



马来西亚中国服务组税务刊物

马来西亚于 2015 年 4 月 1 日实施了消费税。长远而言，消费税有助于提高税收制度的效率、效力和透明度及国家财政收入的稳定性。消费税将向所有马来西亚应税货物及服务（如标准税率供应、零税率供应和豁免供应）及进口货物和服务征税。

作为一个新的税收制度，仍存有模糊不清的部分，因此纳税人应当厘清某些交易的征税（消费税）方式。在此，我们提供您消费税的总体概述、特别规则及刑罚，目的在于协助所有的中国企业更加了解马来西亚的消费税制度。

马来西亚消费税须知

1	总体概述	<p>马来西亚于 2015 年 4 月 1 日实行消费税，且法定税率为 6%。原理上，马来西亚的消费税制度类似于中国的增值税制度。</p> <p>在马来西亚，马来西亚皇家关税局（“关税局”）为消费税的管理机构。2014 年消费税法令主要提供征收和收取消费税及相关的事项。同时，马来西亚政府也颁发了与消费税法制有关的 2014 年消费税条例及指令。</p> <p>所有公司可到消费税的官网，www.gst.customs.gov.my 索取与消费税有关的资料及教材。各类的消费税准则及关税局局长判决都可在此官网查找。</p>
2	税务范围	<p>消费税是种多级基础广泛的消费税，主要基于增值概念，即向所有马来西亚应税货物及服务征税，除了些授予特别豁免或减免的供应。马来西亚的进口货物及服务是须缴付消费税。</p> <p>消费税于供应链的每个阶段收取。此税不应被视为业务上的成本，因为公司是可索回所投入物资的进项税额。基于此机制，此税最终将转嫁给消费者负担。</p>
3	运作	<p>与中国的增值税相似，在特定的应税月度，应税实体在采购过程中所产生的进项税是可抵扣施加在供应上的销项税。如销项税高于进项税，则须在征税期后的一个月内向关税局缴付剩余的税款。</p>
4	退款	<p>如进项税额超出销项税额，纳税人将有权申请退款。如是透过官网电子提交消费税申报，进项税的退款将于关税局局长收到消费税申报的 14 个工作日内退还。如非电子提交消费税申报，进项税的退款则将于关税局局长收到消费税申报的 28 个工作日内退还。任何消费税注册公司都有权选择将进项税额结转至下个征税期。</p>
5	注册门槛	<p>如纳税人的营业额超出马币 50 万令吉的法定门槛，则须依据消费税法令进行注册。营业额包括了任何在 12 个月里依据历史及未来基准评估的应税供应（标准税率及零税率供应）。</p>
6	供应类型	<p>供应可分成三个种类：</p> <p>标准税率供应 (按 6% 征税) 适用于大多数的货物及服务，这包括建筑服务、商用物业、汽车、建筑材料等的供应。</p> <p>零税率供应 (按 0% 征税) 包括任何的出口货物及在消费税零利率供应指令里具体说明的货物或服务供应，例如出口服务，某些食物，基本水源及电源用量等。</p> <p>豁免供应 包括任何在消费税豁免供应指令里具体说明的货物或服务供应，例如住宅物业的销售及租契、私立教育、医疗保健、公共交通、金融服务等。</p> <p>应税供应包括任何的标准税率或零税率供应。任何在马来西亚消费税法令范围外的供应（如供应商为非纳税人或供应地点在马来西亚境外）都被统称为消费税范围之外供应。“认定供应”可分为不同种类及此类供应也被给予税务减免。</p>
7	供应时间	<p>纳税人在计算销项税时，应早于下列：-</p> <ul style="list-style-type: none">i) 货物搬迁/可运用/执行服务的日期；ii) 税务发票发出的日期；或iii) 获取款项的日期。

		<p>如在税务发票发出前未获取任何款项，且在 21 天内发出发票基于上述条例(i)的情况下，供应时间应为税务发票的日期。</p> <p>当服务供应延长至几个月，甚至几年，即保险、维修费及按周期性制定或收取的款项，持续性服务供应的供应时间将基于早于：-</p> <p>i) 当获取款项时；或</p> <p>ii) 当税务发票发出时。</p>
8	消费税申报(表格 GST 03)的提交 & 消费税的付款	<p>消费税申报须在征税期后的下个月内的最后一天或之前提交。应税供应总值超过马币 5 百万令吉的纳税人须按月提交消费税申报。否则，消费税申报须按季度提交。纳税人须注意的是不管是否存有应付税款，都应当提交消费税申报。缴付消费税的期限与提交消费税申报的期限是相似的。</p>
特别规则		
1	逆向收费	<p>马来西亚建有逆向收费机制，适用于从海外实体雇佣的服务。一般而言，此机制要求纳税人计算在海外雇佣服务的销项税及随后可索回的进项税。</p> <p>依据 2014 年消费税法令第 13 (4) 条文及 2015 年消费税条例 (第 2 号) 的修订，凡在计算销项税及索回进项税时都应需早于：-</p> <ol style="list-style-type: none"> 1. 付款日期；或 2. 由马来西亚供应商或马来西亚境外营业的供应商所发出的任何发票日期。 <p>未进行消费税注册的公司仍需计算任何进口服务的逆向收费。此项收费应需记录在 GST04 表格里，然后再提交及支付款项。GST04 需在逆向收费发生的每个月份提交。</p>
2	合格贸易商方案	<p>较大的出口商可享有在进口时暂缓缴付进口消费税的特许权。在符合所规定的条件及预先取得关税局局长批准下，此方案的参与者可暂缓缴付进口消费税直到消费税申报提交日。在这个时候，此付款金额可抵扣所缴付消费税的进项税。这对合格贸易商方案形成了零现金流量成本。</p>
3	指定地区	<p>根据马来西亚消费税法制，“马来西亚”将不包括指定地区，如纳闽岛、浮罗交怡、刁曼岛。因此，在指定地区境内或介于指定地区之间的货物或服务供应（货运服务除外）将不受消费税的限制及不被征收销项税。</p> <p>逆向收费不适用于在指定地区的任何进口服务，除非是由部长在 2014 年消费税指令（指定地区供应的征税）特别规定须缴付消费税。</p> <p>任何从马来西亚供应至指定地区的货物是零税率的。然而，来自马来西亚的服务供应到指定地区是需缴付消费税。</p> <p>从指定地区供应至马来西亚的货物将被视为马来西亚的进口货物并与其他进口货物享有等同待遇。</p>
4	合格外包制造商方案	<p>合格外包制造商方案是个允许任何合格外包制造商“忽视”任何应属外国委托商货物增值活动的方案。根据合格外包制造商方案，合格外包制造商无需承担由外国委托商与其本地客户（也为合格外包制造商方案注册人）在本地供应中形成的任何消费税。然而，此本地客户需犹如他已在马来西亚的业务过程中或进一步推展业务时，自行供应及购买货物，并以“接收方内部会计”方式计算消费税。</p>
5	消费税减免指令	<p>根据 2014 年消费税（减免）法令，某些人士或类别人士及某些商品将可获取消费税完全减免或任何部分减免。例如，在符合某些条件的情况下，联邦或州政府部门</p>

所购买的所有货物是无需缴付消费税，除了石油及进口车以外。供应给联邦或州政府部门的服务将不可享有减免。

当纳税人供应人士或该类别人士货物或服务时，纳税人将可获豁免有关在供应上需征收及收取的应付税款。此外，已被给予减免的人士应保证所购买的货物（给予减免的）都不应清除、出售、本地转让或计算在内，在税款已付的情况下。

刑罚

1 逾期注册

任何应注册却未进行注册的人士将被处以马币 2 万令吉的罚款。

2 逾期提交申报

任何未能准时提交申报的人士将被处以罚款马币 5 万令吉或监禁不超过 3 年或两者兼施。

3 未缴付税款

任何未能于规定时间内缴付应付税款将被处以:-

a) 罚款马币 5 万令吉或监禁不超过 3 年或两者兼施。

b) 从 2016 年 1 月 1 日起，罚款将基于积欠应付税款的天数计算，如下表所示:-

积欠应付税款的天数	罚款税率 (%)
1 - 30	5
1 - 60	15
1 - 90	25
> 90	25 (最高)

备注：罚款税率将施加在应付税款的原先金额。罚款将从应付税款到期日后起开始计算。

4 不正确/错误申报

任何提供错误申报（如遗漏任何资料、低估任何销项税或高估任何进项税或因提供错误资料而造成自己或他人税务负债）的人士将处以:-

a) 罚款马币 5 万令吉或监禁不超过 3 年或两者兼施；和

b) 如申报被接受为正确的，将处以相等于所低估应付金额的罚款。

5 逃税、诈欺

任何意图逃税或协助他人逃税的人士，将被处以下列罚款:-

a) 初犯者，不少过应付税款 10 倍及不超过应付税款 20 倍的罚款或监禁不超过 3 年或两者兼施；和

b) 第二次或以后再犯，不少过应付税款 20 倍及不超过应付税款 40 倍的罚款或监禁不超过 7 年或两者兼施。



Deloitte Malaysia Chinese Services Group Publication

Goods and Services Tax (“GST”) was implemented in Malaysia on 1 April 2015. In the long run, GST will help in improving the efficiency, effectiveness, transparency of the taxation system and the stability of the nation’s revenue collection. GST shall be levied and charged on the taxable supply of goods and services (e.g. standard rated supplies, zero-rated supplies and exempt supplies) made in Malaysia and also the importation of goods and services.

Being a new tax system, there are ambiguous areas and hence taxpayers are encouraged to seek clarification on GST treatment of certain transactions. Herewith, we provide you with the general overview, special rules and penalty for offences in respect of the GST, aiming at assisting the Chinese businesses to have a better understanding in the Malaysia GST system.

Goods and Services Tax (“GST”) in Malaysia

1	General Overview	<p>Malaysia has implemented Goods and Services Tax (“GST”) on 1 April 2015 and the GST rate as prescribed by the government is 6%. The mechanism of Malaysia’s GST system is similar to that of the VAT system in China.</p> <p>In Malaysia, the Royal Malaysian Customs Department (“RMCD”) is the authority which administers GST. Goods and Services Tax Act 2014 (“GST Act 2014”) provide for the imposition and collection of goods and services tax and for matters connected therewith. GST Regulations 2014 and GST Orders are also issued by the government in connection with the GST legislation.</p> <p>Businesses can obtain information and educational materials regarding GST from the GST Portal at www.gst.customs.gov.my. There are various GST guidelines and Director General’s decisions published by RMCD in the GST portal.</p>
2	Scope of Tax	<p>GST is a multi-stage broad base consumption tax based on value-added concept charged on all taxable supplies of goods and services in Malaysia except supplies that are specifically exempted or given relief. Importation of goods and services into Malaysia is also subject to GST.</p> <p>GST is collected at every stage of the supply chain. The tax should not be a cost to the businesses as they are able to claim input tax credit for GST incurred on the inputs. With this mechanism, the tax is ultimately passed on to the final consumer.</p>
3	Mechanism	<p>Similar to China’s VAT, input tax incurred on the purchases made by a taxable entity can be set off against the output tax levied on the supplies it has made for a particular taxable month. Where the output tax is higher than the input tax, the net amount is payable to the RMCD within one month from the end of the taxable period.</p>
4	Refund	<p>Where there the amount of input tax exceeds the amount of output tax, a taxable person would be entitled to a refund. The refund of the input tax credit shall be made within 14 working days, after the GST return is received by Director General if the GST return is filed through the online portal (i.e. Taxpayer Access Portal). Where the GST return is filed manually, the refund shall be made within 28 days after the GST return is received by the Director General. Any GST registered business has the option to carry forward the input tax credit to the next taxable period.</p>
5	Registration Threshold	<p>A taxable person is required to register under the GST Act if their turnover exceeds the turnover threshold of RM 500,000. Turnover consists of any taxable supplies (standard rated and zero-rated supplies) made over a rolling twelve month period that is assessed on a historic and prospective basis.</p>
6	Types of Supply	<p>For the purposes of the GST Act, there are three categories of supplies:</p> <p>Standard Rated supplies (taxed at 6%) applying to the majority of goods and services including the supply of construction services, commercial properties, motor vehicles, building materials etc.</p> <p>Zero-Rated supplies (taxed at 0%) which include any export of goods and any supply of goods or services specified in the GST Zero Rated Supplies Order such as exported services, certain food items, basic levels of water and electricity use etc.</p>

		<p>Exempt supplies which include any supply of goods or services specified in the GST Exempt Supplies Order such as sale and lease of residential property, private education, healthcare, public transport, financial services, etc.</p> <p>Taxable supplies consist of any standard rated or zero-rated supplies. Any supplies that fall outside of the scope of the Malaysian GST Act (e.g. supplier is not a taxable person or the place of supply is outside of Malaysia) are referred to as 'out of scope supplies'. There are also various categories of 'deemed supplies' and supplies for which relief from taxation is provided.</p>
7	Time of Supply	<p>The time at which the taxable person should account for the output tax is the earlier of the following:-</p> <ol style="list-style-type: none"> i) Date where goods are removed / made available / services are performed; ii) Date when tax invoice is issued; or iii) Date when payment is received. <p>Provided there is no payment received prior to the tax invoice issuance, where the tax invoice is issued within 21 days from the condition (i) above, the time of supply shall be the date of tax invoice.</p> <p>Where the supply of services stretches for a period of several months or even years, e.g. insurance, maintenance services, and the payment is determined or received periodically, the time of supply for continuous supply of services will then be based on the earlier of:-</p> <ol style="list-style-type: none"> i) When payment is received; or ii) When tax invoiced is issued.
8	Filing of GST 03 return & Payment of GST	<p>A GST return shall be furnished not later than the last day of the month following after the end of his taxable period. Taxable person with total value of taxable supplies which exceeds MYR 5,000,000 will need to file the GST return <i>monthly</i>. Otherwise, the GST return would be filed <i>quarterly</i>. Taxable persons should note that the GST return is required to be filed regardless of whether or not there is GST to be paid. The deadline to pay the GST due and payable is similar to the deadline of filing a GST return.</p>
Special Rules		
1	Reverse Charge	<p>Malaysia has a reverse charge mechanism which would be applicable to <i>acquisition of services from a foreign entity</i>. Generally this mechanism requires a taxable person to account for output tax on the foreign acquisition of service and subsequently input tax credit could be claimed.</p> <p>Pursuant to the amendments made under Section 13(4) of GST Act 2014 and GST (Amendment) (No. 2) Regulations 2015, the time to account for the output tax and claim for input tax would be the earlier of:-</p> <ol style="list-style-type: none"> 1. The date when payment is made; or 2. The date when any invoice is issued by the supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia. <p>Businesses not registered for GST would still need to account for a reverse charge on any imported services. These would be captured, reported and paid via the submission of a GST 04 form. The GST 04 is required to be submitted for each month a reverse charge occurs.</p>
2	Approved Trader Schemes ('ATS')	<p>A special concession exists for large exporters to receive relief from paying import GST at the time of import. Subject to meeting the prescribed conditions and receiving prior approval from the Director General, the participant in the</p>

		<p>scheme can defer payment of the import GST until the filing date of the GST Return. At this point it can offset this payment amount with a corresponding input tax credit for the GST paid. This results in a nil cash flow cost to the ATS.</p>
3	Designated Areas (“DA”)	<p>Under the Malaysia GST legislation, “Malaysia” excludes the DA comprising Labuan, Langkawi or Tioman. Hence, supplies of goods or services (except for freight services) made within or between a DA are disregarded for GST purposes and no output tax is collected.</p> <p>Reverse charge does not apply to any imported services into a DA, unless specifically prescribed by the Minister in the GST (Imposition of Tax for Supplies in respect of Designated Areas) Order 2014 to be subject to GST.</p> <p>Any goods supplied from Malaysia to designated areas are zero-rated. However, services supplied from Malaysia to designated area are subject to GST.</p> <p>Goods supplied from a DA to Malaysia are deemed to be imported into Malaysia and are treated in the same manner as another importation into Malaysia.</p>
4	Approved Toll Manufacturer Scheme (“ATMS”)	<p>ATMS is a scheme which allows any approved toll manufacturer to disregard any value added activity on the goods belonging to an overseas principal. Under ATMS, the approved toll manufacturer need not bear any GST on the local supply made by the overseas principal to its local customer who is also registered under the ATMS. However, such local customer will need to account for GST by way of ‘recipient self-accounting’ as if he had himself supplied and acquired the goods in Malaysia in the course or furtherance of his business.</p>
5	GST Relief Order	<p>Under the GST (Relief) Order 2014, a certain person or class of persons and certain goods are relieved from payment of whole or any part of GST. For example, the Federal or State Government Department are given relief on payment of GST on the acquisition of all goods excluding petroleum and imported motor cars, subject to certain conditions. Services supplied to the Federal or State Government Department are not given relief.</p> <p>When a taxable person supplies goods or services to such person or class of persons, the taxable person shall be relieved from charging and collecting tax due and payable on the supply. Apart from that, person who has been granted relief shall ensure that the goods acquired which are given relief shall not be disposed of, sold, transferred locally or not accounted for, on the conditions that the payment of the tax has been made.</p>

Penalty for Offences

1	Late registration	Any person who is liable to be registered but fail to register commits an offence and a fine of not exceeding RM20,000 will be imposed.
2	Late submission of return	Any person who fails to furnish the return commits an offence and shall liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or to both.
3	Non Payment of Tax	<p>Any person who fails to pay the amount of tax due and payable by the stipulated period shall be liable:-</p> <p>a) to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or to both; and</p> <p>b) with effect from 1/1/2016, to a penalty which is calculated based on the number of days the tax due is not paid as per the table below:-</p>

Number of Days Tax Due is Not Paid	Rate of Penalty (%)
1 - 30	5
1 - 60	15
1 - 90	25
> 90	25 (maximum)

Note: The rate of penalty will be imposed on the original amount of the tax due and payable. It shall begin after the last day when the tax is due.

4 Incorrect Return

Any person makes an incorrect return by omitting from the return any information, understates any output tax or overstates any input tax in a return or give any incorrect information in relation to any matter affecting his own liability to tax or the liability to tax of any other person, and shall be liable:-

- a) to a fine of not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or to both; and
- b) to a penalty equal to the amount of tax which has been / would have been undercharged if the return had been accepted as correct.

5 Evasion of tax, fraud

Any person who with intent to evade or to assist any other person to evade tax, the following fine shall be imposed:-

- a) For the first offence, to a fine of not less than 10 times and not more than 20 times the amount of tax or to imprisonment for a term not exceeding 5 years or to both; and
- b) For a second or subsequent offence, to a fine of not less than 20 times and not more than 40 times the amount of tax or to imprisonment for a term not exceeding 7 years or to both.

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