



Indirect Tax

GST Chat

All you need to know

Issue 05.2017

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Greetings from Deloitte Malaysia's Indirect Tax Team

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

As we entered the merry month of May, there was plenty to cheer about, as Deloitte was recognised by the global tax journal, the International Tax Review, as the Asia Pacific Indirect Tax Firm and Malaysia Tax Firm of the year. We thank you, our clients, of course, for your valuable support which undoubtedly contributed to our achievement.



We were also pleased to launch our new technology product, the Deloitte GAF Generator that assists in the production of fully compliant GST Audit Files without significant cost or intervention. If you are interested in hearing about this or our other suite of GST technology products, please reach out to your usual GST contact to arrange a demo.

Below are some other recent news and developments that may be of interest to you:

- It was reported that about 25,000 of the 437,000 GST-registered companies are not sending their payment statements to the Royal Malaysian Customs Department (RMCD). The Director General, Datuk T. Subromaniam has said that 20% of the statements sent by the remaining companies were found to display dubious tax payments. These companies identified are amongst those that would be visited by the RMCD during their 'Operation CBOS 3.0' to review, inspect, advise, instruct and help make corrections if necessary.
- Prime Minister Datuk Seri Najib Razak announced that the RMCD will be corporatised in the near future. It was said that the move to corporatisation would result in a better service scheme and this in turn will raise the productivity of RMCD personnel in carrying out their duties.

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

Kind regards,

Tan Eng Yew

GST and Customs Country Leader

1. GST Technical Updates

Revised Guides

[Tourist Refund Scheme – as at 8 May 2017](#)

The RMCD has recently updated the guide by removing paragraph 8(a) and 8(c), in line with the amendments on Regulation 84 of GST Regulations 2014 which seeks to allow GST refund on liquor, tobacco and tobacco products under the Tourist Refund Scheme (TRS). Such products were not eligible for refund before 1 January 2017.

Deloitte Comments

The changes in the guide are merely a reflection of the recent amendments on GST Regulations 2014 via GST (amendment) Regulations 2016 [P.U. (A) 368]. The relaxation has allowed the mentioned sin products to be eligible for GST refund for eligible tourists. Nonetheless, the guide stopped short in updating the changes made in Regulation 82 of GST Regulations 2014, which states that a person who wholly sells liquor, tobacco and tobacco products would now be eligible to participate in the TRS as an approved outlet.



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Guide on Islamic Banking – as at 26 April 2017

The RMCD had recently revised the Guide on Islamic Banking. In the latest guide dated 26 of April 2017, Tawarruq, also known as Tripartite agreements, have been explained in greater detail in the diagram on the revised "Figure 1" of the guide. The following changes were noted:

Transaction timeline	Changes
Bank purchases commodity from the trader (broker).	Bank is specified to have paid the purchase price and the ownership is transferred to the bank.
Bank sells commodity to the Client at Bank's selling price.	<ul style="list-style-type: none">• Selling price of the bank for commodities is the sum of cost and the profit.• Ownership is transferred to the customer upon sale and the debt is created in the form of deferred sales.
The Client requests the Bank to sell the commodity as their sales agent.	Client is indicated to opt not to take delivery of the commodity and instructs the bank to sell the commodity in the market for immediate settlement.
Bank sells the commodity to a broker.	The brokerage commission charged to the Bank is standard rate.
Bank remits payment to the Client.	The Bank is clarified as acting as an agent when remitting the sales proceeds of the commodity to the Client.
When the Client settles amount due to the Bank.	The amount due is the sum of the cost and profit consistent with the Bank selling price consistent with the amount mentioned above.

Deloitte Comments

The further elaboration of the scenarios above suggests that the RMCD may be imposing additional requirements in order for the transaction to qualify for a certain GST treatment. The possible implications are as below:

GST treatment	Possible requirements to adopt the treatment
Commodity from the broker by the bank is a non-supply.	The Bank may be required to have paid the purchase price and obtained ownership in order for this acquisition to be treated as a non-supply.
Sale of commodity to the Client at the Bank's selling price is an exempt supply.	The Bank may be required to transfer ownership of the commodity to the Client whilst creating a debt in order for the supply to qualify as an exempt supply.
Sale of the Client's commodity in the Market by the Bank is a non-supply.	The Client may have to opt not to take delivery of the commodity and the Bank will have to act as the Client's agent to treat the sale as a non-supply.
Brokerage charged by the broker buying the commodity from the bank is standard rated.	No additional implications to the prescribed treatment.
Bank remits payment to the Client is not a supply.	The Bank may have to act as an agent in order for the remission of payment to the Client to be treated as not a supply.
Payment from Client to the bank.	No additional implications to the prescribed treatment.

Financial institutions involved in Tawarruq transactions should assess the impact brought about by the changes in the guide and make any necessary adjustments required.

2. Important Announcements by RMCD

The RMCD continues to issue important announcements pertaining to the administration of GST on their official website, although the announcements may not be conspicuous and easily missed out. Here are three important announcements that you should be aware of.

[3 March 2017 – GST Refund Audits](#)

The RMCD had announced that GST refunds would now be immediate and that refund applications are unlikely to be subject to an audit unless randomly selected.



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Deloitte Comments

With the announcement above, we should be seeing more refunds being made on time and less hold up due to audit being conducted before each refund is processed. However, we will continue to monitor developments in this area.

[12 April 2017 – Amendments to Registration Details on TAP](#)

In their announcement dated 12 April 2017, the RMCD has updated their system and has allowed certain registration details to be amended through their respective TAP accounts without having to submit a written application.

So far the details allowed to be amended in the manner above are:

1. Business Name
2. Business Address
3. Commence Date
4. Filing Frequency
5. Financial Year End
6. Percentage of Supply

Deloitte Comments

This is once again a positive development as it reduces the hassle faced by many taxpayers who previously had to submit a written application to the RMCD every time they had an amendment made to their registration details.

[9 May 2017 – Remission of Penalty Under Section 62 \(2\) of Goods and Services Tax Act 2014](#)

Registered persons imposed with a late payment penalty may now submit an appeal to the RMCD for remission of the said penalty to the controlling station. The application should be supported by their proof of payment (i.e. original payment slip for manual transactions or receipt of payment for online transactions).

The remission of penalty is subject to the approval of the Director General.

Deloitte Comments

When the automatic late payment penalties first came online, many taxpayers were caught off guard by its sudden implementation and surprised by the 10% compound imposed on a payment that was late by even just one day. This announcement provides an opportunity for registered persons whom have been imposed a late payment penalty to appeal the penalty. The approval for waiver of compound shall be at the sole discretion of the DG.

In summary these updates have provided taxpayers some positive news as the RMCD is slowly driving the GST regime in Malaysia to be less taxing on taxpayers, no pun intended.

3. Payment of GST via cheque near GST due date

The RMCD recently held a briefing at their offices to clarify matters concerning payment of GST and when it is considered effective. This briefing has come after many taxpayers received notification of an imposition of a late payment penalty although they had believed that payment had already been made.

The effective date of the GST payment via cheque differs between the channels used. Payments via cheque made over the counter, cheque deposit machine or other cheque-related transactions through Agent Banks would follow the transaction date, which is when the cheque is presented to the bank. This would mean that the payment would be considered effective on the same transaction date.

For cheque payments made through RHB drop boxes located at the RMCD's Headquarters or at GST Processing Centre (GPC), the payment would be considered to be effective one (1) day after the cheque is presented due to time allocated for collection.

Deloitte Comments

Paying GST near to the due date of a particular taxable period via cheque poses several risks. Effective 1 January 2017 the RMCD is taking a very strict position when it comes to the issue of late payments and the RMCD system will automatically generate a penalty if the payment is not reflected in the system immediately after the due date lapses. This has resulted in many taxpayers receiving notification of penalty for payment made on or one day after the payment due date. To avoid this, the RMCD strongly encourages taxpayers to make payment online via the TAP and internet banking as it is known to be a faster and more convenient method compared to payment by traditional physical cheque. We would advise businesses and taxpayers to take extra precaution in order to avoid late payment penalty imposed by the RMCD, by making payment earlier, at the very least, three days before the payment due date.



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4. Amendments to the Customs Order

- Customs (Definitive Safeguard Duties) Order 2017 [P.U(A) 122-2017]
- Customs (Definitive Safeguard Duties) (No.2) Order 2017 [P.U(A) 123-2017]



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New Orders

Imposition of Safeguard Duties on Steel Products

The Ministry of Finance has imposed definitive safeguard duties on the specific steel products imported from **specific countries for a period of three years:

Item	Definitive Safeguard Duty	Effective Period
**Steel concrete reinforcing bars that are hot rolled steel bars containing indentations, ribs, grooves or other deformation.	13.42%	14 April 2017 – 13 April 2018
	12.27%	14 April 2018 – 13 April 2019
	11.10%	14 April 2019 – 13 April 2020
**Steel wire rods ("SWR") in hot rolled alloy or non-alloy and deformed bar in coils ("DBIC"), in regular or irregular wound coils excluding <ul style="list-style-type: none"> • SWR & DBIC with .6% carbon content or more or diameter greater than 16.0mm • products imported for the end-usage purposes of automotive, electrical and electronic, oil and gas industries of all grades and specifications; and • DBIC, in regular or irregular wound coils imported for the end-usage purpose of earthquake proof construction industries of all grades and specifications. 	13.90%	15 April 2017 – 14 April 2018
	12.90%	15 April 2016 – 14 April 2019
	11.90%	15 April 2019 – 14 April 2020

****Note:** reference can be made to the following for specific details -

1. Customs (Definitive Safeguard Duties) Order 2017 [P.U(A) 122-2017]
2. Customs (Definitive Safeguard Duties) (No.2) Order 2017 [P.U(A) 123-2017]

With the imposition of such duties, affected businesses will need to strategise carefully where these steel products should be sourced from.

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

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