



Does Tax Plays an Important Role among E-commerce Businesses in Malaysia?

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Abstract

The E-commerce has been grown rapidly with the rise in the number of business entities. The expansion of e-commerce businesses, however, has created challenges to the tax authorities around the world. Due to the way in which e-commerce is being carry out, it may provide tax planning opportunities. This study aims to explore whether businesses that conducted e-commerce in Malaysia has the intention to do tax planning. Interviews were conducted with e-commerce business administrators. Result indicates that tax issues is not the main motivations for companies to do e-commerce. This indicates that other factors are more important for e-commerce businesses to consider in their planning stage.

Keywords: Tax, E-commerce, Malaysia.

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Introduction

In the current environment, businesses are progressing extremely fast and highly competitive. Businesses must, therefore, be very sensitive and quickly grasp market directions and consumer trends. With the advent of Internet, the numbers of businesses chose to do their business through electronic commerce has increased tremendously.

The electronic commerce or also known as e-commerce has been grown rapidly with the rise in the number of business entities including small medium enterprise (SMEs) throughout the world. The global e-commerce market size was valued at USD 9.09 trillion in 2019 and is

expected to grow at a compound annual growth rate (CAGR) of 14.7% from 2020 to 2027 (Grandviewresearch.com, 2020).

The expansion of e-commerce businesses, however, has created challenges to the tax authorities around the world and the laws of the tax systems (OECD, 2015). The current law of taxation was based on territorial scope. Under this principle of taxation, when a business is conducted within a country, normally that country has jurisdiction to tax the business income (Akcaoglu, 2002). In e-commerce situation, the business may not occur in any physical location, thus it will create difficulties in identifying which country has the right to tax the income arising from e-commerce transactions. Currently, there is no special law regulating the taxation of e-commerce. Li (2011) analysed the income tax planning in e-commerce and found that companies can take advantage of “conception of resident taxpayer” to do tax planning.

Thus, the purpose of this paper is to explore whether businesses that conducted e-commerce in Malaysia has the intention to do tax planning by looking at the perceptions of the business administrators. The remainder of the paper will present the literature review, the research methodology, research findings and finally the discussion and conclusion.

Literature Review

E-commerce in Malaysia has been growing rapidly. The global e-commerce market size was valued at USD 9.09 trillion in 2019 and is expected to grow at a compound annual growth rate (CAGR) of 14.7% from 2020 to 2027 (Grandviewresearch.com, 2020). In Malaysia, the market values are approximately at RM16 billion (\$4 billion) in 2017 (JP Morgan, 2019). The e-commerce market in Malaysia has grown rapid for the past few years due to two reasons, firstly, increasing trend of smartphone penetration and secondly is the enthusiasm of shoppers to buy products from abroad (JP Morgan, 2019). Apart from that, the Malaysian government has also supported the development of e-commerce in Malaysia by introducing the National E-commerce Strategic Roadmap that plan to improve the Malaysian’s e-commerce growth rate and to reach a gross domestic product contribution of RM 211 billion by 2020.

E-commerce is defined as the process of selling products, buying resources, transferring, or exchanging products, services, and information through the internet as a primary business model (Turban, King, Lee, Liang, & Turban, 2015). The emergence of e-commerce has shaped the business scenarios as it provides enormous advantages and opportunities. Among them are reduction in cost, improved business performance and operations, increase market penetrations and enhance competitive advantage (Omar et al., 2011; Ahmad et al., 2015; Hamad et al., 2018).

At present, the international tax law is less far behind the business models in the digital era. The OECD (2015) stated that the advent of the e-commerce transactions has causes great challenges to the tax authorities around the world, including Malaysia. This is because the current tax law was based on territorial concept that are confined to certain geographical areas. In

contrast, e-commerce transactions are conducted through cyberspace where no geographical restrictions exist. As a result, tax practitioners are continually facing challenges in both understanding the technology and how tax rules apply (Nellen, 2015).

Li (2011) analysed the income tax planning in e-commerce and found that companies can take advantage of “conception of resident taxpayer” to do tax planning. In Canada, Carnaghan, Downer, Klassen and Pittman (2004) explore the implementation of e-commerce with an emphasis on the implications of e-commerce for tax planning. They found that tax planning is not considered by most of the respondents’ companies in their decisions to do e-commerce.

Currently, there is no specific provisions under the Income Tax Act 1967 (ITA 1967) to govern e-commerce transactions. The IRB has indicated that the current tax law and interpretations are applicable to determine taxability of e-commerce. The Malaysian Inland Revenue Board (IRB), however, has published its first guidelines on taxation of Electronic Commerce in 2013. The main objective of the guidelines is to provide some assistance on the basic tax issues and income tax treatment towards online transactions (Sidik, 2018).

In 2019, the IRB has published an updated version on the guideline to replace the previous guideline. Under this 2019 guidelines, the IRB has defined e-commerce transactions (e-CT) as “Any sale or purchase of goods or services over any networks by methods specifically designed for receiving or placing orders. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be made online. An e-CT can be between enterprises, households, individuals, governments, and other public or private organizations.” The definition indicates that e-commerce has broaden to include online, app stores, online advertising, cloud computing, payment service and digital currency. Apart from that, all individuals and companies involved in online businesses will also be taxed under the Income Tax Act 1967.

Methodology

In achieving the objectives of this study, interview method was selected. The use of interview technique to acquire information is commonly used by the qualitative research (Creswell and Poh, 2016). Twenty business entities that are currently using e-commerce were selected using Internet search. The criterion for e-commerce businesses selection was mainly based on size of the companies, i.e. in the following cells are selected: micro, small, medium – sized and large companies.

The Interviews

Out of 20 business entities that have been selected, only four respondents were able to be interviewed. Other business entities either refused to be interviewed or did not respond to the numerous telephone calls or e-mail attempts to arrange for an interview. The interviews were carried out over during November 2018 to February 2019.

One of the interviews was conducted at the premises of the respondent's firms. While the other three respondents were conducted through phone interviews and electronic mail interview as the companies' premises are located outside Klang Valley. As suggested by Carnaghan et. al., (2004), the respondents were selected based on individuals who held senior management positions in the finance or accounting function or the information technology function. All the respondents were either the director of the business or the information technology senior management. The outline of the interview questions was provided to the respondents at the start of the interview. The face-to face interview and phone interviews were held between 45 minutes to one hour.

The interviews were tape recorded and the information was subsequently transcribed. Data were coded using content analysis procedures. Content analysis is a research methodology commonly used by the researchers to analyse recorded transcript of interviews. It has been defined as a systematic, replicable technique for compressing many words of text into fewer content categories based on explicit rules of coding (Weber, 1990).

Description of the Respondents

The four respondents are referred as R1, R2, R3 and R4. All the respondents' business entities are incorporated in Malaysia and controlled by Malaysian owners. Of the four respondents, R1 and R2 have roughly between 10-30% of their sales are from outside Malaysia.

R1 is a flower and gift company that has been in operation for more than 30 years. However, the company was taken over in 2005 and the new management decided that they should also go for online sales since 2006. Based on its turnover and full-time employees, the company is considered as small enterprise.

R2 involved in marketing and selling health products. The company was set up in 1996 and started to have e-commerce operations since 2006. Being a private company, they are quite reluctant to reveal their average sales or turnover. However, based on its number of full-time employees, the company is under the category of small enterprise.

R3 provides training and services especially in education. The company was set up in 1986. However, they faced some difficulties and stop operation for 2 years. The company started to have website since year 2000. They have online store that sells book and stationeries. This company is considered as small enterprise based on its full-time employees.

R4 is an enterprise that involves in webhosting and selling hardware and software through its website. The business is conducted by its owner since 2003. The business was conducted on part-time basis and able to earn average sales between RM300 to RM500 per month.

In summary, all the interviewees are considered as small-medium enterprise (SMEs) and not large business enterprises. The interviewees sell products or service through their websites but none of them through digital delivery. In terms of payment methods, all respondents' websites

have the capabilities in receiving online payment.

Results of the Interviews

Motivations to employ e-commerce

The respondents were asked the motivations for them to employ e-commerce. R1 responded that due to nature of its gift business and the increasing number of populations using Internet. R3 stated that they move to e-commerce to make it easier for customers to get products as a one stop centre. Both R2 and R3 agreed that their websites are the medium for them to advertise their product and services.

As for the benefits, R2, R3 and R4 agreed that they are able to save costs from using their websites to sell the products. However, R1 disagreed that cost saving is achieved through the use of website as R1 noted that “Website is actually an expansion cost as it needs to be upgraded annually”. None of the respondents did mentioned tax aspect as the main motivation to implement e-commerce. This is in line with the Carnaghan et al., (2004) study.

Tax Issues

The respondents were asked whether taxation issues were important to their companies in making e-commerce decisions. R1, R2 and R3 stated that the tax issues were important but not a significant factor to their decisions. R4 in contrast did not find it important. Furthermore, none of the respondents sought advice from external tax consultants on e-commerce planning. Only R1 had set up own in-house department to deal with any tax issues arising from e-commerce operations.

The respondents were also asked whether Malaysian government should introduce taxation specifically on e-commerce. In general, R1, R2 and R3 were not in favor of the suggestion. R2 and R3 both shared the same belief that taxation would be difficult to be implemented as Internet is borderless and has no jurisdiction. R1 explained from different perspective “because the market is still not matured and saturation is wide and the target sector is small “. Thus, R1 insisted that taxation would discourage e-commerce operations in Malaysia to expand. R4 in contrast agreed with the suggestion and stated that “It would be great if government could introduce some sort of tax relief for e-commerce businesses in order to motivate more e-businesses in Malaysian market “.

Who were involved in the decision making related to e-commerce deployment?

R1, R2 and R3 stated that the top management or the managing directors are the primary person who is involved in the decision making for e-commerce deployment. As for R4, the owner of the business is the one who makes the decisions as it is a sole proprietor business.

Where was the technology located and why?

All the respondents except R1 have their servers located in Malaysia. R1 server is in the UK.

This is because R1 website was also designed by UK company web designer. However, R1 indicated that the majority of the processing, for example, ordering and payment was done from the Malaysian office. As for other respondents, they stated that their operations were done from their Malaysian office.

Does e-commerce and related technologies able to substitute the conventional operations such as sales office, foreign subsidiaries, support staff and etc.?

The answers from the respondents were quite diverse. Both R1 and R4 disagreed with the statement. R1 noted that websites were complements to their business operation rather than substitutes. R4 explained that “Nothing will substitute the conventional business practices. Not all products can be sold online. Some customers still prefer to have a “look and feel” for products that they want to purchase. R2 and R3, however, agreed with the substitution effect. But R3 also had the same opinion as R1 that not all products can be sold online

Results and Discussions

In summary, the findings of the interviews suggest a number of issues should be taken into considerations in analysing tax planning in e-commerce environment. Firstly, the findings suggest that although tax issues are important, it is not the main aspects that the interviewees’ companies consider in the deployment of e-commerce. The finding is also has been identified by Carnaghan et al, (2004).

Secondly, most of the interviewees stated that their servers are located either in Malaysia or in the UK. They also mentioned most of their customers and e-commerce operations were done in Malaysia. As a result, there is no issue of the possibilities in of tax evasion by the companies in e-commerce operation.

Thirdly, even though some of the respondents agreed that e-commerce websites are able to substitute foreign sales office or subsidiaries, they still have the opinion that it will not involve all products or services. Thus, this result indicates that the possibilities of creating disintermediation effect would not lead to potential tax revenue losses for the country.

Lastly, in Malaysia the e-commerce development is still in its early stage of development (Ismail and Masud, 2020). Thus, to encourage more companies to participate e-commerce transaction, the respondents stated that the government of Malaysia should not introduce tax specifically on e-commerce. Instead, the government should consider introducing some tax relief for companies to deploy e-commerce.

Conclusion

The purpose of this paper is to explore whether companies that implement e-commerce has the intention to do tax planning by looking at the perceptions of the business administrators. The

results indicate that tax is not the main motivations for companies to do e-commerce. There are other factors that are more important such as the marketing and competitiveness.

This research adds to the literature on e-commerce taxation from the perspectives of businesses in Malaysia. However, this research is limited to business e-commerce for consumers (B2C) only and not cover for all types of e-commerce. Furthermore, the interview was only based on 4 companies. It is hoped that the findings of this study may provide some guidelines for further research in the areas of e-commerce taxation.

Conflict of interest

The authors declare no potential conflict of interest regarding the publication of this work. In addition, the ethical issues including plagiarism, informed consent, misconduct, data fabrication and, or falsification, double publication and, or submission, and redundancy have been completely witnessed by the authors.

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