



8 JUNE 2017

FOR IMMEDIATE RELEASE

HOTEL INDUSTRY SUBMITTED JOINT MEMORANDUM ON TOURISM TAX

Kuala Lumpur – Three major hotel associations have jointly submitted a memorandum to Minister of Finance (MOF), the Royal Malaysian Customs Department (RMCD) and the Ministry of Tourism and Culture (MOTAC) to express concerns that the industry has with the model for the soon to be implemented Tourism Tax. The three associations are Malaysian Association of Hotels (MAH), Malaysian Association of Hotel Owners (MAHO) and Malaysia Budget Hotel Association (MyBHA).

In making the submission, the Associations feel that this contribution should be evenly shared across all participants, including those who operate outside the current system, and the cost to collect the tax should be kept minimal.

Scope of the Tax

MAH President, Mr. Cheah Swee Hee, said that the current model of the tourism tax unfairly places the burden of collecting the tax on registered hotels who are effectively “tax collectors” responsible for collecting the tax and paying this to the Government. It is not fair and equitable as it does not appropriately capture all participants in the market place nor does it tax equally the participants that are subjected to the tax.

“Under the current model, hotel operators that have been registered with the MOTAC are automatically included in the scope of the tourism tax. However, based on data that is available on MOTAC and what is available from other publicly available sources, we have identified that less than 15% of accommodation providers in Malaysia are registered with MOTAC,” he said.

In terms of real numbers, there are 3,126 accommodation providers that are registered with MOTAC. However, there are 9,578 accommodation providers listed on the hotel booking side Agoda.com and a further 11,698 accommodation providers listed on Airbnb.

Table: Accommodation Providers by State

States	MOTAC (as at March '17)	Agoda.com	Airbnb (active rentals Apr '17)
Perlis	37	52	
Kedah	116	630	
Penang	146	1,210	1,447
Perak	207	655	654
Selangor	325	363	1,561
Negeri Sembilan	124	209	
Melaka	260	824	832
Johor	284	815	1,150
Pahang	307	616	
Kelantan	141	249	
Terengganu	139	224	
Sabah	420	719	708
Sarawak	266	435	
WP Kuala Lumpur	309	2,553	5,346
WP Putrajaya	5		
WP Labuan	40	24	
GRAND TOTAL	3,126	9,578	11,698

Based on the available data, there are 6,452 unregistered hotel providers and a further 11,698 operators who provide accommodation through Airbnb.

“Moreover, the rules governing the operation of the tax do not clearly address how unregistered accommodation providers including those operating under the umbrella of Airbnb would be brought into the system. Even in the event where unregistered providers are registered, the proposed rate applicable to ‘un-rated’ providers are significantly lower or subject to exemption, although such providers are in direct competition to the industry and are providing accommodation of a similar quality,” he added.

Mr. Cheah explained that at present, the RMCD has the power under the proposed Law to register those operators who have registered under MOTAC. “However, no such provisions exist for those who are not currently registered. Without compulsion or appropriate enforcement, there would no incentive for these providers to enter into the system. Furthermore, given the amount of unregistered providers, it would take a significant amount of RMCD’s resources to identify and persuade these providers to register.”

Impact of not having a neutral tax

The Tourism and Culture Minister YB Datuk Seri Mohamed Nazri Abdul Aziz has projected the amount of tax to be collected under the tourism tax to be RM 654 million if the occupancy rate was 60% and RM 872 million if the occupancy rate was 80% across all registered hotel operators.

MAHO President, Tan Sri Dato' Teo Chiang Hong, however was holding a different opinion. "In recent years, the industry has only been able to achieve a 35-40% occupancy. So with the introduction of the tax, it would create an uneven playing field, and could encourage more tourists to book with unregistered and unlicensed hotels due to the lower cost. This could also encourage hotels to follow suit and change their rating or their operating model. All of these actions, would result in an even lower occupancy rate and lower tax revenues for the Government. As a consequence, an alternative model that is more fair and equitable and taxes all participants in the sector would be better suited and more likely to achieve the revenue expectations of the Government".

Cost of being a 'tax collector'

The proposed model for the tourism tax calls upon the hotel operator to act as a 'tax collector' for the Government which requires all hotels to register for the tax and once again, updating pricing documentation and enhancing the operating and accounting systems to enable the tax to be collected and invoices to be issued, which needs to be done in addition to the existing obligations for income tax and the recently introduced GST.

Tan Sri Dato' Teo further added, "Hotels would face great challenge and cost in order to meet the requirements imposed by the Tourism Tax, and similarly it would require greater allocation of resources and costs from RMCD in order to enforce the tax".

"As the compliance requirements are high, it would also dissuade those who are currently unregistered from registering, and continues to encourage the gap that exists between those operating in the system and those outside of it," he said.

Rate and imposition of tax

MyBHA President, Mr. PK. Leong said, the application of the tax to local guests, unfairly burdens the Rakyat who are already struggling to come to grips with more difficult economic conditions, which includes the increase in cost caused by the depreciation of the Ringgit and the introduction of the goods and services tax (GST).

Under the proposed model, the rate imposed would be based on the star rating given to the hotel, with a 5-star hotel required to collect RM 20 on a per room per day basis whilst an unrated hotel would need to collect RM 2.50.

“There are already a significant number of accommodation providers who are unregistered and unlicensed. So even if RMCD are able to encourage some of these providers to register to collect the tourism tax, as they are not rated, they are able to take advantage of a lower rate of tax,” he said.

“The case for Airbnb is even more apparent, as providers who list properties under Airbnb are currently not collecting the GST from their customers. It is our understanding that there is likely to be an exemption for those properties that have less than 10 rooms. As a consequence, it is likely that these providers would also enjoy an exemption under the tourism tax. However, it would not be fair to compare those who operate under Airbnb’s umbrella with other small accommodation provider”.

Mr. PK. Leong further added that Airbnb is almost universally recognised and enjoys a global platform with which its operators possess access to customers. “Due to the operating model used, which is different from that of our members, they are able to take advantage of the current tax and regulatory rules to provide accommodation of a similar quality but at a lower cost,” he said.

To rub salt into the wound, existing hotel operators are already subjected to other forms of tourism tax that the other providers are not currently subjected to.

Table: Existing tourism taxes

State	Tax Name	Implementation	Rate
Melaka	Heritage Tax	1 April 2012	RM 2 per room night
Penang	Local Government Fee	1 June 2014	RM 3 for 5 & 4 star RM 2 for 3 star & below
Langkawi	Tourism Promotion Fee	1 July 2016	RM 9 for 7 star RM 7 for 6 star RM 5 for 5 star RM 3 for 3 & 4 star RM 1 for 1 & 2 star
Kota Bharu	Local Government Fees/City Tax	1 January 2017	RM 3 per room night

The collection of a further federal tourism tax on top of these other state taxes from the same room rental would be discouraging to the tourist, including creating the perception of double taxation, as a single service is being taxed multiple times – first the GST, and then two levels of tourism tax.

The Associations also stressed that if the current model was to be implemented, it would discourage hotels from seeking a star rating and registration with MOTAC to enable them to offer a more competitive price to their customers.

The Associations are seeking to be given opportunity to engage and welcome greater dialogue with the Government in addressing concerns pertaining to the tax, and at the same time propose alternatives to best suit the objective of achieving sustainable fund to develop the Tourism industry.

END

About Malaysian Association of Hotels (MAH)

Malaysian Association of Hotels (MAH) is the umbrella body for hotels in Malaysia formed in 1974 and initially established by a group of concerned and dedicated hoteliers to bring about a more dynamic hospitality industry aimed at building a workforce of highly skilled, innovative and disciplined individuals. Its long term goal was to enhance the efficiency of the hospitality industry, thus, bringing about a more dynamic Malaysian hospitality industry. MAH, as the official national network for the hotel industry, represents more than 800 hotels throughout Malaysia. With 13 chapters across the nation, MAH acts as a voice of the industry, working as one body to promote, protect, represent and advance the interests of its members.

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