GOODS AND SERVICES TAX

ROYAL MALAYSIAN CUSTOMS

GST GUIDE ON DECLARATION AND ADJUSTMENT AFTER 1st SEPTEMBER 2018

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INTRODUCTION

1. This guide is specifically prepared to assist businesses in understanding matters with regards to the tax adjustments and declaration after the repeal of Goods and Services Tax Act 2014 (GSTA) on 1st September 2018.

2. Where there is any inconsistency between previous GST decisions and the decisions stated in this guide, the GST decisions of this guide shall prevail.

TERMINOLOGY

3. "Final return" – GST-03 return in respect of the taxable period ended 31st August 2018 and to be submitted on or before 29th December 2018.

4. "Final taxable period" – taxable period ended on 31st August 2018.

5. "Month" refers to calendar month or complete month.

6. "Registered person" – a person who was registered under the Goods and Services Tax Act 2014.

REGISTERED PERSON LIABILITIES UNDER THE REPEAL ACT

7. Any taxable supply made before 1st September 2018 is subject to GST and shall be accounted for in the relevant taxable period. Although GSTA has been repealed, a registered person is still liable for any liabilities incurred during GST era as specified in Section 4(1)(a), Goods and Services Tax (Repeal) Act 2018 (Repeal Act). Any overpaid GST can be claimed under provision of subsection 4(1)(b), Repeal Act. Any goods and services tax due, overpaid or erroneously paid may be collected, refunded or remitted.

ADJUSTMENT FOR OUTSTANDING AMOUNT DUE FROM BUYER (BAD DEBT RELIEF)

8. After 1st September 2018, a registered person may claim bad debt relief if he has accounted and paid for the output tax on his taxable supply but has not received any payment

or part of the payment from his debtor in respect of his taxable supply after the sixth month from the date of supply, subject to the requirements and conditions set forth under Section 58, GSTA. The registered person may claim the tax as bad debt relief by amending his final return in accordance to subsection 4(1)(b), Repeal Act.

9. A registered person is entitled to a relief for bad debt if: -

(a) he has paid the tax in respect of a taxable supply;

(b) he has not received any payment in respect of the taxable supply from a debtor after six months from the date of supply or the debtor has become insolvent before the period of six months has elapsed;

(c) sufficient efforts have been made by him to recover the debt; and

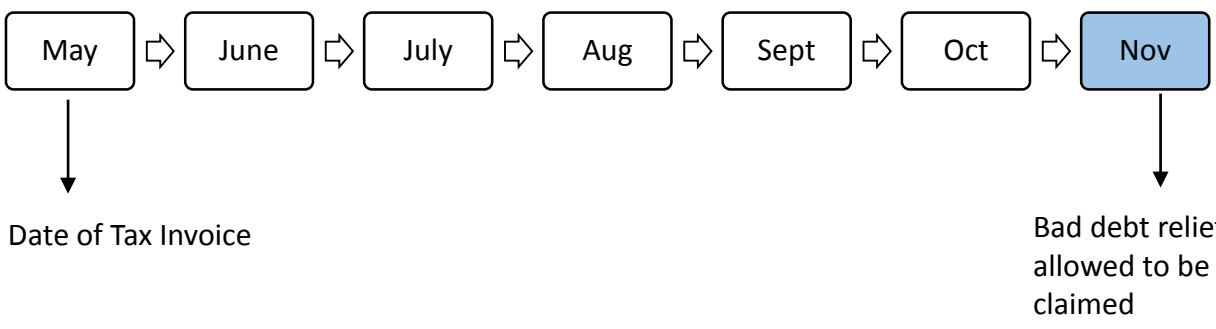
(d) he has prepared, kept and updated full records of list of debtors involved in the claim under Section 58 of GSTA including records as prescribed in Regulation 74 of Goods and Services Tax Regulations 2014 (GSTR).

10. Explanation of “month” in Section 58 of GSTA.

Month under this guide refers to the month when the tax invoice was issued irrespective of its issuance date. A registered person is allowed to claim bad debt relief if his debtor owes him more than six months, subject to required conditions.

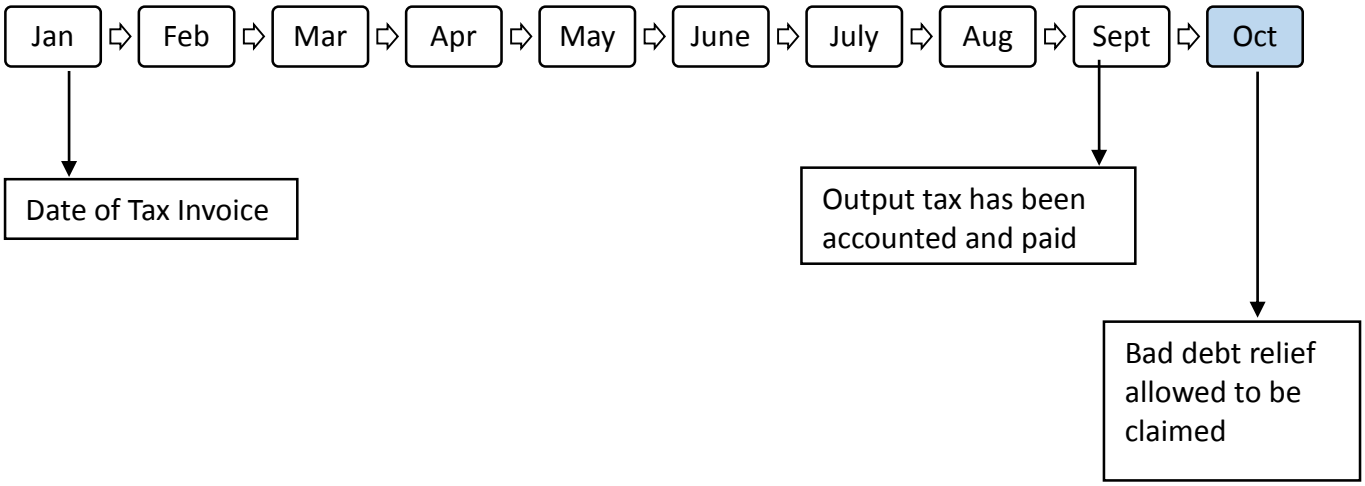
Example 1

A registered person issued a tax invoice on 15th May 2018 for the taxable supply made in May 2018. He has accounted and paid the relevant output tax in May 2018 taxable period. The sixth month expires at the end of October and the bad debt relief is allowed to be claimed by declaring his final return in November 2018 subject to entitlements of the bad debt relief.



Example 2

A tax invoice was issued on 15th January 2018. The sixth month period should expire at the end of June 2018. However, output tax has been accounted and paid by the registered person (supplier) to RMCD in his final return in September 2018. He is allowed to claim bad debt relief by amending his final return in October 2018 subject to entitlement to a relief of bad debt.



11. Explanation of "insolvency" under Section 58 of GSTA.

Any registered person is entitled for immediate claiming of bad debts relief if his debtors becomes insolvent and he is able to show to the satisfaction of the Director General that;

(a) in the case where the debtor is an individual, he is adjudged bankrupt, a deed or arrangement is made for the benefit of his creditors or a composition or scheme of arrangement proposed by him is approved under the Bankruptcy Act 1967 [Act 360]; or

(b) in the case where the debtor is a company;

(i) it is ordered by the court to be wound up because it is unable to pay its debts within the meaning of the Companies Act 1965 [Act 125]; and

(ii) a receiver is appointed and the statement of affairs lodged with the Companies Commission of Malaysia shows that its assets would be insufficient to cover the payment of any dividend in respect of debts which are neither secured nor preferential.

12. Explanation of “sufficient effort” under Section 58 of GSTA.

Sufficient effort is required from company to take appropriate steps to recover the debt as appropriate actions:

(a) correspondence with debtors by issuing reminder notices and attempting mail or e-mail contact;

(b) issuing a formal demand notice or any legal actions taken against the debtor; and

(c) he has written off the debt in his accounts.

13. Manner of claiming bad debt relief

If a registered person has accounted and paid for the output tax on his taxable supply but has not received any payment in respect of the taxable supply, he can make a deduction or claim for the whole of the tax paid. However, if he has received part of the payment he can deduct or claim an amount calculated according to the formula:

$$\frac{A1}{B} \; x \; C$$

Where;

A1 - Is the payment not received in respect of the taxable supply;

B - Is the consideration for the taxable supply; and

C - Is the tax due and payable on the taxable supply.

After 29th December 2018, a registered person who is entitled to a bad debt relief under Section 58, GSTA is allowed to claim bad debt relief by amending his final return.

Example 3

Hipster Sdn. Bhd. (Hipster) issued a tax invoice on 15th May 2018 to Apple Sdn. Bhd (Apple) with a principal value of RM1,000 and a standard rated GST of RM60.

However, Hipster is only entitled to claim bad debt relief in the month of February 2019 after fulfilling all the required conditions. Hipster has to amend RM60.00 in column 6(b) and RM1,060 in column 17 of the final return.

Field in GST-03	Value (RM)
6 (a)	-
6 (b)	60
17	1,060
18	-

ADJUSTMENT FOR RECOVERY OF OUTSTANDING AMOUNT DUE FROM BUYER

14. In the event where claim for bad debt relief has been made and subsequently payment has been received by a registered person after 1st September 2018, a recovery of bad debt shall be accounted for and the registered person has to repay to the Director General in accordance to Section 4(1)(a), Repeal Act.

15. The amount of tax recovery which is calculated based on the following formula should be amended in the final return:

$$\frac{A2}{B} \; x \; C$$

Where;

A2 - payment received in respect of the taxable supply;

B - is the consideration for the taxable supply; and

C - is the tax due and payable on the taxable supply.

Example 4

Referring to example 3, Apple makes a payment of principal value of RM1,000 and GST of RM60 to Hipster on 17th March 2019. Therefore, Hipster should account for the recovery of tax and pay to the Director General an amount of RM60 in March 2019 by amending RM60 in column 5(b) and RM1,060 in column 18 of his final return.

Field in Final Return	Value (RM)
5 (a)	-
5 (b)	60
17	-
18	1,060

ADJUSTMENT FOR OUTSTANDING AMOUNT DUE TO SUPPLIER

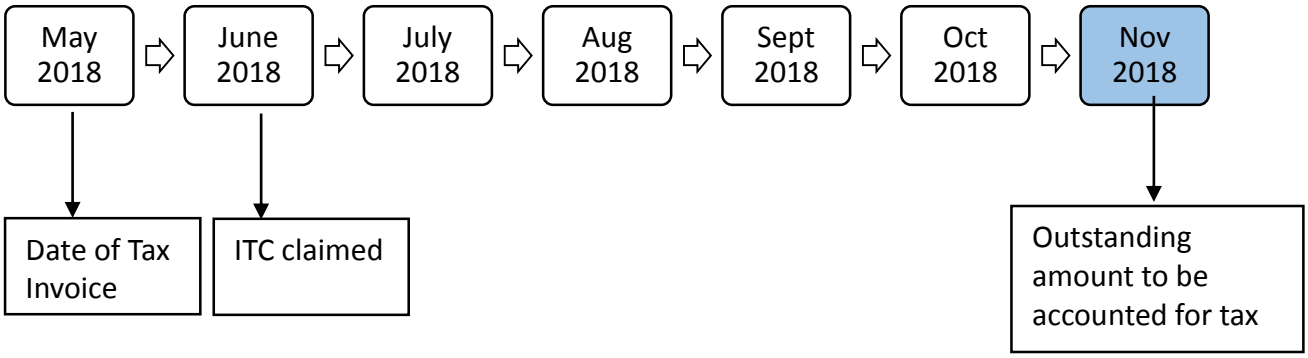
16. A registered person who has made an input tax claim but fails to pay his supplier after six months from his acquisition, he shall account for the tax after the expiry of six months from the date of supply in accordance to Subsection 38(9) and Subsection 38(10) of the GSTA and Section 4(1)(a), Repeal Act.

17. Explanation of “month” in Subsection 38(9) of GSTA.

Month under this guide refers to the month when the tax invoice was issued irrespective of its issuance date. A registered person shall account for tax if he has claimed the input tax but fails to pay his supplier the consideration or any part thereof for the supply made by his supplier at the end of the period of six months following the date of supply, subject to required conditions.

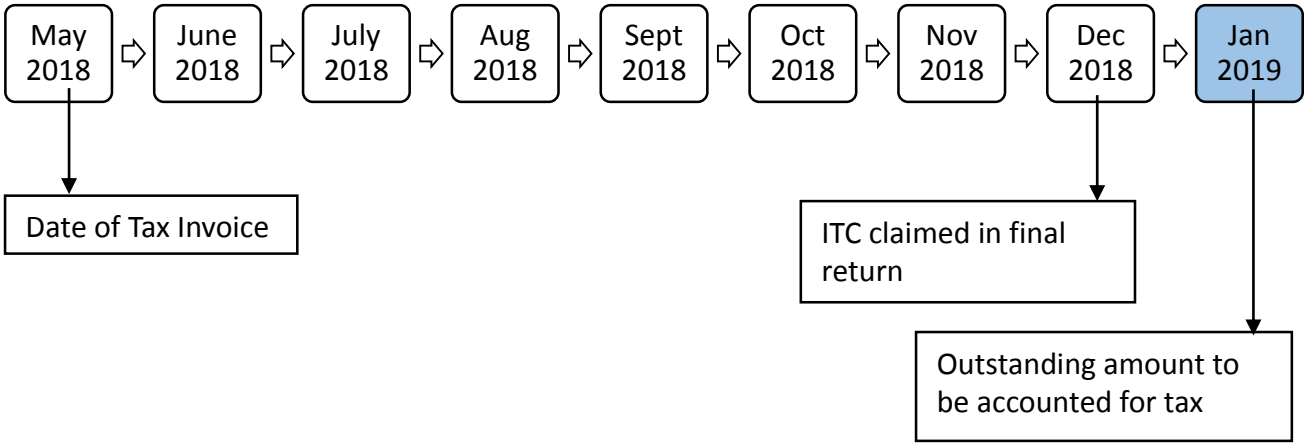
Example 5;

A registered person received a tax invoice dated 15th May 2018 in June 2018. He has claimed the input tax in June 2018 taxable period without making any payment to his supplier. The sixth month expires at the end of October 2018 and adjustment of output tax shall be accounted by declaring the amount in his November 2018 return.



Example 6;

A registered person received a tax invoice dated 15th May 2018 in June 2018. The sixth month period is expired by the end of October 2018. However, he has claimed the input tax in his final return (December 2018) without making any payment to his supplier. In this case, the tax on the outstanding amount due to the supplier should be accounted for in January 2019 by amending his final return.



Example 7;

Thistle Sdn, Bhd. (Thistle) issued a tax invoice on 15th August 2018 to Showie Sdn. Bhd (Showie) for the supply made in May with a principal value of RM1,000 and GST at a standard rate of RM60. However, Showie only received the tax invoice on 20 December 2018 and claimed the input tax of RM60 in the final return without making any payment to Thistle Sdn Bhd. Therefore, Showie must account for the output tax in February 2019 by amending RM600 in column 5(b) in his final return.

Field in Final Return	Value (RM)
5 (a)	-
5 (b)	60.00
17	-
18	-

ADJUSTMENT FOR REPAYMENT OF OUTSTANDING AMOUNT DUE TO SUPPLIER

18. In the event where a registered person has claimed the input tax without making any payment to his supplier until the sixth month from the date of his acquisition, he has to account for the output tax in the following month after the expiry of the six months period. However, if the registered person made a payment of the outstanding amount due to his supplier, he is entitled to claim the overpaid GST by amending his final return in accordance to subsection 4(1), Repeal Act.

Example 8

Honey Sdn, Bhd. (Honey) issued a tax invoice on 15th May 2018 to Scooby Sdn. Bhd (Scooby) with a principal value of RM1,000 and GST of RM60. Scooby had claim input tax of RM60 in the May 2018 taxable period. However, Scooby has not paid the amount due until November 2018. Therefore, Scooby must account for the outstanding amount in his final return by declaring RM60 in column 5(b). Subsequently, Scooby makes a payment of principal value of RM1,000 and GST of RM60 to Honey on 17 February 2019. Therefore, Scooby may claim the overpaid tax in his final return by declaring RM60 in column 6(b).

Field in Final Return	Value (RM)
6 (a)	-
6 (b)	60
17	-
18	-

RECORD KEEPING

19. A registered person has an obligation to keep a proper, full and true accounting records on all his business transactions in the National or English language and maintain them either electronically or manually in Malaysia for a period of seven years.

20. In respect of his relevant supply or acquisition, a registered person shall hold;

(a) a copy of any tax invoice which was issued or where there was no obligation to issue a tax invoice, a document which shows the time, nature, purchaser and consideration of the supply;

(b) records or any other documents showing that he has accounted for and paid the tax;

(c) records or any other documents showing that the consideration has not been received;

(d) records or any other documents showing that sufficient efforts have been made by him to recover the debt;

(e) any record created pursuant to this regulation shall be kept in a single account to be known as the “refund for bad debts account”; and

(f) records of claiming overpaid tax which consist of the following information:

(i) debtor’s name and address;

(ii) the amount of tax chargeable;

(iii) the taxable period in which the tax chargeable was accounted for and paid to the Director General;

(iv) the date and number of the invoice issued;

(v) any payment received;

(vi) the outstanding amount to which the claim relates;

(vii) the amount of the claim; and

(viii) the taxable period in which the claim was made.

FREQUENTLY ASKED QUESTIONS

Q: 1 Aqua Sdn. Bhd. (Aqua) has made a claim of input tax in July 2018 for the tax invoice dated 15th May 2018. After 31th December 2018, Aqua fails to make any payment to his supplier for the said invoice. Does Aqua need to make an adjustment?

A: 1 Yes. Aqua need to account for the tax on the adjustment by amending his final return.

Q: 2 Heritage Sdn Bhd (Heritage) issued a tax invoice to his customer on 20th August 2018 for a taxable supply made in May 2018. Output tax on such supply has been accounted in his final return. After 31st March 2019, there is still some outstanding amount from his customer on the tax invoice issued previously. Does Heritage entitle to make a claim for bad debt relief?

A: 2 Yes. Heritage may claim bad debt relief on the outstanding due from his customer by amending his final return subject to fulfilment of all the required conditions relating to bad debt relief claim.

Q: 3 In order to recover some debts, Juster Sdn Bhd (Juster) has issued a few reminder letters as well as legal notices of demand to his customers. Do these actions considered as sufficient efforts in making a claim for bad debt relief?

A: 3 No. Other than issuing reminder letters and legal notices of demand, Juster still need to write off the debts in his accounts before they will be considered as sufficient efforts in making a claim for bad debt relief.

Q: 4 Faber Sdn. Bhd. (Faber) receives outstanding payment from Acer Sdn Bhd (Acer) on 21st March 2019 for the taxable supplies made in May 2018. Previously, Faber has made a claim of bad debt relief in the final return for the outstanding amount from Acer. Does Faber need to make further tax adjustment on the bad debt recovery in the month of March 2019?

A: 4 Yes. Faber has to account for the tax on the bad debt recovery by amending his final return in the same month that he received the outstanding payment from Acer.

INQUIRY

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