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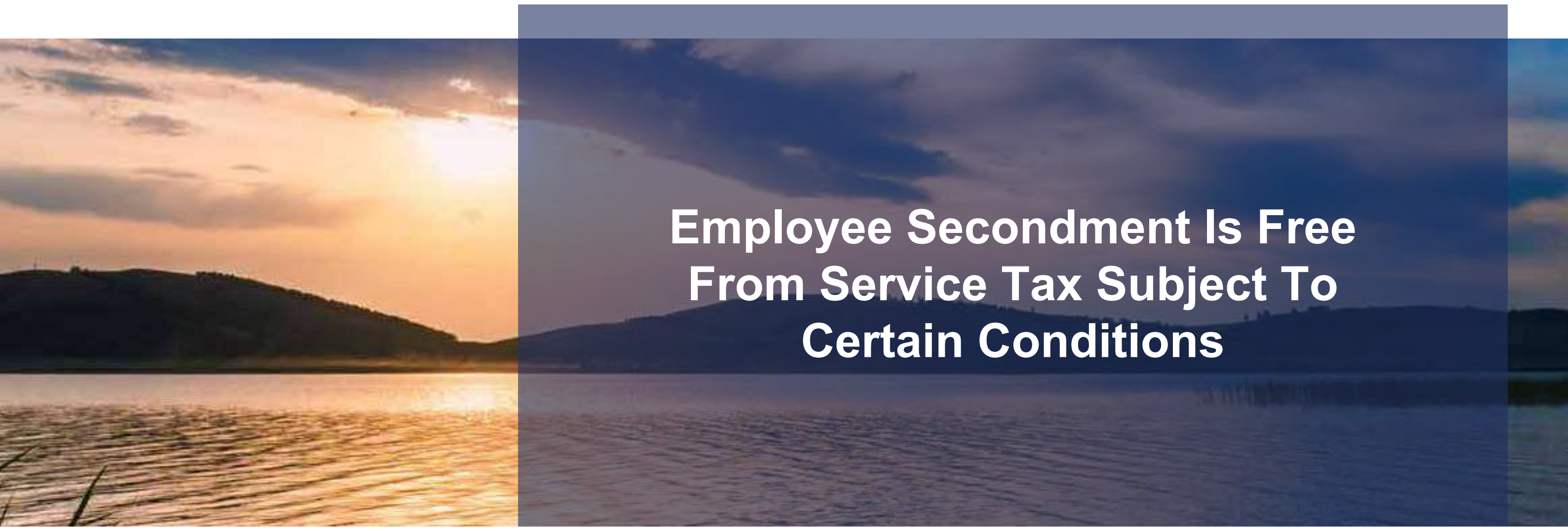
ideas & insights



Employee Secondment Is Free From Service Tax Subject To Certain Conditions

Key Takeaway

- A secondment arrangement is not automatically non-taxable. Its Service Tax treatment depends on whether the applicable conditions for a genuine secondment are satisfied.

Tips

- Review your existing employee secondment arrangements to ensure they meet the conditions under Ketetapan Umum Bil. 5/2026;
- Identify arrangements that do not meet the prescribed conditions and assess whether Service Tax should be charged on the relevant employment services.

Under the 2024 Guide on Employment Services, employment services are generally subject to Service Tax. However, employee secondment is excluded from the scope of taxable employment services.

With the issuance of General Ruling Bil. 5/2026, Customs has now clarified what qualifies as an employee secondment. In simple terms, a secondment arrangement will not be subject to Service Tax only if all the prescribed conditions are met.

A secondment arrangement will be regarded as non-taxable services only if all of the following conditions are satisfied:

Appropriate contractual documentation

The arrangement should be supported by a formal secondment agreement or other relevant documentation evidencing the nature and terms of the secondment;

Original employer is not an employment-service provider

The original employer's business must not be the provision of employment services, including an employment agency or professional employer organisation;

Temporary transfer

The employee is temporarily transferred to perform duties for another company for a specified period and subsequently returns to the original employer;

Continuing employment relationship

The employee remains employed by the original employer, with the employment relationship continuing throughout the secondment;

Exclusive service during secondment

During the secondment period, the employee works solely for the host company;

Control by the host company

The host company has overall control over the employee's work and duties during the secondment; AND

Salary / allowances recovered at cost only

The host company bears the employee's remuneration and relevant allowances, whether paid directly or indirectly, without an additional service fee, commission or mark-up.

For more details, please refer to :

Ketetapan Umum Bil. 5/2026 (Malay Version Only), 12 OGOS 2026.

Source : Royal Malaysian Customs Department (“RMCD”)

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