

## Legal Update 20170502

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### DFTZ to Propel SMEs into Online Marketplace

A recent development in e-commerce in Malaysia is the launch of a Digital Free Trade Zone (“DFTZ”) by the Prime Minister of Malaysia together with the Alibaba Group and the Malaysia Digital Economy Corporation on 22 March 2017. Most people would recall this event if mentioned in the same breath as the world-renowned Jack Ma, founder and executive chairman of Alibaba who, incidentally, was appointed digital economy adviser to the Malaysian government last November.

The establishment of free trade zone, or FTZs, is commonplace around the world today. Designated areas are created where normal trade barriers are removed and bureaucratic necessities are kept at a minimum in order to facilitate cross-border trade. For tax purposes, an FTZ is deemed to be a place outside Malaysia. This allows goods, in particular raw materials, to be brought into the FTZ without payment of customs duty, excise duty or GST. Goods can thus be stored, repacked, processed, sorted or otherwise manipulated for re-export without the incidence of tax. Goods are taxed only when they enter into Malaysia.

The DFTZ has the specific aim of promoting e-commerce growth for small and medium-sized enterprises (“SMEs”) for which FTZs were not originally designed. There are three main components to the DFTZ — the e-fulfilment hub (“e-Hub”), e-services platform (“e-Platform”) and the Kuala Lumpur Internet City (“KLIC”). The e-Platform seeks to connect users with Customs, government agencies, suppliers and service providers. The e-Hub provides Customs clearance, warehousing and logistics facilities and the KLIC aims to be the premier digital hub for Internet-related companies within the ASEAN region.

As with the FTZs, the DFTZ focuses on export-oriented growth. If successful, it will enable local manufacturers to penetrate the global marketplace.

Since 2013, China has been experimenting with Cross-Border E-Commerce (“CBEC”) Zones which offer a slew of preferential tax breaks and streamlined Customs clearance procedures. The Hangzhou CBEC Zone where Alibaba’s headquarters are located will be linked to the DFTZ through Alibaba’s OneTouch e-services platform. Trading operations such as Customs clearance, logistics solutions and financing services will be digitised, expediting bilateral trade between both countries.

Ant Financial Services Group, an Alibaba affiliate, will be introducing Alipay payment services in Malaysia through collaborations with CIMB and Maybank. This would allow Chinese consumers to make payment using Alipay and increase market exposure for Malaysian SMEs. One of the markets that CBEC Zones cater for are goods purchased for personal use which enjoy a special tax rate known as personal postal tax. Goods purchased for general trade would also enjoy discounted Customs tariffs up to a specified quota. The DFTZ could follow the lead set by the CBEC Zones by adopting a similar policy for Customs to guarantee the completion of Customs clearance and for goods to be shipped overseas within 24 hours.

For the DFTZ, it is proposed that goods not exceeding RM1,200 in value would be tax-exempted if purchased online through the DFTZ.<sup>[1]</sup> There is no mention so far of any requirement that the goods purchased must be for personal use.

With e-commerce, Customs duties collection may no longer be limited to physical checkpoints. Similarly, SMEs may not be required to set up a physical office within the DFTZ.

<sup>[1]</sup> “Minister announces DFTZ tax exemption”, *The Star Online* (20 February 2017) <<http://www.thestar.com.my/business/business-news/2017/02/20/minister-announces-dftz-tax-exemption/>>

As at the time of this update, legal implementation of the DFTZ has yet to begin.

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