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## **Deloitte TaxMax- the 42<sup>nd</sup> series**

Brave decisions, Brave actions.

Tan Eng Yew  
8 November 2016

**Goods and Services Tax**  
GST Order Amendments  
Finance Bill 2016

## Polling Question 1

Have you been subject to a Customs GST field audit in the past year?

(A) Yes, no issues or minor errors identified

(C) Yes, issues identified but no penalties imposed

(B) Yes, issues identified and penalties imposed

(D) Have not been subject to an audit

# Current Issues

01

**Customs Blue Ocean Strategy - audit and increasing registrants**

02

**Approved Trader Scheme facility renewal**

03

**Concession on late payment penalties - Reduction in compound if paid by 31st December 2016**

04

**GST Refunds**

05

**Sales tax refunds**

06

**Extension of Anti Profiteering Framework**

# Amendments to GST Orders

## GST (Imposition of Tax for Supplies in respect of Designated Areas) (Amendment) Order 2016

### Paragraph 2

#### **Additional subparagraph inserted :-**

GST shall be imposed at the rate fixed under the Act:-

“(f) on the supply of wine, spirit, beer, malt liquor, tobacco and tobacco products to the designated areas (DA) or the importation of such goods into the DA”

Effective date: 1 November 2016

# Amendments to GST Orders

## GST (Zero-Rated Supply) (Amendment) (No. 2) Order 2016

### Current Position

"Goods supplied to a DA from Malaysia other than a DA"

Item 3,  
First  
Schedule

### Proposed Amendments

"Goods supplied to a DA from Malaysia other than a DA

**except:-**

- (a) Petrol, diesel and liquefied petroleum gas;
- (b) Wine, spirit, beer and malt liquor;
- (c) Tobacco and tobacco products; and
- (d) Motor Vehicle supplied to Tioman"

Effective date: 1 November 2016

# Amendments to GST Orders

## GST (Relief) (Amendment) Order 2016

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### Reference

### Amendments / Additions

#### **Item 13, First Schedule**

- Relief on motor vehicle or motor cycle registered from Labuan or Langkawi and subsequently returned to Labuan or Langkawi

- The period where the motor vehicle / cycle may remain in the principal customs area is extended from not exceeding 30 days to 90 days in a year

#### **Items 32 to 38, First Schedule (New Items)**

- Relief on wine, spirit, beer or malt liquor

- Relief on tobacco and tobacco products

Relief on the payment of GST is given to the below persons (subject to certain conditions) licensed under:-

- Section 65D of the Customs Act 1967 to operate a **duty free shop** in DA
- Section 65 of the Customs Act 1967 to operate a **licensed warehouse** in a DA
- Paragraph 35(1)(a) or 35(1)(b) of the Excise Act 1976 to operate a **public house or to operate a beer house** in a DA

#### **Item 3, Second Schedule**

- "Duty free shop licensed under the Customs Act 1967" is substituted by "Persons licensed under Section 65D of the Customs Act 1967 to operate a duty free shop in Malaysia other than a designated area" for relief of charging GST on all goods supplied at a duty free shop (subject to certain conditions)

Effective date: 1 November 2016

# Proposed Amendments to the GST Act 2014

## Imported Services

### Current Position

Time of supply for accounting and reporting of reverse charge on imported services is the earlier of:-

- Date when invoice is **issued by the overseas supplier**; or
- Date when any payment is made by the recipient

Section  
13(4)(b)

### Proposed Amendments

Time of supply for accounting and reporting of reverse charge on imported services is the earlier of:-

- Date that the invoice is **received by the recipient**; or
- Date when any payment is made by the recipient

Effective date: 1 January 2017



# Proposed Amendments to the GST Act 2014

## Late payment penalty

	<b>Current Rates of Penalty (%)</b>	<b>Proposed Rates of Penalty (%)</b>
<b>First 30 days</b>	5%	10%
<b>31 – 60 days</b>	Additional 10%	Additional 15%
<b>61 – 90 days</b>	Additional 10%	Additional 15%
<b>Maximum penalty</b>	25%	40%
<b>Imposition of penalty</b>	On tax due and payable	On tax remaining unpaid

Effective date: 1 January 2017

# Proposed Amendments to the GST Act 2014

## GST Relief

### Current Position

For a person granted relief of GST, there is:-

- No requirement to account for GST if the relief is subsequently revoked
- No refund is allowed where a person granted GST relief has paid the GST

### Section 56

### Proposed Amendments

The following has been proposed:-

- There is a requirement to account for GST upon revocation of GST relief and
- Application for refund of GST paid where GST relief is subsequently granted is allowable

Effective date: 1 January 2017

# Proposed Amendments to the GST Act 2014

## Warehousing Scheme

### Current Position

The GST Warehousing Scheme generally operates as follows:

- GST on goods imported and deposited into certain bonded warehouses is suspended
- Supplies of goods between and within the bonded warehouses are disregarded except for the last supply where goods are removed before the duty point
- The last supply is deemed to take place at the duty point, and the value is deemed to include the duty, and GST payable

### Section 70

### Proposed Amendments

The proposed amendments to the Warehousing Scheme is as follows:

- GST not applicable on goods that have been approved to be deposited in bonded warehouses
- The concept of last supply and duty point will be abolished. GST is payable on the removal of goods as if imported into Malaysia
- GST is not due and payable where goods are removed with the approval of Customs:
  - for export;
  - for deposit to another bonded warehouse;
  - to a free zone; or
  - to a designated area (DA).
- GST is however proposed to be payable on goods that may be prescribed.

Effective date: 1 January 2017

# Proposed Amendments to the GST Act 2014

## Designated Area (DA)

### Current Position

GST is due and payable on goods  
"supplied" from DA to Malaysia

Section  
156(a) &  
(aa)

### Proposed Amendments

GST is due and payable on the  
"removal" of goods from DA to  
Malaysia

### **New Provision**

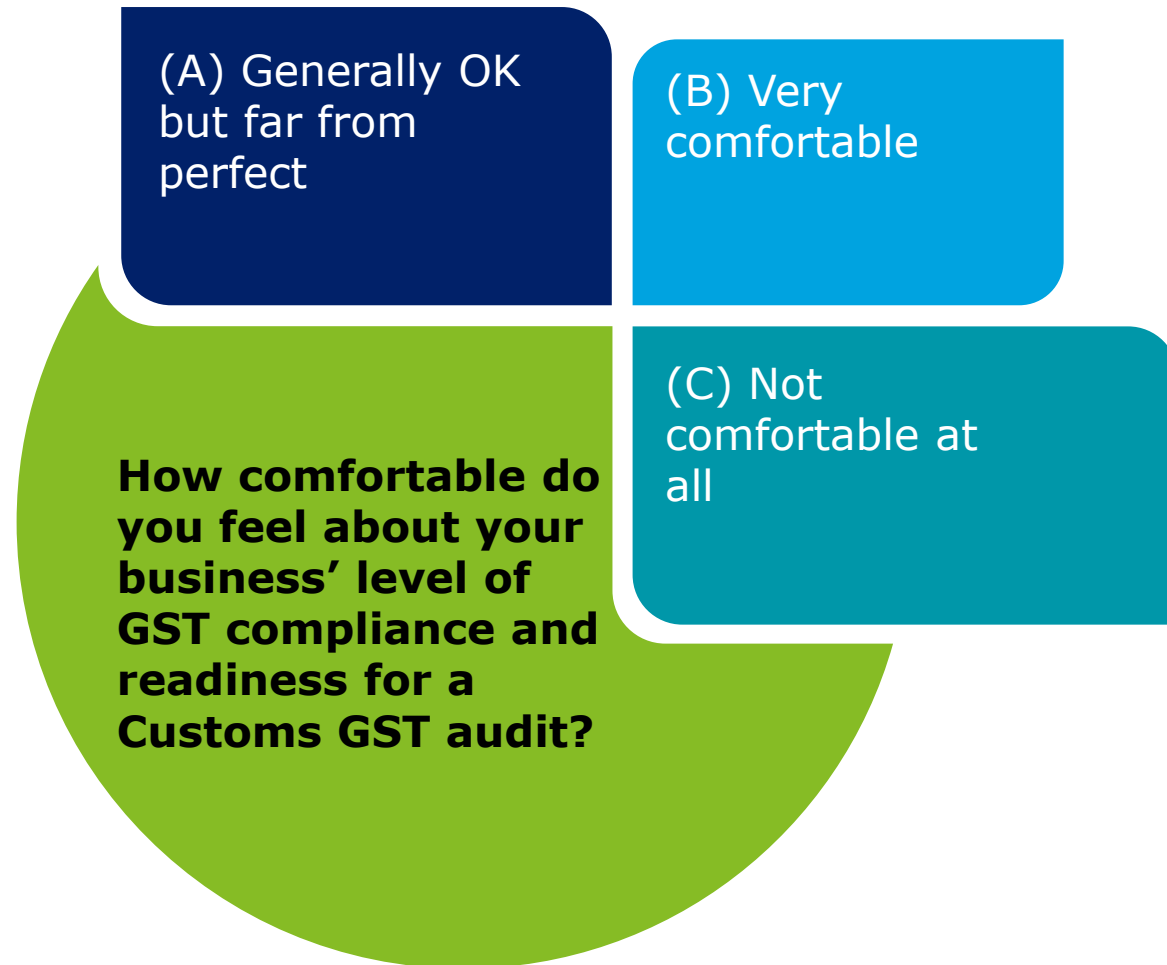
GST is to be suspended when goods  
move from:-

- DA to another DA through the PCA
- DA to a free zone
- DA to a bonded warehouse under the Warehousing Scheme

Minister is empowered to prescribe  
situations where the suspension is  
not granted.

Effective date: 1 January 2017

## Polling Question 2



# Proposed New provisions under the GST Act 2014

## Free Zones

### **Section 2, 161, 162, 163 and Part XV**

- Free Commercial Zone is replaced with Free Zone (Part XV)
- Free Zone is defined as “any part of Malaysia declared under the provisions of subsection 3(1) to be a free commercial zone or a free industrial zone” (Section 2)
- No GST shall be charged on any supply of ‘taxable goods’ made within or between free zones (Section 162)
- GST is suspended on the removal of goods from a free zone through PCA, where goods are meant to be delivered to the following (Section 162A):
  - A free zone
  - A designated area
  - A warehouse under section 70 (Warehousing Scheme).
- GST is chargeable on any taxable supply of goods or services made “within Malaysia” (Section 162B)
- The Minister is empowered to prescribe situations where the suspension is not granted (Section 163)

Effective date: 1 January 2017

# Proposed New provisions under the GST Act 2014

## Supply of land

### **Paragraph 8, Second Schedule**

#### **Supply of land to Government or local authority in compliance with requirement of written law**

- The supply of land by a developer or owner to the Federal Government, State Government, Local Authority or any other person in compliance with the requirement of law for the purposes of public amenities & utilities is treated as neither a supply of goods nor a supply of services.
- The above treatment is applicable whether or not the supply is for a consideration or a nominal value.

Effective date: 1 January 2017

# Proposed New provisions under the GST Act 2014

## Provision of information to Director General

### **Section 34A and 34B**

#### **Prescribed registered person to provide information on supply made and payment received**

- The Minister may prescribe a registered person to provide Customs any information with regards to the supply made and payment received by him through a prescribed device.
- Customs may also approve a person to install and service the prescribed device.

Effective date: 1 January 2017



## Polling Question 3

(A) Staying updated with the changing views and legislation

(B) Adequate resources to handle GST

(C) Lack of automation and documented processes

**Which of these areas is your biggest concern in managing your GST compliance?**

# Other proposed amendments and new provisions

Title	Current position	Proposal
Calculation of the GST registration threshold	All supplies of capital assets of business is excluded in the threshold calculation	<p>Only supplies of capital assets taking place "due to cessation of business" is to be excluded in the threshold calculation</p> <p>New provision The supplies made within or between free zones (other than those prescribed by the Minister) is excluded when computing the GST registration threshold</p>
Issuance of tax invoices	<p>There are certain prohibitions in relation to the content of invoices issued by:</p> <p>(a) Any person; and (b) Unregistered persons</p>	<p>No invoices containing elements of GST to be issued for zero rated or non-taxable supplies</p> <p>Unregistered persons except auctioneers or such empowered persons are not allowed to issue a tax invoice or an invoice containing an element of GST</p>

Effective date: 1 January 2017

# Other proposed amendments and new provisions

Title	Current position	Proposal
Furnishing GST declaration by non-taxable persons	Non-taxable person who has been granted bad debt relief and subsequently recovers the debt after he has ceased to be a taxable person are required to furnish a GST declaration and pay GST.	<p>The non-taxable person is no longer required to furnish a declaration when he subsequently recovers the debt after he has ceased to be a taxable person.</p> <p>In case of relief supplies, the non-taxable person has to furnish a declaration and pay the GST accordingly if he did not comply with the conditions of the relief or the relief has been revoked.</p> <p>A late payment penalty will be imposed for the failure or delay to furnish the declaration.</p>
Extension of refund facility	Refund available for GST, surcharge, penalty, fee or any other money overpaid or erroneously paid	<p>Extension of refund facility to :-</p> <ul style="list-style-type: none"> <li>a) Where GST, penalties or surcharges were remitted under Section 62(3); or</li> <li>b) Where GST is paid and GST relief is subsequently granted</li> </ul> <p>A claim has to be made within 6 years.</p>

Effective date: 1 January 2017

# Other proposed amendments and new provisions

Title	Current position	Proposal
<p>Review of GST relief for disabled persons</p>	<p>GST relief is provided to private charitable entity for persons with disabilities for the purchases of certain equipment (e.g. artificial limbs, wheelchairs etc.)</p>	<p>The GST relief is extended to registered persons with disabilities that are valid OKU card holders who are not members of private charitable entities on the purchase of approved equipment from suppliers designated by the Social Welfare Department.</p> <p>The list of approved equipment is also proposed to be widened to include 20 additional items (e.g. callipers, Braille display etc.)</p>

Effective date: 1 January 2017



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