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Research paper



Impact of Government Service Tax (GST) on Malaysian Takaful Industry: Issues and Challenges

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Abstract

Malaysia is reputed to be a leader in the Takaful industry within the ASEAN region commanding a market share that exceeds 70 per cent of gross Takaful contribution. The industry however is not exempted from the recent implementation of the Malaysian Goods and Services Tax (GST) in April 2015. This study seeks to examine the specific Shari'ah issues and challenges that may be triggered off by GST application on its operations. An inductive analysis will be undertaken on the relevant sources that justify GST implementation in Takaful, mainly guidelines provided by Customs Department, and also arguments from scholars on the likely contravention of Shari'ah principles with the application of GST. This research will be significant as it will make an in-depth analysis of GST application whilst identifying the areas of non-compliances with Shari'ah. Recommendations will be made for regulators to overcome the Shari'ah issues and challenges that have emerged from its implementation.

Keywords: *Government Service Tax; Takaful industry; Shari'ah issues; challenges;JEL: G,H,I*

1. Research Background

The Malaysian Takaful industry is currently experiencing high growth rates. In 2014, the overall gross Takaful contribution was recorded at a total of RM5.6 billion, demonstrating a 2.3 per cent increase from the previous year. The industry is said to have an average of 8 per cent growth per annum within the ASEAN region and projected to grow at the same rate until 2025. This significant growth is contributed by the burgeoning upper middle class segment that is reaping the benefits of continued favourable economic conditions. The industry will continue to sustain its growth as the government carries out initiatives to transform Malaysia into a high income economy by the year 2020.

Bank Negara Malaysia (BNM), as the regulator of the industry, can be seen as one of the important harbingers of change to the industry. One of the significant legislation under the purview of BNM that came into force in 2013 was the Islamic Financial Services Act (IFSA) 2013. IFSA focuses on integrity, fairness and accountability of Islamic financial institutions, while trying to increase the protection of rights and interests of all the stakeholders in the industry. This regulation will, among other things, result in the splitting of Takaful business (family and general), enhance the business conduct as well as scrutinizes roles of each stakeholder in the business.

In 2015, the Takaful industry went through yet another change, raising issues and posing challenges to the industry in Malaysia: the Malaysian government in its efforts to increase revenues and enhance Malaysian tax system had imposed Goods and Services Tax (GST) in April 2015. The imposition of this tax on Takaful operators was done across the board, notwithstanding the unique nature of Takaful operations. This study thus intended to examine in details which part of the Takaful products and operations are affected by GST and whether there are Shari'ah issues involved that need to be resolved. It is structured in the following manner; after the research background, GST is further clarified in terms of its definition and scope, advantages, and also weaknesses. This paper further identifies parts of Takaful that is affected by GST and followed by discussion on the Islamic perspective on the tax with different views from scholars. It is followed by Shariah issues and challenges of GST in the industry that may apply. It ends with a conclusion and recommendations.

2. The Rationale for Imposing GST in Malaysia

In its effort to reform the taxation system and upgrade the effectiveness and adequacy of the existing taxation framework, the Malaysian government in 2015 introduced the Government Services Tax or GST. The idea of GST is basically started in the 1983 where the government sent a research team to South Korea to study on GST implementation. Five years later (1988), Minister of Finance at that time, Tun Daim Zainuddin announced that Malaysia will implement GST in future. Subsequently, its been confirmed by next Minister of Finance in 1992, Dato' Seri Anuar Ibrahim about the implement of GST in Malaysia during the 1993 Malaysian Budget. However, due to some political issues, this matter been deferred for 12 years until Dato' Seri Abdullah Ahmad Badawi as Prime Minister at that time had announced its implementation during Malaysian Budget 2003. The government was later on deferred this idea to give ways and time for learning and training from other countries like Indonesia, New Zealand, and United Kingdom in 2005. Few years than, in 2009, it was tabled and read in Dewan Rakyat to ensure the law and regulations are put in place with GST implementation and in 2013, the Prime

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Minister which is Datuk Seri Najib have announced GST of 6% will be implemented in Malaysia starting by 1st April 2015.
By introducing this tax system, it is intended to raise the transparency of tax administration and management and the prospects of decreasing the rates of income tax from individual and corporate. The taxable person or businesses in Malaysia shall be charged and levied with GST based on their taxable supply of goods and services that produce or furtherance of business. The importation product and services are also included in GST. According to Ishak, Othman & Omar(1), GST cannot be considered as a new tax as it acts as a replacement to the available consumption tax which is the sales tax and service tax (SST). The difference between GST and the SST is in aspect of its scope of charge which is more inclusive of the manufacturing and distribution stages as well as providing a tax credit claim for GST paid on business inputs.
The Royal Customs Department(2) had further confirmed that this taxation system is a multi-stage utilization tax on goods and services and defined Good and Services tax as follows:

> *"A multi-stage tax on domestic consumption. GST is charged on all taxable supplies of goods and services in Malaysia except those specifically exempted. GST is also charged on the importation of goods and services into Malaysia. Payment of tax is made in stages by the intermediaries in the production and distribution process. Although the tax would be paid throughout the production and distribution chain, only the value added at each stage is taxed thus avoiding double taxation"*[1]

As the period of the implementation of GST nearly reach one year and a half and the rate of GST imposed is 6 percent, it is basically imposed on all goods and services produced in the country including imports except for certain basic necessities which including rice, sugar, flour, cooking oil, vegetable, fish and meat, eggs and essential services such as health and private education, public transportation, residential property and agriculture land are not subject to GST. Few exemption is apply to ensure that the lower income group is not burdened by GST. In addition, to ensure the effective execution of GST, GST Act 2014 have been enacted two months after it is announced to the public.

3. The Benefits of GST

The reason behind the implementation of GST can be shown by the success stories of countries who had implemented the taxation system earlier than Malaysia. In Singapore for instance, GST has strengthened economic resilience and promote saving and investment since it is a tax on consumption. A country can maintain their competitiveness because GST is a multi-stage tax that includes the process of production and it can be fully identified and rebated and so the exporter would not be penalized. Its theoretically is self-policing and it can overcome tax avoidance and evasion and thus it is considered as an efficient tax to the government. GST also helps to sustain the incentive to work harder and encourage entrepreneurship, unlike income tax which increases the rate when income increases. As a stable source of revenue for the government, it basically depends on the consumption of the goods and services thus increases government revenues with a lower tax rate and economic distortion Suew Pheng & Loi,(3). The GST that was implemented in Singapore on 1993 has shown a success case in market competitiveness enhancement within the regional area as well as become a medium of shifting tax burden from the direct tax to the indirect tax. Strong economic condition with huge budgetary surplus allows Singapore to reduce the gap between the low and high-income families by using the tax collection. The success of Singapore reflects a modern and efficient tax system that can become an example to the other countries for their respective tax reform programs Soliha, Normah, & Zuraidah.(4)

In the United Kingdom, the Majesty Royal Custom (HRMC) is the authority that handled Value added tax (VAT). The shift of the existing indirect tax system to GST by the United Kingdom is done in year 1973 and was seen as an act of promotion of harmonization to enter the common market environment of Continental Europe, reducing the tax burden on exports and as a self-enforcing system which contradicted with other tax systems. In another Commonwealth country, New Zealand, 7% tax rate was implemented towards any export products and some specific international services.
In Malaysia, the government hopes that by implementing new tax regime will bring to positives effect to all parties. It includes increase standard of living (GST revenue would be utilized to enhance social infrastructure development like health facilities and institutions, educational infrastructures and public facilities), reduce business expenses (previously, some businesses pay multiple taxes and with GST, businesses can claim the input tax), nation-building (more funds can be channeled into nation-building projects for progress towards achieving a high income nation), fairness and equality (With the GST, taxes are levied fairly across the industries), usage information technology (IT) would increase efficiency and reliability, encourage international competitiveness (no GST is imposed on exported goods and services, while GST incurred on inputs can be recovered along the supplies chain), enhanced compliancy, reduces Red Tape, fair pricing to consumers (GST eliminates double taxation under SST), and GST offers more transparent tax system.

4. The Demerits of GST

Although GST has its positive impact, there is also a downside to its implementation which must be taken into cognizance of by countries wanting to adopt it. According to Ismail N(5), GST is a regressive tax in the sense that the tax load will be borne by the consumers; and hence due to its regressive complexion, it creates injustice for the lower income households in Malaysia. The author claims that savings would be relatively higher for the higher income household because they spend a smaller portion of their income on the GST than low-income households. In 2010, the marginal propensity to consume for households earning less than RM 1,000 per month is 0.81whilst for those households earning more than RM 10,000 monthly it is only about 0.18. This is attributed to the fact that most of the income of the low-income household will be spent on the basic necessities such as food and clothing compared to high-income households.
Australia has imposed a higher marginal tax rate in 2000 for supporting the government programs in order to promote the economic collection, simplicity, the economics of growth and efficiency. The domestic consumption in the months before GST is implemented shown a as consumers rushed to purchase products, particularly those that they believe would be substantially more expensive once the new scheme came into effect. Domestic consumption and economic activities declined once the GST came into effect, and resulted in its economy contracting during the first quarter of 2001. But consumption returned to normal soon after. According to Soliha, Normah, & Zuraidah (6), the Australian Tax Authorities has also failed to analyze the simplification of the tax changes from a social perspective and underestimated the compliance cost increasing for a business person which differ from their existing system.
In Malaysian case, the scheme used by the government may result in an increase of price in certain products and reduction in other cases. In order to reduce the inflationary impact of GST implementation on the economy, Malaysia has adopted a similar method used by Singapore in which an initial low rate for GST is introduced followed by a progressive increase in the rate over the years. The initial rate of 6% for GST in Malaysia is considered as appropriate Mohd Rizal & Mohd Adha, 2011(4).

5. General Framework of Takaful

Takaful is an Islamic alternative of insurance that practices various Islamic principles including Tabarru', Taawun, Mudharabah, Wakala, Wadiah, and Waqf. In principle, a group of participants basically contribute fund into Takaful fund through Tabarru' (donation) contract. Takaful operator as fund expert will manage these Takaful fund on behalf of the participants either based on Wakalah (agency contract) or Mudharabah (partnership contract) which depends on the business model adopted by the respective operators. In this arrangement, there are two contracts involved; unilateral contract (tabarru' and taawun) among the participants and bilateral contract (wakalah, mudharabah, wadiah, waqf) between the participants and operator. In Malaysia, majority of the operators adopted Wakala model to structure their Takaful business.

Under the wakalah model, takaful operators earn their income through wakalah fee which consist of management expenses, commission, marketing expenses, as well as the surplus arising out of investment from both Investment Accounts and Tabarru' (risk) Account. Meanwhile, under the Mudharabah model, Takaful operator would basically obtain profit from the profit saring of the investment which is determined upfront with the participants. Apart of it, the operator is also have right to claim the management and investment fee as well as sharing of the underwriting surplus from the Tabarru' or risk account. Once the GST is imposed in the Takaful business, these conceptual arrangement is not affected and remain practiced by the operators.

6. Opinion of Malaysian scholars on GST

The National Fatwa Council in its meeting on 21-22 October 2014 has decided that the implementation of GST is permissible. Such resolution was the outcome from constructive discussions during the National Seminar (Muzakarah) among the Fatwa Council committee members, after deliberating all facts, arguments and views from a research finding presented by UTM researchers. The Fatwa Council is of the view that, when the Government collects tax from people, it would cause a specific harm in a way that their wealth will be decreasing; on the other hand, if not collected there would be lots of public affairs and benefits which cannot be materialized due to monetary constraint**.** Applying legal maxim, **يتحمل الضرر الخاص لدفع ضرر عام** (A particular harm can repeal a general harm), the tax collection made by the Government is permissible for the purpose of fulfilling various public needs and benefits. Accordingly, the Muzakarah have resolved that the Government is allowed to collect necessary tax, like Goods and Services Tax provided that is for ultimate public benefit and needs, and its implementation is in the light of Islamic principles, as follow:

1. The government is committed to implement Shariah principles
2. The government is in need of financial resources
3. The tax collected is only for the purpose of Maslahah Dharuriyat and Hajiyat
4. The tax is collected in a just and fair manner;
5. The tax is spent for the public benefit not for sinful purposes
6. The tax distribution must be in accordance to the contemporary juristic decisions.

Abd Rahman(7) and Mohamad Al-Bakri(8) are of the view that the implementation of GST in Malaysia is permissible if such conditions are fulfilled as: it must be just to the society; it is aimed at applying a transparent tax system; the rate must be reasonable and does not oppress the people; and it must include other related factors. Ismail[7] added that, if an Islamic country lacks of monetary assets, the country is allowed to impose a taxation framework which will increase the revenues. This argument complies with those of the Islamic economist scholars.

7. Impact of GST on Takaful Industry

GST is imposed to Family takaful products that provide coverage on medical, personal accident and critical illness, except the one that provide death or total permanent disablement (TPD) coverage. Besides that, any fees and charges incurred on the supply of services are also subject to GST. Please refer to Table 1 below.

Table 1: Impact of Malaysia GST to Takaful Benefits

Products	GST levied?
Family Takaful (Death/ Total & Permanent Disability)	No
Education Takaful	No
Medical and Health Plan	Yes
Critical Illness	Yes
General Takaful	Yes

With the exception to critical illness benefit, Family takaful benefits are generally not subject to GST. Yet scrutinizing further, GST is deductable from such fees and charges imposed in certain Takaful basic products and riders as, tabarru', monthly service fee, surrender fee, reprinting of certificate, replacement of medical card and third party administrator fee. The agent's commission is also subject to GST if he is GST registered agent; similarly, the membership fee imposed by MTA on agents. Please refer to Table 2 below.

Table 2: Impact of Malaysia GST to Takaful Agency Benefits

GST Levied (6%)	Out of Scope
Commission	Production Bonus
	Persistency Bonus
	Career Benefit
Overriding commission	Recruitment Incentive
	Agency Office Maintenance (AOM)
	Incentive Trip

This paper aims at deliberating two related issues of Takaful related to GST, namely:

1. The permissibility status of taxation, and
2. The permissibility of imposing tax to the Participants Risk Fund (PRF)

8. Taxation From Islamic Prospective

There are generally three views from Muslim scholars on the permissibility of the taxation as follow:

8.1 Permissible for the Public Interest (Maslahah 'Ammah)

There are classical scholars like Ibn Hazm (w456H) (t.th: 4/281), Ibn Taimiyah (w728H) (1995: 29/194-786), Ibn al-Musili al-Syafi'i (w774H) (t.th.: 195), al-Syatibi (w790H) (1992: 1/619), IbnKhaldun (w808H) (1995); and modern scholars like Mahmud Syaltut (w1963M) (2004: 109), and Ahmad al-Raysuni (1992: 352), (Mohamad Al-Bakri, 2015)[5], who hold the opinion that the government is authorized to impose an additional tax on people to meet the public benefit. In a *fatwa* of Imam Malik: It is obligatory upon the people to redeem their prisoners of war, although they had to use their own property (Ahkam al-Quran, IbnArabi, 60/1)[10]. Imam Al-Qurtubi also confirms this by saying, "*scholars agree when there is a need for Muslims in a country, which after using charity money from the treasury, it shall also be assisted by funneling money (from taxpayers).* (Tafsir Al-Qurtubi, 2/223)[11]. This is also confirmed by Imam Al-Syatibi in his book al-I'tisom. Imam Al-Ghazzali also stated in the same when he says that when you have possession of a property which is empty, and is no longer public property, then it can be used to meet the needs of the military.

8.2 Permissible to be Implemented Upon the Rich Temporarily in the Special Event

The majority of scholars hold the opinion that it is not permissible for the government to impose additional taxes on the society, unless, there is a real and urgent need and with a condition that the taxes to implement should be temporary and will apply to rich people only and at a certain rate. This opinion is backed by the early scholars from Hanafi (al-Zayla'i, 1313H: 3/242; al-'Ayni, 2000: 3/390; Ibn 'Abidin, 1992: 2/336), Maliki (Ibn al-'Arabi, 2003: 1/87-88; al-Qurtubi, 1964: 2/242; 1425H: 821), Syafi'i (al-Juwaini, 1401H: 259; al-Ghazali, 1971: 235-236; al-Ramli, 1984: 8/49-50), and several contemporary scholars for instance the Fatawa of Syeikh al-Tohir Ahmad al-Zawi; the mufti from Libya government 1969-1986 (2006: 238-241), Fatawa Qadhi Hani bin 'Abd Allah al-Jubayr; Qadhi Makkah al-Mukarramah (7423H), 'Abd al-WahhabKhallaf (1988: 117), Yusuf al-Qaradawi (2006: 2/1080), Ali al-Qaradaghi (9). This view is also carried by Sheikh Mahmud Syaltut, (Al-Fatawa al-Kubra, pg 116) (10), and affirmed by Sheikh Abu a'la al-Mawdudi that it is permissible to put into operation taxes which could benefit society or it is in the public interest to do so Nazariyat al-Islam(11) and Abd Rahman[9].

8.3 Impermissible at All as it is oppressive (Zulm)

Mohamad Al-Bakri[5] affirm Ibn Muflih 2003: 10/347; al-Buhuti, t.th: 3/139 in their paper that it is not permissible for the King to implement taxes on his people. The statement is also supported by Mustafa bin Sa'ad al-Rahibani al-Hanbali (w1243H) (1994: 2/619)(8). Ibn Hajar al-Haytami (w974H) clarified that tax collector, writer, witnesses, representative or any other people who participate in a collection of indirect taxes is a major sin of injustice as to collect the tax itself is considered as injustice. The tax collectors take people's property illegally and distribute it to an unauthorized person. Abd Rahman[9] states that scholars who argued that additional taxation is not permissible in Islam usually interpret Quranic verses to justify their stand using Surah Al- Baqarah verse 188 which says: "*And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]*." And resorting to narrations by Ahmad, Ad Daraquthny, Al Baihaqy; classed Sahih by Al Hafizh Ibnu Hajar and Al-Albani, which say that, "*Properties of a Muslim is unlawful but by his willingness*." Thus, it can be inferred that tax collection is not permissible without real and urgent need. The *fatawa* from Saudi Arabia 23/489 (2009)(8) and Brunei Darus Salam 1985(8) also agreed that additional taxation collection is not permissible in Islam.

9 Permissibility of Imposing Tax to the Participants Risk Fund

The main Shariah issue is whether it is permissible to charge tax on the Participants Risk Fund which is a Tabarru' or donation in nature and belongs jointly to the participants. In addition, riders like critical illness, medical and personal accident benefits though are significantly considered as basic needs (Dharuriyyat), unfortunately they are classified as taxable supplies. A research must be conducted to convince relevant parties that Takaful benefits of Critical Illness, Medical and Personal Accident are significantly becoming a basic needs/maslahah nowadays and being given tax exemption.

It is more reasonable if the taxation in Takaful and its counterparty industry to be restricted to business protection/matters of embellishment/Tahsiniyyat i.e.Takaful solutions for business and trading/Tijarah. It is intrusive to set a taxation system for maslahah of public which reflected on Takaful benefits due to event of perils and risks encountered by Takaful participants on critical illness, medical treatment, and accidents which apparently preparing a maslahah upon the risk mudharat of others.

In the Qur'an "*There is not upon the weak or upon the ill or upon those who do not find anything to spend any discomfort when they are sincere to Allah and His Messenger. There is not upon the doers of good any cause [for blame]. And Allah is Forgiving and Merciful*". (12)

Contribution to PRF either by directly paying to the fund or dripping from the Participant Investment Fund (PIF), both are taxable upon the donors (participants). Imposition of tax in Islam relates to one's asset in which he has full ownership and right to its disposal. On the other hand, a liability without full ownership related to an asset is a tax deductible, thus disapproving any form of tax imposed onto the donors on their donation. With reference to zakat, jizyah, kharaj, and usyur these components of taxation in Islamic principle impose a collection of tax on assets al-usul which not on liability/iltizam at with qualification of milk tamm. Liability from perspective of Islamic taxation is a tax deduction thus disapproving practice of tax upon the donors on their donation. For a dual fund Takaful operating model, Tabarru' dripping is a process of inter fund transfer from PIF (savings) to PRF (risk fund). As the Takaful benefit is subject to principle of Hibah mu'allaqah, the same is only deemed binding and materialized upon payment of claim (receipt of Takaful benefit). Therefore the tax is merely a charge against fiduciary fund which Takaful benefit might not be materialized. The Quran stated:

> *".....give its due on the day of its harvest. And be not excessive. Indeed, He does not like those who commit excess."(13)*

RMCD guide on Insurance and Takaful para A81 mentioned that the premium from the investment fund is transferred to the insurance fund to cover cost of insurance. Such transfer of funds is not a supply for GST purposes and is not subject to GST. The guide recognized the above dripping as cost which clearly indicates it as a liability. This treatment shall be equally considered for takaful.

Based on the tax charges on Tabarru' dripping, there might be an attempt to classify the Tabarru' as consideration for Takaful benefits hence reckon the above as taxable supplies (due to aqad mu'awadhoh) despites the fact of Takaful practice is actually based on Hibah bi at-thawab and hibah mu'allaqah).

The classification seems presume this Takaful model that has component of Tabarru' as underlying contract, substance wise are mirror to conventional insurance. Therefore there might be inadvertent misinterpretation to differentiate premium (as thaman belongs to insurance company) and contribution (Tabarru' portion as a gift belongs to Syakhsiyyah I'tibariyyah (Prof Dr Ali Qurrah Daghi, 2009)(9) unless for Takaful model adopted the concept of iltizam bi-al tabarru' (whereby risk fund remain under ownership of participants). Due the fact, is the tabarru' equivalent to 'iwadh for manafi'?

The interpretation from tax perspective has proven us that the structure of Hibah bi-thawab under current practice of Takaful operating model shall be put under strong need to be revisited despites of the various opinion by the fuqaha'. Contracts are to be understood in relation to their intention and substance, not by the words and phrases (al-'Ibratufial-'uqudlial-maqasidwaalma'anilalial-alfazwaalma'ani)

RMCD guide on societies and similar organization further defining gift that a supply of goods and available without payment where the benefits of such supply is substantive is to be treated in accordance to business gift rules (has to be accounted for GST for gift cost more than RM500)

Deduction of Takaful participants savings in PIF (exclusive charge) and Tabarru' in PRF (inclusive charge) due to GST, becoming new additional component causing a risk–element of uncertainty (Gharar) while both PIF and PRF are fiduciary fund (PIF is fund entrusted based on wakalah and PRF is fund entrusted based on tabarru').

These elements must be managed properly to ensure sufficiency of claim payout of Takaful benefits from PRF (where it is guaranteed). However the mechanism of Qard by the shareholders fund to manage the deficit of PRF so far is sufficient mitigation. As GST on tabarru' dripping will be continuously charged for the

whole tenure of certificate on regular basis, it is seemed peculiar if the component of deficit in tabarru' fund (if any) are among others due to the need to cover payment of tax while the fund is a charity in nature.

The cash value (non-guaranteed) in the PIF regardless to be deemed as Takaful savings or investment capital, this money is entrusted under wakalah contract as ra'sul mal. We are interested to understand how ra'sul mal is affected by the taxation mechanism and might affect its value for long term while the same is subjected to obligation of zakat and tax on investment return. These multiple taxation is deemed a masyaqqah which need to be highlighted to seek tax incentive or at least tax based on application of nisab.

Hadith of prophet to Muadz: "Avoid the selected properties of them" (Mukhtasar Kitab Al-Umm Fil-Fiqh). Also to consider the Islamic legal maxims 'la darara wala dirar' (Harm may neither be inflicted nor be reciprocated) and 'al-dararuyuzal'(wrong is to be undone). The purpose of Islamic divine guidance is to promote human well-being, and one of the means to that purpose is harmful elimination. These maxims provide guideline to regulate the entire financial system in such away that prohibits harm imposition and discourages retaliation as well as burdening something on existing risk with another risk.

Charging of GST on group Takaful contribution from government agencies and any organization funded by government whereby source of fund are from government or (MOF) which is considered a specific tax on maslahah fund. The scenario might happened in the scheme initiated by government. The Takaful contribution is paid by government however being taxed at standard rated on the huge amount of contribution (inclusive charge).

It will be more reasonable if this masyaqqah can be avoided by having tax exemption on this particular arrangement. Tax refund may cause an operational disorder if not being managed under guidance of Shariah where there is a risk the tax being refunded is unmatched to a specific fund and mixed up (for example: PIF or PRF or shareholders fund).

The TOs must set a parameter in the system to avoid mistaken absorption of tax refund and ensure correct crediting to the right fund. Tax refunded to un-contactable participants who his PIF is deactivated or certificate is lapse shall be channeled to charitable purposes.

10 Challenges

There are few challenges faces by the Takaful industry with regards to GST implementation. First, similar with other industries, due to less information spread via mass media or other effective medium, the acceptance levels among public remain low. The public are worrying of the significant price increases on basic needs including the Takaful when the GST has fully implemented. Second, it is a challenge to the authority especially the RMCD to issue guidelines to specific industry. With regards to Takaful, the guidelines seem lacking in terms of interpretation of specific terms that reflect the practice of Takaful which is different compared to the conventional insurance. In this context, further review need to be done by RMCD with the assistance from Takaful operators and experts among the academician to ensure the consistency and proper terms used to denote the conventional and Islamic insurance accordingly. It is also found that the guideline do not follow the industry current update in terms of act whereby Takaful Act 1984 still apply in the guideline even though currently IFSA 2013 took effect for Takaful and Islamic Banking industry in Malaysia. Furthermore, it is pertinent to inform that the treatment of GST for Takaful is similar with the conventional counterparts where no special attention is given to the donation contract applies in Takaful. This matter should be considered for future enhancement of GST treatment for the Islamic insurance. The other concern of the Takaful industry is in terms of IT system that can captures GST that have attracted high costs to implement it.

11 Conclusion And Recommendations

The present study was set out to examine the specific Shari'ah issues and challenges that may be triggered off by GST application on Takaful operations in Malaysia. After examining those supply services which are subjected to GST, the researchers conclude that the Shari'ah issues that emerged is basically related to the contract of Takaful which is donation in nature which should not be treated similar with the conventional counterparts. In addition, Takaful riders like critical illness, medical and personal accident benefits which considered as basic needs (Dharuriyyat), shall be given tax exemption. Although the Malaysian scholars agreed that the implementation of GST in Malaysia is permissible if numerous conditions are attached and observed: it must be just to society; 160 countries must have imposed GST or VAT in their countries in order to get a transparency tax system; the rate must be reasonable and does not trouble the people. Furthermore, Ismail[7] added that, if an Islamic country lacks monetary assets, the country is allowed to impose a taxation framework which will increase the revenues. This argument complies with those of the Islamic economist scholars. It is recommended that a survey is undertaken to gauge the public and Takaful operators' perceptions of GST based on the moral and ethical parameters/index given by our scholars which comply with maqasid al-Shariah. If GST leads to oppression or hurting businesses then it should be lifted.

It is suggested to remain GST exemption on wakalah fee, fund management fee and family product. Additionally GST on Takaful is proposed to be restricted on fee & charges (ujrah based) with tax exemption on all type Tabarru' and of all type of Takaful benefits that cater for the public needs. In addition, GST should be confined to the Takaful solution for corporate business purposes only (Tijarah). It shall not impact the PIF (savings) and PRF (risk fund) directly or indirectly hence there must be mechanisms to avoid the concern. The GST charging mechanism may be introduced with the application of nisab where it sets a minimum range for amount of transaction being taxable.

In this section you should present the conclusion of the paper. Conclusions must focus on the novelty and exceptional results you acquired. Allow a sufficient space in the article for conclusions. Do not repeat the contents of Introduction or the Abstract. Focus on the essential things of your article.

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