



**AMENDMENTS TO THE  
GOODS AND SERVICES TAX ACT 2014  
comes into operation on 1 January 2017  
HIGHLIGHTS!**

# Amendment of section 13: Supply of imported services

Amend in subsection 13(4)(b):

Time of supply of imported services shall be treated to have been made at the following dates whichever is the earlier:

- (a) the date when any payment is made by the recipient; or
- (b) the date when any invoice is received from the supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia.

## Amendment of section 20: Liability to be registered

Section 20(6): In determining the value of any person's supplies for the purposes of registration with GST, supplies to be excluded include:

- (a) supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied due to cessation of business;
- (f) supplies made within or between the free zone under section 162 except where such supply is subject to an order under subsection 163(1).

## Amendment of section 33: Issuance of tax invoice

Amend by substituting for subsection (10):

(10) No invoice showing an amount which purports to be a tax shall be issued by any **registered** person—

(a) on any supply of goods or services which is not a taxable supply; or

(b) on any zero-rated supply.

## Amendment of section 33: Issuance of tax invoice

Amend by inserting after subsection (10):

(10A) Any person who is **not** a registered person, except the persons mentioned in subsections 65(4) and (5), shall not issue—

- (a) an invoice showing an amount which purports to be a tax or an amount inclusive of tax; or
- (b) an invoice which purports to be a tax invoice with or without tax.

# Amendment of section 34:

## Production of tax invoices by computer

Amend by inserting **new sections 34A and 34B:**

### **34A. Prescribed registered person to provide information on supply made and payment received:**

(1) Any registered person as prescribed by the Minister shall provide information on all supply made and payment received by him to the Director General using a device and in the manner as prescribed by the Minister.

(2) The Director General may for the purpose of this section approve any person—

- (a) to install, configure and integrate the prescribed device;
- (b) to provide the services for the support and maintenance of the prescribed device as scheduled or upon being notified of the failure of the prescribed device to function or operate in normal condition; or
- (c) to carry out an inspection in the case of any sign of interference, destruction, damage, manipulation of data stored or obstruction of the lawful use of the prescribed device.

(3) The person approved under subsection (2) shall, when entering the premises of the registered person prescribed under subsection (1) to perform his duties under this section, produce, on demand by the registered person, proof of approval.

# Amendment of section 34:

## Production of tax invoices by computer

Amend by inserting **new sections 34A and 34B:**

### **34A. Prescribed registered person to provide information on supply made and payment received:**

(4) The registered person prescribed under subsection (1) shall—

- (a) at any time allow any officer of goods and services tax or any person approved by the Director General to install the device and to configure, integrate or inspect the device installed at his business premises;
- (b) make all effort to ensure—
  - (i) that the device, after being supplied and installed, is not moved, manipulated, tampered or interfered with; and
  - (ii) that the use of the device is not obstructed by any person or any other device; and
- (c) notify immediately the Director General of any failure of functionality and operation of the prescribed device in normal condition.

(5) Any person who fails to comply with, hinder or prevent the operation of this section in any respect commits an offence.

# Amendment of section 34:

## Production of tax invoices by computer

Amend by inserting new sections 34A and 34B:

### **34B. Duty not to give, publish or disclose information of the prescribed device:**

- (1) Any person who, for any reason, has by any means access to any information on the device prescribed under subsection 34a(1) shall not give, publish or otherwise disclose to any other person such information unless the disclosure is required or authorized—
  - (a) under this Act;
  - (b) by any court; or
  - (c) for the performance of his duties or the exercise of his powers under this Act.
- (2) Any person who contravenes subsection (1) commits an offence.



# Amendment of section 41:

## Furnishing of returns and payment of tax

Amend Subsection 41(8) : (see summary in the next slide)

41(8) Where any tax due and payable is not paid wholly or partly by any taxable person after the last day on which it is due and payable under subsection (4) and no prosecution is instituted, the taxable person shall pay —

- (a) for the first thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified under subsection (4), a penalty of ten percent of the amount of tax remain unpaid.
- (b) for the second thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified under subsection (4), an additional penalty of fifteen per cent of the amount of tax remain unpaid; and
- (c) for the third thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified under subsection (4), an additional penalty of fifteen per cent of the amount of tax remain unpaid.

# Amendment of section 41: Furnishing of returns and payment of tax

| Amendment of subsection 41(8)   | Current | New                             |
|---|---------|---------------------------------|
| Any tax due and payable is not paid wholly or partly after the last day on which it is due and payable under subsection (4) and no prosecution is instituted, shall pay | Rate    | Rate                            |
| Not paid within 1 <sup>st</sup> 30 days   | 5%      | 10% of tax amount remain unpaid |
| Not paid within the 2 <sup>nd</sup> 30 days (i.e. 31 to 60 days)  | 15%     | 25% of tax amount remain unpaid |
| Not paid within the 3 <sup>rd</sup> 30 days (i.e. 61 to 90 days)  | 25%     | 40% of tax amount remain unpaid |

## Amendment of section 42: Furnishing of declarations and payment of tax by person other than a taxable person

Amend by inserting subsection:

(4) Where any tax due and payable is not paid wholly or partly by any person other than a taxable person after the last day on which it is due and payable under subsection (1) and no prosecution is instituted, the person shall pay—

- (a) for the first thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified in subsection (1), a penalty of ten per cent of the amount of tax remain unpaid;
- (b) for the second thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified in subsection (1), an additional penalty of fifteen per cent of the amount of tax remain unpaid; and
- (c) for the third thirty-day period that the tax is not paid wholly or partly after the expiry of the period specified in subsection (1), an additional penalty of fifteen per cent of the amount of tax remain unpaid.

## Amendment of section 42: Furnishing of declarations and payment of tax by person other than a taxable person

Amend by inserting subsection:

(5) Subject to subsection (7), prosecution for the offence under subsection (3) may be instituted after the expiry of the period specified in paragraph (4)(c).

(6) The court may order that any person other than a taxable person who is convicted for the offence under subsection (3) shall pay the penalty as specified in subsection (4).

(7) No prosecution for the offence under subsection (3) shall be instituted against any person other than a taxable person who has paid the amount of tax due and payable and the penalty specified under subsection (4) within the period specified in subsection (4).

# Amendment of section 49:

## Recovery of tax from persons leaving Malaysia

Amend in subsection 49(1):

Expand restriction on person leaving Msia who has not paid tax, penalty, surcharge, fee or any other money, or furnishes security to the satisfaction of the Director General for their payment.

## Amendment of section 56: Power of Minister to grant relief

Amend section 56 by inserting:

56(5) Where any person who is granted relief under subsection (1) or paragraph (3)(a) fails to comply with the condition subject to which the relief was granted or where the relief granted is revoked, any tax that has been the subject of the relief shall become due and payable by the person at the time when the condition ceased to be fulfilled or where the relief granted is revoked.

56(7) Where a person who has been granted relief under subsections (1) and (3) has paid any of the tax to which the relief relates and has been granted approval by the Minister to a refund of the amount of tax which has been paid, the person shall be entitled to such refund.

# Amendment of section 57: Refund of tax, etc., overpaid or erroneously paid

Amend shoulder note to “**overpaid, erroneously paid, remitted or being the subject of relief**”

Amend by substituting for subsection (1): Any person who—

- (a) has overpaid or erroneously paid any tax, surcharge, penalty, fee or other money; or
- (b) is entitled to a refund of tax under subsection 56(7) or refund of tax, penalty or surcharge under subsection 62(3),
- may make a claim thereof in the prescribed form.

## Amendment of section 57: Refund of tax, etc., overpaid or erroneously paid

Amend by inserting after subsection (1) the following subsections:

(1a) A claim under subsection (1) shall be made to the Director General within six years from the time—

- (a) such overpayment or erroneous payment occurred; or
- (b) such entitlement of the refund under subsection 56(7) or 62(3) occurred.

(1b) The Director General may make such refund of tax, surcharge, penalty, fee or any other money, as the case may be, after being satisfied that the person has properly established the claim.



## Amendment of section 70: Warehousing Scheme

Warehouse in this section means customs warehouse, licensed warehouse, duty free shop, and inland clearance depot.

Amend by substituting for subsection (2):

(2) Tax shall be due and payable upon all goods removed from a warehouse to all intents as if the removal were importation into Malaysia **unless** the goods are removed for export, for deposit to another warehouse, to a free zone or to a designated area with the approval of the proper officer of customs.

Appendix 15 of 2017 Budget Speech:

To streamline GST treatment between imported goods and goods from PCA and to facilitate GST administration under Warehousing Scheme, proposed that no GST shall be charged on goods from PCA which consist of LMW, Excise Warehouse and FIZ that are deposited into and supplied within and between warehouse under the Warehousing Scheme.

# Warehousing Scheme - Goods

| Removal/Supply  | WEF from 1 Jan 2017 (except prescribed goods) |
|---|---|
| Import into warehouse   | Suspended                                     |
| Supply within warehouse   | Disregarded                                   |
| Supply between warehouse  | Disregarded                                   |
| Warehouse to local  | Subject to GST                                |
| Goods consumed in warehouse   | Subject to GST                                |
| Warehouse to overseas   | Zero-rated                                    |
| FZ/DA/Warehouse to Warehouse (for deposit)  | GST not due and payable                       |
| Warehouse to FZ/DA/Warehouse (for deposit)  | GST not due and payable                       |
| <u>LMW, Excise Warehouse and FIZ deposited into and supplied within and between warehouse</u> | GST not chargeable                            |

## Amendment of section 156:

### Goods or services imported into or supplied to or from designated area

Amend by using the word “removed/removal” instead of “supplied/supply”:

156. Notwithstanding any provision of this Act—

- (a) tax shall be due and payable upon all goods including any goods under any lease agreement removed from a designated area to another designated area through Malaysia or from a designated area to Malaysia to all intents as if the removal were importation into Malaysia;
- (aa) the payment of tax under paragraph (a) shall be suspended on any goods removed from a designated area through Malaysia to another designated area, to a free zone or to a warehouse under section 70, unless the Minister otherwise directs in an order under section 160.

# Designated Area - Goods

| Removal/Supply               | WEF from 1 Jan 2017 (unless Minister otherwise directs) |
|------------------------------|---|
| Import into DA               | GST not due and payable                                 |
| Supply within DA             | GST not chargeable                                      |
| Supply between DA            | GST not chargeable                                      |
| DA to DA through Msia        | Suspended   |
| DA to FZ through Msia        | Suspended   |
| DA to warehouse through Msia | Suspended   |
| DA to Malaysia               | Subject to GST  |
| DA to overseas               | Zero-rated  |

# Amendment of section 161 to 163: Free Zone

Amend:

- 1) Free Commercial Zone replaced by Free Zone (i.e. FCZ and FIZ).
  
- 2) Unless the Minister otherwise directs in an order under section 163:
  - (a) no tax shall be due and payable upon any importation of goods into a free zone except for goods imported to be used or consumed in the free zone, other than goods for the purpose of commercial, manufacturing or retail trade activities approved under the Free Zones Act 1990; and
  
  - (b) no tax shall be charged on any supply of taxable goods made within or between a free zone (includes FCZ and FIZ).

# Amendment of section 161 to 163: Free Zone

## New sections 162a and 162b:

### 162a. Goods removed from a free zone including goods under lease agreement

- (1) Tax shall be due and payable upon all goods removed from a free zone to another free zone through Malaysia or from a free zone to Malaysia including any goods under lease agreement as if the removal were importation into Malaysia.
- (2) Unless the Minister otherwise directs in an order under section 163, the payment of tax under subsection (1) shall be suspended on any goods removed from a free zone through Malaysia—
  - (a) to another free zone;
  - (b) to a designated area; or
  - (c) to a warehouse under section 70.

# Free Zone - Goods

| Removal/Supply                   | WEF from 1 Jan 2017 (unless Minister otherwise directs) |
|----------------------------------|---|
| Import into FZ                   | GST not due and payable                                 |
| FZ to Malaysia                   | Subject to GST  |
| FZ to overseas                   | Zero-rated  |
| Supply within FZ                 | GST not chargeable                                      |
| Supply between FZ                | GST not chargeable                                      |
| FZ to FZ through Malaysia        | Suspended   |
| FZ to DA through Malaysia        | Suspended   |
| FZ to warehouse through Malaysia | Suspended   |

# Amendment of section 161 to 163: Free Zone

## New sections 162a and 162b:

**162b. Supply of goods or services by taxable person whose principal place of business located in a free zone**

- Tax shall be charged by a taxable person whose principal place of business is located in a free zone on any taxable supply of goods or services made within Malaysia.



# Amendment of section 161 to 163: Free Zone

## Amendment of section 163: Power of Minister to impose tax

163. (1) The Minister may, by order published in the *Gazette*, prescribe—

- (a) any goods imported into, supplied within or between free zone to be chargeable to tax; or
- (b) any goods removed from a free zone through Malaysia to another free zone, to a designated area or to a warehouse under section 70 to be subject to payment of tax.

# Amendment of Second Schedule

Amended by inserting a paragraph 8:

## 8. **Supply of land** in compliance with requirement of written law, Government or local authority

- 8(1) Any supply of land by a developer or an owner of the land to the Federal Government, a State Government, a local authority or any other person in compliance with the requirement of any written law, the Federal Government, State Government or local authority for the purposes of providing public amenities and public utilities whether for no consideration or at nominal value shall be treated as neither a supply of goods nor supply of services.
- 8(2) For the purposes of subparagraph (1), public amenities and public utilities means the amenities and utilities provided in the layout plan for a project which has been approved by the relevant local authority.”.

# Review of GST Relief for Disabled Persons

## **Amend Item 7 of First Schedule of GST (Relief) Order 2014:**

Extend relief to OKU card holders who are not members of Private Charitable Entities (PCE) for purchase of approved equipment from suppliers designated by Social Welfare Department.

The list of equipment will be widened to include such as calipers, artificial prosthetic and orthotic, motorized wheelchair, and etc.



# UPDATES on GUIDES in RMCD PORTAL

# Guide On Employee Benefits as at 29 September 2016

**Paragraph 8:** However, for certain employee benefits which relate to an exempt supply such as the provision of accommodation and transportation, the input tax incurred on the acquisition which relates to accommodation or transportation is not claimable.

- **Example 2 of the Guide:** *Provision of free bus transportation (vehicle licenced under Suruhanjaya Pengangkutan Awam Darat) to workers is related to exempt supply, input tax incurred on rental of the bus cannot be claimed since it relates to the making of exempt supply.*

**Paragraph 22 & 23:** Supply of accommodation under employee benefits (i.e. free of charge) which relates to an exempt supply under the GST (Exempt Supply) Order 2014 is considered as used for the purposes of business. The employer is not required to account for GST on the supply and is not entitled to claim the input tax incurred on the acquisition of the accommodation.

## Appendix 1:

De Minimis Rule is applicable.

# Guide On Export as at 12 August 2016

Paragraph 8: The exporter must possess valid documents to prove that the goods have been exported. Please refer to Q8 on Frequently Asked Questions.

Paragraph 9: To be eligible for input tax claim relating to goods that are exported, a registered person (exporter) must ensure that:-

- a) prescribed customs form for export (K2 / K8) must have an endorsement on Remarks column in Sistem Maklumat Kastam (SMK)– “A claim for input tax under the GST Act 2014 will be made”; and
- b) Customs Official Receipt.

# General Guide as at 12 July 2016 – Goods written-off and Destruction of scrap/wastes

- Goods may be expired or damaged and subsequently written-off and destroyed in the course of business.
- Input tax credit is allowable for these goods and supporting documents need to be furnished to RMCD upon request.
- If the written-off goods are sold as scrap, it is subject to GST 6% and the company has to issue a tax invoice.
- For written-off goods which are disposed off other than by sale, required to keep related documents as proof that the goods has been written-off and disposed.  
For example, if such goods has been destroyed, then a certificate of destruction has to be signed by the company's chairman or director which is to be kept for audit purpose.

# General Guide as at 12 July 2016 – Goods written-off and Destruction of scrap/wastes

Documents required to be kept by GST registered person for the written-off goods are as follow:

- a) audited report / financial statement and management report;
- b) audited accounts reporting the written-off goods;
- c) evidence that the asset has no commercial value;
- d) evidence that the asset is spoiled / unusable / expired;
- e) approved letter by relevant body for disposal / destruction (if any) e.g.: Certificate from Ministry of Health Malaysia, Environmental Department or Department of Chemistry Malaysia;
- f) destruction certificate signed by company's chairman / director (refer to **Appendix 1 of the Guide**);
- g) other documents as proof the asset has been disposed / destroyed.



# Guide On Supply, Guide On Import

## Imported services

- **Guide on Supply** as at 24 May 2016, Paragraph 68(c)(ii): “However, services related to financial services acquired from a supplier who belongs in a country other than Malaysia and benefits a recipient who belongs in Malaysia is treated as an imported service for GST purposes if such services are consumed outside Malaysia”.
- **Guide On Import** revised on 24 June 2016 reworded: “Services acquired from overseas which is directly related to financial service and benefits a person who belongs in Malaysia, even though the services acquired are consumed overseas, it is to be treated as Imported Services”.

# Guide On Accounting Software Enhancement Towards GST Compliance as at 18 July 2016

- Guide as at 01 August 2016 has been removed.
- Provides guidance to accounting software developers to develop or enhance accounting software towards GST compliance.
- Provides guidance to GST registrants in the use of Tax Codes for purchase and supply, mapping tax codes with GST-03 return, and GST Reports in form of GST Audit File (GAF).
- May only use applicable tax codes as prescribed in **Appendix 3**.
- Can add own tax code or use a tax code based on compliance requirements with the terms and conditions that the tax rate, the treatment and the definition are correct and understandable.



THANK YOU!