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Introduction

As the global trend shifts towards sustainable and eco-friendly transportation methods, electric vehicles ("**EVs**") have surfaced as a hopeful substitute for conventional petroleum-fueled cars. The Malaysian government in recent years has initiated measures to promote the use of EVs, but there are still several legal and business issues that needs to be addressed before the nation can fully adopt this technology.

This article seeks to highlight the processes behind the importation of EVs, as well as the necessary taxation and equity requirements, and to discuss the potential legal and business issues associated with said importation of EVs.

Process of Importing EVs into Malaysia

In general, importing EVs into Malaysia can be done in two ways: Completely Built-Up ("**CBU**") or Completely Knocked Down ("**CKD**"). CBU vehicles are fully assembled and imported from overseas, while CKD vehicles are imported in parts and assembled locally.

The process of importing CBU and CKD EVs is largely similar. For both, the first step is to obtain an Approved Permit ("**AP**") from the Ministry of International Trade and Industry ("**MITI**") to import the EVs into Malaysia. An AP is an import and export license issued by the Permit Issuing Agencies ("**PIAs**") under the Customs Act 1967.[1] Once an application for the AP is made and approved, the company can proceed with the importation process.

The second step after obtaining the AP is to register with the Royal Malaysian Customs Department ("**RMCD**"). This step involves submitting the AP, bill of lading document, commercial invoice, and other relevant documents to the RMCD.

After the RMCD has approved the import, the third step is that the importer must pay the relevant duties and taxes. The amount of duty and tax depends on the value and type of the EVs and the components used in its assembly. The issue of taxation will be further explored in the next subtopic.

It must be noted that these are the steps involved in importing EVs material to this article. Both types of EVs will go through these processes before being made available to consumers. The further steps down the line, which are obtaining type approval from the Road Transport Department ("**RTD**") and registering of the vehicle with RTD,[2] will not be thoroughly discussed in this article.

Nevertheless, it must be noted that there is a minor difference in these early stages. While both need to apply for AP from MITI, the importation of CKD EVs into Malaysia would require approval from MITI for the assembly of CKD EVs in Malaysia, and that involves submitting an application to MITI and providing details about the proposed assembly operations.

Equity Requirements

There is a Bumiputera equity requirement to apply for APs from MITI. Under the current policy, 70% of the APs issued by MITI are reserved for Bumiputera-owned companies, while the remaining 30% are open to all applicants.

This indicates that foreign or non-Bumiputera-owned car importers have to partner with Bumiputera-owned companies in order to apply for the APs necessary to import cars into Malaysia.[3] Failure in compliance with this requirement may affect an EV company's chances to be awarded AP from MITI.

Taxation

Normally, CBU and CKD vehicles are subjected to import and excise duties. CBU vehicles, in particular, comes with heavy excise duties. For instance, there is 0% duty for cars imported from the ASEAN region, while cars imported from Most Favoured Nations ("**MFN**") will have an additional 30% duty. Following that, the additional local taxes based on the engine's capacity vary from 75% to 105%.[4]

Finally, each imported vehicle has an extra 10% sales and services tax ("**SST**") tagged to it.[5] CKD vehicles are not as heavily taxed as its CBU counterparts given that it is exempted from excise duties, as well as qualifying for government benefits and incentives but still subjected to the 10% SST.

However, this does not apply to EVs. As shown in Budget 2023 tabled by Malaysian Prime Minister Datuk Seri Anwar Ibrahim, this indicates a promising outlook for EVs investment in Malaysia.

First, the current import and excise duty exemption for CBU EVs will be extended for yet another year to 31 December 2025. It was originally set to end on 31 December 2023, before being extended in the first tabling of Budget 2023 to 31 December 2024.[6] By extending the period by two years, it showcases the significant move by the Malaysian government to encourage EVs manufacturers to import their vehicles into the country.

Second, excise duty and sales tax exemption for CKD EVs have been extended until 31 December 2027.[7] This extension offers assurance to local EVs manufacturers, allowing them to strategize and invest in the manufacturing of EVs in Malaysia. This extension period would also include components used in local CKD assembly of EVs. Such incentives will play a part in reducing the cost of owning an EV and will further encourage buyers of EVs, eventually accelerating the adoption of EVs in Malaysia.

Legal & Business Issues on Importing/Assembling EVs

One of the potential legal and business issues to consider is the compliance with the regulations. As mentioned above, there is a Bumiputera equity requirement that must be met before a company can enter this area of business. Whilst this policy was put in place to uplift Malaysian entrepreneurship and enhance the local market, some may argue that said equity rule would hinder potential foreign investment in Malaysia as foreign investors would need to cede a portion of their ownership to Bumiputera investors in order to comply with the policy. As a result, the AP system based on this equity rule may prevent global car manufacturers from entering the local market directly. The Bumiputera ownership requirement policy may also result in limited market competition, creating a hurdle for companies that fail to comply with the regulation.

This obstacle could lead to decreased innovation and higher prices for consumers, potentially resulting in an adverse impact on the industry.

However, there may be some leniency in the future regarding the Bumiputera ownership requirement for importers of EVs. For instance, Tesla recently made a landmark move in cementing its place in the Malaysian market where the American-based company became the first applicant of the BEV Global Leaders initiative, a measure introduced by MITI to help boost EV demand in the country and promote the development of an ecosystem to support EV adoption.[8] Through this initiative, Tesla managed to circumvent the Bumiputera equity rule to secure an AP. It is yet to be known whether this initiative will continue beyond the proposed end date of 2025,[9] but the fact that MITI has taken a more lenient approach to accommodating potential EV companies without requiring Bumiputera ownership through this initiative could potentially open up business for other EV companies to make their mark in this country.

The other issue that can be found is that there may still be limited demand for EVs in Malaysia. While it is undeniable that the transition towards a more sustainable mode of transportation has taken shape, the truth is that at the present time even with the exemptions on import and excise duty, the costs of EVs are still significantly higher compared to petroleum-powered vehicles. It would certainly be difficult for EVs companies to break through established players in the Malaysian automotive industry. While EVs remain as the future of established transportation in Malaysia, it remains to be seen whether it can stack up against its petroleum-powered counterparts in a commercial sense..

Conclusion

Importing EVs in Malaysia presents several legal and business challenges, but also offers considerable opportunities for companies and investors who are willing to navigate the regulatory landscape and invest in the nation's infrastructure and workforce. Understanding the process of importing CBU and CKD vehicles as well as the licensing requirements, taxation, and equity requirements, is critical for companies to make informed investment decisions and ensuring compliance with local regulations.

As the Malaysian government continues to push for the adoption of EVs and invest in the necessary infrastructure and policies, the country is poised to become a leader in the region's EVs industry. With a supportive policy environment, skilled workforce, and growing demand for eco-friendly transportation, Malaysia offers enticing prospects for companies looking to invest in the local EV industry. It is a thrilling time for the industry, and Malaysia is at the forefront of this exciting shift towards sustainable transportation.

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