

In this Issue

- Goods and Services Tax (Repeal) Bill 2018
- Sales Tax Bill 2018
- Service Tax Bill 2018

In fulfilling the *Pakatan Harapan* Government's election manifesto, the Deputy Finance Minister, YB Dato' Haji Amiruddin Hamzah has on 31st July 2018 tabled the following for its first reading:-

- i. Goods and Services Tax (Repeal) Bill 2018;
- ii. Sales Tax Bill 2018;
- iii. Service Tax Bill 2018;
- iv. Customs (Amendment) Bill 2018; and
- v. Free Zones (Amendment) Bill 2018.

Goods and Services Tax (Repeal) Bill 2018

The proposed Goods and Services Tax (Repeal) Act 2018 will soon be enacted and the date of appointment [hereinafter referred to as "the Appointed Date"] is expected to be fixed on 1st September 2018 as announced by the Finance Minister, YB Mr Lim Guan Eng. The salient points pertaining to the proposed repealed Act are summarised below:-

- i. Savings Provisions of the GST Act 2014
 - Any liability incurred, GST due, overpaid or erroneously paid under the GST Act 2014 may be enforced, collected, refunded or remitted notwithstanding its abolishment.
 - Notwithstanding the repeal of the GST Act 2014, the following Sections shall continue to remain in operation after the Appointed Date:-

Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Goods and Services Tax \(Repeal\) Bill 2018](#)
- [Sales Tax Bill 2018](#)
- [Service Tax Bill 2018](#)
- [Customs \(Amendment\) Bill 2018](#)
- [Free Zones \(Amendment\) Bill 2018](#)

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- Section 178 of the GST Act 2014 on Sales Tax Act 1972 and Section 181 of the GST Act 2014 on Service Tax Act 1975
 - Any liability incurred, sales tax / service tax due, overpaid or erroneously paid under the Sales Tax Act 1972 or the Service Tax Act 1975 may be enforced, collected, refunded or remitted as if those Acts had not been repealed.
 - Section 191 of the GST Act 2014 on Claim for Special Refund of Sales Tax
 - The Director General of Customs and Excise [“the DG”] is empowered to recover any sales tax refund which has been wrongly paid to the claimant in the event that any information on the claim provided by the claimant is found to be false, inaccurate, misleading or misrepresented.
- ii. Furnishing of GST Return and Payment of GST by Taxable Person for the Last Taxable Period
- Any taxable period that begins before the Appointed Date and ends after the Appointed Date shall be deemed to end on the Appointed Date [“the Last Taxable Period”].
 - Any GST registrant is required to furnish the GST return for the Last Taxable Period and pay the GST due to the DG not later than 120 days from the Appointed Date.
 - If the Appointed Date falls on 1st September 2018, the due date to furnish the GST return and make good the GST payable is by 29th December 2018.
- iii. Furnishing of GST Declaration and Payment of GST by Person other than a Taxable Person
- The following person who is liable for GST in the month before the Appointed Date shall furnish a prescribed declaration and pay the GST (if any) due to the DG not later than 30 days after the Appointed Date:-
 - A non-registrant who is liable for GST on imported services under Section 13 of the GST Act 2014;
 - Any person who is liable for GST as a result of:-
 - failure to comply with the condition(s) subject to which the relief was granted under Section 56(1) / 56(3) of the GST Act 2014; or
 - revocation of the relief granted by the DG;
 - An agent who acted as an auctioneer and supplies goods (other than goods sold in satisfaction of any debt owed by a taxable person) on behalf of a principal pursuant to Section 65(4)(b) of the GST Act 2014;
 - An agent who supplies goods in satisfaction of any debt owed by a taxable person pursuant to Section 65(5) of the GST Act 2014;
 - Any non-registrant who belongs in Malaysia and receives treated or processed goods from a toll manufacturer as defined under Section 72(1) of the GST Act 2014 in the course or furtherance of his business in Malaysia.

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iv. Claim for Input Tax and Refund

- Any input tax credit which has not been claimed before the Appointed Date shall be claimed in the GST return for the Last Taxable Period and that claim shall be considered as the final claim for all input tax.
- Subject to verification, audit or investigation, any GST refund for the following shall be paid by the DG within 6 years from the Appointed Date:-
 - input tax under Section 38 of the GST Act 2014 which has not been refunded by the DG on the Appointed Date;
 - any input tax claimed in the GST return for the Last Taxable Period.

Sales Tax Bill 2018 and Service Tax Bill 2018

As in the case of the proposed Goods and Services Tax (Repeal) Act 2018, the date of appointment [“the Appointed Date”] for both Sales Tax Bill 2018 and Service Tax Bill 2018 is expected to be fixed on 1st September 2018. Based on our review of the Bills, the general understanding and treatment of sales tax and service tax [“SST”] contained therein are substantially the same as that published in our publication in July 2018. A comprehensive write-up on SST will be published upon the release of the SST regulations and orders by the Government.

Note: Kindly refer to our *Tax Flash – July 2018 (Special Edition)* issue.

Meanwhile, we wish to highlight the following additional salient points extracted from the Sales Tax Bill 2018 and Service Tax Bill 2018:-

i. Sales Tax Bill 2018

- Sales Tax Due
 - Generally, sales tax is due at the time the taxable goods are sold, disposed of otherwise than by sale, or first used otherwise than as materials in the manufacture of taxable goods, by the taxable person.
 - However, in respect of any sale of taxable goods by any registered manufacturer within the period beginning from 1st June 2018 and ending immediately before the effective date for imposition of sales tax [“the Effective Date”] [“the period from 1st June 2018 to the Effective Date is hereinafter referred to as “the Transitional Period”], and the taxable goods are delivered on or after the Effective Date [“the Date of Delivery”],
 - the sale of such taxable goods is deemed to have been taken place on the Date of Delivery notwithstanding any payment (whether wholly or partly) is received or invoice is issued during the Transitional Period;
 - any payment received within the Transitional Period / on or after the Effective Date, or invoice issued within the Transitional Period, is deemed to have been received or issued on the Date of Delivery; and

➤ [Tax Flash – July 2018 \(Special Edition\)](#)

Hyperlinks

- sales tax shall be charged and levied on such taxable goods and the registered manufacturer is liable for the applicable sales tax on the Date of Delivery.
 - Drawback of Sales Tax
 - The DG may allow drawback (i.e. refund) of the full amount of sales tax paid by a person in respect of taxable goods which are subsequently exported by the person from Malaysia.
 - The above drawback does not apply to petroleum.
 - Sales Made Progressively or Periodically
 - Where any sale of taxable goods made under an agreement for a period or progressively over a period (whether or not at regular intervals) and that period begins before 1st June 2018 and ends after the Effective Date, the proportion of the sale which is attributed to the part of the period after the Effective Date is subject to sales tax.
 - The exceptions to the above transitional treatment are:-
 - Supply of replacement goods made under a warranty where the value of the warranty has been included in the price of the goods;
 - Supply of goods where GST has been paid on such goods.
- ii. Service Tax Bill 2018
 - Service Tax Due
 - Generally, service tax is due at the time when payment is received for the taxable service provided to the customer by the registered person. In the event the whole or any part of the payment is not received within a period of 12 months from the date of the invoice, service tax shall be due on the day following that period of 12 months.
 - For cases where an arrangement or agreement for the provision of any taxable services is made by a taxable person within the period beginning from 1st June 2018 and ending immediately before the effective date for imposition of service tax [“the Effective Date”] [“the period from 1st June 2018 to the Effective Date is hereinafter referred to as “the Transitional Period”], and the taxable services are provided or performed on or after the Effective Date [“the Date of Rendering the Services”],
 - the arrangement or agreement for the provision of such taxable services is deemed to have been made on the Date of Rendering the Services notwithstanding any payment (whether wholly or partly) is received or invoice is issued during the Transitional Period;
 - any payment received within the Transitional Period / on or after the Effective Date, or invoice issued within the Transitional Period, is deemed to have been received or issued on the Date of Rendering the Services;

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- service tax shall be charged and levied on such taxable services and the service tax is due on the Date of Rendering the Services.
- Contra System
 - Subject to the approval from the DG, any registered person may apply to the DG to deduct from his service tax return any service tax paid but subsequently refunded to his customer as a result of the following circumstances:-
 - cancellation of taxable service;
 - termination of taxable service; or
 - other reasons as may be approved by the DG.
 - The registered person shall make the deduction within one year after the payment was made or such extended period as may be approved by the DG.
- Services Supplied Progressively or Periodically
 - Where any taxable service is provided under an agreement for a period or progressively over a period (whether or not at regular intervals) and that period begins before 1st June 2018 and ends after the Effective Date, the proportion of the service which is attributed to the part of the period after the Effective Date is subject to service tax.
 - The services provided shall be taken to be made continuously and uniformly throughout the period of the agreement.
 - The exceptions to the above transitional treatment are:-
 - Supply of services under a warranty where the value of the warranty has been included in the value of the services provided;
 - Supply of services where GST has been paid on such services.
- Rights Granted for Life
 - The service tax treatment mentioned in the table below shall apply where:-
 - a registered person who is a club or other similar body, provides taxable services under an agreement;
 - the agreement provides (whether expressly or implicitly) that a right is to be granted or exercisable for the rest of the person's life or for a period of not less than 30 years; and
 - the rights is granted or first exercisable before the Effective Date.

- Service tax treatment in respect of any payment made by a member of the club or other similar body:-

Provision of Services	Subject to Service Tax
Before the Effective Date	No
On / after the Effective Date	Yes

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This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Advent MS Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team.