



Indirect Tax

GST Chat

All you need to know

Issue 06.2017

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Greetings from Deloitte Malaysia's Indirect Tax Team

Hello everyone and welcome to the June instalment of GST Chat.

To start off, the team would like to wish you Selamat Hari Raya Aidilfitri and may it be a joyous and wonderful celebration.



Entering the festive month of June, we have seen a number of changes made by the Royal Malaysian Customs Department ("RMCD"), including amendments to the Zero Rated Order and updates to various GST guides. As usual, we have prepared bite size updates for your reading pleasure. Due to the number of guides updated in June, we will cover these in our July edition.

On top of that, there has been a lot of publicity regarding the soon to be implemented Tourism Tax. We will also provide some of other thoughts on how the new tax would operate.

Here is also some recent news and developments that may interest you:

- It was reported that The Domestic Trade, Cooperatives and Consumerism Ministry had inspected 5,673 retailers to curb profiteering among businesses during this fasting month. Minister Datuk Seri Hamzah Zainuddin said the operation was aimed at ensuring that businesses comply with the price control scheme for Ramadan and for the upcoming Raya celebration. The 10 items listed under the scheme include eggs, nuts, coconuts and flour.
- It was reported that a number of food business are capping daily sales at RM1,400 to avoid having to collect GST. Selangor and Federal Territory Ku Su Shin Choong Hung Restaurant Association states that a number of Food business operators has resorted to such measure to avoid hitting a yearly taxable income of RM500,000 that compels them to be registered for GST.

I hope you will find this month's GST chat helpful and please do not hesitate to contact us if you have any queries, comments or require our assistance.

Kind regards,

Tan Eng Yew
GST and Customs Country Leader

1.Changes to the Goods and Services Tax Orders

Amended Orders

[Goods and Services Tax \(Zero-Rated Supply\) \(Amendment\)\(No.1\) Order 2017 \("First Amendment Order"\)](#)



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The Goods and Services Tax (Zero-Rated Supply) 2014 ("ZR Order") was amended twice in a short span of one week. The First Amendment Order which came into effect (retrospectively) on 1 April 2017, amended paragraph 4 of the Order to state that the classification of goods specified in the First Schedule shall comply with the General Rules for the Interpretation of the Harmonized System under the International Convention on the Harmonized Commodity Description and Coding System as specified in paragraph 4 of the Customs Duties Order 2017.

In addition to that, the Appendix to the First Schedule of the ZR Order was also substituted with new content.

[Goods and Services Tax \(Zero-Rated Supply\)\(Amendment\)\(No .2\) Order 2017 \("Second Amendment Order"\)](#)

The Second Amendment Order which would come into effect on 1 July 2017 further amended the Appendix of the First Schedule and we see the removal of quite a number of tariff codes, mainly vegetables such as sweet corn, beans, olives, etc.

In addition, the descriptions in the tariff codes below were also further amended:

Tariff Codes	Amendments
0302.39.00 00	Removal of the words "swordfish (Xiphias gladius)"
0302.59.00 00	Removal of the words "eels (Anguilla spp.)"
0303.19.00 00	Removal of the words "eels (Anguilla spp.)"
0303.49.00 00	Removal of the words "swordfish (Xiphias gladius)"
0304	Removal of the words "eels (Anguilla spp.)"
0304.51.00 00	Removal of the words "eels (Anguilla spp.)"

0304.59.00 00	Removal of the words "eels (Anguilla spp.)"
0304.93.00 00	Removal of the words "eels (Anguilla spp.)"
0305.31.00 00	Removal of the words "eels (Anguilla spp.)"
0305.52.00 00	Removal of the words "eels (Anguilla spp.)"
0305.54.00 00	Removal of the words "swordfish (Xiphias gladius)"
0305.64.00 00	Removal of the words "eels (Anguilla spp.)"
0307.49.29 00	Removal of the words "Octopus (Octopus spp.)"
0901	Inserted the following in the description "- Coffee, roasted: (shall contain solely coffee and shall not include sugar, creamer, sweetener and the likes, whether mixed or packed together or separately)"
1902.19.20 00	Descriptions relating to this tariff is substituted for the description "- Rice vermicelli (including bee hoon) (not containing other ingredient, seasoning or flavouring, or packed together or separately with other ingredient, seasoning or flavouring)"
1902.19.90 00	Descriptions relating to this tariff is substituted for the description "- Other (laksa and kue tiaw only) (not containing other ingredient, seasoning or flavouring, or packed together or separately with other ingredient, seasoning or flavouring)"

Deloitte Comments

The Second Amendment Order has since been revoked and is no longer relevant. You may access the revocation order [here](#). In view of that, the items mentioned above will continue to be zero rated.

2. Implication on rounding up of decimal points on GST amount for supplies made

The RMCD has provided guidelines with respect to rounding of GST amounts in the revised Guide on Retailing dated 11 March 2016, as follows:

- (a) for fraction of a cent that is 0.005 cent and above, it will be rounded up, e.g., RM2.245 to RM2.25;
- (b) for fraction of a cent below 0.005 cent, it will be rounded down, e.g., RM2.243 to RM2.24.



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Deloitte Comments

In commercial practice, there are two methods on how a system can compute the total GST amount in a tax invoice, when there is more than one supply made, i.e.,:

- (a) Compute GST on a subtotal level; or
- (b) Compute GST on each line item.

Example 1: Compute and rounding of GST amount at the subtotal level

Item	Amount payable excluding GST (RM)
Product 1	741.80
Product 2	1,142.98
Product 3	2,001.09
Product 4	992.05
Product 5	218.65
Product 6	3,217.34
Product 7	2,909.45
Product 8	745.78
Sub-total	11,969.14
GST 6%	718.148
Rounding adjustment	0.002
Total GST payable	718.15

Example 2: Compute and rounding of GST amount at each line item

Item	Amount payable excluding GST (RM)	GST amount (RM)
Product 1	741.80	44.51
Product 2	1,142.98	68.58
Product 3	2,001.09	120.07
Product 4	992.05	59.52
Product 5	218.65	13.12
Product 6	3,217.34	193.04
Product 7	2,909.45	174.57
Product 8	745.78	44.75
Total GST payable		718.16

As depicted in the examples above, the same sale transaction gives different GST amounts depending on the rounding method used. However, there is no further guidance from RMCD on which level the rounding should take place. The rounding differences, on accumulation, may give rise to substantial amounts and this worries some businesses that process thousands of such transactions per day, such as retail stores.

Since there is no clear guidance on which method the RMCD approves of, this may pose an issue as the GST amount will vary depending on the rounding method undertaken and thus, may result in under-declaration of output tax when submitting the GST return.

In Singapore, the Inland Revenue Authority of Singapore (IRAS) has given businesses the option to choose which method they wish to adopt, provided the method is adopted consistently. We hope the RMCD would consider a similar pragmatic approach here, but in the absence of clear guidance this may be a point that is worth confirming with RMCD.

3. Consequences of non-filing of GST returns

If your company has outstanding GST returns that are not submitted to the RMCD, you may find the RMCD officers at your doorstep soon. "Operation CBOS 3.0" launched on 11 April 2017 signifies the third wave of audit activities with the aim of identifying more taxpayers and improving compliance.



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The consequences for not duly submitting any GST return by the stipulated deadline are serious. We share some of our thoughts below.

a) Penalty for late submission

Where a taxpayer fails to submit the GST return, as stipulated under S41(1) of the GST Act 2014 ("the Act"), the taxpayer can be charged under S41(6) of the Act which carries a fine not exceeding RM50,000 or imprisonment up to three years or both.

However, we have observed that the RMCD had exercised more lenient enforcement on taxpayers by issuing nominal compounds such as RM1,000 for the first offence and RM2,000 for the subsequent offence and so on. This seems to be an internal policy that is applied on case-by-case basis. On the other hand, we have also seen court cases with hefty penalty imposed on repeat offenders who disregarded warnings from the RMCD.

b) Risk exposure to GST audit

Any GST return that is not filed on time would put a red flag in the RMCD system. As we have gathered so far, this is an integrated and intelligent system that performs excellent risk management for the RMCD. A taxpayer with history of non-compliance would result in the tax profile being categorised as high risk and hence, a likely subject for audit. In addition, the RMCD has committed to increase the pool of audit subjects as part of the CBOS 3.0 operation.

c) Tax exposure under best judgement assessment

In a situation where a taxpayer has not filed a GST return, the Director General of RMCD (DG) is empowered to assess the amount of tax that is deemed equitable for the taxpayer, based on his best judgment with the information that DG possesses. A Bill of Demand will be generated and payment is required within 14 days from the date of notice.

In any situation of disagreement, payment is likely required first before disputes can be raised. Any amount of tax remaining outstanding would again be subject to further late payment compound up to 40% of the tax amount not paid.

The submission of GST returns is an important element in the GST self-assessment system, with dire consequences for failing to do so on time. Businesses should endeavour to submit their GST returns on time with effective internal preparation and approval processes. In the event of unforeseen urgency compelling the submission of a GST return that was not properly reviewed, a "submit first amend later" approach could be practical, although not encouraged.

4. Snapshot of the Tourism Tax

Over the past month there has been plenty of news surrounding the impending introduction of the Tourism Tax (TTx).

Although the legislation has now been passed, there has been no commencement date set. There has been talk of a possible 1 July or 1 August start date, though the possibility of 1 July start date seems quite challenging at this stage. As there is still a lot of uncertainty surrounding the introduction we have summarised below what we know for sure and what we don't:

What we know for sure:

- The tax would be collected by operators of hotels in Malaysia (including the duty-free islands of Labuan, Langkawi and Tioman) from a 'tourist' on a per night basis;
- A 'tourist' is defined very broadly and includes Malaysians and those who are not travelling for non-leisure purposes;
- 'Accommodation' is also defined very broadly and includes all forms of accommodation; and
- The tax would be administered by the RMCD and operators would need to collect the tax and file periodic returns.

What is unclear:

- The rates. Although it has been reported in various newspapers and briefly on the RMCD website, there is no legislation confirming the final rates. The understanding is that it would be as follows:

5 star: RM20/room/night
4 star: RM10/room/night
1 – 3 star: RM5/room/night
1 – 3 Orchid: RM2.50/room/night
Non rated: RM2.50/room/night



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- The exemptions. Again it has been reported that, amongst others, “Kampung” homestays and accommodation with under 10 rooms would be exempted. There has also been recent news reports to suggest that Malaysians would be exempted from the tax if they stayed at a hotel 3 star or below.
- The treatment of unregistered hotels and operators who conduct business through Airbnb and similar portals and whether these operators would be compelled to register and collect the tax remains unclear; and
- The commencement date. It has been suggested 1 July 2017 would be the start date; however, currently the registration facility is not open. Pursuant to the legislation, an operator would be given 30 days to register and commence collection. As a consequence, the 1 July time-frame may be difficult to meet.

In considering the uncertainty around the mechanics of the TTx, it will be a challenge for hotel operators to take the necessary steps and actions to get ready for the implementation of the TTx. One hopes, that additional time can be given to ensure there is a smoother transition. In considering the Minister has not yet set the commencement date, there is still scope to do this.

We invite you to explore other tax-related information at:
<http://www2.deloitte.com/my/en/services/tax.html>

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