

PROFILE



Partner
Head, Tax Advisory
Japan Desk
Personal Data Protection & Privacy Laws
Technology, Media & Telco
Shearn Delamore & Co., Kuala Lumpur, Malaysia
irene.yong@shearndelamore.com
T +603 2027 2923

Qualifications
LL. B (Hons), University of London
MBA, University of Warwick
Certificate in Legal Practice
Advocate & Solicitor, High Court of Malaya

Languages
English, Malay, Japanese

IRENE
YONG

ABOUT IRENE

Irene practices in all aspects of Tax and Revenue law advisory, structuring, planning, audits, investigations, dispute resolution (including advising taxpayers on the settlement of tax cases or in dealings with governmental authorities) and litigation (including tax appeals, declaratory proceedings, judicial review applications, civil suits, windings up etc.), sales tax, service tax, goods and services tax (GST), transfer pricing, income tax, real property gains tax, indirect taxes, stamp duty, taxation of oil and gas companies, tax incentives, trusts, and asset protection and planning. Irene has appeared as counsel for taxpayers before the GST Appeal Tribunal, the Special Commissioners of Income Tax and the Superior Courts of Malaysia.

Irene also practises in the area of Personal Data Protection & Privacy Laws, and provides information and data management strategies and solutions, business practice and process reviews, as well as template and document reviews for business enterprises. She has advised and conducted reviews and audits for various business enterprises, including financial institutions. She has presented many papers on personal data protection law and regularly conducts training and workshops for clients and event organisers.

EXPERIENCE

- **The Boston Consulting Group Sdn Bhd (“BCG”)**
Acted for BCG in an Originating Summons case before the High Court following the transfer pricing adjustments made by the Revenue purportedly under Section 140 of the Income Tax Act 1967 (“ITA”) and the Revenue’s Transfer Pricing Guidelines issued on 2 July 2003 (“TPG”) which has no force of law.

In Q1 of 2015, the High Court allowed BCG's application and ordered that the taxes and penalties imposed be discharged in full. The Court also granted interest and costs.

This is a landmark case where the Court held that the "transfer pricing" adjustments made by the Revenue under the TPG and Section 140 of the ITA are invalid for the years prior to 2009 as the Director General of Inland Revenue and the IRB did not have the power to raise the assessments. The Court also held, for the first time, that in making the purported "transfer pricing" adjustments, the Revenue had operated under a mistake of law.

The assessments were struck out and the Revenue was ordered to refund to BCG the full amount of taxes and penalties paid for Years of Assessment ("Y/A") 2000 (CYB) to 2002.

Revenue's appeal to the Court of Appeal was withdrawn in Q3 of 2015.

- **Wincor Nixdorf (M) Sdn Bhd**

Acted for Wincor Nixdorf (M) Sdn Bhd ("Wincor Nixdorf") in judicial review proceedings before the High Court following the decision of the Minister of Finance ("MOF") in only granting a remission of 50% of import duties and sales tax under Section 14A of the Customs Act 1967 and Section 33 of the Sales Tax Act 1972.

In Q4 of 2015, the High Court granted Wincor Nixdorf leave to apply for judicial review.

This is a landmark case being one of very few Malaysian cases on remission of import duties and sales tax and Commonwealth decisions on the issue of remission.

- **Bridgestone Chemical Products (M) Sdn Bhd**

Acted for Bridgestone Chemical Products (M) Sdn Bhd ("Bridgestone") in judicial review proceedings instituted before the High Court against the Minister of Finance ("MOF") and the Director General of Customs ("Customs") to challenge the MOF's refusal to grant a remission on sales tax, import duties and goods and services tax, purportedly payable by the company ("Taxes"). This stemmed from Customs' refusal to grant the company an import duty exemption for the correct period ("exemption"). Customs had granted an exemption to the company commencing 1 June 2015. However, the company contended that Customs had made a typographical error, viz. the correct commencement date should have been 6 January 2015 (not 1 June 2015) as the previous exemption had expired on 5 January 2015. The company was also granted similar exemptions for a continuous and uninterrupted period of more than two decades.

The High Court granted the company's judicial review application, quashed MOF's refusal to grant a remission of the Taxes, held that the company is not liable to pay the Taxes and is entitled to the import duty exemption commencing 6 January 2015 to 31 May 2015 ("the correct exemption") and also compelled Customs to issue the correct exemption, amongst others.

This case is important as it deals with errors made by Customs when issuing exemptions and the consequences that flow therefore. It is also a landmark case which establishes that tax authorities, including Customs, can be compelled to rectify their own errors and to grant the correct exemption even where such errors are vehemently denied.

- **Scientex Packaging Film Sdn. Bhd.**

Acted for Scientex in its acquisition of 100% of Klang Hock Plastic Industries Sdn Bhd (KHPI) for RM190 million cash, as Scientex expanded its product portfolio in the plastic packaging segment. We advised on the Malaysian tax law implications, in particular on real property gains tax issues.

- **Puma Energy Asia Pacific B.V.**

In conjunction with Shearn Delamore & Co.'s Corporate & Commercial Practice Group, Irene acted as the Malaysian counsel to Puma Energy Asia Pacific B.V. in its disposal of 20% of its shares in Langsat Terminal (One) Sdn Bhd and Langsat Terminal (Two) Sdn Bhd to Dialog Terminals Sdn Bhd (a subsidiary of Dialog Group Berhad, a company listed on the Bursa Malaysia) for a total purchase consideration of approximately RM62 million. We provided tax law advice including on the real property gains tax implications on the sale of the shares.

- **Nine Dragons Paper (Holdings) Limited**

Nine Dragons Paper (Holdings) Limited is listed on the Main Board of the Hong Kong Stock Exchange and the Nine Dragons Paper Group is the largest container board producer in Asia and one of the largest in the world in terms of production capacity. The Group primarily produces linerboard, high performance corrugating medium and coated duplex board. This transaction serves as the Nine Dragons Paper Group's entry into the Malaysian paper manufacturing market.

As part of the structuring advice provided by the Firm, Irene provided tax law advice on the stamp duty and other tax law implications, in connection with the transaction.

- **Saudi Arabian Oil Company (Saudi Aramco)**

Acted for Saudi Arabian Oil Company (Saudi Aramco), through White & Case, in its investment and joint venture with Petrolia Nasional Berhad (Petronas) in the Refinery and Petrochemicals Integrated Development (RAPID) project in the southern Malaysia state of Johor. The entire RAPID project is a US\$27 billion project located between the Straits of Malacca and the South China Sea, conduits for Middle East oil and gas bound for China, Japan and South Korea. Upon completion, the refinery and petrochemical project will be the largest downstream petrochemical project in Asia.

Shearn Delamore & Co. was the sole Malaysian Counsel acting for Saudi Aramco on all aspects of tax law advisory and structuring on this niche and specialised energy project, which includes cross-border transactional work, advisory, structuring, negotiations and strategy covering the full range of direct and indirect taxes (i.e., GST, withholding tax, real property gains tax, customs duties, income tax etc.).

Following the purchase by Saudi Aramco of 50% stake in Petronas' refinery and cracker project which was valued at approximately US\$7 billion, we continue to advise Saudi Aramco in 2018 in relation to the implementation of the refinery and petrochemical project, including providing tax law advice on the direct tax and indirect tax implications, including the new sales tax and service tax regime.

This project involves novel issues of tax law structuring and incentives that necessitates engagement with the highest level of Malaysian Government and the Ministry of Finance to find customised and creative solutions for project specific and unique issues.

ACCOLADES

Benchmark Litigation Asia-Pacific

- *"Responsive, always available, clear and concise advice. Understands the company's business."* – Benchmark Litigation Asia-Pacific 2022

Bloomberg Tax

International Tax Contributor of the Year 2018

Chambers Asia-Pacific

Tax 2023 – Band 3 Lawyer for 3 consecutive years

Tax 2020 – Recognised Practitioner

- We are able to rely and depend on her completely." – Chambers Asia-Pacific 2023
- "Irene is proactive and open-minded." – Chambers Asia-Pacific 2023
- A client praises her for "*preparing her work very well.*" – Chambers Asia-Pacific 2022
- A client notes that "*she is highly intelligent and capable, and provides clear and practical advice.*"

Expert Guides

Tax 2022 - Leading Practitioner and Women in Business Law for 2 consecutive years

Finance Monthly Global Awards

Recognised as a Tax Advisory Partner of the Year (Malaysia) (2021)

Finance Monthly Taxation Awards

Recognised as a Tax Advisory (Malaysia) (2022 & 2023)

International Tax Review

Indirect Tax 2023 – Highly Regarded Practitioner for 5 years (2019 - 2023); Leading Practitioner (2017 and 2018)

Tax Controversy 2023 – Highly Regarded Practitioner for 5 years (2019 - 2023); Leading Advisor (2013 - 2018)

Women in Tax 2023 – Highly Regarded Practitioner for 5 years (2019 - 2023); Leading Advisor (2015 - 2018)

Legal 500 Asia-Pacific

Tax 2023 – Other Key Lawyer

Tax 2022 – Recommended Lawyer for 5 years (2012, 2014, 2019, 2020 and 2022)

- "Irene Yong is clearly experienced and well-versed in her area of expertise, but is also quick to identify issues and understand the business concerns. She and her team provide clear and practical advice, formulated practical strategies and recommendations which are easy to understand. We receive extremely effective and responsive support from her." – The Legal 500 Asia Pacific 2023
- "*Irene Yong is extremely efficient and well informed of the topic at hand. Highly dependable and was a great support in resolving our tax issue.*" – The Legal 500 Asia Pacific 2022

Who's Who legal

Corporate Tax 2023 – National Leader

APPOINTMENTS/MEMBERSHIPS

- Member, Malaysian Bar
- Member, Malaysian Bar Council's Tax Sub-Committee
- Officer of the Taxes Committee, International Bar Association (IBA)
- Member, International Fiscal Association (IFA) and its Malaysian Branch
- Malaysian representative, Women of IFA Network (WIN)
- Member, International Tax Planning Association (ITPA)

PUBLICATIONS

- One of the authors of Bloomberg BNA's Business Operations in Malaysia
- Contributed to Tax Planning International Asia-Pacific Focus and Tax Planning International Indirect Taxes published by Bloomberg Tax
- Contributed to *The International Tax Review* published by Euromoney Institutional Investor plc.
- Contributed to *The Asia-Pacific Tax Bulletin* published by the International Bureau of Fiscal Documentation in Amsterdam
- Contributed to the Tax Nasional published by the Malaysian Institute of Taxation