



Luther.

Malaysia News:

Malaysian Sales and Services Tax ("SST") Update:

Royal Customs publishes details on proposed SST implementation starting 1st September 2018

August 2018

Royal Customs publishes details on proposed SST implementation starting 1st September 2018

In the follow-up to the zero-rating of Goods and Services Tax ("GST") with effect from 1st June 2018 and the impending reintroduction of the SST, the Royal Malaysian Customs Department ("RMCD") has published a list of frequently asked questions ("FAQs") and slides providing more details on the proposed implementation of SST.

This update shall help you to gain a very first understanding as to how the new tax will probably work and explain which companies will be affected. It shall also serve as a very first guideline and "to-do" list and point out where Luther will support you.

Overview

The targeted start date for the SST is 1st September 2018. Below are some of the key points of the proposed SST model:

As the name suggests, the tax will be imposed on certain sales and services.

Sales Tax

- Levied on
 - taxable goods manufactured in Malaysia by a taxable person; or
 - Taxable goods imported into Malaysia.
- Depending on the good, the proposed tax rate is 5%, 10% or a specific rate (for petroleum).

Service Tax

- Charged on any provision of taxable services made in the course or furtherance of any business by a taxable person in Malaysia.
- Service tax is **not** charged on imported and exported services.
- Proposed tax rate is 6% and a specific rate of MYR 25 for the provision of credit card and charge card services.

The registration threshold for the SST is MYR 500,000 (with some variations for certain industries). In this respect, it is important to note that for the sales tax the threshold is based on annual turnover whereas the service tax is based on the

value of taxable services over a period of 12 months (**In short: turnover basis vs. value of services basis**).

Registered entities will need to file their returns on a bi-monthly basis, either electronically or by post. This filing frequency is consistent with the "old" SST regime prior to GST.

Please note that, compared to the "old" SST, the **scope of the service tax has been expanded** to include the provision of IT services, electricity and domestic flights, among other things.

Going forward...

What do I need to do?

Manufacturers and service providers which are already GST registered will be automatically SST-registered if they fulfill the required criteria. Businesses that are not automatically registered by 1st September will need to assess whether they are liable to register and if liable they need to apply for registration within 30 days from the commencement date. Please refer to our "**Action List**" below for more details.

How will this affect my business?

Depending on your business activities, you could potentially be liable to register for SST and to charge SST to your customers beginning 1st September. SST is a single tier tax system. As such, any SST incurred by your business will be an additional cost that needs to be considered in your business decisions especially in respect of product costs and pricing of products. Unlike GST, there is no avenue to recover the SST paid via input tax credits. However, due to the narrower scope of the SST, it is expected that many companies will not be liable to register and, thus, will save on compliance costs.

What's next?

The Sales Tax and Service Tax bills have been approved by parliament and are expected to be gazetted before 1st September. It is also expected that there will be a transition period where GST and SST will run in parallel as far as submissions are concerned. This is to enable businesses to issue invoices relating to periods where GST is charged and to claim input tax for GST charged by their suppliers.

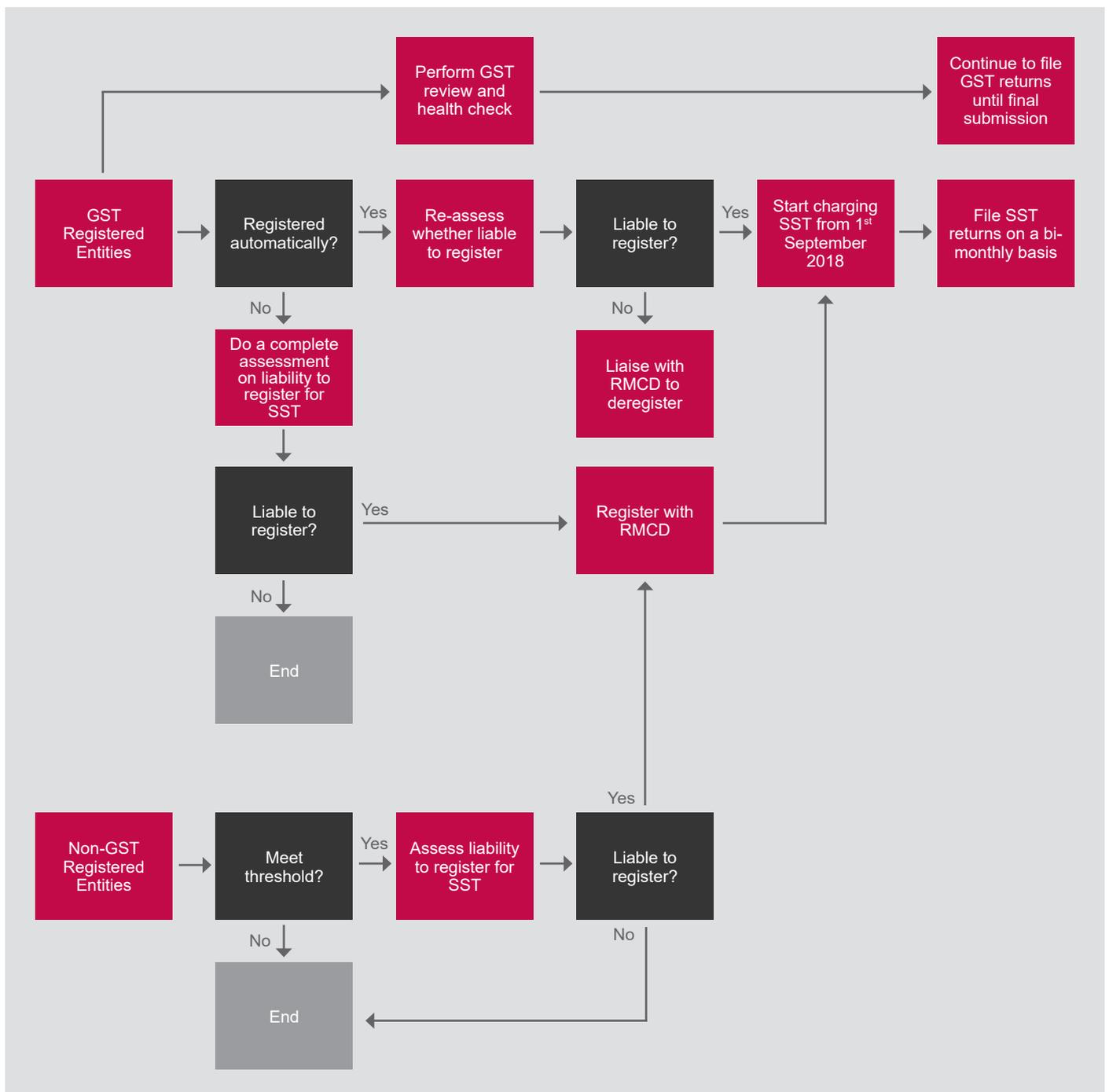
RMCD will be conducting GST audits to close out the GST. Due to the excess manpower that RMCD will have after the GST is repealed, we expect that many companies will be subjected to the closure audit. Therefore, it is **imperative that companies conduct a GST review and health-check** to ensure that there are no surprises.

Recommended Action List

In view of the above, we recommend the following action list:

- For GST registered entities, check whether you have been registered automatically for SST by Customs.
- For GST registered entities that are **not** automatically registered, do a complete assessment as to whether you are liable to register.
- For **non-GST** registered entities, check whether you are liable to register based on the threshold and your business activity.
- For SST registered entities, start charging SST at the applicable rate to your clients starting from 1st September 2018.
- GST registered entities need to continue to comply with GST regulations including submitting GST returns until notified by RMCD.

The flowchart below illustrates in more detail which steps have to be undertaken:



Our services

Luther will, of course, be ready to support you comprehensively during this transition period. Inter alia, we offer the following services:

- SST Applicability Assessment – we will conduct a thorough assessment to check whether or not you are liable to register for SST;
- SST registration – for those who are not automatically registered, we will assist you to register with RMCD;
- Preparation and submission of SST returns for SST registered entities;
- GST review and health-check for GST registered companies to prepare for the impending GST audit; and
- Review of SST invoices to ensure compliance.

FAQs

How do I know whether my business is automatically registered for SST?

RMCD will send a notification via email to the email address provided during the GST registration. Without a prior GST-registration, you will not receive an email and not be automatically registered.

If my business is not automatically registered what should I do?

You will need to assess whether you are liable to register for SST and if yes, register with RMCD.

My business is not currently GST registered, do I need to do anything?

Yes, you will need to ensure that you do not fall within the scope of SST and monitor your turnover to confirm that you are not liable to register.

Can I claim back input tax incurred prior to the repeal of GST?

You will have 120 days after the repeal of GST to claim any outstanding input tax credit.

Do I need to change my invoice format?

Yes, you will need to make changes to your invoices to comply with SST requirements.

Can I claim back the SST charged by my suppliers?

No, SST is a single tier tax system. Any SST paid will be an additional cost to your business.

Is SST a single tax or two different taxes?

SST is made up of sales tax and services tax, so it is actually two different taxes.

Who is the tax authority in-charge of SST?

SST will be administered by RMCD.

Can I increase my prices to factor in the additional cost to my business?

In general, yes, you have the option to increase prices as long as you maintain the same margins prior to SST implementation. However, in practice this will depend on the specific contracts with your customers and whether there is an option to pass on additional taxes.

I am a non-resident company (not registered in Malaysia), do I need to register for SST?

Non-resident companies are not able to register for SST.

I am a non-resident company (not registered in Malaysia), how are my sales of goods and provision of services to Malaysian clients affected?

Imported goods will be subject to sales tax while imported services are exempted from services tax.

Your Contact



Pascal Brinkmann, LL.M. (Stellenbosch)

Managing Director

Luther Corporate Services Sdn. Bhd.

Malaysia

Phone +60 3 2166 0085

pascal.brinkmann@luther-services.com

Imprint

Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22, 50678
Cologne, Phone +49 221 9937 0, Fax +49 221 9937 110,
contact@luther-lawfirm.com

Editor: Pascal Brinkmann, LL.M. (Stellenbosch), Managing Director, Unit 17-2,
Level 17, Wisma UOA II, No. 21, Jalan Pinang, Phone: +60 (0)3-21660085,
pascal.brinkmann@luther-services.com

Copyright: These texts are protected by copyright. You may make use of the
information contained herein with our written consent, if you do so accurately and
cite us as the source. Please contact the editors in this regard
contact@luther-lawfirm.com

Disclaimer

Although every effort has been made to offer current and correct information,
this publication has been prepared to provide information on recent regulatory
and legal developments in Malaysia only. It is not exhaustive and thus does not
cover all topics with which it deals. It will not be updated and cannot substitute
individual legal and/or tax advice. This publication is distributed with the
understanding that Luther, the editors and authors cannot be held responsible for
the results of any actions taken on the basis of information contained herein or
omitted, nor for any errors or omissions in this regard.

Luther Corporate Services Sdn. Bhd.

Luther Corporate Services, the Corporate Services arm of Luther lawfirm enables us to offer our clients a “one-stop” solution for all their business needs. Our accountants, company secretaries and tax consultants provide the whole range services, which our clients expect from such a one-stop concept, from corporate secretarial services, outsourced administration, payroll and accounting to tax compliance. We assist our clients comprehensively in all stages of a business lifecycle, from the formation of a business vehicle, to ongoing support and statutory compliance matters and to the dissolution of a company.

Delhi-Gurugram, Kuala Lumpur, Shanghai, Singapore, Yangon

Luther Corporate Services Sdn Bhd (872040W) | Unit 17-2, Level 17 | Wisma UOA II | No. 21, Jalan Pinang | 50450 Kuala Lumpur | Malaysia Phone +60 3 2166 0085 | Fax +60 3 2166 0087

Your contact:

Pascal Brinkmann, pascal.brinkmann@luther-services.com

Further contacts can be found on our website www.luther-services.com.



Hits the mark. Luther.

