

# GOODS AND SERVICES TAX (REPEAL) BILL 2018

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## ARRANGEMENT OF CLAUSES

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*Clause*

1. Short title and commencement
2. Interpretation
3. Repeal of Goods and Services Tax Act 2014
4. Continuance of liability, etc.
5. Pending application for review and pending appeal
6. Furnishing of return for last taxable period and payment of goods and services tax
7. Furnishing of declaration and payment of goods and services tax
8. Claim for input tax and refund
9. Continuance of appointment and employment
10. Tax agent



A BILL

*i n t i t u l e d*

An Act to repeal the Goods and Services Tax Act 2014.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Goods and Services Tax (Repeal) Act 2018.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

**Interpretation**

2. In this Act—

“repealed Act” means the Goods and Services Tax Act 2014 [Act 762];

“goods and services tax” means the goods and services tax charged and levied under the repealed Act;

“Director General” means the Director General of Customs and Excise appointed under section 3 of the Customs Act 1967 [Act 235];

“appointed date” means the date appointed under subsection 1(2);

“taxable period” means the taxable period allowed or reassigned by the Director General under section 40 of the repealed Act;

“Goods and Services Tax Appeal Tribunal” means the Goods and Services Tax Appeal Tribunal established under section 125 of the repealed Act;

“Customs Appeal Tribunal” means the Customs Appeal Tribunal established under section 141B of the Customs Act 1967.

### **Repeal of Goods and Services Tax Act 2014**

**3.** The Goods and Services Tax Act 2014 is repealed.

#### **Continuance of liability, etc.**

**4.** (1) Notwithstanding the repeal of the Goods and Services Act 2014—

(a) any liability incurred may be enforced; or

(b) any goods and services tax due, overpaid or erroneously paid may be collected, refunded or remitted,

under the repealed Act as if the repealed Act had not been repealed.

(2) Notwithstanding the repeal of the Goods and Services Act 2014, sections 178, 181 and 191 of the repealed Act shall continue to remain in operation after the appointed date.

#### **Pending application for review and pending appeal**

**5.** (1) Any application for review under subsection 124(1) of the repealed Act pending before the Director General for his decision immediately before the appointed date shall, on or after the appointed date, be dealt with under the repealed Act as if the repealed Act had not been repealed.

(2) Any decision made by the Director General under subsection 124(2) of the repealed Act before or after the appointed date, which is appealable to the Goods and Services Tax Appeal Tribunal, may be appealed by an aggrieved person to the Customs Appeal Tribunal provided that the appeal is made within thirty days from the date such decision was made known to the aggrieved person by the Director General.

(3) Any appeal before the Goods and Services Tax Appeal Tribunal which is pending immediately before the appointed date shall, on or after the appointed date, continue to be heard and decided by the Customs Appeal Tribunal.

**Furnishing of return for the last taxable period and payment of goods and services tax**

6. (1) Notwithstanding section 40 of the repealed Act, any taxable period that begins before the appointed date and ends after the appointed date shall be deemed to end on the appointed date.

(2) The person who is registered under the repealed Act shall—

(a) furnish the return for all supplies made in the taxable period referred to in subsection (1) as at the appointed date; and

(b) pay the amount of the goods and services tax due and payable relating to the supplies,

to the Director General not later than one hundred and twenty days from the appointed date.

**Furnishing of declaration and payment of goods and services tax**

7. Notwithstanding the repeal of the Goods and Services Tax Act 2014, any person referred to in subsection 42(1) of the repealed Act who is liable for goods and services tax in the month before the appointed date shall—

(a) furnish a declaration under section 42 of the repealed Act; and

- (b) pay the amount of the goods and services tax due and payable,

to the Director General not later than thirty days after the appointed date.

### **Claim for input tax and refund**

8. (1) Any input tax under the repealed Act which has not been claimed before the appointed date shall be claimed in the return furnished under paragraph 6(2)(a) within one hundred and twenty days from the appointed date, and that claim shall be considered as the final claim for all input tax.

(2) Subject to verification, audit or investigation, any refund for—

- (a) any input tax under section 38 of the repealed Act which has not been made by the Director General on the appointed date; or
- (b) any input tax relating to the claim made under subsection (1),

shall be paid by the Director General within six years from the appointed date.

### **Continuance of appointment and employment**

9. (1) Notwithstanding the repeal of the Goods and Services Tax Act 2014 and for the purpose of section 4, any person other than an officer of customs may be appointed by, or employed with the concurrence of, the Director General under subsection 5(3) of the repealed Act, on or after the appointed date, for any duty or service as if the subsection had not been repealed.

(2) Any person other than an officer of customs who—

- (a) has been appointed or employed under subsection 5(3) of the repealed Act whose appointment or employment is still valid immediately before the appointed date; or

(b) is appointed or employed under subsection (1),

shall continue to perform the duty or service until his appointment or employment expires or is revoked by the Director General, whichever is the earlier.

## **Tax agent**

10. Any tax agent whose approval under section 170 of the repealed Act is still valid immediately before the appointed date may continue to act on behalf of any person for any matter under the repealed Act on or after the appointed date until such approval expires or is revoked by the Minister, whichever is the earlier.

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### EXPLANATORY STATEMENT

This Bill seeks to repeal the Goods and Services Tax Act 2014 (“Act 762”). This is due to the implementation of the new tax system, namely sales tax and service tax, as proposed under the Sales Tax Bill 2018 and Service Tax Bill 2018 which will replace the goods and services tax imposed under Act 762.

2. *Clause 1* contains the short title of the proposed Act and the power of the Minister to appoint the commencement date of the proposed Act.
3. *Clause 2* contains the definitions of words used in the proposed Act.
4. *Clause 3* seeks to repeal Act 762.
5. *Clause 4* seeks to provide for continuance of liability under Act 762 notwithstanding the repeal of Act 762.

*Subclause 4(1)* seeks to provide that any liability incurred may be enforced or any goods and services tax due, overpaid or erroneously paid may be collected, refunded or remitted under the repealed Act as if the repealed Act had not been repealed.

*Subclause 4(2)* seeks to provide that sections 178, 181 and 191 of the repealed Act shall continue to remain in operation after the appointed date so that any pending liability under the Sales Tax Act 1972 [*Act 64*] or Service Tax Act 1975 [*Act 151*], or any pending claim of special refund of sales tax for goods held on hand under the repealed Act, may be continued as if the repealed Act had not been repealed.

6. *Clause 5* deals with pending application for review under section 124 of the repealed Act and pending appeals before the Goods and Services Tax Appeal Tribunal upon the repeal of Act 762.

7. *Clause 6* deals with the furnishing of a return and payment of goods and services tax by a registered person for the last taxable period.
8. *Clause 7* deals with the furnishing of a declaration and payment of goods and services tax by a person, other than a taxable person, who is liable for the goods and services tax in the month before the appointed date.
9. *Clause 8* deals with the claim for input tax and its refund upon the repeal of Act 762.
10. *Clause 9* deals with the appointment and employment of any person other than officer of customs for any duty or service for the purpose of the proposed *clause 4*, and the continuance of the performance of the duty or service by the person appointed or employed upon the repeal of Act 762.
11. *Clause 10* seeks to provide for the continuance of the approval of tax agents to act notwithstanding the repeal of Act 762.

*FINANCIAL IMPLICATION*

This Bill will not involve the Government in any extra financial expenditure.

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