



GST Chat

All you need to know

Issue 10.2017

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Greetings from Deloitte Malaysia's Indirect Tax Team

Greetings everyone and welcome to the October instalment of GST Chat.



The Budget 2018 is scheduled to be tabled in Parliament later this month on 27 October 2017 and we expect to hear some indirect tax specific announcements – in particular, further details on the expansion of GST to cover cross-border digital services. Look out for budget updates and our special Budget Edition of GST Chat next month.

In other news, we have seen the commencement of the previously announced joint audits between the Royal Malaysian Customs Department (RMCD) and the Inland Revenue Board (IRB). So far we have not seen a particular industry or sector focus with both listed entities and multinationals being picked up for these audits.

As the authorities collaborate and share more information, it is important for taxpayers to ensure where possible there is consistency in positions and interpretations taken between direct and indirect tax to avoid dispute. Ultimately, there will be differences as the basis and the rules for applying each tax differ, but it is important to be prepared.

Sharing with you some recent news and developments that may interest you:

- RMCD Director General Dato' Sri Subromaniam Tholasy stated at a press conference that based on projections RMCD would exceed its collection target of RM43 billion by RM2 billion.
- It was reported that the Real Estate and Housing Developers Association Malaysia (REHDA), which represents over 1,000 property developers, is hoping the government would reduce the GST rate imposed on building materials, specifically those used in affordable housing projects. REHDA hopes the government can exempt the developers from paying the 6% GST on building materials in developing affordable housing projects, so as to lower the construction costs and selling price of the houses, maintaining the viability of the low cost housing strategy. The current GST impact has placed significant pressure on the cost structure for such housing projects.

We 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. GST Technical Updates

[Revised Guide on Event Management Services – as at 13 September 2017](#)

The latest Guide on Event Management Industry issued on 13 September 2017 replaces the previous version published on 23 November 2014.

The type of supply of event management services that can qualify for zero rating is explained in greater detail in the revised guide. For instance, the determination of the zero-rated supplies must have consideration of the belonging status of the customer which is consistent with the zero-rating provisions in GST (Zero-rated Supply) Order 2014.

The revised guide also explains that the reimbursement of expenses, where an event company contracts with third party suppliers directly and further provides such services to customers, is subject to GST at standard rate. Furthermore, events organised in designated areas would be subject to GST if the event company belongs in Malaysia (not designated area).

Deloitte comments

The amendments to the Guide appear to be merely clarifying how the Law is to be applied and do not include any major insights or new developments.

[Revised Guide on Pawnbroking – as at 27 September 2017](#)

In the latest guide, the Islamic pawnbroking model - Ar-Rahnu has been explained in greater detail and the definitions of Islamic concepts have also been provided such as Qurdhul Hasan – loan for pledge valuable item, Al-Ujrah – commission or fee charged for safekeeping fee and Al-Wadiah Yd Dhamanah – custody of valuable asset. In addition to that, further explanation has also been provided on the treatment of safe-keeping fee and the sale of unredeemed pledge.

FAQ 4 of the revised latest guide provides clarity on the input tax claim on auctioneer's service fee charged by pawnbrokers.



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Deloitte comments

The guide has been updated to mostly address the treatment of Islamic pawnbroking business. Affected businesses should review their transactions particularly in respect of the Islamic model and determine the appropriate GST treatment for the purpose of their GST reporting.

Revised Guide on Lodging or Holiday Accommodation Services – as at 20 September 2017

The latest Guide on Lodging or Holiday Accommodation Services issued on 20 September 2017 has been renamed and replaces the previous edition titled Guide on Accommodation Premises and Similar Establishments.

The meaning of “accommodation premises” was further expanded and explained as “holiday accommodation” and “dwelling premises”, each of which has a different interpretation and GST treatment. In essence, a “holiday accommodation” is generally short-term accommodation services provided to travellers with certain facilities added on. This is subject to GST at standard rate. On the other hand, “dwelling premises” generally means any building used and occupied for human habitation, being the place where the individual ordinarily resides and routinely returns to for a reasonably significant period of time. This is an exempt supply. A handy table was provided in Appendix 1 that spells out the respective characteristics.

Deloitte comments

We applaud the effort from the RMCD to provide further clarity to taxpayers in determining the GST treatment of the various types of accommodation premises by providing a set of principles to apply. This should enable the taxpayers to assess the GST treatment for a broader range of accommodation types than what is explicitly mentioned in the Guide.

2. Update made to NEML list (Suffix N&X) and the Drug Control list

The National Essential Medicines List (Suffix N & Suffix X) and the Control Drug List have been expanded and as a flow-on consequence, the list of eligible zero-rated items have equally expanded.



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The updated list could be found in the links below:

- [The National Essential Medicines List \(Suffix N\)](#)
- [The National Essential Medicines List \(Suffix X\)](#)
- [The Control Drug List \(Suffix A\)](#)

Deloitte comments

The changes in the list should warrant a review of the products and their treatment by impacted businesses in the pharmaceutical and medical industry. The imposition of GST on zero-rated items can result in penalties being imposed, so it is critical that action is taken.

3. GST Technical Committee Meeting Update

The Customs-Private Sector Consultative Panel ("CPSCP") was formed to resolve and bring clarity to various technical issues faced by businesses. CPSCP comprises various industry associations, professional bodies and senior officers of the RMCD and convened its meeting on 5 May 2017. The meeting minutes was recently circulated on 14 August 2017. We have summarised below some of the items discussed.

Self-Certification Regime

The draft amendments to the Customs Act 1967 to impose stricter penalties against fraudulent declarations is still in progress.

New Policy for Customs' Agent and Demerit Point System for Customs' Agents ("Demerit Point System")

After three engagement sessions between the RMCD and various government agencies and industry associations to improve the Demerit Point System, a new standard operating procedure ("SOP") has been drafted which takes into account offences committed by Customs agents such as:

- Mis-declaration of goods, amendment or change of documents or fraudulent signatures;
- Falsification of documents; and
- Smuggling-related offences.

The above offences will be under the purview of the State Enforcement Division for further investigation. Repercussions of such offences will include either compound penalty or legal action.

The RMCD will continue their research and review for other offences.

Different RMCD Procedures Adopted by Free Zones in Different States

The Ministry of Finance ("MoF") will collaborate with the RMCD and Free Zone authorities to streamline the compliance procedures in Free Zones.



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Compounds for Minor Errors

In response to businesses' concerns with respect to compounds being imposed on minor errors committed when making import/export declarations, the RMCD has clarified that a review and verification process will be undertaken before a compound is issued for an offence.

A warning letter will generally be issued for small import/export declaration errors such as spelling errors or incorrect figures which will not affect the classification of goods, valuation of goods and the RMCD's revenue collection. A compound will be issued for recurring offences.

Nevertheless, the RMCD will continue with its study of the existing basis of imposing compounds.

Amendments to Customs Form No. 1 and 2

The RMCD have clarified that any amendments to any customs declaration must be made by the RMCD officer via the 'Sistem Maklumat Kastam ("SMK")' (Customs Information System) before any duty payments or clearance are made.

A payment receipt will be generated based on the amended information. Input tax credit claims shall be made based on such information within the SMK.

Direct Trader Payment Scheme

Addressing concerns of businesses to make duty or tax payments directly (Direct payment) to the RMCD without going through agents on imports can be made after the implementation of uCustoms.

For the time being, online payments can be made by the importer without going through agents via the MyPayment system which is maintained by DagangNet.

Declaration of Inward Manifest (Customs Form no. 4 ("K4")) Indicating Consignee as 'To Order'

The RMCD have clarified that for K4 declaration purposes, the true name and address of the consignee must be declared.

If the consignee's name is declared as "To Order, To Order of Shipper, To Order of Consignee, to Order of Bank" in the manifest for early delivery purposes, the shipping agent should apply for an amendment to the manifest to state the true consignee.

Nevertheless, this matter will be looked into by the RMCD.

Deloitte comments

It would seem that the RMCD have taken measures to clarify on administrative issues faced by businesses and have been open in working with businesses to solve such issues. Nevertheless, at this stage, it would be important for businesses to ensure that steps with respect to customs declaration procedures are undertaken in accordance with the Customs law.

In the event of discrepancy, businesses should strategise and consider engaging with the RMCD with the view to mitigate potential exposures that may arise.

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