Wong & Partners.
Member Firm of
Baker & McKenzie International

Tax, Trade, and
Wealth Management
Kuala Lumpur

Client Alert
April 2017

Malaysian Tourism Tax Bill 2017 passed by House of Representatives

For further information, please contact:

Adeline Wong
Partner
+603 2298 7880
Adeline.Wong@WongPartners.com

Yi Lyn Tan
Associate
+603 2298 7847
YiLyn.Tan@WongPartners.com

Introduction

The Tourism Tax Bill 2017 ("**Bill**"), which was tabled for its first reading before the Dewan Rakyat (House of Representatives) on 4 April 2017, was passed by the Dewan Rakyat on 5 April 2017. The Bill will also need to be passed by the Dewan Negara (Senate) and receive the royal assent, before coming into force on a date to be appointed by the Minister of Finance.

The Bill proposes to introduce the imposition of a "tourism tax" on tourists staying at any accommodation premises (i.e., hotels, inns, hostels, lodging houses, etc.) made available by an operator.

Whilst the rate of tax will be confirmed by the Minister of Finance and announced by way of a gazette at a later date, it was suggested during the House of Representatives parliamentary debate that the tax will be imposed at the following rates:

(a) five-star accommodation: RM 20 per room per night;

(b) four-star accommodation: RM 10 per room per night;

(c) one- to three-star accommodation: RM 5 per room per night; and

(d) "orchid" rating and unrated accommodation: RM 2.50 per room per night.

Based on estimates provided by the Ministry of Tourism and Culture, the revenue collected from the tourism tax is expected to be approximately RM 654,625,090 with an occupancy rate of 60%, and the collections could increase to RM 872,820,120 if an occupancy rate of 80% can be achieved.

The tourism tax regime will be administered by the Royal Malaysian Customs Department ("**Customs**"), which also oversees the administration of the Malaysian goods and services tax ("**GST**") regime. The tourism tax, which is a federal tax, will likely be imposed in addition to the tourism / heritage levies currently imposed at a state level by Langkawi, Penang and Melaka.

Key Features of the Tourism Tax Regime

Some of the key features of the tourism tax regime, as outlined in the Bill, include:

- ***Registration requirements for operators***

Any persons operating accommodation premises in Malaysia would be required to register with Customs within 30 days from the date of coming into operation of the Bill. A failure to comply with the registration requirements would be an offence which, upon conviction, will be liable to a fine not exceeding RM 30,000 or a term of imprisonment not exceeding 1 year, or both.

- ***Issuance of invoices, receipts or other documents***

  Operators are required to issue an invoice, receipt or other document in either the national language (Bahasa Malaysia) or English, which separately states the accommodation charges and the rate and amount of tourism tax payable by the tourists. A failure to issue the invoices, receipts or other documents in accordance with the requirements would be an offence which, upon conviction, will be liable to a fine not exceeding RM 30,000 or a term of imprisonment not exceeding 1 year, or both.

- ***Filing of tourism tax returns and payment of tourism tax***

  It is the duty of every operator who provides accommodation premises to tourists, to collect the tourism tax from the tourist.

  In addition, operators are required to furnish a return, which accounts for the tourism tax collected during each taxable period, on a quarterly basis (i.e., every 3 months), by no later than the last day of the calendar month following the end of the taxable period. However, for operators who have already been assigned a taxable period under the GST regime, the taxable period of the purposes of the tourism tax will follow the same taxable period assigned for GST purposes.

  The operators are also required to pay the tourism tax payable for the relevant taxable period to the Director General of Customs, not later than the last day on which the operator is required to furnish the return.

  An operator who fails to furnish the returns or pay the tourism tax within the stipulated deadline commits an offence, and shall on conviction, be liable to a fine not exceeding RM 30,000 or a term of imprisonment not exceeding 1 year, or both.

  In instances where the tourism tax due and payable has not been paid by the operator by the due date, and no prosecution is instituted, the following penalties will be imposed:

  (a) Day 1 - 30: penalty of 10% of the amount of tourism tax remaining unpaid;

  (b) Day 31 - 60: additional penalty of 10% of the amount of tourism tax remaining unpaid; and

  (c) Day 61 - 90: additional penalty of 10% of the amount of tourism tax remaining unpaid.

Observations and Concluding Remarks

The structure of the proposed tourism tax regime is broadly similar to the prior Malaysian Service Tax regime that has now been replaced by the GST regime which was introduced and implemented on 1 April 2015.

The Bill introduces an additional tax compliance obligation on businesses operating within this industry. At current time, further information relating to some of the key aspects of the tourism tax have not yet been announced, such as the proposed date for the coming into operation of the Bill as well as the rate of tax that will be imposed. Additionally, once the finer details and regulations regarding the tourism tax are made available, it would also be noteworthy to consider how the tourism tax reporting and collection mechanisms under the Bill will apply to accommodation bookings which are managed and charged through third-party booking service providers and facilitators.

www.wongpartners.com

Wong & Partners
Level 21
The Gardens South Tower
Mid Valley City
Lingkaran Syed Putra
59200 Kuala Lumpur