

Client Alert

July 2017

New GST Relief on Supplies Directly Connected to Exported Goods

Introduction

The Royal Malaysian Customs Department ("**Customs**") recently issued a Goods and Services Tax ("**GST**") Relief by the Minister of Finance 1/2017 ("**Relief 1/2017**") granting suppliers a relief from the obligation to charge GST on certain types of supplies which are made directly in connection with exported goods, subject to certain prescribed conditions.

The Relief 1/2017, which was made pursuant to Section 56(3)(b) of the Goods and Services Tax Act 2014, came into effect on 1 July 2017.

Types of Supplies Granted GST Relief

The supplies which are granted GST relief under the Relief 1/2017 are categorised under four broad groups. These four groups of supplies are summarised in the table below:

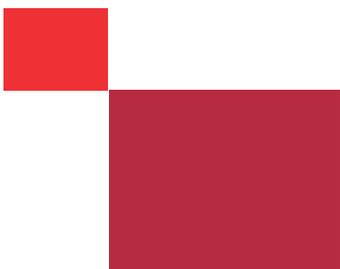
Group	Type of supplies
1	<p>Handling services or storage services directly in connection with goods for export, such as:</p> <ul style="list-style-type: none">• transport ancillary to the handling of ship or aircraft cargo;• stevedoring and portorage;• loading, unloading, reloading, stowing, securing and shifting cargo for the use of cranes and weighing machines together with an operator;• soiling, opening for inspection, repairing and making good, weighing and taring, taping and sealing, erasing and re-marking, labelling and re-numbering, tallying, checking, sampling, measuring or gauging of goods;• packing and unpacking of cargo;• survey of cargo;• cargo security services;• presenting goods for Customs examination;• preparing or amending Customs entries;• preparing or amending bills of lading, air waybills and certificates of shipment;• container handling for which a box charge is made; or• transit rate, basic rate, consolidated rate and stevedoring rate, if they relate solely to goods handling at free zone.

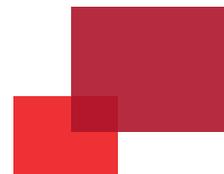
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Group	Type of supplies
2	Supply of services by a company with licensed manufacturing warehouse status or a company operating in a free zone directly in connection with goods for export, such as: <ul style="list-style-type: none">• manufacturing activities;• activities in the construction, building and modifications of the ship (including any floating structure) and aircraft;• maintenance, repair and overhaul activities of floating structure;• installation, repair, cleaning, restoration and modification of the goods; or• blending, homogenising, heating and other related activities in the oil and gas industry.
3	Supply of research and development ("R&D") services directly in connection with goods for export involving: <ul style="list-style-type: none">• the research, design and development of a new product; or• the enhancement of an existing product.
4	Supply of tools or machines which are highly customised or specialised in nature and used for the manufacturing of goods in Malaysia and services directly in connection with such tools or machines.

Prescribed Conditions of the GST Relief

The prescribed conditions of the GST relief, as set out in the Relief 1/2017, include:

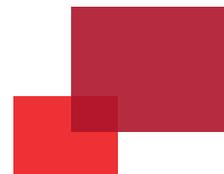
- ***Recipient of the supply must be an overseas customer***

The supply must be made to an overseas customer wholly in his business capacity and who:

- (a) belongs in a country other than Malaysia;
- (b) is outside Malaysia at the time the services are performed; and
- (c) does not have a fixed establishment in Malaysia including a branch or an agency through which the overseas customer carries on a business in Malaysia.

- ***Approval of the Director General of Customs ("DG")***

A supplier in respect of a supply under Group 2 or 3 is required to apply for the DG's approval by way of a written application in order for the supply to be relieved from GST.



- **Export of the relevant goods**

The goods in respect of which the supply of services is made must be exported in order to be eligible for the relief.

- (a) For supplies under Groups 1, 2, and 3, the goods must be exported within 60 days from the date of completion of the services to qualify for GST relief. Additionally, a written confirmation from the overseas customer to the supplier stating that the goods are to be exported within the 60 days period is required.
- (b) For supplies under Group 4, the tools or machines must be exported after the manufacturing process.

With regards to Group 1 specifically, if the goods are sent by the supplier to a third party in Malaysia for other services, the services supplied by the supplier would be subject to GST, unless the goods are subsequently exported by the third party within 60 days from the date of completion of the services by the third party or any other approved period.

- **Record keeping requirements**

To qualify for GST relief, the supplier is also required to keep and maintain certain documentations, for example:

- (a) the purchase order issued by the overseas customer to the supplier or the relevant contract between the supplier and the overseas customer;
- (b) the tax invoice issued by the supplier to the overseas customer in respect of the services;
- (c) the proof of payment of the services made by the overseas customer to the supplier; and
- (d) the relevant export documents, such as the Customs Prescribed Form K2 / Form K8 or the Free Zone Prescribed Form ZB1.

Impact to Businesses

In light of the Relief 1/2017, it would be timely for GST-registered businesses that make supplies which are directly in connection with exported goods to undertake a review to determine if their supplies would fall under the scope of this new GST relief and if it would be reasonably practical for the business to comply with all prescribed conditions of the relief. If so, it would be prudent to exercise care in ensuring that all the relevant conditions are complied with in order to enjoy the GST relief under the Relief 1/2017 and that the transactions are reported correctly in the GST returns.

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