Tax Law and You: Goods and Services Tax (GST) and Monthly Tax Deductions (MTD) as Final Tax

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Background

• The Honourable PM introduced Final Tax and revealed details on the Goods and Services Tax (GST) during his 2014 Budget Speech.
  – The current sales tax and service tax be abolished replaced by a single tax known as the Goods and Services Tax (GST) effective from 1 April 2015.
  – Tax payers with employment income whose Monthly Tax Deductions have been made, tax payers are not required to submit tax returns if they are with satisfied with their MTD as final tax - effective from year assessment 2014.
Part One: Goods and Services Tax (GST)

The law is stated at 1 May 2014.

What is Goods and Services Tax (GST)?

- The GST is a consumption tax in the form of value added tax involving each stage of business transaction up to the retail stage of distribution.
- GST incurred on inputs is allowed as a credit to the registrant to offset against output tax.
- GST is also known as Value Added Tax
Indirect Tax – Now and Future

Currently, our tax system involves several different indirect taxes i.e.:
- Import duty (On goods brought into the country)
- Export duty (On goods produced for sale outside the country)
- Government Sales Tax (On a wide range of goods at the point of import or at the manufacturer’s level, with four tax rates at 5%, 10%, 20% and 25%)
- Service Tax (On services)
- Excise Duty (On luxury and 'sin' products such as automobiles, liquor, beer and tobacco products)

The proposed GST will replace the Government Sales Tax and the Service Tax

Types of Supply in Malaysia

- Standard-rated supplies - goods and services that are charged GST with a standard rate (6%). GST is collected by the businesses and paid to the government. They can recover credit back on their inputs. If their input tax is bigger than their output tax, they can recover back the difference.
- Zero-rated supplies - taxable supplies that are subject to a zero rate. Businesses are eligible to claim input tax credit in acquiring these supplies, and charge GST at 0% to consumer.
- Exempt supplies - non-taxable supplies that are not subject to GST. Businesses are not eligible to claim input tax credit in acquiring these supplies, and cannot charge output tax to the consumer.
- Supplies not within the scope of GST - Supplies which do not fall within the charging provision of the GST Act include non-business transactions, sale of goods from a place outside Malaysia to another place outside Malaysia as well as services provided by the Government sector.
Scope and Charge

- GST shall be levied and charged on the taxable supply of goods and services in Malaysia by a taxable person and on the importation of goods and services.
- A taxable supply is a supply which is standard rated or zero rated. Exempt and out of scope supplies are not taxable supplies.
- GST is to be levied and charged on the value of the supply.
- GST can only be levied and charged if the business is registered under GST.
  - A business is not liable to be registered if its annual turnover of taxable supplies does not reach the prescribed threshold (RM500,000).
  - Therefore, such businesses cannot charge and collect GST on the supply of goods and services made to their customers.
  - Nevertheless, businesses can apply to be registered voluntarily.

Standard-rated supplies

Computation of GST at all levels of the supply chain for standard rated supply:

<table>
<thead>
<tr>
<th>Level of supply</th>
<th>Sales price (including GST at 6%)</th>
<th>Payment to Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raw material supplier</td>
<td>Sales price = RM50.00 GST = RM3.00 Total sales price = RM53.00</td>
<td>GST collection = RM3.00 Less: GST paid = RM3.00 GST payable = RM0.00</td>
</tr>
<tr>
<td>Manufacturer</td>
<td>Sales price = RM300.00 GST = RM18.00 Total sales price = RM318.00</td>
<td>GST collection = RM18.00 Less: GST paid = RM18.00 GST payable = RM0.00</td>
</tr>
<tr>
<td>Wholesaler</td>
<td>Sales price = RM150.00 GST = RM9.00 Total sales price = RM159.00</td>
<td>GST collection = RM9.00 Less: GST paid = RM9.00 GST payable = RM0.00</td>
</tr>
<tr>
<td>Retailer</td>
<td>Sales price = RM150.00 GST = RM9.00 Total sales price = RM159.00</td>
<td>GST collection = RM9.00 Less: GST paid = RM9.00 GST payable = RM0.00</td>
</tr>
</tbody>
</table>
### Zero-rated supplies

#### Computation of GST on zero rated supply:

<table>
<thead>
<tr>
<th>Level of supply</th>
<th>Sales price (including GST at 6%)</th>
<th>Payment to Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesaler</td>
<td>Sales price = RM100.00, GST = RM0.00</td>
<td>Total sales price = RM100.00</td>
</tr>
<tr>
<td></td>
<td>GST collection = RM0.00, Less: GST paid = RM0.00</td>
<td>GST payable = RM0.00</td>
</tr>
<tr>
<td>Retailer</td>
<td>Sales price = RM125.00, GST = RM0.00</td>
<td>Total sales price = RM125.00</td>
</tr>
<tr>
<td></td>
<td>GST collection = RM0.00, Less: GST paid = RM0.00</td>
<td>GST payable = RM0.00</td>
</tr>
</tbody>
</table>

### Exempt supplies

#### Computation of GST on exempt supply:

<table>
<thead>
<tr>
<th>Level of supply</th>
<th>Sales price (including GST at 6%)</th>
<th>Payment to Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raw material supplier</td>
<td>Sales price = RM50.00, GST = RM3.00</td>
<td>Total sales price = RM53.00</td>
</tr>
<tr>
<td></td>
<td>GST collection = RM3.00, Less: GST paid = RM3.00</td>
<td>GST payable = RM3.00</td>
</tr>
<tr>
<td>Manufacturer</td>
<td>Sales price = RM100.00, GST = RM6.00</td>
<td>Total sales price = RM106.00</td>
</tr>
<tr>
<td></td>
<td>GST collection = RM6.00, Less: GST paid = RM6.00</td>
<td>GST payable = RM6.00</td>
</tr>
<tr>
<td>Service provider</td>
<td>Sales price = RM129.00, GST = RM4.00</td>
<td>Total sales price = RM129.00</td>
</tr>
<tr>
<td></td>
<td>GST collection = RM4.00, Less: GST paid = RM4.00</td>
<td>GST payable = RM4.00</td>
</tr>
</tbody>
</table>
GST Registration

- Persons having businesses with annual sales turnover exceeding RM500,000 are liable to be registered under GST.
- Persons include an individual, sole proprietor, partnership, company, trust, estate, society, union, club, association or any other organization including a government department or a local authority which is involved in the business of making taxable supplies in Malaysia.
- The annual sales turnover can be determined based on either:
  - The total value of taxable supplies of the current month and the previous 11 months, (ACTUAL) or
  - The total value of taxable supplies of the current month and the next 11 months (PROJECTED).

Full Tax Invoice

When you charge GST, you need to issue a tax invoice showing the amount of GST and the price of the supplies separately and to be issued within 21 days after the time of the supply.

Particulars to be shown in the tax invoice:
- The words ‘tax invoice’ in a prominent place
- The invoice serial number
- The date of issuance of the invoice
- The name (or trade name), address and GST identification number of the supplier
- The name and address of the recipient of the supply
- A description of the goods and/or services supplied
- The quantity or volume of the goods and/or services supplied, for example, litres of petrol, kilos of meat or hours of labour
- Any discount offered
- The total amount payable excluding tax, the rate of tax and the total tax chargeable shown as a separate amount
- The total amount payable including the total tax chargeable
Simplified tax invoice

The Director General (DG) of Customs may upon request allow simplified tax invoice.

Simplified tax invoice which does not have the name and address of the recipient, the maximum of input tax must not exceed RM30.00.

If the recipient wants to claim the full amount of input tax (more than RM30.00), then he must request for his name and address to be included in the simplified tax invoice.

DG may allow the simplified tax invoice to be issued containing:

- The name & address and GST identification number of the supplier
- The date of issuance of the invoice
- The invoice serial number
- A description of the goods and/or services supplied
- The total amount payable including the total tax chargeable
- For each rate of tax chargeable, the gross amount payable including tax and the tax rate applicable

Accounting for GST

- All taxable persons will be required to account for GST based on accrual basis of accounting
- Certain categories of taxable persons may be allowed to use the cash basis of accounting e.g. businesses on a cash payment basis.
- All business and accounting records relating to GST transactions are to be kept in Bahasa Melayu or English for a period of seven (7) years.
Filing Tax Returns

GST returns must be submitted to the GST office not later than the last day of the following month after the end of the taxable period.

Taxable period is a regular interval period where a taxable person is liable to account and pay to the government his GST liability.

Input tax credit mechanism
- Businesses have to charge and collect GST on all taxable goods and services supplied to the consumers. Only businesses registered under GST can charge and collect GST. Businesses are allowed to claim whatever amount of GST paid on the business inputs by offsetting against the output tax.
- The excess amount of output tax shall be remitted to the government within the stipulated period.
- In the case where the amount of input tax cannot be fully recovered, businesses can make a claim for refund from the government.

<table>
<thead>
<tr>
<th>Categories</th>
<th>Periods</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard Taxable Period</td>
<td>Three months</td>
<td>*Applicable to all taxable turnover not exceeding RM5 million</td>
</tr>
<tr>
<td>Non-standard Taxable Period</td>
<td>One month</td>
<td>*Applicable to taxable persons with annual taxable turnover exceeding RM5 million</td>
</tr>
<tr>
<td></td>
<td>Six months</td>
<td>*Special cases</td>
</tr>
</tbody>
</table>

Paying GST/Claiming GST Refunds

- If output tax exceeds the input tax, the difference shall be remitted to the Government together with the GST returns not later than the last day of the following month after the end of taxable period.
- Payment can be done online or via cheque/bank draft/money order must be made payable to 'Ketua Pengarah Kastam’
- Any refund of tax may be offset against other unpaid GST, customs and excise duties.
  - Refund will be made to the claimant within 14 working days if the claim is submitted online or 28 working days if the claim is submitted manually.
Penalties, Review and Appeals

Penalties may be imposed if the following offences are committed:
- Any deficiency on the net tax payable
- No GST return is made
- A GST return is submitted without payment or a lesser payment
- Any refund paid to which there is no proper entitlement
- Failure to register

Any person who is aggrieved by the decision of the officer of GST may apply for a review and revision to the DG within 30 days from the date of notification.
- Alternatively, such person shall make an appeal to the Tribunal within 30 days from the date of the decision.

Part Two: Monthly Tax Deductions (MTD) as Final Tax

The law is stated at 1 May 2014.
Introduction

- Taxpayers are given an option to either submit the Income Tax Return Form (ITRF) via e-filing or manually.
- Final Tax will be enforced beginning Year of Assessment 2014.
- Taxpayers who have one employment income only and have Monthly Tax Deduction (MTD) need not to fill ITRF according to the terms below:

Terms

- Having one source of employment income
- 12 months of (calendar year) service with the same employer
- MTD is deducted according to Income Tax Rules
- Tax is not borne by the employer
- Husband and wife elect for separate assessment

Tax Returns

If tax payer does not fulfill the criteria of MTD as final tax, he NEEDS to furnish a return.

The tax payer needs to furnish return, if he:
- Works with more than one employer or change employers during the year;
- Works less than twelve months during the year;
- Enjoys tax borne by the employer;
- Opt for joint assessment;
- Has non-employment income such as business income, rental income, etc during the year;
- Has perquisites which are not included in the MTD calculations such as Benefit-in-kind and Household furnishings, apparatus and appliances;
- Wishes to claim refund or deduction/rebate and etc.

If the tax payer has income other than gains or profits from an employment, i.e. rental income, dividend income, commission without MTD deduction he cannot elect not to furnish his return.

He must submit the return before or at 30th April.
Calculation for MTD as Final Tax

To verify that the taxpayer’s MTD as final tax calculation is accurate and correct

1. Employers using the payroll system (Computerised Calculation Method)
   Tax payer may use the ‘Kalkulator PCB’ at IRBM website to verify the MTD calculation.

2. Employers who use manual Table/Schedule of MTD
   Tax payer may use table/schedule of MTD to verify the MTD calculation.

Errors in Calculation

- If the employer uses the wrong method to determine to MTD calculation, under the Income Tax (Deduction From Remuneration) (Amendment) Rules, compound will be issued to the employer that do not comply
  - However, the employer has the right to appeal for that particular compound issued.
- If the employee receives EA/EC form from employer and discovered the MTD as Final Tax is not accurate/correct he MUST submit return form to verify the accuracy of MTD deduction determined by employer.
  - If the taxable amount as per return form is different from the MTD deducted by the employer, tax payer may elect to furnish return form (BE) before or at 30 April.
Late Submission Penalty/ Failure to Furnish Return Form

• A Taxpayer who fulfill the criteria MTD as Final Tax BUT submits the return form after 30 April to claim for additional deduction or rebate will be subjected to a late submission penalty under Section 112(3), Income Tax Act 1967.
• The total penalty amount should be offset with the refund (if any).

Section 112, Income Tax Act 1967 Failure to furnish return or give notice of chargeability

(3) Where in relation to a year of assessment a person makes default in furnishing a return in accordance with section 77 (1) or 77A (1) or in giving a notice in accordance with section 77(3) and no prosecution under subsection (1) has been instituted in relation to that default

— (a) the Director General may require that person to pay a penalty equal to treble the amount of the tax which, before any set-off, repayment or relief under this Act, is payable for that year; and

— (b) if that person pays that penalty (or, where the penalty is abated or remitted under section 124 (3), so much, if any, of the penalty as has not been abated or remitted), he shall not be liable to be charged on the same facts with an offence under subsection (1)
• Scenario 1: **MTD deducted is accurate and correct** with deduction and rebate and tax payer **insists** to submit return form
  — Although the return forms received after 30 April, penalty under Section 112(3), Income Tax Act 1967 will **not** be imposed.

• Scenario 2: MTD deducted is accurate and correct with deduction and rebate and tax payer wish to submit return form and claim **additional deduction or rebate**.
  — If the actual tax to be paid is different from MTD (over or under deducted) and return form received after 30 April, the **penalty** under Section 112(3), Income Tax Act 1967 is imposed.

References

Please visit the following web pages for details on

• GST

• Final Tax