

Financial services roundtable on Sales
and Service Tax
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15 August 2018

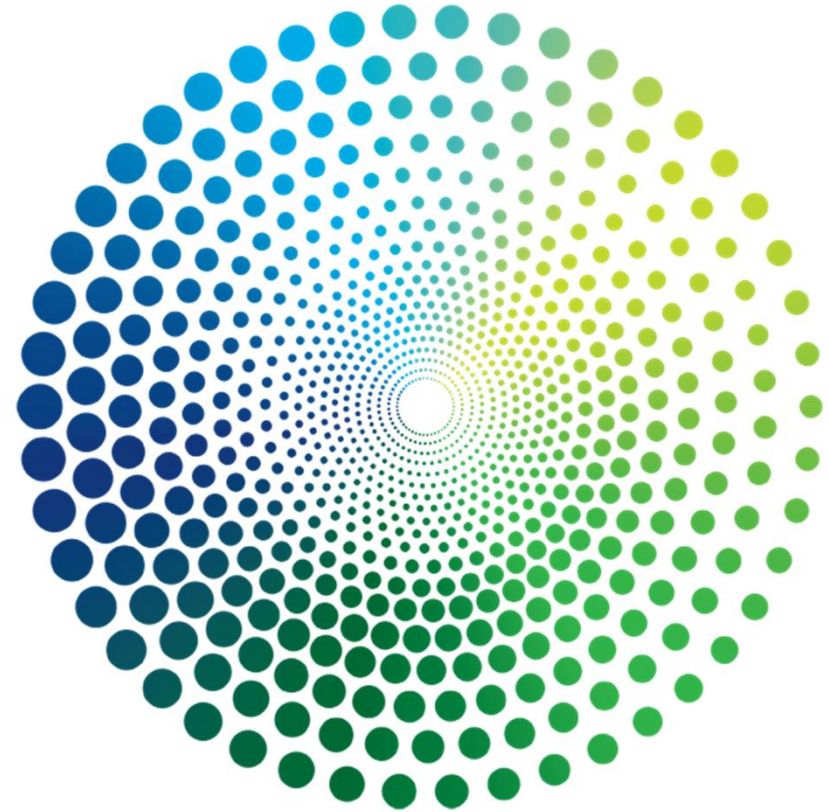
Tax 

Summary

- The service tax will commence on 1 September (or by the latest 1 October).
- Whilst the scope for financial services, at first glance is narrower than the GST, there remains uncertainty on the finer details of various categories of services. What is clear is that SST 2.0 will be different to SST 1.0.
- Businesses cannot wait for all the information to be available before commencing projects as the uncertainty is likely remain up to and beyond the go-live date of the tax.
- A “flexible and agile” implementation approach is required and manual processes will need to supplement automated ones until there is some level of certainty.
- The framework of the tax is likely to change as early as November and so there is likely to be continued evolution. This also presents an opportunity to engage with the authorities to refine and tweak the SST 2.0 model.
- Whilst GST will cease to be in place, the ability for the authorities to collect underpaid GST will not. A GST audit program will commence on 1 September and is likely to continue for a period of 2 years.

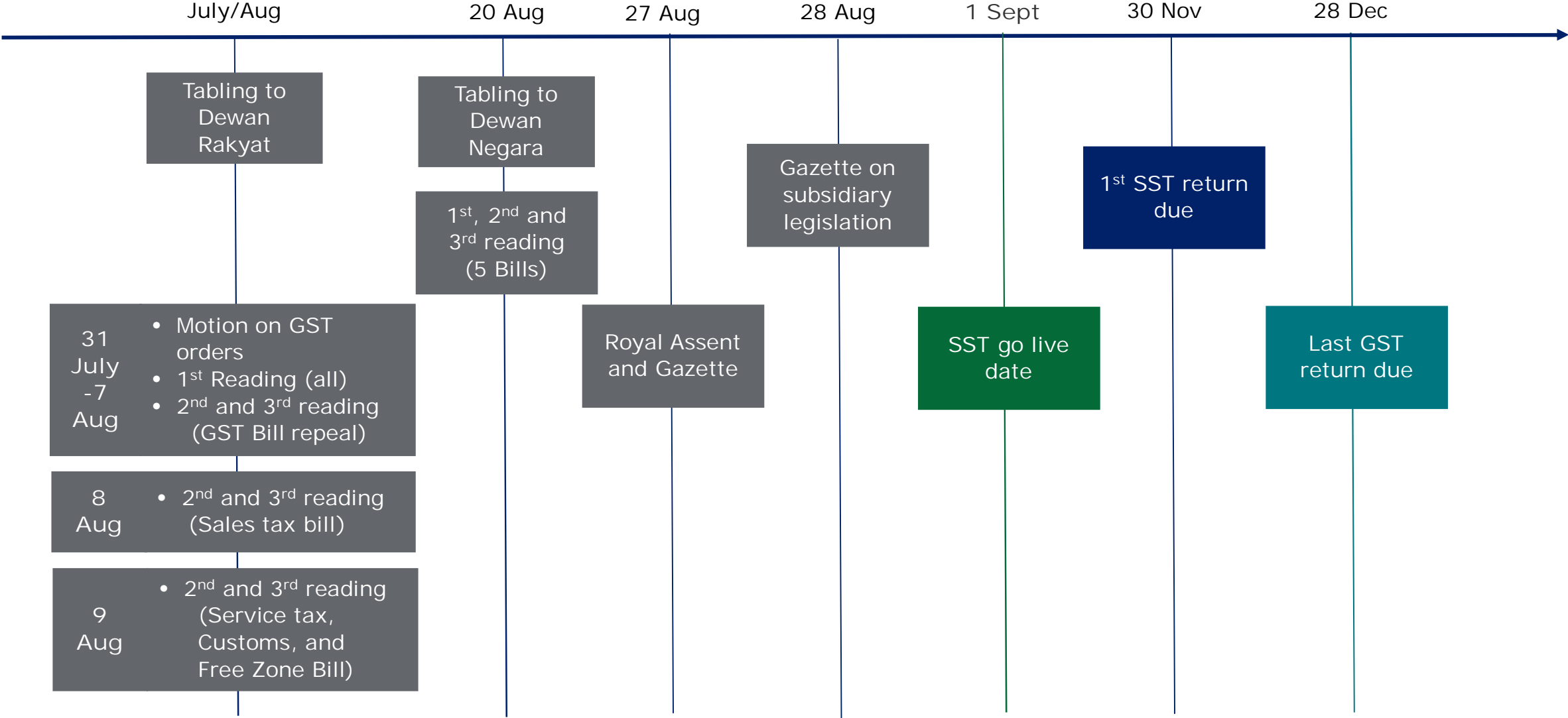
Agenda

- Timeline
- Service tax—Overview
 - Impact on banking, investment banking, and insurance
- GST to SST Transition
- Q&A



Timeline

Expected SST implementation time frame



Service tax—Overview

Scope of service tax and rates



Scope of tax

- Tax imposed on taxable services (i.e., if not a taxable service, no tax to be imposed)
- Services are made by a taxable person
- Taxable services were rendered in Malaysia (i.e., no tax imposed on imported and exported services*)
- Services made from onshore to Labuan and Labuan to onshore falls within the scope of taxable services—similar model to GST



Rate of tax

- 6%
- RM25 upon issuance of principal or supplementary card and every subsequent year or part thereof

Impact on banking

Impact on banking



Credit/charge card

- Fixed service tax rate of RM25 for both principal and supplementary credit/charge card.



Intragroup services—Domestic

- Based on recent Customs' handholding session, Customs informed that professional services and management services are not taxable if a company in a group provides any taxable services to any company within the same group of companies.
- A company is in a group if one controls the other.
- It is unclear whether "professional services" is equivalent to consultancy services.
- Other services such as IT services are likely to be taxable.



Imported services

- Imported services will not be subject to Service Tax. However, the MoF is proposing a reverse charge to be introduced and most likely will be announced in the November budget.



Exported services

- Based on the list of proposed taxable services released by RMCD on 8 August 2018, consultancy and management services would be exempted from service tax if provided in connection with goods or land outside Malaysia or where the subject matter relates to a country outside Malaysia.

Impact on investment banking

Impact on investment banking

Previous decisions by Royal Malaysia Customs Department (RMCD) on prescribed taxable consultancy/management services:



Corporate finance

- 50% fee as consultancy service subjected to 6% service tax and 50% management services (exempted)
 - M&A, disposal, general offer, take over of business and/asset
 - Flotation on the KLSE Main and Second Boar
 - Raising of fund—Rights issue, private placement, special issue
 - Restructuring of shareholding, business corporate structure/debt, including scheme of arrangement
 - Bonus issue
 - Share option scheme
 - Share buy back
 - Preparation of relevant circular to shareholders
 - Relevant application to authorities pursuant
 - Establishment property and unit trust fund

Impact on investment banking (cont.)

Previous decisions by Royal Malaysia Customs Department (RMCD) on prescribed taxable consultancy/management services:



Corporate finance

- 100% fee as consultancy service and subjected to 6%
 - Independent advisor and preparation of independent advisor circular
 - Opinion of value and issuance of valuation report
 - Feasibility studies
 - Evaluate project financing option



Corporate finance—non taxable services

- Loan syndication—arrangement, agency, and participation fees
- Underwriting—all activities relating to share securities

Impact on insurance

Impact on insurance



Insurance

- General insurance B2B and general insurance B2C **excluding** medical insurance will be subject to 6% service tax. It is unclear whether medical insurance for B2B is excluded.
- Life insurance (including medical riders) will be exempted.
- General insurance excludes:
 - Insuring coverage of risks relating to the transport of passengers or goods outside Malaysia.
 - Insuring coverage of risks incurred on granting credit relating to the export of goods, services or investments outside Malaysia.
 - Insurance contract to cover risks outside Malaysia.
- Currently it is also unclear whether reinsurance will be within the ambit of service tax.



Intermediaries

- Brokers and agency services are unlikely to be subject to service tax. However, any services in the nature of management and advisory services would be brought into the scope of service tax.

GST to SST Transition

Getting ready for the transition

General observations

- The transition back to Sales and Service Tax (SST) will not require as comprehensive an implementation as required for GST, but there will be a need to make adjustments to systems and processes.
- However, it is important not to assume that prior exemptions and concessions from SST 1.0 would continue to exist under SST 2.0.
- Front-end systems are unlikely to require significant change aside from adjustment of rates and treatment (e.g., for items subject to service tax it would simply be returning it back to pre-GST rate adjusted amounts and pricing).
- To minimise disruption and to “future proof” systems and process we would recommend that to the extent possible the GST infrastructure (systems and process) be retained.
- The additional controls and internal reporting introduced as a consequence of GST should be reviewed and where appropriate maintained, in particular where these processes and reports can meet other management and risk requirement.
- Where reporting and compliance have been centralised as a consequence of GST, consideration should be given as to whether this should be retained and whether there are sufficiently capable resources to manage this requirement if decentralised.

Getting ready for the transition

How have businesses approached this implementation

- Many in the industry have delayed commencing projects or have not commenced due to:
 - Waiting for further information or more clarity on positions.
 - Incorrect assumption that SST 2.0 would be the same as SST 1.0 and positions previously held including exemptions would be automatically reinstated.
 - Expectation that is due to the speed of the transition, we expect a continued evolution of the SST over the coming months and perhaps year/years as the government and the policy makers refine the scope and the administrative requirements.

Getting ready for the transition

What has been the focus of SST implementations

- Initial step has been to make a pre-assessment of services that could be within scope (make a conservative assessment) including identifying agreements that may in “form” be management or consultancy.
- Prepare a preliminary plan on system enhancement requirements (to the extent required) and tax coding.
- Identifying transitional agreements—agreements commencing pre–June and post–June that involve services performed after 1 September.
 - Assessing to the extent the contract would be subject to SST.
 - Assessing to the extent that the SST would be recoverable.
- Cataloging entities that have received automatic registration for SST and assessing whether the requirements are met (in-scope services and turnover). Performing a similar exercise for entities not pre-registered.
- To the extent interim manual processes will need to be deployed, identify what additional controls need to be put in place to ensure accurate reporting.
- Identify a contingency plan should implementation be deferred to 1 October.

Getting ready for the transition

Practical challenges faced

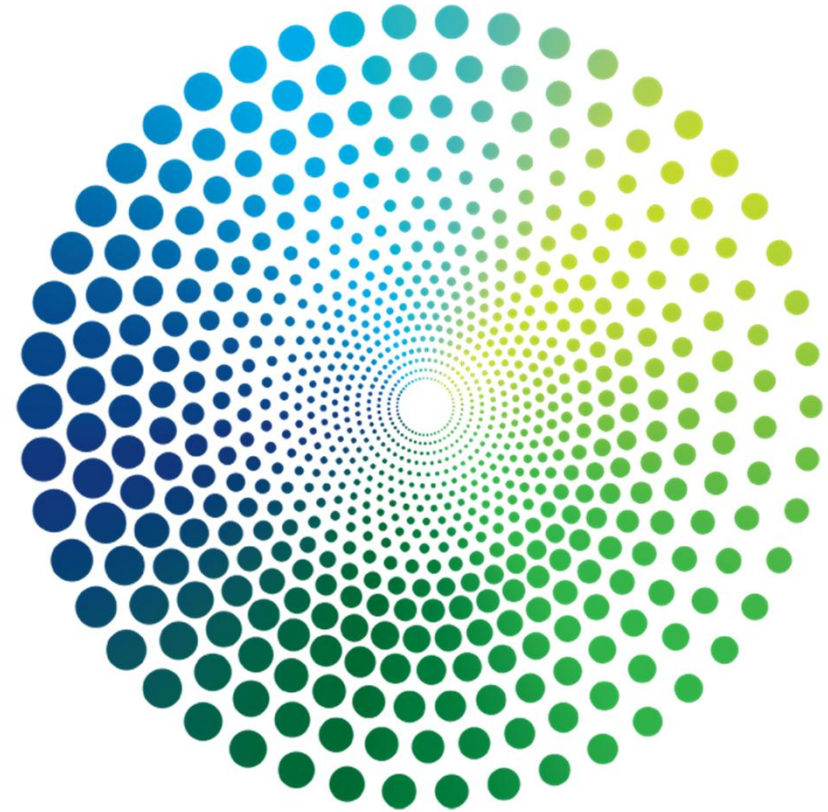
- Knowledge of how SST applied no longer rests within the organisation/industry bodies nor within the authorities.
- Final rules are not yet known and not yet finalised by the authorities.
- Unlike with GST there has been no broad industry project to get consensus on positions or treatments and as a consequence it is likely that diverging treatments and positions will be taken.
- Resourcing constraints in particular getting adequate systems resources to implement changes prior to the go-live date.
- Customs/tax authority may widen application of previously limited taxable services under SST 1.0 based on GST concepts of supply.
- Compliance process under SST 1.0 was largely decentralized verses GST's more centralised compliance process.

Getting ready for the transition

Implementation approach

- “Flexible and agile” approach is required:
 - Expect that systems configurations/enhancements may not be ready by 1 September and manual processes may need to be in place.
 - Understand that there will be uncertainty on some treatments and that “reasonable” positions would need to be taken pending confirmation.
 - Develop a plan and prioritise actions, and assign resources.
- Due to the speed of the transition, we expect a continued evolution of the SST over the coming months and perhaps year/years as the government and the policy makers refine the scope and the administrative requirements.

Q&A



Curriculum Vitae

Curriculum Vitae



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Michael is a financial services tax partner with Deloitte Singapore and is the firm's Asia Pacific Financial Services Tax Leader.

Michael has over 30 years tax experience; almost 25 years of which have been spent working in Asia having been based in Kuala Lumpur, Hong Kong and Singapore. Prior to joining Deloitte, Michael had held senior tax roles with leading financial institutions and professional firms in Asia Pacific and academic appointments at the University of Melbourne and National University of Singapore.

Michael advises on all areas of Singapore financial services tax (including indirect tax, information reporting, M&A tax and transfer pricing); and is a recognised industry tax skilled. Michael has a particular focus on bank tax; including aircraft leasing.

Michael acts as global lead and/or regional lead tax partner on a number of major firm accounts and manages the delivery of Asia regional tax services for key global and regional clients.

Michael is qualified as both a Solicitor (Supreme Court of Victoria and High Court of Australia) and a CPA (Australia). Michael is an Accredited Tax Advisor: Income tax and GST (Singapore), a Certified Tax Adviser (Hong Kong) and a Trust and Estate Practitioner (TEP). Michael is a Fellow of the Taxation Institute of Hong Kong, an Associate of the Chartered Tax Institute of Malaysia and a member of the Singapore Institute of Directors.

Michael holds a Master of Taxation from the University of Melbourne and a Master of Laws from the National University of Singapore.

Michael is a member of the ASIFMA Tax Product Committee and a member of the AIMA Tax Committee in Singapore.

Curriculum Vitae



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Senthuran is the Asia Pacific Indirect Tax Financial Services Industry Leader at Deloitte and an Indirect Tax Partner for Deloitte Southeast Asia, based in Kuala Lumpur. He has over 14 years of experience advising on indirect taxes in Malaysia, Australia, the Middle East and China. Senthuran is well recognised in his field and is a frequent contributor to newspapers, journals, and radio and has presented to the Chinese and Malaysian Ministry of Finance on indirect tax matters.

Senthuran was admitted as a Solicitor of the Supreme Court of New South Wales, Australia and have previously held a legal practicing certificate in Australia.

Curriculum Vitae



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Yong Wei is FSI tax specialist in Malaysia, guiding the tax engagement team on all tax related matters. She has 20 years of experience in tax, specialising in the asset management, insurance and banking industry.

Yong Wei spent the early part of her career with two of the Big 4 firms and has served asset management, insurance and banking clients in both conventional and Islamic businesses in all corporate tax related matters, including tax compliance, dispute resolutions, industry specific tax legislative lobbies, tax advisory and tax due diligence.

Prior to joining Deloitte, she held senior tax positions at a major Malaysian banking group which has core businesses in retail and wholesale banking, real estate investment trusts, asset management and insurance, as well as similar businesses around SEA region and Hong Kong. There, she managed tax implications of major corporate restructurings, various investment vehicles, capital securities and funding arrangements, license splits for composite insurers, setups and tax neutrality for Islamic banking and Takaful business and advised on various banking and insurance products and structures. She also led the group in major projects such as GST and CRS implementations and played key roles in local and regional merger and acquisition exercises.

Yong Wei was the Chairperson of the Malaysian Investment Banking Association's Tax Committee and was also part of the Working Group for Tax and GST issues in the Association of Banks in Malaysia and tax representative at insurance and fund management associations.

Yong Wei graduated with a Bachelor of Commerce (majoring in Accounting and Finance) from the University of Melbourne and is a member of CPA Australia.



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