

## Client Alert

17 May 2018

### Reduction of GST rate from 6% to 0% effective from 1 June 2018

#### Announcement by the Malaysian Ministry of Finance ("MOF")

In line with the new Malaysian Government's pledge to abolish the GST regime within 100 days of coming into power, the MOF has issued a statement dated 16 May 2018 to reduce the current GST rate from 6% to 0%, effective from 1 June 2018 onwards ("**MOF Statement**").

In particular, the MOF Statement indicated that goods and services supplied in Malaysia as well as imported goods and services which are currently subject to GST at the standard rate of 6%, will be subject to GST at 0% with effect from 1 June 2018 onwards.

The MOF Statement also clarifies that registered persons shall continue to be subject to all regulations currently in force, including regulations relating to the issuance of tax invoices, submission of GST returns and claiming of input tax credits. Businesses are required to ensure that the prices of goods and services are in compliance with the Price Control and Anti-Profiteering Act 2011.

Further to the MOF Statement, 6 subsidiary legislations have been published in the Federal Gazette, as discussed in further detail below.

#### 0% GST Rate for Standard-rated Supplies

Pursuant to the Goods and Services Tax (Rate of Tax) (Amendment) Order 2018, the rate of GST applicable to standard-rated supplies of goods and services will be reduced from 6% to 0%. It should be noted that these supplies will continue to be treated as standard-rated supplies which are subject to GST at a rate of 0%, and are not characterised as zero-rated supplies.

Following the change in the GST rate for standard-rated supplies, the transitional rules set out in Section 66 of the Goods and Services Tax Act 2014 ("**GST Act**") will apply to supplies which span the change in the rate of tax. The transitional rules provide guidance on when the old rate (6%) and the new rate (0%) should be applied, depending on the circumstances of the particular supply.

#### Revocation of Zero-rated Supplies

Prior to 1 June 2018, zero-rated supplies comprise of:

- (i) any supply of goods or services determined to be a zero-rated supply under the Goods and Services Tax (Zero-rated Supply) Order 2014 ("**ZR Order**"); and

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- (ii) any supply of exported goods.

The Goods and Services Tax (Zero-rated Supply) (Revocation) Order 2018 seeks to revoke the ZR Order with effect from 1 June 2018.

As such, from 1 June 2018 onwards, all supplies of goods and services which are currently listed under the ZR Order, will be treated as standard-rated supplies which are subject to GST. Whilst there will be a change in the technical characterisation of these supplies, there should not be any impact on the net GST effect given that all standard-rated supplies are taxed at 0% moving forward, and input tax credits continue to be available for standard-rated supplies.

Likewise, Section 66 of the GST Act sets out the transitional rules which will be applicable in instances where a zero-rated supply is changed to a standard-rated supply.

Kindly note that these changes do not impact exempt supplies which are currently governed by the Goods and Services Tax (Exempt Supply) Order 2014, as confirmed in the MOF Statement.

### **Streamlining the Treatment of Certain Supplies**

Subsidiary legislations relating to the following supplies have been passed to streamline the GST treatment for these supplies arising from the reduction of the GST rate for standard-rated supplies to 0% with effect from 1 June 2018:

- (i) certain supplies made within or between designated areas (*Goods and Services Tax (Imposition of Tax for Supplies in respect of Designated Areas) (Revocation) Order 2018*);
- (ii) certain supplies made within or between free zones (*Goods and Services Tax (Imposition of Tax for Supplies in respect of Free Zones) (Revocation) Order 2018*);
- (iii) certain supplies made by the Federal Government and State Government (*Goods and Services Tax (Application to Government) (Revocation) Order 2018*); and
- (iv) supplies currently relieved from GST (*Goods and Services Tax (Relief) (Revocation) Order 2018*).

### **What Should Businesses Take Note Of?**

Given that these changes will come into force in approximately 2 weeks, businesses should undertake immediate steps to ensure that they are prepared for and ready to comply with the relevant changes from 1 June 2018 onwards. In particular, businesses should consider the following:



- **Updates to retail price displays** - Where advertisements, quotes and price displays are currently published at a price which is inclusive of 6% GST, changes will need to be made to ensure that the prices displayed from 1 June 2018 onwards do not include 6% GST.
- **Anti-profiteering concerns** - The MOF Statement makes a specific reference to the Price Control and Anti-Profiteering Act 2011. It is likely that the Royal Malaysian Customs and Ministry of Domestic Trade, Cooperatives and Consumerism will be closely monitoring businesses and retail outlets to ensure that the prices of goods and services are revised accordingly in view of the reduction of the GST rate.
- **Ongoing compliance requirements** - Notwithstanding the reduction of the GST standard rate to 0%, all compliance and filing obligations under the GST Act and subsidiary legislations continue to be applicable. Therefore, all obligations and requirements under the GST Act and subsidiary legislations will need to be complied with. This includes obligations such as the issuance of tax invoices, filing of GST returns, payment of GST liabilities and record-keeping, amongst others.
- **Transitional rules** - Businesses should analyse the application of the transitional rules set out in Section 66 of the GST Act with respect to supplies which span the change in the GST rate and the revocation of the ZR Order.
- **Contracts with GST-inclusive prices** - Where ongoing contracts have previously been entered into based on a GST-inclusive consideration price, it would be prudent for businesses to review the GST clauses in these contracts carefully to determine if the change in the GST rate will impact the consideration payable under these contracts.

As a general observation, these legislative updates do not abolish the GST regime, and it appears that the GST legislative framework will continue to remain, pending further changes.

The MOF had released a further statement on 17 May 2018, which confirms that the sales and service tax ("**SST**") will be re-introduced, although no tentative timeline for implementation has been announced. In the statement, it was indicated that the shortfall in GST revenue collection following the reduction of the GST rate will be supported by specific revenue and expenditure measures which will be announced shortly.

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It remains to be seen whether the SST regime which will be re-introduced will be the same, in scope, form and rates, as the previous SST regime which was in force prior to the introduction the GST in Malaysia.

Please click [here](#) to read our Client Alert (dated 15 May 2018) on the *Proposed Abolition of GST and Potential Tax Reforms in Malaysia*.