (7)”.

3. In subsection (9), substitute for the words “under subsection (1), (2), (6) or (8)” the words “under subsection (1), (2) or (8)”.

Section 28

1. Substitute the words “the invoice” the words “the invoice or document”.

(1) <i>Provisions of this Act</i>	(2) <i>Modifications</i>
	<p>2. In subsection (2), substitute for the words “an invoice” the words “an invoice or a document”.</p> <p>3. In subsection (3), substitute for the words “is an invoice” the words “is an invoice or a document”.</p>
Section 29	Delete subsection (2).
Section 31	In subsection (3), insert after the words “registered post” the words “or by electronic means”.
Section 33	<p>Substitute for section 33 the following section:</p> <p style="padding-left: 40px;">“Low value goods subject to customs or excise control not to be delivered until sales tax has been paid in full</p> <p>33. Where it appears to an officer of sales tax that the sales tax on the low value goods—</p> <p style="padding-left: 80px;">(a) has not been charged;</p> <p style="padding-left: 80px;">(b) has been charged at a rate lower than the rate as fixed under section 10; or</p> <p style="padding-left: 80px;">(c) has not been paid,</p> <p style="padding-left: 40px;">no person shall be entitled to obtain delivery of such low value goods from customs control or excise control until the amount of sales tax on the low value goods under paragraph (a), (b) or (c) has been paid in full.”.</p>
Part VI (except as otherwise provided)	Substitute for the words “registered manufacturer” the words “registered seller”.
Section 35A	In subsection (1), substitute for the words “refund of sales tax under paragraph 35(3)(c) or has made a deduction under section 23 or 41A” the words “refund of sales tax under section 39”.

(1) <i>Provisions of this Act</i>	(2) <i>Modifications</i>
Section 39	Substitute for subsections (1) and (2) the following subsections: “(1) The refund of whole or any part of the amount of sales tax, which has been paid to the Director General by the registered seller, may be made or claimed under prescribed circumstances. (2) Notwithstanding subsection (1), the Director General may withhold the whole or any part of the amount to be refunded under subsection (1) to be credited to any following or subsequent taxable period and the Director General shall treat the amount credited as payment or part payment received from the registered seller.”.
Section 62	In subsection (3), substitute for the words “require the supplier or, on the supplier’s default” the words “require the seller or, on the seller’s default”.
Section 64	1. Substitute for the words “manufacturer or importer” the words “manufacturer, importer or seller”. 2. Substitute for the words “taxable goods” the words “low value goods”.
Section 69	In subsection (1), substitute for the words “section 13 and 14” the words “section 13”.
Section 70	In subsection (1), substitute for the words “taxable goods” the words “low value goods”.
Section 74	1. In paragraph (1)(a), substitute for the word “manufacturer” the word “seller”. 2. In paragraph (1)(e), delete the words “or customs ruling is made under section 43”.
Section 83	In paragraph (c), substitute for the words “taxable goods” the words “low value goods”.

(1)
Provisions of this Act(2)
Modifications

Part XII
(except as
otherwise
provided)

1. Substitute for the words “taxable goods” the words “low value goods”.
2. Substitute for the word “manufacturer” the word “seller”.
3. Substitute for the words “registered manufacturer” the words “registered seller”.
4. Substitute for the word “manufacture” the word “sell”.

Section 86A

1. Substitute for the shoulder note the following shoulder note:

“Evasion of sales tax on low value goods”.
2. In subsection (1), substitute for the words “importation of taxable goods” the words “low value goods sold”.

Section 88

Substitute for the words “section 10, 36 or 39” the words “section 39”.

Section 88A

Substitute for the words “section 23, 35A or 41A” the words “section 35A”.

Section 98

In subsection (1), substitute for the words “the taxable goods that have been sold, manufactured, purchased or acquired” the words “the low value goods that have been sold”.

Section 99

1. Substitute for the shoulder note the following shoulder note:

“Registered seller to submit audit certificate”.
2. Substitute for the words “the registered manufacturer’s production and sale of taxable goods manufactured” the words “low value goods sold”.

Transitional provisions

9. (1) Notwithstanding subsection 12(2) and section 13 of the principal Act as modified by this Act, a seller who sells low value goods before the effective date of for the charging and levying of sales tax on low value goods shall, on the date of coming into operation of this Act, apply to the Director General to be registered as a registered seller if there are reasonable grounds for believing that the total sale value of his low value goods in the month of coming into force of this Act and eleven months immediately succeeding the month will exceed the total sale value of low value goods determined under subsection 12(1) of the principal Act as modified by this Act.

(2) Where goods are purchased before the effective date for the charging and levying of sales tax on low value goods and the goods are low value goods from the date of coming into operation of this Act, no sales tax shall be charged or levied on the goods even though the goods are delivered to Malaysia after the effective date.

Things done in anticipation of the enactment of this Act

10. All acts and things done by or on behalf of the Director General in preparation for or in anticipation of the enactment of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided that the acts and things done are consistent with the general intention and purposes of this Act, and all rights and obligations acquired or incurred as a result of the doing of those acts or things including any expenditure incurred in relation thereto shall upon the coming into operation of this Act be deemed to be the rights and obligations of the Director General.

EXPLANATORY STATEMENT

This Bill seeks to amend the Sales Tax Act 2018 (“Act 806”) to provide for the imposition of sales tax on low value goods which are sold by, registered sellers or sellers liable to be registered, through online platforms and delivered to Malaysia.

2. *Clause 1* contains the short title and the power of the Minister to appoint the commencement date of the proposed Act. This *clause* also seeks to empower the Minister to appoint the effective date for the charging and levying of sales tax on low value goods under the proposed Act.

3. *Clause 2* seeks to introduce a new Part IIIA on the imposition of sales tax on low value goods and new sections 11A, 11B, 11C and 11D into Act 806.

The proposed section 11A contains the definitions of certain words and expressions used in the proposed Part IIIA and any regulations made under Act 806 in relation to the Part.

The proposed section 11B provides for the application of Act 806 as modified by the proposed Part IIIA and the new Schedule to low value goods.

The proposed section 11C provides for the territorial and extra-territorial application of the proposed Part IIIA.

The proposed section 11D deals with the display of information on the package of low value goods.

4. *Clause 3* seeks to introduce a new subsection 19(5) into Act 806 to allow the Director General to cancel the registration of a registered manufacturer upon application by the registered manufacturer if the Director General is satisfied that the manufacturer has been exempted from registration under Act 806.

5. *Clause 4* seeks to introduce a new section 57A into Act 806.

The proposed subsection 57A(1) seeks to provide that where it appears to the Director General at any time that there is a deficiency in the quantity of taxable goods which in normal circumstances ought to be found in a special area in the absence of proof to the contrary, it shall be presumed that the goods have been illegally transported to Malaysia and the relevant person shall be liable to pay sales tax assessed by the Director General as leviable on the date when the goods were found to be deficient.

The proposed subsection 57A(2) seeks to provide that if the deficiency has been caused by any unavoidable leakage, breakage or other accident, the Director General may remit the whole or part of the sales tax leviable on the goods found deficient.

6. *Clause 5* seeks to amend paragraph 91(a) of Act 806 to insert a reference to an employee under section 89 of Act 806 in respect of the commission of an offence under section 91 of Act 806.

7. *Clause 6* seeks to amend section 106 of Act 806 to empower the Minister to make regulations on matters relating to low value goods.

8. *Clause 7* seeks to introduce new sections 106A and 106B into Act 806.

The proposed section 106A seeks to empower the Minister to extend the period to perform an act or a thing which is required to be completed within a certain period under Act 806 if he is satisfied that the act or thing could not be completed within the period due to the occurrence of any public emergency or public health crisis.

The proposed section 106B seeks to empower the Minister to add to, delete or vary any terms and conditions imposed pursuant to Act 806 for the purpose of carrying out the objects of Act 806, provided that reasonable notice is given to the person bound by the terms and conditions.

9. *Clause 8* seeks to introduce a new Schedule into Act 806 to specify the modifications to provisions of Act 806 which apply to low value goods. The provisions of the Schedule among others modify Act 806 by substituting for the words “manufacturer”, “registered manufacturer” and “taxable goods” the words “seller”, “registered seller” and “low value goods”.

10. *Clause 9 and 10* seeks to provide for the transitional provisions.

11. Other amendments not specifically dealt with in this Explanatory Statement 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)3281]