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TAKE 5

Preparing for Malaysia's new Indirect Tax landscape

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“The transition from Goods and Services Tax (GST) to Sales and Service Tax (SST), likely in a relatively short time frame, will require careful management.

Organizations need to deploy sufficient focus and resources to ensure a smooth transition, avoiding pitfalls and seizing new opportunities.

We also anticipate refinements of tax incentives to encourage the right investments in Malaysia which can spur her transformation into the new economy.”

Yeo Eng Ping
Asean Tax Managing Partner, EY

The new landscape

The Prime Minister has issued an order that Goods and Services Tax (GST) will be zero-rated from 1 June 2018. This does not cover supplies that are already exempted; and it is made clear that all GST registrants continue to be subject to all other GST requirements.

This interim measure is good as it allows a more gradual transition from a full GST regime to Sales and Service Tax (SST), and minimizes business disruption. This also allows time for the Government to gather views as it formulates the new SST. It is hoped that the introduction of the new SST will be done in a manner that is sensitive to business operations and mindful of resource and costs associated with change.

This alert aims to highlight the general key considerations in the transition to SST. We hope you will find this document useful as you deliberate on how these changes could affect your business. This will allow you to voice your feedback to policymakers, early. Ultimately, it is hoped that there will be robust engagement between Government and business, leading to a smooth transition.

So, will there be other tax changes? We anticipate some policy shifts in due course.

- Comprehensive review of tax policies and framework as the Government considers how it can implement and fund social and development plans while keeping tax rates competitive. Potentially, new taxes may even be considered.
- Refinement of tax incentives to encourage the right investments in Malaysia as part of a larger plan to make Malaysia a more attractive investment destination and which contributes to her transformation into the new economy
- Focus on helping particular sectors such as the small and medium businesses
- Assessment of tax enforcement and audits to ensure that the approach is one that encourages cooperative compliance and where enforcement is pursued with reasonable measure

Key legislative changes

- The rate of GST will be zero effective **1 June 2018.**
- Supplies already exempted are not covered.
- GST registrants are still required to comply with other GST requirements.
- Revocation of the following gazette orders:
  - Zero-rated supplies
  - GST relief
  - Supplies in respect of Free Zones
  - Supplies in respect of Designated Areas
  - Supplies by the Government subject to GST

Key considerations

GST at zero rate

- GST rules and obligations continue to apply, including:
  - Filing of GST returns
  - Issuance of tax invoices
  - Claiming of input tax credits, where applicable
  - Bad debt adjustments
- Businesses need to understand the impact of the zero-rating order, e.g. on pricing, systems
- Post-abolition of GST, records should continue to be maintained, as GST audits can be expected upon deregistration and can take place up to seven (7) years from the time of supply

Transitioning to SST

- Understand and address issues that straddle the transition period to SST such as:
  - "Long term" service contracts
  - Inventories on hand
  - Deferred income and prepaid expenses
  - Delay in receiving suppliers' tax invoices
  - Addressing capital goods adjustments and annual adjustments for mixed suppliers in their last GST returns
- Understand the specific goods and services which will be subject to SST and the impact on business, such as pricing (taking into consideration the price control and anti-profiteering law) and reconfiguration of systems

GST vs. SST

SST was in place in Malaysia for 40 years from commencement until it was replaced with GST on 1 April 2015.

A comparison between GST and the earlier SST regime is summarized below:

Goods and Services Tax	Sales and Service Tax
Multi-stage tax	Single-stage tax
Broad-based, levied on all goods and services including imports (unless specifically excluded)	Levied on all locally manufactured/imported goods and certain prescribed services
▸ Standard rate of tax – 6% ▸ Certain supplies are treated as zero-rated, exempt or are subject to relief	▸ Sales tax – ranging from 5% to 25% ▸ Service tax – 6%
Mandatory registration upon reaching threshold of RM500,000 (voluntary registration also possible)	**Sales Tax:** A license had to be obtained if annual sales turnover exceeded RM100,000. **Service Tax:** A range of registration thresholds from nil to RM3 million
Input tax can be offset against output tax	No tax credit mechanism
Returns filed either monthly, bi-monthly or quarterly (and the option to request an alternative filing period)	Returns filed on a bi-monthly basis

Recap

Service Tax Act 1975

- Taxable person – any person who is prescribed to be a taxable person
- Taxable services – any service which is prescribed to be a taxable service

Taxable person	Taxable services
Hotels having >25 rooms Restaurants in hotels having >25 rooms Restaurants in hotels having ≤25 rooms (Total annual sales turnover >RM3,000,000) Restaurants outside hotels (Total annual sales turnover >RM3,000,000)	Lodging, F&B, function space, other related goods and services, parking spaces, etc.
Private clubs (Total annual sales turnover >RM300,000)	Recreational services, F&B and other related services
Golf courses and Golf driving ranges	Golf courses
Private hospitals	Lodging and F&B
Other service providers ▸ Insurance companies, communication services, customs agents for import/export, financial institutions, professional services ▸ With annual sales turnover >RM150,000 (parking spaces, courier services, motor vehicle repair centers, private agencies and employment services) ▸ With annual sales turnover >RM300,000 (private veterinary clinics, hire car services and advertising services)	▸ Insurance, communication, clearing goods from customs control, credit card and professional/consultancy/ management services ▸ Parking spaces, courier services, repair/maintenance services, security services and employment services ▸ Consultancy, hire car and advertising

"For businesses, this change in the tax landscape requires a careful review of systems, processes and procedures to ensure compliance. Business and operational decisions must incorporate a proper assessment of the impact arising from the changes.

We expect further guidelines and clarifications to be issued by the authorities. Businesses need to keep abreast."

Amarjeet Singh
Partner and Malaysia Tax Leader,
Ernst & Young Tax Consultants Sdn Bhd

Next steps

1

Analyze impact

- Identify the potential impact of the change across your business
- Like GST, the impact will be across systems, people and processes
- Feedback to policymakers on potential impact to business

2

Evaluate changes

- Upon the release of guidelines and legislation, analyze the tax changes on a transaction level
- Transaction mapping, contract reviews, customer and vendor communication, and a review of pricing impact, among others, will be required
- Engage with stakeholders including policymakers

3

Prepare detailed transition plan

- Prepare a detailed transition plan for the phasing out of GST and the implementation of the new SST
- Supply chain reviews, systems changes, pricing updates, training and communication

4

Implement changes

- Execute the implementation in accordance with the transition plan developed
- Testing and commissioning of changes
- Deregistration from GST and registration for SST
- Close out any GST audits and/or outstanding refunds

5

Post-implementation review

- Review the effectiveness of the implementation and identify issues and resolutions where applicable

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