



Tax Espresso (Special Edition 2.0) Post-Budget 2015 GST Orders

Greetings from Deloitte Malaysia's Tax services group

Executive Summary

On 13 October 2014, the following orders were gazetted:

1. Goods and Services Tax (Zero-Rated Supply) Order 2014 ('Zero Rated Order')

Quick links:

[Deloitte Malaysia](#)

[Official Website of Malaysia GST](#)

Takeaways:

Post-Budget 2015 GST Orders

2. Goods and Services Tax (Exempt Supply) Order 2014 ('Exempt Supply Order')
3. Goods and Services Tax (Relief) Order 2014 ('Relief Order')

The release of the final versions of the exempt and zero-rated supply orders coupled with the relief order gives some much needed certainty to taxpayers in the lead up to GST implementation. There are plenty of concessions included for consumers, charities, education, medical and the public sectors. A glaring omission via-a-vis the 2015 Budget Speech is that the Relief Order does not gazette the proposed GST relief on the retail sale of RON95 petrol, diesel and LPG; we expect these items to be granted GST relief in due course. The introduction of these wide concessions will be welcomed by the Rakyat.

However, with these concessions there is added complexity for businesses, as more work will be required to correctly identify when and when not to charge GST and also to determine the corresponding recoverable input GST (where the output supply is exempt from GST under the Exempt Supply Order).

The Zero Rated and Exempt Supply Orders are the final version of the draft orders that were released with the 2014 Budget. The implication of zero-rating and exempt supplies is that these goods and services are not subject to GST. For supplies subject to zero rating, the supplier is entitled to recover the GST on any purchases made in relation to the supply of those goods and services. This will mean that all the GST that has been paid throughout the supply chain to get the goods to the final supply is refunded to the supplier so that the purchaser pays absolutely no tax on the goods or services. However, for exempt supplies, the supplier is not entitled to recover the GST on any purchases made. In contrast to zero-

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– 13 November 2014 @
Weil Hotel

Important deadline:

GST registration deadline:
31 December 2014

rating, this means that the GST that has been charged throughout the supply chain is retained, however no GST is charged on the value that has been added by the last supplier (usually the cost of his input plus his profit), but the GST on the supplier input costs is still passed on.

The Relief Order represents supplies of goods and services that would normally be subject to GST but the Government has specifically determined that particular taxpayers (largely the Government itself and some charitable entities) are not required to collect and pay the GST.

We have summarized below the key changes of each order, as follows.

Zero Rated Order

Summary of key changes to items in the earlier draft Zero Rated Order

- The threshold limit of supply of electricity to domestic consumers is increased from 200 units to 300 units.
- Supply of family takaful contract where the coverage wholly relates to the risk outside Malaysia is also now zero-rated.
- Services of loading, unloading, handling or storage of goods in Inland Clearance Depot are not zero rated.
- Zero rated handling services in respect of goods (carried or to be carried by a ship or aircraft) by a port or airport operator in a port or airport are now defined in the zero rated order.
- The earlier draft zero rated order excluded from zero rating (i.e. subjected to GST) services supplied to a person outside Malaysia directly relating to “securities or unit trusts” traded in Malaysia. The scope of the exclusion has been expanded to include all “capital markets products” which would

result in more services being subjected to GST.

Summary of new items that were not in the earlier draft Zero Rated Order

- Certain terms such as ship, aircraft are now defined under the Zero Rated Order.
- Belonging status of a person (recipient) in a country other than Malaysia is now explained, to determine the place of recipient of services. Primarily the belonging status would be based on the recipient's place of business or fixed establishment or usual place of residence.
- Medicaments and medical gases which are specified in the National Essential Medicines List (NEML) issued by the Ministry of Health and approved by the Minister and put up in measured doses or in forms of packaging for retail sale. The website of the Ministry of Health (Pharmaceutical Services Division) has the NEML (which includes paracetamol – the common medicine that gives relief from fever and pain/headaches, including those caused by GST!). But it should be noted that the zero rating is for items in the NEML “put up in measured doses or in forms of packaging for retail sale”.
- Salvage services supplied in relation to aircraft is now included. Previously, this only applied to salvage services supplied to a ship.
- Global hubbing services for international remittances and inward remittance transactions.
- Supply of online services for newspapers.
- A number of new products have been added to the list of zero-rated goods, which include the following (described in summary and subject to the classification under the HS codes in the First Schedule to the Customs Duties Order 2012):

Chapter Heading	Description of products
Edible vegetables and certain roots and tubers Vegetables	<ul style="list-style-type: none">• Lentils (Dhall)

Edible fruits and nuts, peel of citrus fruit or melon	<ul style="list-style-type: none"> • Coconuts • Bananas (including plantains, fresh or dried), Fresh dates, figs, pineapples, avocados, guavas, mangos, mangosteens • Fresh oranges, mandarins, grapefruits, lemons, lime etc. • Fresh grapes • Fresh melons, watermelon, papayas, Mardi backcross solo • Fresh apples, pears, quinces • Fresh apricots, cherries, peaches, plums, sloes • Fresh strawberries, raspberries, blackberries etc., kiwi fruit, durians, star fruits etc.
Cereals, flour, starch, or milk, pastry cooks products	<ul style="list-style-type: none"> • rice vermicelli (bee hoon) – whether or not cooked or otherwise prepared (but not stuffed) • noodles (mee kuning) – uncooked, not stuffed or not otherwise prepared • laksa and kuey tiaw – whether or not cooked or otherwise prepared (but not stuffed) • White breads and wholemeal bread (not containing fruits, nuts and seeds)
Coffee tea and spices	<ul style="list-style-type: none"> • Coffee, roasted • Green tea (not fermented), black tea (fermented) and other partly fermented tea
Miscellaneous edible preparation	<ul style="list-style-type: none"> • Extracts, essences and concentrates of coffee, tea
Books and periodicals	<ul style="list-style-type: none"> • Exercise books, dictionaries and encyclopedias, reference books, student text books, reference book, work books, religious text, newspapers, children’s picture, drawing or coloring books

Exempt Supply Order

Summary of key changes to the items in the earlier draft Exempt Supply Order.

Goods:

- Land used for residential or agricultural purposes or general use was proposed to be exempted in the earlier draft exempt supplies order. Now, any land “intended to be used or to the extent of it being used” for the above purpose would also be exempt.
 - The inclusion of the words “designed, adapted or intended to be used” has broadened the above

exemption. This would mean that the physical characteristics of the property and its use are now relevant to determine the GST treatment. The words 'extent' is used to allow apportionment for mixed-use properties.

- Land used for hunting and fishing activities would not be exempt.
- Parking facilities which is ancillary to the supply of residential building would be exempt.
 - The broadening of the scope to include parking facilities would now mean that car parks included with the sale of residential properties are unlikely to be subject to GST.
- Any building/premises used for residential purposes, designed or adapted for use or intended to be used as dwelling, has been provided exemption. However, such exemption does not cover hotel, inn, boarding houses or similar establishments providing sleeping accommodation which are used or held out as being suitable for the use of visitors or travelers.
 - The specific exclusion from exemption for hotels, inns and similar establishments that provide accommodation to travellers and visitors may have broader application to other short-term stay housing premises.
- Supply of certain investment precious metals such as-gold, silver, platinum and coins of such metals; have been exempted, subject to fulfilment of specified conditions.

Services:

i) Financial services

- The operation of any current, deposit or saving account was exempted earlier. Now, the operation of any investment account has also been granted exemption.
- The definition of derivatives has been changed and definition for 'futures contract' has been added.
 - The definition of derivatives has been changed and it no longer refers to a security. This was a direct result of submissions made by Deloitte to have the definition changed to prevent any risk of derivatives that were not securities from being subject to GST.

ii) Education services

- The scope of education service providers has been broadened to include private child care service providers in addition to private pre-school, private primary and private secondary school service providers, as per the specified laws and enactments.
- The scope of tertiary education service providers has also been broadened to include those registered under the Education Act 1996 and the University Technology Mara Act 1976. Earlier, this exemption was only proposed to be granted to **private** higher educational institutions registered under two laws only i.e. the Universities and University Colleges Act 1971 and the Private Higher Educational Institutions Act 1996.
- Private educational institutions registered under the Education Act 1996 providing tuition classes, training in language, computer, skills, vocation, profession or trade or commerce, mind enrichment and guidance centers, have been excluded from the purview of “educational institution” and are therefore, taxable.
- ‘Education and related education services’ that have been granted exemption would now include:
 - Services in relation to transportation of students. Earlier, services of ‘transport’ bearing any relation to provision of educational services were proposed to be exempted.
 - Administrative services directly related to the supply of education. Earlier, such exemption was proposed to be granted to all administrative services.
- ‘Education and related education services’ would now exclude services in relation to supply of curriculum and hence, such service would be taxable.

iii) Healthcare services:

- ‘Healthcare services’ that have been granted exemption include:
 - Food services provided to patient by the registered or licensed healthcare facilities. Earlier, food services provided in general for the purposes of healthcare services were exempt.
 - Any services provided by any healthcare para-professionals.
 - Any mortuary services provided by the registered or licensed healthcare facilities.
- ‘Healthcare services’ now exclude any related healthcare services including the supply of drugs

and medicines (excluding medicines listed under NEML), hemodialysis services and blood bank services. These services would now be taxable.

iv) Services in relation to land or building used for residential, agricultural or general purposes:

- The grant of any interest or right over land or any license to occupy land used for hunting and fishing activities would not be exempt.
- Letting or leasing of any parking facilities which is ancillary to the supply of residential building, would be exempt.
- The grant of any interest or right over land or any license to occupy land or building for residential purposes where the land is designed or adapted for use or intended to be used as dwelling excluding any hotel, inn, boarding houses or similar establishment providing sleeping accommodation.
 - There is a specific exclusion from exemption for hotels, inns and similar establishments that provide accommodation and this may have broader application to other short-term stay housing.

v) Accommodation services:

- The proposed exemption on accommodation services for duration of 28 days or more has been withdrawn. Accordingly, any grant of any right or of any license to occupy hotels, inns, boarding houses, serviced apartments, shop apartments etc. would be taxable (see above point on services in relation to land or building etc).

vi) Transport services:

- Airport taxi and luxury taxi have now been granted exemption.

vii) Supplies made by Societies and Similar Organizations:

- The proposed exemption for the supply of any goods or services by certain societies or similar organizations to its members, has been withdrawn. Hence, such supplies would be taxable unless they fall within 'nominal value' supplies by such societies under the Second Schedule to the GST Act 2014 (which are deemed to be NOT supplies of goods or services).

Relief Order

The Minister has determined the persons who are granted GST relief on the acquisition of specified goods (subject to conditions) - see table below. Persons and goods not granted GST relief would be subject to GST. A significant point is that relief is granted on supplies to the Government of all goods (excluding petroleum).

Persons	Goods
The King and Rulers	All goods excluding petroleum
Federal and State Government Departments	All goods excluding petroleum and imported motor cars
Public higher educational institution	Equipment and materials
Private educational institution for childcare, pre-schools, primary and secondary schools Secondary schools Private higher educational institution	Multimedia equipment directly used as a teaching aid Equipment for science and linguistic laboratory Tools and equipment for technical or vocational studies Chemicals, solution and gas for the use in science laboratory
Private hospital	Medical equipment
Private charitable entity for persons with disabilities	Artificial limbs, wheelchair, pick-up sticks, specialize footwear, hearing aid, low vision aid, white canes for blind people
Private charitable entity	Goods excluding motor vehicles and petroleum
Any person entering Malaysia	Used portable articles other than household effects
Any person	Goods from principal customs area sent to designated area for repair or reprocessing and subsequently returned to principal customs area Personal and household effect excluding motor vehicles

The importer	<p>Goods imported into principal customs area for repair and subsequently re-exported</p> <p>Production samples</p> <p>Pallets and empty containers including bottles, drums, flexi-bags and cylinders exported and subsequently re-imported</p> <p>Pallets and empty containers including bottles, drums, flexi-bags and cylinders imported for the purpose of refilling with goods and subsequently re-exported</p> <p>All goods in transit</p>
The exporter	Goods exported and subsequently re-imported for repair or reprocessing
Any public body	Goods taken as sample for regulatory and enforcement purposes
Any person importing goods using air courier services	All goods excluding cigarette, tobacco and intoxicating liquor with total value not exceeding RM500 per consignment and imported via specified international airports in Malaysia.
<p>The Malaysia-Thailand Joint Authority (MTJA)</p> <p>The joint operating company (JOC) and the venturers of the production sharing contract signed with MTJA</p>	Goods under the Joint Development Area (JDA) Master Exemption List which will be used directly in the JDA

- The Minister has also determined that the following persons **are not required to charge and collect GST** on the supply of the following goods and services (subject to conditions):

Persons	Goods / Services
Any person	Supplies made in a fund raising event
Developer or land owner	Supply of land by the developer or land owner to the government, local authority or any other person in compliance of the requirement by the Government or local authority for the purpose of providing public amenities and public utilities for no consideration or for a nominal value
Duty free shop licensed under the Customs Act 1967	All goods supplied at a duty free shop

Any person

Goods and services supplied within Joint Development Area (JDA)

- The goods that qualify for zero rating under the Zero Rated Order are granted GST relief on importation by the importer.

The above commentaries were prepared by the following panel:



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