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Indirect Tax Chat

Keeping you up to date on the latest news in the Indirect Tax world

August 2018

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Key takeaways:

- 1. SST Development – the story so far*
- 2. Transition to SST – lessons learnt for future tax reforms*

Greetings from Deloitte Malaysia's Indirect Tax team

Greetings, dear readers, and welcome to the August 2018 edition of the Indirect Tax Chat.

With the gazettal of the Sales Tax Act, the Service Tax Act and the Repeal GST Act this week, we can finally confirm that GST will end on 31 August 2018, and that SST will recommence on 1 September.

It has been a whirlwind month for everyone impacted by the transition to SST, as we have seen a flurry of information being released, especially in the past few weeks. Unfortunately, some of this information has been confusing and difficult to follow, and some of it appears to conflict with each other.



This is to be expected, considering how quickly we have come to this point since the May election. It was always going to be a challenge for the authorities to develop the tax policy, draft the legislation, get their processes and systems ready and issue clear guidance in the space of just three months. The reality is on Day One, many businesses will not be ready and there is likely to be uncertainty on treatments and positions for weeks and possibly even months. There is definitely a lot of learning to be derived from this that we hope the legislators and authorities can consider and improve on when introducing major tax reform in the future.

Other news that may interest you:

- The Director General, Datuk Seri Subromaniam Tholasy stated that approximately 3,000 Customs officials will be stationed throughout the country to help the 79,618 businesses registered under the SST. He further added that 5,000 companies have yet to register under the SST and urged these companies to do so by this week.

Please do not hesitate to contact us if you have any queries, comments or require our assistance on any GST matters or the transition to SST.

Best regards,

Tan Eng Yew

Indirect Tax Country Leader

1.SST Development – the story so far

With 1 September 2018 drawing closer than ever, we have seen a surge of activity around the implementation of SST.

On 20 August 2018, we witnessed the passing of the Sales Tax Bill, Service Tax Bill, Goods and Services Tax (Repeal) Bill, Customs (Amendment) Bill and Free Zones (Amendment) Bill in the Dewan Negara (Senate). The Royal Malaysian Customs Department (RMCD) has since also released the draft Regulations, Orders and Guides for Sales Tax and Service Tax (“SST”).

As of 24 August 2018, further guides have been released via the MYSST link, e.g., Industry Guides for Management Services, IT Services, Automotive Services, etc.

You can access the list below:

- 1) Sales Tax Act: [here](#)
- 2) Service Tax Act: [here](#)
- 3) GST Repeal Act: [here](#)
- 4) Sales Tax Regulations: [here](#)
- 5) Service Tax Regulations: [here](#)
- 6) Other SST Regulations: [here](#)
- 7) SST Orders: [here](#)
- 8) General Guide: [here](#)
- 9) Industry Guides: [here](#)

Many businesses would have noticed that they have received a registration letter for SST from the RMCD. The Director General of Customs has advised that registrants who are incorrectly registered should proceed to their respective controlling station to get deregistered. We would suggest that those who are finding it difficult to register through the online portal to go through the same channel and get registered through their respective controlling station.

Stay tuned to this space as we keep you up to date with the developments of SST.

Brought to you by:



Wendy Chin
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2. Transition to SST – lessons learnt for future tax reforms

(as published in The Star on 23 August 2018)

Malaysia's decision to abolish the goods and services tax (GST) and return to a sales and service tax (SST) regime after only a period of three years is not only significant in terms of changing the tax landscape, but also in terms of providing useful and critical lessons when significant tax reforms are contemplated in the future.

The return to the SST has happened at breakneck speed, understandably so as the government needed to meet the demands of the 100-day time-frame set in its manifesto. Just over a week after the election, there was an announcement on the reduction of the 6% GST rate to 0%, and then a few weeks later, that the SST would be re-introduced on Sept 1.

The decisive moves have been welcomed by the public, but it has not been without cost, in particular to businesses that have had to make significant adjustments to systems and processes in a limited time. Depending on the circumstances, it can take several months to make changes to critical systems, including those front-end systems that calculate the tax and generate invoices.

However, due to the limited time and information available, many will not be ready by Sept 1.

Without any deferment of the implementation date, where there are still grey areas on the SST treatment, businesses should be allowed to take certain positions that they believe are reasonable and appropriate, pending further clarification from the authorities.

Adequate information on the framework is needed

Although it is only a matter of weeks before the new tax is to go live, there are still considerable details that are not yet made available. A broad framework has been introduced but that is still a work in progress, with new information being added on a daily basis.

We have started to see the beginnings of a consultation process and some hand-holding programmes, but this has come far too late to make a significant impact.

Some businesses, for example, have received notices saying they are registered to collect the SST, even though based on the information, it is not clear whether they should be registered. These businesses have been left to ponder whether they should charge tax or not.

One has to sympathise with tax regulators and administrators, as they have had to work tirelessly to draft legislation and then produce a multitude of information to help people understand how the new tax would operate.

There would have also been considerable discussions and debate before the final details can be released, and it is clear that there continues to be such debate as we are seeing a continued evolution of the new SST rules.

For example, as late as the middle of last week, there were a number of concerns that the SST would apply in most transactions between related companies in the same corporate group.

This would create significant costs for such groups, as there are considerable shared costs. Fortunately, confirmation was received by businesses in the latter half of last week that such transactions would now be given some form of relief or exemption.

Whilst we must acknowledge that we are dealing with unique circumstances, certainly not one seen before in Malaysia, we must still take note of this for future tax reforms. It is critical that the implementation of new taxes happens after an appropriate level of consultation with the public and business community, so that issues can be ironed out in advance.

Uncertainty or complexity in the system should be avoided

One of the biggest complaints with the Malaysian version of the GST was how complex it was and how difficult it was to comply with for many businesses. The GST system adopted in Malaysia was far more complex and administratively cumbersome than our neighbours in Singapore and many of the other countries in our region that have a GST/VAT system. However, these complexities are not limited to just the GST and we see this even within the rules relating to anti-profiteering.

The anti-profiteering measures are intended to protect consumers from businesses seeking to profiteer through unreasonable price increases. It was a measure brought in to curb prices prior to the GST and is being used in equal measure to control prices prior to the SST.

Unfortunately, the rules are written in such a way that do not make for easy reading, and certainly not for someone who does not have a good accounting background and preferably deep knowledge of cost accounting.

There are multiple formulas involved where businesses need to calculate costs based on particular dates and particular circumstances; even auditing such calculations is not easy. Add to this the current climate in which businesses are uncertain as to which of their costs would increase or stay the same, as the level of detail on the scope of the tax is still not yet known.

Even if this were clear, pricing decisions are not simple and tax is only one piece of the equation. Ultimately, whilst the intention and the desire are noble in seeking a reduction in prices and improving the cost of living for the rakyat, the complexity of the framework may work against achieving this outcome.

Final thoughts

Generally, businesses prefer to operate in a stable environment with immense certainty that is absent of frequent policy changes.

The transition from the SST to the GST in 2015 was a mammoth exercise; unwinding the GST and returning to the SST is no less laborious.

Nonetheless, the voice of the people on 9 May 2018 who asked for change precipitated the de-implementation of the GST; the decision has been made by the new government and hence we have to move forward.

In this respect, all the major stakeholders, including the authorities, businesses and professionals, should work together closely in the formulation and execution of the SST re-implementation programme so as to mitigate strain in the running of businesses.

Stay tuned to this space as we keep you up to date with the developments of SST.

Brought to you by:



Sim Kwang Gek
Country Tax Leader

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