



## 德勤马来西亚中国服务部

### 马来西亚企业的消费税成本管理

#### 介绍

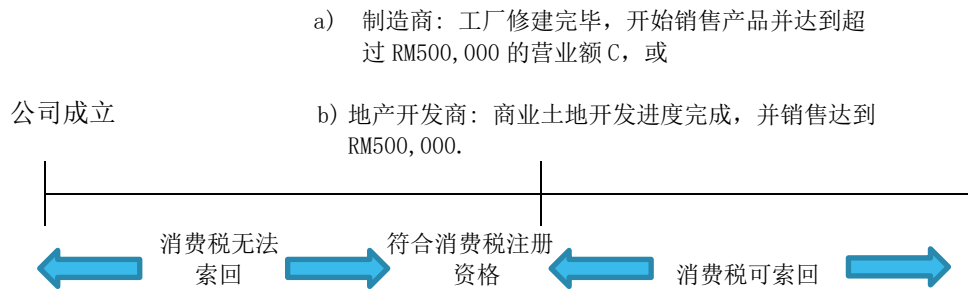
2016年，中国已成为马来西亚制造业主要投资来源国，33个项目获批准，总价值约48亿马币，与2015年17个总价值约19亿马币的获批准项目相比无疑取得了突飞猛进的增长。我们也见证了大量中资地产开发项目的进行。由于此类项目通常需要经过长期的建设与发展，消费税很可能将会成为其中一项隐形成本，潜在投资者们需对其特别留意。

#### 马来西亚企业的消费税注册前消费税成本管理

企业在正式开展经营前发生的采购将产生6%的消费税。例如：制造业公司会在购买商业用地和修建厂房上产生大量的消费税，地产开发商也会面对相似的情况。为了将产生的消费税作为进项税抵扣，一个关键的考虑因素在于消费税成本产生的时间和完成消费税注册的时间。一般来说，在完成消费税注册之前产生的消费税成本是无法抵扣的。

#### 消费税注册与消费税成本

当一家企业在一年中应征供应产生的营业额（例如：工厂开始生产后的销项税，商业地产开发的进度结算等）超过50万马币，该企业将有义务进行消费税注册。而对于不满足于此营业额要求的企业，自愿申请消费税注册将是另一个选择，尽管如此，自愿注册能否获批完全取决于关税局的决定。在实际情况中，关税局通常要求完成消费税注册者在注册后的12个月内开始产生应征的供应。



由于一些新成立的企业在成立后的头几个月（甚至几年）内可能无法产生应纳税供应，因此无法达到消费税义务注册的要求。而且，加上实际情况中关税局将企业需在 12 个月内产生应纳税供应作为给予消费税注册批准条件的做法，使得各企业更加难以收回其消费税成本。

不过，关税局对某些企业放宽了消费税注册的要求标准。在这类特殊情况下，通常会需要企业能够提供一些特殊的支持文件，这些支持文件可能包括：采购订单、销售发票、或在经营初期无法提供的合同等。因此，对于某些企业而言，未开始正式营业前产生的消费税成本似乎难以收回。

### 管理进项税成本

尽管如此，消费税法令允许企业在满足特定条件的情况下将未进行消费税注册之前所产生的进项税税额进行抵扣。相关条件包括但不限于：

- 1) 针对已产生的进项税进行抵扣需从关税局获得书面批准信函
- 2) 进项税的产生必须源自采购货物（但是关税局特许将服务包含在内，前提是根据获批准的马来西亚会计准则 2 将其服务费用资本化为货物的一部分，成为一项资本性资产）
- 3) 货物没有使用或纳入其他货物

实际情况中，可能有企业设想利用已注册消费税的公司来达到减轻消费税成本的特殊目的，换言之，即运用此类公司先行抵扣，在另一家新公司的消费税最终注册成功后才对其收款。虽然可能表面上可行，但上述操作将可能受到关税局的激烈质疑。

### 结论

投资者应该将消费税作为关键的筹划考虑因素之一，从而得以合理应对消费税相关风险。此外，同样重要的是，企业应该在成立初期就积极寻求关税局的介入，从而更好的把握关税局对于其消费税注册问题的预期要求和管理可能产生的消费税成本。

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## **Deloitte Malaysia Chinese Services Group Publication**

### **Managing GST costs for business set-ups**

#### **Introduction**

In 2016, China was the main source of foreign investment into Malaysia's manufacturing sector with 33 approved projects worth RM4.8 billion. This is a significant increase compared to 2015 with 17 approved projects worth RM1.9 billion. We also witnessed a line of property development projects undertaken by Chinese developers. As these undertakings generally involve substantial investment at the initial stages which eventually gives rise to the Goods and Services Tax (GST) exposure, attention should be given by the prospecting investors.

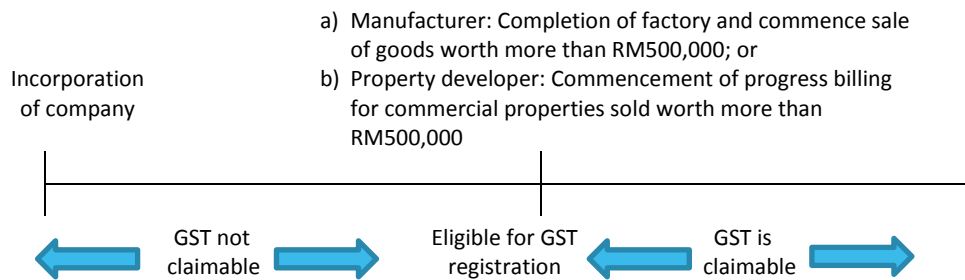
#### **Managing pre-GST registration GST costs for business set-ups in Malaysia**

Businesses will incur 6% GST on acquisitions made prior to commencement of business. For example, a manufacturing company will incur GST on its purchase of commercial-use land and cost of constructing its factory. A property developer will also incur such cost. In order to claim the GST incurred as input tax credit, one of the key considerations is the timing of GST registration and incurrence of said cost. Generally, GST is not claimable if the cost is incurred prior to GST registration.

#### **GST registration and GST as a cost**

A person will be liable for mandatory GST registration, provided their annual turnover of taxable supplies (e.g., factory output, progress billing for commercial properties, etc.) exceeds RM500,000. Those that are unable to satisfy the GST registration threshold of RM500,000 may opt for voluntary GST registration, although this will be at the

discretion of the Royal Malaysian Customs Department (RMCD). In practice, the RMCD would generally require a business to make taxable supplies within a period of 12 months from the date of GST registration.



As some newly established businesses may be unable to make taxable supplies for the first few months (or even years) after its incorporation, they are unable to fulfil the requirements for mandatory GST registration. Further, with the RMCD's practice of approving GST registration of businesses which make taxable supplies within 12 months, this would cause great difficulty for businesses to recover its GST costs.

Nonetheless, the RMCD has relaxed its GST registration criteria for certain businesses. In these exceptional cases, it is usually subject to the business' ability to produce specific supporting documents. Such documents may include purchase orders, sales invoice or contracts which may not be available during the early stages of a business set-up. Hence, it may seem unlikely for certain businesses to recover their GST costs incurred prior to business commencement.

### **Managing input tax costs**

The GST law may allow GST incurred prior to a business' GST registration to be claimed such as input tax credit – subject to conditions. Such conditions may include:

- 1) Having to obtain written approval from the RMCD to claim such GST incurred;
- 2) The input tax must relate to the acquisition of goods (though the RMCD have provided a concession to include services on the basis that such expenses are capitalised as part of the goods, as capital asset under an approved Malaysian accounting standard); and
- 3) The goods are not used or incorporated into other goods.

There may be businesses that conceive an intention to utilise a registered special purpose company to cushion the potential GST expenses by first claiming them and then re-charging another newly set-up business when it is finally GST-registered. Any such practice could be subject to vigorous challenge by the authorities.

### **Conclusion**

It is crucial for prospective investors to include GST as one of its key planning considerations so as to anticipate the potential GST exposure. Additionally, it is also equally important that the RMCD be engaged at the initial phases of

the business setup in order to manage the RMCD's expectations with respect to the registration and the potential GST costs that arise.

For further information, please contact us (see below).

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