



# **ROYAL MALAYSIAN CUSTOMS DEPARTMENT**

## **APPLICATION FOR REVIEW**

### **PUBLIC RULING NO. 1/2020**

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**EFFECTIVE DATE : 30 JULY 2020**

## **PUBLIC RULING**

In accordance with section 10F of the Customs Act 1967 [Akta 235], the Director General issues the Public Ruling No. 2/2020 which sets out application for review by the decision made by the Director General of Customs under Customs Act 1967, Excise Act 1976, Sales Tax Act 2018, Service Tax Act 2018, Departure Levy Act 2018, Goods and Services Tax Act 2014, Tourism Tax Act 2017 and Free Zones Act 1990.

This Public Ruling may be amended in part or wholly or withdrawn at any time by publication of a new ruling or a withdrawal notice.

If there is any amendment in the legislation that affects the content of this Ruling, such amendment overrides the information in this Public Ruling.

### **Publication**

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## INTRODUCTION

1. Any person who is aggrieved by the decision of the Director General of Customs may apply for a review in writing.
2. This ruling set out the procedure of application for review on the decision of the Director General of Customs under the Customs Act 1967, Excise Act 1976, Sales Tax Act 2018, Service Tax Act 2018, Departure Levy Act 2019, Goods and Services Tax Act 2014, Tourism Tax Act 2017 and Free Zones Act 1990.

## INTERPRETATION

3. In this Public Ruling, unless the context otherwise requires –
  - **“decision** of the Director General of Customs” means the final decision made in writing by –
    - (i) the Director General of Customs;
    - (ii) any senior customs officer holding the position of Deputy Director General, Assistant Director General, Director, Deputy Director, Senior Assistant Director and Assistant Director on behalf of the Director General made under the Customs Act 1967, Excise Act 1976, Goods and Services Tax Act 2014 and Tourism Tax Act 2017.<sup>1</sup>
    - (iii) any senior officer of sales tax/service tax on behalf of the Director General of Customs made under the Sales Tax Act 2018 and Service Tax Act 2018.<sup>2</sup>
    - (iv) any senior officer of customs on behalf of the Director General of Customs made under the Departure Levy Act 2019.<sup>3</sup>

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<sup>1</sup> ss.3(3) Customs Act 1967, ss.4(1) Excise Act 1976, ss.2(1) Goods and Services Tax Act 2014, ss.3 Tourism Tax Act 2017;

<sup>2</sup> ss.3(2) Sales Tax Act 2018, ss.3(2) Service Tax Act 2018;

<sup>3</sup> ss.4(2) Departure Levy Act 2019;

**“Applicant”** means any person who has received a decision from the Director General of Customs and the person is aggrieved with the decision received;

**“Review Unit”** means the Review Unit, Prosecution, ABT and Appeals Division, Headquarters Royal Malaysian Customs Department;

**“Tribunal”** means the Customs Appeal Tribunal;

**“duty”** means customs duty as defined under section 2 of the Customs Act 1967 or excise duty imposed under the Excise Act 1976;

**“tax”** means the sales tax imposed under the Sales Tax Act 2018 or the service tax imposed under the Service Tax Act 2018;

**“levy”** means the levy imposed under the Departure Levy Act 2019;

## LEGISLATION

4. This public ruling is made on the provisions of the law in relation to the review as follows:
- (i) Section 143, Customs Act 1967;
  - (ii) Section 47 Excise Act 1976;
  - (iii) Section 96, Sales Tax Act 2018;
  - (iv) Section 81, Service Tax Act 2018;
  - (v) Section 59, Departure Levy Act 2019;
  - (vi) Section 124, Goods and Services Tax Act 2014;
  - (vii) Section 67, Tourism Tax Act 2017;
  - (viii) Section 46, Free Zones Act 1990;
  - (ix) Regulation 57, Customs Regulations 2019;
  - (x) Regulation 60B, Excise Regulations 1977;
  - (xi) Regulation 32, Sales Tax Regulations 2018;
  - (xii) Regulation 25, Service Tax Regulations 2018; and

(xiii) Regulation 17, Departure Levy Regulations 2019.

## RIGHT OF REVIEW AND TIME FOR REVIEW

5. The Director General of Customs of decision of which is eligible to apply for review is solely the decision in relation to matters under the Customs Act 1967, Excise Act 1976, Sales Tax Act 2018, Service Tax Act 2018, Departure Levy Act 2019, Goods and Services Tax Act 2014, Tourism Tax Act 2017 and Free Zones Act 1990 which include the following decision:
  - (i) the customs ruling made under the Customs Act 1976, Excise Act 1976, Sales Tax Act 2018, Service Tax Act 2018 and Goods and Services Tax Act 2014;
  - (ii) other decisions which is final.
6. The Director General of Customs decisions which are not eligible to apply for a review are<sup>4</sup> –
  - (i) matters relating to compound;
  - (ii) matters under section 128(3) of the Customs Act 1967; and
  - (iii) matters under section 67(3) of the Excise Act 1976.
7. Application for review must be made within 30 days from the date of notification of the Director General of Customs decision provided that there is no appeal on the same decision is filed to the Tribunal or the High Court.<sup>5</sup>
8. Application for review will **NOT BE PROCESSED** if the application:
  - (i) is submitted after a period of 30 days from the date of notification of the Director General of Customs decision;
  - (ii) involve the same Director General of Customs decision which has been appealed

<sup>4</sup> ss.143(4) Customs Act 1967, ss.47(3) Excise Act 1976, ss.96(3) Sales Tax Act 2018, ss.81(3) Service Tax Act 2018, ss.59(3) Departure Levy Act 2019, ss.124 Goods and Services Tax Act 2014, ss.67 Tourism Tax Act 2017 and ss.46 Free Zones Act 1990.

<sup>5</sup> ss.143(1) Customs Act 1967 and ss.47(1) Excise Act 1976

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- to the Tribunal or the High Court;
- (iii) a decision review has been made and the decision has been issued to the applicant;
- (iv) involves decisions in relation to compounds, matters under subsection 128 (3) of the Customs Act 1967 and subsection 67 (3) of the Excise Act 2018; and
9. The decision of the review is final and will be issued where practicable within 60 days from the date of the Director General of Customs decision is received. However, the period of 60 days is not applicable and will not be extended if the applicant does not submit a complete information or documents.<sup>6</sup>
10. Application for review on the Director General of Customs decision can be made only once. No application for review can be made for a second time or repeatedly after a review decision is issued to the applicant.
11. The applicant who is aggrieved with the review decision may appeal to the Tribunal or High Court.

## **REVIEW APPLICATION PROCEDURE**

12. Any application for review shall be made online through the Application for Review which can be accessed via the link at <http://ereview.customs.gov.my>. The procedure to be taken when making an online application is:-
- (i) The application form must be filled completely and signed by the applicant or person authorized by the applicant only. If the applicant is a company, the authorized person shall be among the officer of the company only. Tax agent or lawyer are not allowed to sign the application form on behalf of the applicant;
- (ii) Ground of the review shall be stated clearly;

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<sup>6</sup> ss.22B Customs Act 1967, ss.6(6) Excise Act 1976, ss.28 Sales Tax Act 2018, ss.28 Services Tax Act 2018, ss.29 Departure Levy Act 2019, ss.46 Goods and Services Tax Act 2014 and ss.29 Tourism Tax Act 2017.

- (iii) The supporting document to be attached with the application form are as follow:
- a) the Director General of Customs decisions; and
  - b) a printed copy of the review form signed by the applicant authorized person;  
and
  - c) any other document to support the grounds of review (if any).

13. Incomplete applications will not be processed and shall be notified in writing. Only complete applications will be processed. The application for review will be processed by the Review Unit within 60 days or a reasonable period from the date of the complete document is received.

#### **RESPONSIBILITY TO PAY DUTY / TAX / LEVI**

14. Any duty, tax or levy due and payable shall be paid even though an application for review has been submitted.<sup>7</sup>

#### **FREQUENTLY ASKED QUESTION**

##### **S1. What decision is eligible for review?**

The decision that is eligible for review is the decision made by the Director General of Customs or any senior customs officer on behalf of the Director General of Customs in writing under the Customs Act 1967, Excise Act 1976, Sales Tax Act 2018, Service Tax Act 2018, Departure Levy Act 2019, Goods and Services Tax Act 2014, Tourism Tax Act 2017 and Free Zones Act 1990.

##### **S2. Can the decision of the Customs Ruling issued by JKDM under section 10B of the Customs Act 1967 be reviewed?**

Yes.

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<sup>7</sup> ss.143(6) Customs Act 1967, ss.47(6) Excise Act 1976, ss. 96(6) Sales Tax Act 2018, ss.81(6) Service Tax Act 2018, ss.59(3) Departure Levy Act 2019, ss.124 Goods and Services Tax Act 2014, ss.67 Tourism Tax Act 2017 and ss.46 Free Zones Act 1990.



**S3. Is the application for remission of penalty imposed under the Sales Tax Act 2018, Service Tax Act 2018, Departure Levy Act 2019, Goods and Services Tax Act 2014 and Tourism Tax Act 2017 can be made through review?**

An application for first-time penalty remission must be made in writing to the Director General of Customs. The decision of the remission application (first time) which is has been rejected can be submitted for review.

**S4. When is the application for review can be made?**

An application for review shall be made within 30 days from the date of the Director General of Customs decision is notified provided that no appeal is filed to the Tribunal or the High Court on the same decision.

**S5. Company XX has made a claim for drawback of import duty and sales tax which has been paid after the imported goods are re-exported. However, the application was rejected through a letter by JKDM. If the company intend to apply for review how many application forms need to be filled?**

Companies only need to fill in one application form since one application for review is for one decision.

**FEEDBACK AND ENQUIRIES**

15. Any feedback and inquiries may be submitted –
- (i) by email to the email address [semakan@customs.gov.my](mailto:semakan@customs.gov.my)
  - (ii) by contacting the Review Unit officer at : 03-8882 2100 or [Click Here](#); or
  - (iii) in writing and sent in person or by post to the following address:

**Review Unit,  
Prosecution, ABT Enforcement and Appeal Section,  
Enforcement Division,  
Royal Malaysian Customs Department,**

**Level 6B, Skytech Tower 1,  
MKN Embassy Techzone,  
Jalan Teknorat 2, Cyber 4,  
63000 Cyberjaya, Selangor.**