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GOODS AND SERVICES TAX

GENERAL GUIDE

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INTRODUCTION

General Guide

1. This booklet is a General Guide on Goods and Services Tax (GST). It is part of a series of educational materials made available to help businesses and organizations prepare for GST implementation in Malaysia.

Other Related Guides

2. Besides the General Guide on GST, industry guides are also made available specifically to provide guidance to businesses and organizations operating in specific industries.

Other Sources of Information

3. GST information may also be obtained from the following:

(a) GST Portal

Businesses and organizations can also get information and educational material regarding GST from the GST Portal at gst.customs.gov.my.

(b) Customs Call Centre

Alternatively, you can make enquiries on GST by contacting the Customs Call Centre (CCC) at 03-78067200, e-mailing to ccc@customs.gov.my or faxing to CCC at 03-78067599. The Call Centre is open from Mondays to Fridays between 8.30 a.m. to 5.00 p.m.

(c) GST Unit

You can also contact the Customs as follows:-

Royal Malaysian Customs Department,

Goods and Services Tax Division,

Level 9 South Ministry of Finance Complex,

No.3, Persiaran Perdana,

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Precint 2,
62596 Putrajaya, Malaysia.

Tel: 603- 88822420 / 88822522 / 88822802

Monday to Thursday: 8.30am to 5.00pm

Friday: 8.30am to 12.15pm

2.45pm to 5.00pm

(Except public holidays)

or e-mail to gst@customs.gov.my

(d) Customs Offices

You can also visit any of the Customs offices throughout the country where your business or organization is located to make enquiries regarding GST.

SCOPE OF TAX

4. This section will explain to you the scope of GST in Malaysia. The scope of GST includes the following:-

- (a) What is subject to GST?
- (b) Who can charge GST?

Charge to Tax

5. GST is charged on:-

- (a) any taxable supply of goods and services;
- (b) made in the course or furtherance of any business;
- (c) by a taxable person;
- (d) in Malaysia.

6. GST is also charged and levied on the importation of goods and services into Malaysia. All imported goods except goods prescribed as zero rated and exempt will be subject to GST. All imported services acquired for the purpose of business except exempt supply of services will be subject to GST. The GST on imported services is payable by the recipient of the services using the reverse charge

mechanism.

Supply of Goods or Services

7. The definition of supply covers all forms of supply where goods and services are given in return for a consideration. Consideration received can be in the form of monetary payment or payment in kind (barter).

8. Supplies can be in the form of goods or services. A supply of goods involves the transfer of ownership of the goods from one person to another person. Goods mean any kind of movable and immovable property such as machinery, motor vehicle and house. For example, a person supplies goods if he transfers goods permanently out of the business under a sale arrangement. However, goods do not include money.

9. Anything that is not a supply of goods is regarded as a supply of services and this may include a transfer of possession of goods with no intention to transfer the ownership. Examples of supply of services are:-

- (a) lending of goods;
- (b) renting of goods;
- (c) provision of telecommunication services; and
- (d) professional services.

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10. Goods and services may be supplied for no consideration. Under this situation, such transactions may be deemed as a supply. Examples are disposal of business assets without consideration, gifts which cost more than five hundred ringgit (RM500.00) and private use of business assets.

(a) Taxable Supply

A taxable supply means a supply of goods or services other than an exempt supply. A taxable supply is either a standard-rated or a zero-rated supply. Standard-rated supply is subject to a positive tax rate of 6%.

A zero-rated supply is a taxable supply which is subject to a tax rate of

zero percent (0%). The supplier does not collect any GST but is regarded as making a taxable supply and is eligible to claim GST incurred on inputs. Zero rated supplies are listed under the Goods and Services Tax (Zero Rate Supplies) Order 20XX.

(b) Exempt Supply

An exempt supply is not a taxable supply. An exempt supplier cannot charge GST and therefore cannot claim refund of GST on inputs acquired. Exempt supplies are listed under the Goods and Services Tax (Exempt Supplies) Order 20XX.

Taxable Person

11. A person includes an individual, sole proprietor, partnership, corporation, Federal Government, State Government, statutory body, local or public authority, society, club, trade union, co-operative, trustee and any other body, organization, association or group of persons whether corporate or unincorporated.

12. A taxable person is a person who is or is required to be registered under the GST Act. A taxable person is a person who makes taxable supplies in Malaysia and whose annual turnover exceeds the proposed threshold of RM500,000. Such person is required to be registered under the GST Act. However, in some cases, a person is not required to be registered for GST but he registers voluntarily for GST. In this situation, he is also a taxable person.

Business

13. Business includes any trade, commerce, profession, vocation or any other similar activity whether or not for pecuniary profit. This means that financial profitability is not a criterion in determining the status of business.

14. The following criteria may be used to determine whether an activity qualified as a business for GST purpose:-

- (a) It is a serious undertaking or work earnestly pursued;
- (b) It is pursued with reasonable or recognizable continuity;

- (c) It is conducted in a regular manner and on sound and recognized business principles (business-like nature);
- (d) It is predominantly concerned with making supplies for a consideration; or
- (e) It is making supplies of a kind commonly made by commercial organizations.

15. Examples of non-business activity are holding of shares, supply of services by employees under contract of employment and hobbies. Employment under contract of service where employer / employee relationship exist is not a business. Any activity carried on as a hobby which does not reflect any feature of a business activity is not considered as business.

16. However, the facilities and services provided by a club, association, management corporation or other organisation is treated as a business activity. The admission of persons to any premises for a consideration is also regarded as a business activity.

Made in Malaysia

17. A supply of goods or services must be made in Malaysia for GST to be chargeable. Goods shall be treated as supplied in Malaysia if the goods are in Malaysia or is removed from a place in Malaysia. Services are treated as supplied in Malaysia if the provider of the services belongs in Malaysia. GST is to be charged on a taxable supply of goods or services where the supply is made in Malaysia. Supplies not made in Malaysia are considered to be outside the scope of GST.

REGISTRATION FOR GST

18. This section will explain to you about requirements with regard to registration for GST. It will assist you to decide whether you are required to be registered under the GST Act.

Liability to Register

19. A person is required to be registered for GST if he makes taxable supplies where the annual taxable turnover exceeds RM500,000.

Taxable Turnover

20. Taxable turnover means the total value of taxable supplies excluding the amount of GST.

Calculation of Taxable Supplies for GST Registration

21. The value of taxable supplies should be calculated on all taxable supplies (standard-rated and zero-rated supplies) made by any person, for a period of twelve months excluding the value of:-

- (a) capital assets disposed;
- (b) imported services; and
- (c) disregarded supplies made in relation to Warehousing Scheme or disregarded supplies made within or between designated areas.

22. Value of the taxable supplies to be included in determining the taxable turnover is as follows:-

Category of Person	Taxable Turnover
a company	the value of all taxable supplies made by that company
a company with divisions or branches	the value of all taxable supplies from all divisions and branches
a sole proprietor/ an individual	the value of all taxable supplies of his business
a partnership	the value of all taxable supplies by the partnership
a single taxable person	the value of all taxable supplies by the business entities registered as a single taxable person
a joint venture	the value of all taxable supplies made by the joint venture

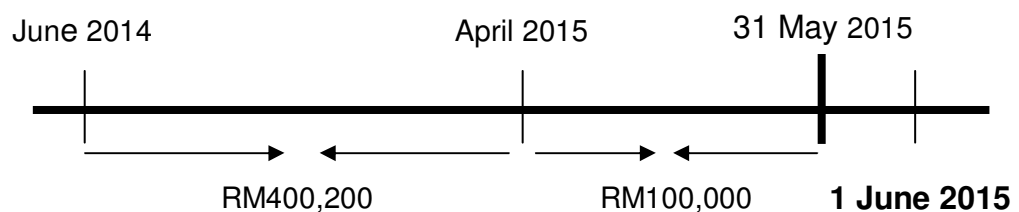
Determination of Twelve Months Period

23. The taxable turnover for a period of twelve (12) months can be determined based on either the historical or the future method.

(a) Historical Method

The historical method is based on the value of the taxable supplies in any month plus the value of the taxable supplies for the eleven (11) months immediately before that month. The determination is explained as in **Diagram 1**.

Diagram 1: Historical Method

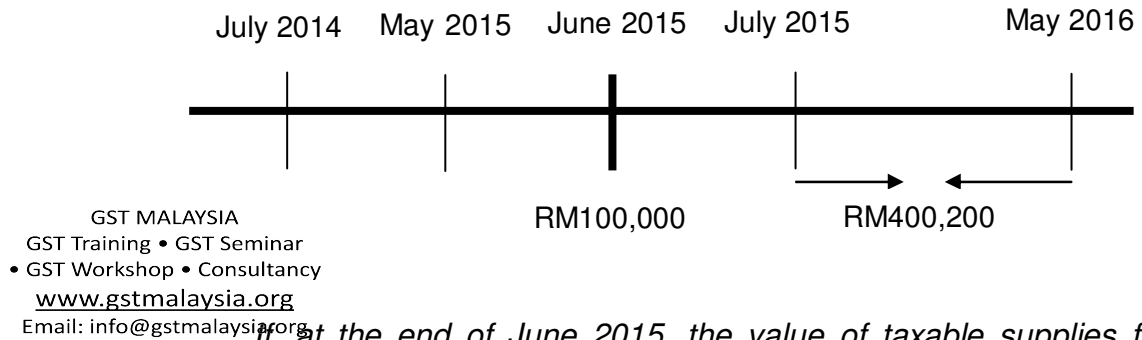


At the end of May 2015, the value of taxable supplies for the month of May is RM100,000 and the value of taxable supplies for the eleven (11) months backward (i.e. from Jun 2014 to April 2015) is RM400,200. The total value (annual taxable turnover) of all taxable supplies is RM500,200. The taxable turnover has exceeded threshold starting from 1 June 2015 and the business is liable to be registered for GST within twenty eight (28) days from this date.

(b) Future Method

For the future method, the taxable turnover is based on the value of taxable supplies in any month plus the expected value of taxable supplies for the eleven (11) months immediately after that month. The determination is explained as in **Diagram 2**.

Diagram 2: Future Method

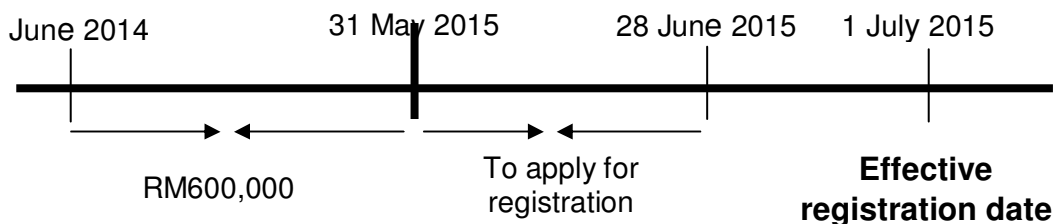


if, at the end of June 2015, the value of taxable supplies for the month of June 2015 is RM100,000 and his supplies for the preceding eleven (11) months (from July 2014 to May 2015) does not reach the threshold, he must look at the expected turnover from July 2015 to May 2016. Since his taxable supplies for the month of June 2015 is RM100,000 and if he reasonably expects his turnover for the next eleven (11) months (from July 2015 to May 2016) to be more than RM400,000, then he is liable to be registered for GST within twenty eight (28) days from the end of the month of June 2015.

Effective Date of Mandatory Registration

24. The effective date of mandatory registration is on the first day of the month following the month he is required to notify his liability to be registered. Mandatory registration can be back-dated upon request. However, it cannot be earlier than the date when the liability occurs. The effective date for late mandatory registration is the date when application for registration is made.

Example 1:



Voluntary Registration

25. A person can apply for voluntary registration even though the value of his taxable supplies does not exceed the prescribed threshold (RM500,000). A person can be registered if he intends to make any taxable supplies provided he can satisfy the Director General that he is committed to doing business by submitting the following documents:-

- (a) details of business arrangements (business plans, plants, location);
- (b) copies of contract for establishment of premises such as rental of premises / construction of pipelines/ purchase of equipment;
- (c) details of any patents;
- (d) details of business purchases; or
- (e) other documentary evidence.

26. However, if he is making wholly out of scope supplies, he can be allowed to be registered under GST subject to the Director General's approval.

27. A person who voluntarily registers for GST shall remain registered for at least two (2) years.

28. Any person who was initially registered for making or intending to make a supply outside Malaysia which would be a taxable supply if made in Malaysia and subsequently makes or intends to make a taxable supply in Malaysia is also required to notify the Director General within thirty (30) days from the date of occurrence of intention to make taxable supply in Malaysia.

Registration for Transfer of Business as a Going Concern (TOGC)

29. If the transfer of the whole business is considered as a transfer of going concern (TOGC), the transferee must apply for registration within twenty eight (28) days from the date of transfer. The transfer of business is treated as a transfer of going concern if:-

- (a) the transferor is a taxable person;

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- (b) the transferee must be a taxable or will be a taxable person immediately after the transfer of business;
- (c) the transfer of business must be accompanied by a transfer of business assets and to be used in carrying on the same kind of business; and
- (d) if only part of business is transferred, then that part of the business must be capable of operating on its own.

Effective Date of TOGC Registration and Deregistration

30. The effective date of TOGC registration is on the date of the transfer. The taxable person (transferor) must apply for deregistration if he ceases making taxable supplies or ceases business after the business is being transferred.

Registration of Persons Making Zero-rated Supplies

31. A person who makes wholly zero-rated supplies must be registered for GST if the value of the annual taxable turnover exceeds the threshold of RM500,000. He, however, may request for approval from the Director General to be exempted from registration which may be approved by the Director General. The effect of the exemption from registration to a person making wholly zero-rated supplies is that the exempted person cannot claim input tax credit on any input tax incurred in furtherance of his business. The rationale of giving such an exemption is to provide an option to such a person whether to register or not for GST as his compliance costs may outweigh the benefits of claiming input tax credit.

Registration of an Agent

32. The registration of an agent under GST is as follows:-

Condition	Determination of Taxable Turnover	Liability to Register
1. Agent acting in his own name	value of taxable supplies he made (including agent's	register if exceeds the threshold

Condition	Determination of Taxable Turnover	Liability to Register
	commission received)	
2. Agent acting on behalf of local principal	agent's commissions received (value of taxable supplies on behalf of local principal to be excluded)	register if exceeds the threshold
3. Agent acting in his own name and acting on behalf of local principal	value of taxable supplies he made in his own name, and agent's commissions received (value of taxable supplies on behalf of local principal to be excluded)	register if exceeds the threshold
4. Agent acting on behalf of non-resident	<u>Situation 1</u> value of taxable supplies he made in his own name and agent's commissions received (value of taxable supplies on behalf of the non-resident to be excluded)	<u>Situation 1</u> register if exceeds the threshold non-resident is not required to be registered.
	<u>Situation 2</u> Value of taxable supplies he made in his own name is below threshold but value of	<u>Situation 2</u> Agent to register on behalf of the non-resident as non-resident is not liable to be registered under the GST

Condition	Determination of Taxable Turnover	Liability to Register
	taxable supplies made by the non-resident in Malaysia exceeds the threshold.	Act. The GST liability of the non-resident will fall on the agent.
	<p><u>Situation 3</u></p> <p>Value of taxable supplies he made in his own name exceeds threshold and value of taxable supplies made by the non-resident in Malaysia also exceed the threshold.</p>	<p><u>Situation 3</u></p> <p>Agent to register in its own name and also to register on behalf of the non-resident.</p>

For further information regarding Agent, please refer to the *GST Guide on Agent*.

Registration of societies or similar organisations

33. Societies, non-profit organisations, charities or cooperatives are required to be registered if their supplies of taxable goods and services exceed the prescribed threshold.

Person	Supply	Liability
Societies, non-profit organisations, charities, cooperatives	supplies of goods and services for the purpose of business	register if the value of taxable turnover exceeds threshold

For further information, please refer to *GST Guide on Societies or Similar Organisations*

Personal representatives

34. A personal representative is a person who has been appointed to carry on a business activity on behalf of a taxable person who has died, goes into liquidation or receivership, becomes bankrupt, or becomes incapacitated until another person is registered in respect of such business or in the case of incapacity, until such time as the incapacity ceases.

35. The personal representative can be an executor, a liquidator, receiver, trustee, administrator, or any person appointed or authorized to manage the business of an incapacitated or deceased person. A personal representative is not required to apply for a new registration but he must apply to the Director General in form GST-Admin 7 within twenty one (21) days from the date of appointment as a personal representative.

Group Registration

36. Group registration is a facility that allows two or more related companies to register as a group. The pre-requisite conditions for group registration are:-

- (a) each company must be making wholly taxable supplies. However, where a company is making incidental exempt supplies, the company is also allowed to be a member of the group;
- (b) each company must be registered individually before they register as a group;
- (c) companies have controlling power over other companies and are holding more than 50% of the shares; and
- (d) members of the group cannot be members of another GST group.

Application for Group Registration

37. Application for group registration can be made by completing and submitting the prescribed form GST-02. Application can be submitted electronically or manually to the nearest customs office. Members of the group are required to submit the application form and every member shall nominate the representative member in the application. Any correspondence for group registration will be addressed to the

representative member. The registration of a group shall be in the name of the representative member.

38. Group registration will be allowed regardless of the type of taxable supplies made by the companies within the same group provided that the companies are making wholly taxable supplies.

39. Partnerships or individuals are not eligible to be members of a group. However, companies controlled by any partnership or individual may register as a group.

40. Foreign companies which are not established in Malaysia cannot become members of a group. However, for the purpose of eligibility for group registration, their subsidiaries or registered branches in Malaysia can be considered as members of a group. Companies incorporated in Malaysia are allowed to be members of a group even though they make taxable supplies outside Malaysia.

41. Any company which is under the control of a foreign company is eligible to be treated as a member of a GST group if such company is registered for GST and makes wholly taxable supplies, and it is not a member of another GST group.

Treatment of Supplies between Companies under Group Registration

42. Inter-company charges on supplies between members of a group will be disregarded. However, supplies from any member of a group to companies which are not members of the group are considered supplies for GST purposes and subject to GST.

Single Taxable Person

43. A single taxable person means two or more business entities which have been directed by the Director General to be registered under one registration number. Two or more business entities can be classified as a single taxable person when they artificially separate their business activities for the purpose of tax avoidance. All persons named in the direction by the Director General will be registered under one registration number and they may jointly nominate the name to be used for the registration of the single taxable person within fourteen (14) days

from the date of the direction. Failing which, registration will be named as specified in the direction. The liability date for a single taxable person registration is the date specified in the direction.

Joint Venture

44. Registration of joint venture for GST purpose only applies to petroleum upstream activity under the Production Sharing Contract (PSC). All venturers must be registered individually before the joint venture registration can be considered.

45. Application to register joint venture shall be made in GST-02 and GST-02A forms not less than ninety (90) days before the commencement of the joint venture operation.

46. The venturers must nominate one of the venturers or appoint a joint operating company (JOC) to be a venture operator. The registration of the joint venture will be in the name of the venture operator and it is required to maintain a separate account for the joint venture. If there is any changes in the joint venture e.g. inclusion or removal of any venturer, the venture operator has to inform Customs not less than thirty (30) days before the date of such changes.

Registration of Branches or Divisions

47. A registered person having branches or divisions may apply to register its branches or divisions individually under the name of those branches or divisions. Registration of branches or divisions may be considered if:

- (a) the registered person and all the branches or divisions are making wholly taxable supplies;
- (b) the registered person is not a member of a group;
- (c) it is difficult to submit a single return for all the branches or divisions;
- (d) each branch or division maintains a separate account;
- (e) such branch or division is separately identifiable by reference to the nature of the business or its location; and
- (f) every separately registered branch or division has the same taxable

period.

48. Application for branch or division registration has to be made by the registered person using form GST-01.

Responsibilities of a Registered Person

49. A registered person must comply with the requirements under the GST legislation as follows:-

- (a) account for GST on taxable supplies made and received;
- (b) submit GST return and pay tax by the due date;
- (c) issue tax invoice on any taxable supply made unless as allowed by the Director General;
- (d) inform Customs of the cessation of business within thirty (30) days from the date of business cessation;
- (e) inform Customs on any changes of address, taxable activity, accounting basis and taxable period; and
- (f) keep adequate records of his business transactions relating to GST in the national or English language for seven (7) years.

Application for GST Registration

50. Application for registration can be made by completing and submitting the prescribed form GST-01. Application can be made on-line or submitted manually to the nearest Customs office. Registration forms can be obtained from the nearest Customs office or on-line from GST portal or website. The documents relating to business or companies registration should be submitted upon request. The Customs office will issue the letter of approval together with the registration number to the applicant for GST purposes e.g. for submission of GST return, payment, correspondence, etc. and also “an identification number (ID)” for applicants opting for on-line services.

End of Registration

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Cessation of liability to be registered

51. The end of liability for mandatory registration is when a person:
- (a) ceases to make a taxable supply; or
 - (b) ceases to have the intention of making a taxable supply; or
 - (c) ceases to make or ceases to have the intention of making a supply outside Malaysia which would be a taxable supply if made in Malaysia; or
 - (d) the value of taxable supplies for a period of twelve (12) months succeeding will not exceed the prescribed threshold i.e. taxable turnover for the next twelve (12) months will not exceed the registration threshold.
52. To determine whether the taxable turnover for the next twelve (12) months will exceed the registration threshold or otherwise, the registered person is also required to ascertain the total taxable turnover for the preceding twelve (12) months.

Notification of cessation of liability to be registered

53. A registered person who has ceased business or has ceased making a taxable supply is required to notify Customs within thirty (30) days from the date of such occurrence.
54. A registered person who has notified his cessation of liability to be registered has to continue to fulfill his obligations as a registered person i.e. to charge GST and submit GST returns, until the approved effective date of cancellation of his GST registration.

Cancellation of Registration

55. A registered person may apply to cancel his registration if his liability to be registered has ceased. The registration of any person may also be cancelled by Customs if it is found that the person is not liable or eligible to be registered.
56. Application for registration cancellation can be made by completing and submitting the form GST-Adm4 either on-line or manually to the nearest Customs'

office.

General Information

57. A registered person must notify the Customs office within thirty (30) days from the date of any changes to his business.

58. A person who is liable to be registered but fails to apply for GST registration should immediately apply for registration. Tax due will be collected for a period of not more than six (6) years from the effective date of registration. A late registration penalty of not more than twenty five percent will also be imposed on the unpaid tax due.

59. If the person refused to be registered, he shall be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding three (3) years or to both.

60. A person who is not liable to be registered is not allowed to charge and collect GST. He can only collect and pay GST after he has registered voluntarily.

SUPPLY

61. This section explains the place of supply, value of supply and time of supply for supplies of goods or services.

Place of Supply

62. The place of supply of goods or services is where the supply is made or treated to be made. A supply of goods or services will be within the scope of GST and therefore chargeable to GST if the place of supply is in Malaysia. Supplies made outside Malaysia are considered to be out of the scope of GST.

63. For the purposes of GST, Malaysia includes the territories of the Federation of Malaysia, its territorial waters and the sea-bed and subsoil of the territorial waters.

64. There are separate rules for determining the place of supply for goods and the place of supply for services.

Supply of Goods

65. The place of supply of goods is in Malaysia if the supply involves goods which are removed:-

- (a) from a location in Malaysia to another location in Malaysia; or
- (b) from a location in Malaysia to a location outside Malaysia.

66. Para (b) above relates to an export of goods. The export of goods is therefore a supply made in Malaysia. However, the export of goods is a zero rated supply.

67. Likewise, the place of supply of goods is outside Malaysia if the supply involves goods which are moved:-

- (a) from a location outside Malaysia to another location outside Malaysia;
or
- (b) from a location outside Malaysia to a location in Malaysia.

68. Para 67(b) relates to the importation of goods. Although the place of supply is outside Malaysia, the goods are subjected to GST on importation unless the importation is done under a suspension or relief arrangement.

Supply of Services

69. The place of supply of services is treated as in the country where the supplier belongs. Therefore, a supply of services is treated as made in Malaysia if the supplier belongs in Malaysia.

70. A supplier belongs in Malaysia under the following circumstances:-

- (a) he has in Malaysia a business establishment or some other fixed establishment and no such establishments elsewhere; or
- (b) he has no business or fixed establishments anywhere, but the country where he usually resides or legally constituted (in the case of a company) is Malaysia; or
- (c) he has business or fixed establishments in Malaysia and elsewhere and the country of the establishment most directly concerned with the

supply is Malaysia.

71. A business establishment is taken to mean the principal place of business of the supplier and it is usually the head office.

72. A fixed establishment is an establishment other than the business establishment from which the activities of the business are carried out. It includes a branch or agency through which the supplier carries on a business in Malaysia.

73. Where a supplier belongs in Malaysia, every supply of services provided by him is within the scope of GST. GST would then be chargeable where the supply is a taxable supply.

Reverse Charge

74. A supplier who does not belong in Malaysia and supplies services to a customer in Malaysia does not have to charge GST. However, the customer who receives the services for the purpose of any business carried on by him is required to account for GST by a reverse charge mechanism. For more information on reverse charge mechanism, please refer to paragraph 93 on Imported Services.

Value of Supply

75. The value of a supply is the value on which GST is chargeable. The amount of GST is the value multiplied by the tax rate.

76. The consideration of a supply depends on what a person is given in exchange for the supply. A consideration is any form of payment in money or in kind or both in money and in kind.

77. For imported goods, the value includes customs duty and excise duty paid or to be paid, where applicable.

Consideration

78. The correct valuation rule to be used will depend upon correctly identifying the consideration given for a supply. You should not attempt to value a supply until you have established what the consideration is.

Supply for a Consideration in Money

79. The general valuation rule is applicable in circumstances where the supply is for a consideration wholly in money. In such cases the value for GST purposes is the price paid or payable excluding the GST itself. The value with the addition of the GST chargeable is equal to the consideration.

80. Under this rule, the value for GST purposes is therefore that part of consideration which, when added to the GST itself, gives a total equaling the consideration. The GST element of a GST-inclusive consideration is determined by multiplying that consideration by the GST fraction, i.e. $6/106$ (rate of GST is 6%).

Example 2:

Goods subject to standard-rated GST are sold for a cash payment of RM104

The GST element is $6/106 \times RM104 = RM5.89$

The value for GST purposes is RM98.11 (RM104 – RM5.89) and the consideration is RM104.

Supply for a Consideration not in Money (In Kind)

81. If a supply is made for consideration in kind, then the value shall be the open market value less the tax chargeable.

Example 3:

A customer purchases a printer and pays the supplier by exchanging his used computer for the printer. The open market value of the used computer is RM260.

Hence, the value of the printer is the open market value of the used computer less tax i.e. RM245.28 ($RM260 \times 100/106$).

Supply for Consideration Partly in Money and Partly in Kind

82. If a supply is made for consideration partly in money and partly in kind, then the value of the supply will be the aggregate of the consideration in money and

the open market value of the other consideration not in money.

Example 4:

A trader exchange a new car for RM62,400 cash and a used car (open market value is RM35,360), the value of the supply is computed as follows:-

$$\text{Value} = 100/106(\text{RM}62,400 + \text{RM}35,360) = \text{RM}92,226.42$$

Note: Open market value is deemed to be GST inclusive.

Supply Made for No Consideration

83. If supply is made for no consideration, value for GST purposes will be based on open market value of the supply

Example 5:

A hand phone dealer sells a Blackberry for RM2,080 inclusive of GST. He gives a Blackberry to his longtime customer for free. The value of the free Blackberry is RM1,962.26 (100/106 x RM2,080).

For further information on open market value please refer to the *GST Guide on Value of Supply*.

Value for Imported Goods

84. Value for imported goods will be the aggregate of the following:-

- (a) value determined for customs purposes;
- (b) customs duty paid or to be paid (if any); and
- (c) excise duty paid or to be paid (if any).

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Customs will impose GST on the above value.

Special Valuation Rules

85. The special valuation rules are applicable in the following circumstances:-

- (a) a single consideration for supplies with different liabilities.

Example 6:

Standard-rated and zero-rated items or standard-rated and exempt items are sold for one single consideration. There is a need to apportion the value between the two supplies in order to determine GST liability.

- (b) other circumstances include imported services (in cases where no payment is made) and supply of taxable goods from Licensed Manufacturing Warehouse or Free Industrial Zone.

For further information please refer to the *GST Guide on Value of Supply*.

Time of Supply

86. The time of supply is the time when a supply of goods or services is treated as being made. It is important to determine the time of supply because a taxable person should charge GST at the time when the supply is made. Consequently he accounts for GST for the taxable period in which the time of supply occurs unless he is allowed to account GST under payment basis.

87. There are general rules for determining the time of supply. However, in certain cases and in particular situations there are special times of supply rules to be applied. It is essential to note that where a special time of supply rule applies, it will override the general rule.

General Time of Supply Rules

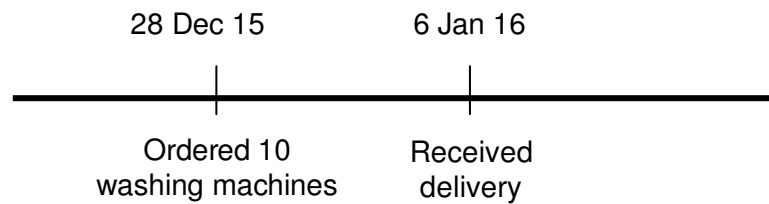
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88. In general, the basic tax point is when:

- (a) goods are removed or when goods are made available to a customer;
or
- (b) services are performed.

89. The time of supply of goods occurs when the goods are removed or if the goods are not to be removed, the time when goods are made available to the customer.

Example 7:



Axis Laundry Sdn. Bhd. ordered 10 washing machines from Omni Electrical Sdn. Bhd. on 28th December 2015 and received delivery of the washing machines on 6th January 2016. The basic tax point is 6th January 2016 i.e. when goods were removed for sales.

90. In the case of a supply of services, the time of supply is when the services are performed. A service is considered “performed” when work is done or completed by the supplier of services.

Example 8:



Feroz has an audit firm. Usually beginning June, Feroz has to audit Meiji & Co. and prepare an audit report. The audit started on 15th June 2015. By 1st July 2015, Feroz has completed the report and sent it to Meiji & Co. i.e. the services are performed. In this case, the basic tax point is 1st July 2015 which is the end date of an audit i.e. when services are performed.

Exceptions to the General Rules

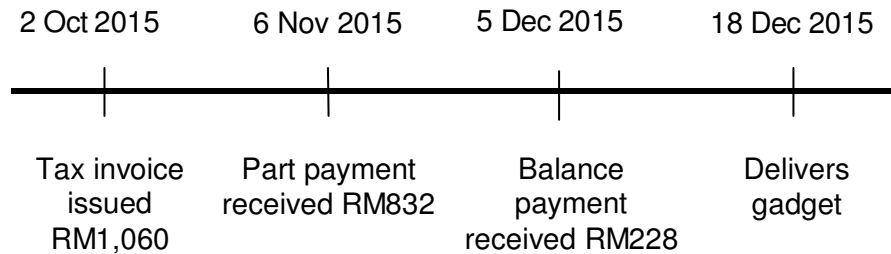
91. Specific time of supply rules for certain circumstances are as follows:-

(a) Tax invoice issued or payment received before the basic tax point

If a supplier issues a tax invoice or receives any payment before the time of supply mentioned in paragraph 89 above, the time of supply

for the amount invoiced or payment received will be the date of the invoice issued or the amount of payment received, whichever is the earlier.

Example 9:

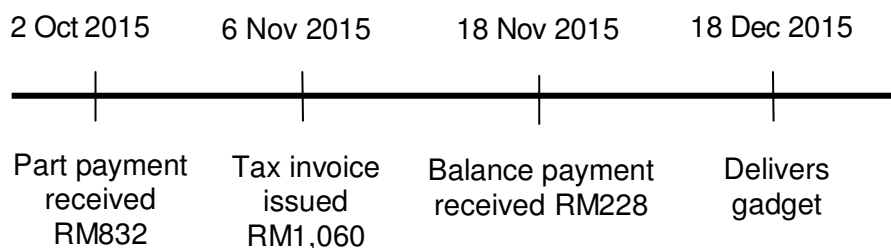


A sells and delivers a gadget to B on 18 December 2015. The value of the gadget is RM1,000. A has already issued a tax invoice for RM1,060 to B on 2 October 2015. B pays a sum of RM832 on 6 November 2015 as part payment and the balanced amount on 5 December 2015.

The time of supply for GST due amounting to RM60 (6/106 x RM1,060) is 2 October 2015 regardless of any payment A had received or is to receive after 2 October 2015.

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Example 10:



A sells and delivers a gadget to B on 18 December 2015. The value of the gadget is RM1,000 and GST amounting to RM60. A receives RM832 as part payment from B on 2 October 2015 and the balanced amount on 18 November 2015. A issues a tax invoice for the whole amount on 6 November 2015.

The time of supply for GST due amounting to RM47.09 (6/106 x RM832) is 2 October 2015 and the time of supply for GST due amounting to RM12.91 (6/106 x RM228) is 6 November 2015.

(b) Tax invoice issued within 21 days from the basic tax point

If a supplier does not receive any payment before the basic tax point but issues a tax invoice within twenty one (21) days from the basic tax point, the time of supply will be the date of issuance of the invoice. This is regardless if any payment is received within the twenty one (21) day period. If a tax invoice is not issued within twenty one (21) days, then the time of supply will revert to the basic tax point.

Example 11:

A delivers the gadget on 18 December 2015. On 2 January 2016, B pays RM832 as part payment. A issues a tax invoice on 4 January 2016 for an amount of RM1,060 but states the balance of RM228 to be paid.

The time of supply for GST due amounting to RM60 (6/106 X RM1,060) is 4 January 2016 since the tax invoice is issued within twenty one (21) days from basic tax point.

(c) Consignment Sale

If a supply of goods is on a sale or return or similar terms, the time of supply will be such time when the consignee issues a statement of sales to the consignor stating that the goods had been sold or twelve (12) months from the date the goods were sent to the consignee, whichever is the earlier. Applying the rules above, if a tax invoice was issued within twenty one (21) days from the date the consignee issued the statement of sales or after twelve (12) months the goods were removed, then the time of supply is the date of the tax invoice.

(d) Disposal of Business Assets

Transfer or disposal of goods which form part of business assets by or under the direction of the person carrying on the business, whether or

not for a consideration, the time of supply is at the time when the goods are transferred or disposed i.e. when the goods are removed.

This would include a situation where the supplier temporarily loans his goods to another person and that person replaces the loaned goods with another batch of goods to the supplier.

(e) Non-business Use of Business Assets

If goods are temporarily taken out for private use or any purpose other than for business, the time of supply is when the goods are appropriated. However, where the non-business use is of a continuing nature, the time of supply shall be the last day of the taxable period during which the goods are made available or are used.

(f) Imported Services

Where there is a supply of imported services, the time of supply is when the supplies are paid for by the recipient.

(g) Supplies under Approved Toll Manufacturer Scheme

The time of supply for the treated or processed goods under the scheme is the earlier of the following:-

- (i) whenever a payment in respect of the supply is made to the overseas principal; or
- (ii) whenever the taxable person who is granted approval to receive such treated or processed goods receives an invoice relating to such supply from the overseas principal.

(h) Supplies under Approved Jeweller Scheme

The time of supply of the prescribed goods under the scheme is the earlier of the following:-

- (i) whenever a payment in respect of the supply is made; or
- (ii) whenever the approved jeweller receives an invoice relating to such supply.

(i) Supplies under Relief for **Second-hand Goods**

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The time of supply of the prescribed goods under the scheme is the earlier of the following:-

- (i) when the prescribed goods are removed or made available;
- (ii) whenever a payment in respect of the supply is made; or
- (iii) whenever approved person issues an invoice.

(j) Coins Operated Machines

The time of supply will be when the collection is removed from the machine.

(k) Goods in Licensed or Bonded Warehouse

For goods removed from a licensed or bonded warehouse, GST becomes chargeable at the time of their removal.

(l) Supplier's goods in possession of the recipient

If the supplier supplies goods under an agreement where ownership will only pass at the date of appropriation by the recipient and the consideration will not be fixed until that date, then the time of supply is the earliest of the following dates:

- (i) the date when the recipient appropriates the goods;
- (ii) the date when a tax invoice is issued by the supplier; or
- (iii) the date when a payment is received by the supplier.

If the supplier issues a tax invoice within twenty one (21) days of the date of appropriation by the recipient and no payment is received before the date of appropriation of goods, then the date when the tax invoice is issued becomes the actual time of supply.

In the case where there is a self-billing agreement between the supplier and the recipient, the basic tax point is the date of appropriation. If the recipient issues a self-billed invoice within twenty one (21) days of the date of appropriation by him, then the actual time of supply is the date when the self-billed invoice is issued.

(m) Supplies in construction industry

In the construction industry, goods and services are supplied in the course of construction, alteration, demolition, repair or maintenance of a building or of any engineering work under a contract which may or may not require the issuance of a certificate of work done.

The time of supply is:

- (i) In the case where the certificate of work done is not required, the supply is treated as taking place at the earlier of the following times;
 - when payment is received by the supplier where the consideration for the contract is wholly in money; or
 - when tax invoice is issued.
- (ii) In the case where the certificate of work done is required, the supply is treated as taking place at the earlier of the following times:
 - when payment is received by the supplier where the consideration for the contract is wholly in money;
 - when tax invoice is issued; or
 - when certificate of work done is issued, if no tax invoice has been issued within twenty one (21) days after the date of issuance of the certificate.

(n) Other Supplies

The time of supply of the following supplies:-

- (i) transfer of land involving uncompleted property under progressive payment scheme;
- (ii) supplies of power, electricity, gas, water, telecommunication services;
- (iii) retention payments;
- (iv) continuous supplies of services; and
- (v) payments relating to intellectual property;

is the earlier of when a payment is received or a tax invoice is issued in respect of the supply.

- (o) Continuous supplies of goods and services between connected persons

In cases where;

- (i) supply involves transfer of land; supply of telecommunication services, gas, water, refrigeration, air conditioning, ventilation, petroleum or petroleum product through pipeline or any form of power including electricity, continuous supply of services or payments related to intellectual property;
- (ii) a tax invoice is not issued;
- (iii) payment is not received;
- (iv) supplier and recipient are connected with each other; and
- (v) recipient is not allowed to claim input tax fully or partially on the supply,

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the supplies are treated as separately and successively supplied at the end of the period of three (3) months after the supplies commenced and thereafter, at the end of each subsequent period of three (3) months.

- (p) Accommodation Tax Point

A taxable person may apply to the Director General for a special time of supply for circumstances not mentioned above. A special time of supply is only to be applied by a particular taxable person as specifically requested. This facilitation is granted where complying with the normal rules would cause severe hardship or difficulty to the taxable person. Examples of the circumstances where special time of supply is allowed include:-

- (i) invoice via monthly statements for supplies by banks to their clients;
- (ii) corporate purchases card, and

- (iii) long delays in establishing prices.

IMPORTED SERVICES

92. This section explains the GST treatment on the supply of imported services by any person.

Meaning of Imported Services

93. Under the GST Act, “imported services” means services that are made by a supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia to a recipient who belongs to Malaysia and such services are consumed in Malaysia.

Meaning of “Consumed in Malaysia”

94. Service “consumed in Malaysia” in relation to imported service means any service which is used, utilised, or enjoyed in Malaysia. A recipient of imported services shall be liable for GST for the portion of the services consumed in Malaysia.

Example 12:

MY Co. is the computer database centre for ASEAN region where Kuala Lumpur is the head office. An overseas consultant (UK Co.) was engaged to upgrade MY Co.’s database. The consultation cost of RM 80,000 covers all five regional offices of MY Co. The cost of upgrading MY Co.’s database in Malaysia is RM30,000 and is liable to GST while the remaining RM50,000 is not liable because the work is done for the other regional offices, that is, consumed outside Malaysia although payment is made by MY Co. based in Malaysia.

Example 13:

Stylo Bhd. is a wholesaler for ‘X brand’ shoes in Malaysia and Thailand. Stylo Bhd. pays royalty to Italy Shoes Co. (holder of rights) at the end of every year. The royalty paid depends on the total amount of shoes sold in the year. Stylo Bhd. paid RM36,000 this year for shoes sold in both countries, which is RM16,000 for the sale in Malaysia and RM20,000 in Thailand. The amount of imported services liable to GST is RM16,000.

Example 14:

KL Co. engaged a few experts from Europe for a consultation on productivity management for a factory located in Cambodia. The job was performed in Cambodia but payment was made by the KL Co. in Kuala Lumpur. No GST is charged on the consultation services because these services were consumed outside Malaysia.

Taxable Services which are Subject to GST when the Supply is Received from Overseas

95. In general, the scope of services in GST is very broad and excludes goods or money. It also includes intangible and intellectual properties such as trademarks, rights, patents, license, good will, etc.

96. When services are imported from outside Malaysia and supplied to a recipient in Malaysia, being taxable supplies if made in Malaysia, the recipient of the supply shall account and pay GST if such imported services are for the business purposes and consumed in Malaysia.

Value of the Supply of Imported Services

97. Under the GST Act, the value of the supply of imported services should be treated as made by the recipient and shall be taken to be such amount as is equal to:-

- (a) in the case of the recipient who is not connected to the supplier of such services, whatever consideration paid by the recipient; or
- (b) in the case of the recipient who is connected to the supplier of such services, the open market value.

GST Liability on the Recipient of Imported Services

98. Generally, the GST legislation provides for the supplier to charge GST on taxable supplies he makes to the recipient. However, in the case of imported services, the GST liability shifts from the supplier to the recipient if the recipient's fixed or business establishment or his usual place of residence is in Malaysia.

Hence, the recipient is liable to account GST on the supply made for the purpose of any business carried on by him.

99. If the supply is not made for business purposes, the recipient is not liable to account GST on the supply of imported services he receives. For example, an individual receives architectural design supplied by a foreign architect to design a residential house to be built for private purposes in Malaysia.

Accounting for Supply of Imported Services

100. When a person receives a supply of imported services for the purpose of business, he is treated as if he is making and receiving the supply. Since he is treated as making a supply, he is required to account GST on the supply of imported services as his output tax.

101. If the imported services are used for making taxable supplies, he is entitled to claim the GST incurred as his input tax. If the supply is used for making exempt supplies, he is not entitled to claim the GST as his input tax. If the imported services are used for making both taxable and exempt supplies, then he has to apportion the GST incurred and claim the proportion of GST on imported services used for making taxable supplies.

102. If the recipient is a taxable person, he has to declare both input tax and output tax in his GST return and pay the tax not later than the last day of the following month after the end of his taxable period where the payment for the supply of imported services is made to the supplier.

103. If the recipient is not a taxable person, he is still required to account the GST as output tax and declare the tax in a prescribed form (Form GST-04). The tax has to be paid not later than the last day of the subsequent month from the month in which the payment of supply is made.

No Tax Invoice Required for an Imported Service.

104. A recipient does not need to issue any tax invoice when he receives an imported service.

EXPORTED SERVICES

105. Generally, all exported services are zero-rated provided the conditions are met as specified under the Goods and Services Tax (Zero Rate Supplies) Order. These services are generally referred to as international services. Examples of exported services are as follows:

- (a) Any supply of services to a person who belongs outside Malaysia not being any supply of services related to land and goods situated in Malaysia and he is not in Malaysia at the time the services are performed.
- (b) Services of any of the following descriptions which are performed wholly outside Malaysia -
 - (i) cultural, artistic, sporting, tourism, educational or entertainment services;
 - (ii) exhibition or convention services; or
 - (iii) services ancillary to, including that of organising the performance outside Malaysia of the services referred to in para (a) and (b).
- (c) A supply of telecommunication services by a telecommunication supplier who belongs in Malaysia to a telecommunication supplier who belongs in a country outside Malaysia.
- (d) A supply of telecommunication services provided by a telecommunication supplier who belongs in Malaysia to its subscriber in relation to outbound roaming outside Malaysia, when the subscriber makes an outgoing call or receives an incoming call.
- (e) Services supplied -
 - (i) under a contract with a person who belongs in a country other than Malaysia; and
 - (ii) which directly benefit a person who belongs in a country other than Malaysia,

relating to the co-location in Malaysia of computer server equipment belonging to the person referred to in para (a) or (b).

IMPORTED AND EXPORTED GOODS

Imported Goods

106. All goods imported into Malaysia are subject to GST unless specifically relieved or placed under a suspension scheme as explained in the later paragraph.

107. GST is charged on the importation of goods at the same rate as if the goods had been supplied in Malaysia. The value on which GST is charged is the sum of its customs value as determined according to customs rules for valuation plus any customs duty and excise duty that is to be paid by reason of its importation.

108. GST on the importation is payable at the time the customs duty if any, is paid to Customs. The GST paid is receipted on the Customs No.1 or No. 9 form depending on the manner of release. If no customs duty is applicable, the GST is payable at the time such goods are released from customs control.

109. However, an importer who is a taxable person would be eligible to recover the GST paid on imports subject to the normal rules on input tax credits. The recovery of GST incurred on imports is made by crediting the amount allowable against his output tax chargeable on his taxable supplies.

GST Relief on Imports

110. Certain goods will be given GST relief on importation under the GST (Relief) Order 20XX and subject to such conditions as may be prescribed.

GST Suspended on Import

111. When goods are imported and subject to a warehousing scheme as explained under paragraph 283, GST is not chargeable until the goods are released for home consumption in Malaysia.

Goods Imported under the Approved Trader Scheme

112. When goods are imported under the Approved Trader Scheme, any

suspended GST on the imported goods is to be accounted for in the taxable period in which the importation took place.

Goods Imported into the Designated Area

113. Designated Area means Langkawi, Labuan or Tioman. GST is not chargeable on goods imported from a place outside Malaysia to a designated area unless the goods are prescribed to be chargeable to GST by the Minister.

114. Goods transported from any place in Malaysia to a designated area are not considered as imports but are regarded as supplied in Malaysia. Goods supplied from Malaysia to the designated area are to be zero-rated except as prescribed by the Minister.

Exported Goods

115. An exporter can zero rate his supply of goods at the time when the goods are exported. Goods are deemed to be exported when:-

- (a) they have been cleared by the proper officer of customs at the last customs station on their route out of Malaysia;
- (b) they have been loaded on to a vessel or an aircraft which is about to depart from a port or place in Malaysia; or
- (c) they have been cleared by the proper officer of customs at an inland clearance depot or station on their route out of Malaysia through a customs port or airport.

TAX INVOICE AND RECORD KEEPING

116. This section explains the types of records that you are required to keep in relation to supplies you make or receive, as a GST registered person under the GST Act. It also provides circumstances where a tax invoice is required or not required to be issued and some guidelines on how to keep these records.

Tax Invoice

117. Every registered person who makes any taxable supply of goods or services

in the course or furtherance of any business in Malaysia is required to issue a tax invoice. A tax invoice is a document containing certain information about the supply that has been made and is similar to a commercial invoice except for some additional details. This document is important as it is an essential evidence to support a customer's claim for deduction of input tax. A tax invoice must be issued within twenty one (21) days from the time of supply. The supplier must keep a copy and the original copy should be retained by the recipient. Only a GST registered person can issue tax invoices. Tax invoices can be issued in the following forms:-

- (a) Tax invoice
 - (i) Full tax invoice
 - (ii) Simplified tax invoice
- (b) Deemed tax invoice
 - (i) Self-billed invoice
 - (ii) Invoice or statement of sales by auctioneer

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Full Tax Invoice

118. The following information must be reflected on an invoice in order for it to be considered as a full tax invoice:-

- (a) the word 'tax invoice' in a prominent place;
- (b) the tax invoice serial number;
- (c) the date of issuance of the tax invoice;
- (d) the name, address and identification number of the supplier;
- (e) the name and address of the person to whom the goods or services are supplied;
- (f) a description sufficient to identify the goods or services supplied;
- (g) for each description, distinguish the type of supply for zero rate, standard rate and exempt, the quantity of the goods or the extent of the services supplied and the amount payable, excluding tax;
- (h) any discount offered;

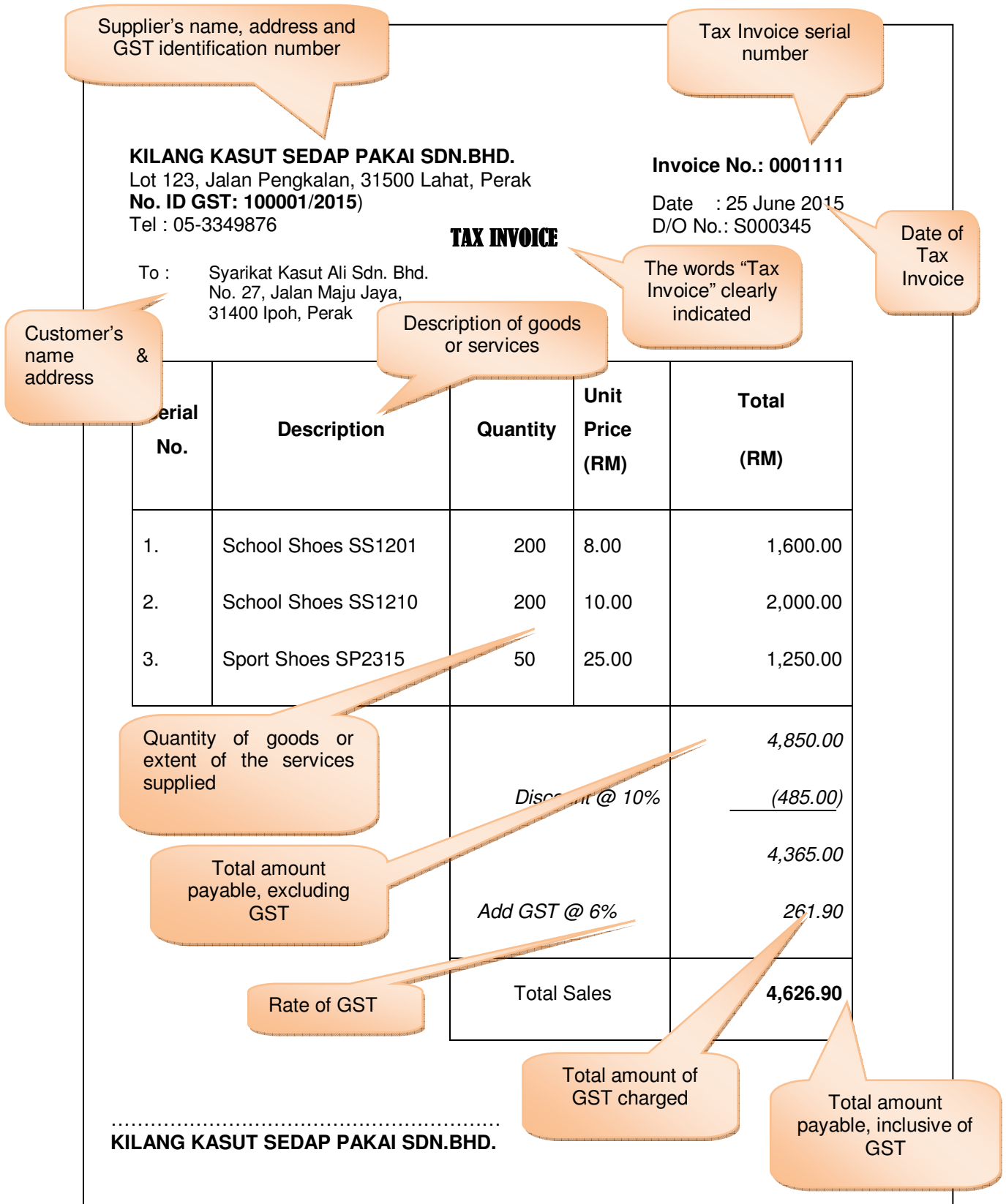
- (i) the total amount payable excluding tax, the rate of tax and the total tax chargeable to be shown separately;
- (j) the total amount payable inclusive of the total tax chargeable; and
- (k) any amount referred to in subparagraphs (i) and (j), expressed in a currency, other than Ringgit, shall also be expressed in Ringgit in accordance with paragraph 5 of the Third Schedule of the *GST Act 201X*.

Example of a tax invoice is shown in ***Diagram 3***.

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Diagram 3: Full Tax Invoice



Simplified Tax Invoice

119. Under certain circumstances, some registered persons may find it difficult to issue a full tax invoice to their customers. If the person encounters such difficulty, he may apply to the Director General for approval to issue simplified tax invoice in his business transactions. This invoice can be issued regardless of any amount. A simplified tax invoice can take the form of an invoice, receipt, voucher or any other similar document, as long as it contains the particulars approved by the Director General.

120. For instance, a registered person applies to the Director General to allow him to omit from the full tax invoice the following prescribed particulars:

- (a) the name and address of the recipient; and
- (b) the price and tax for each item to be shown separately.

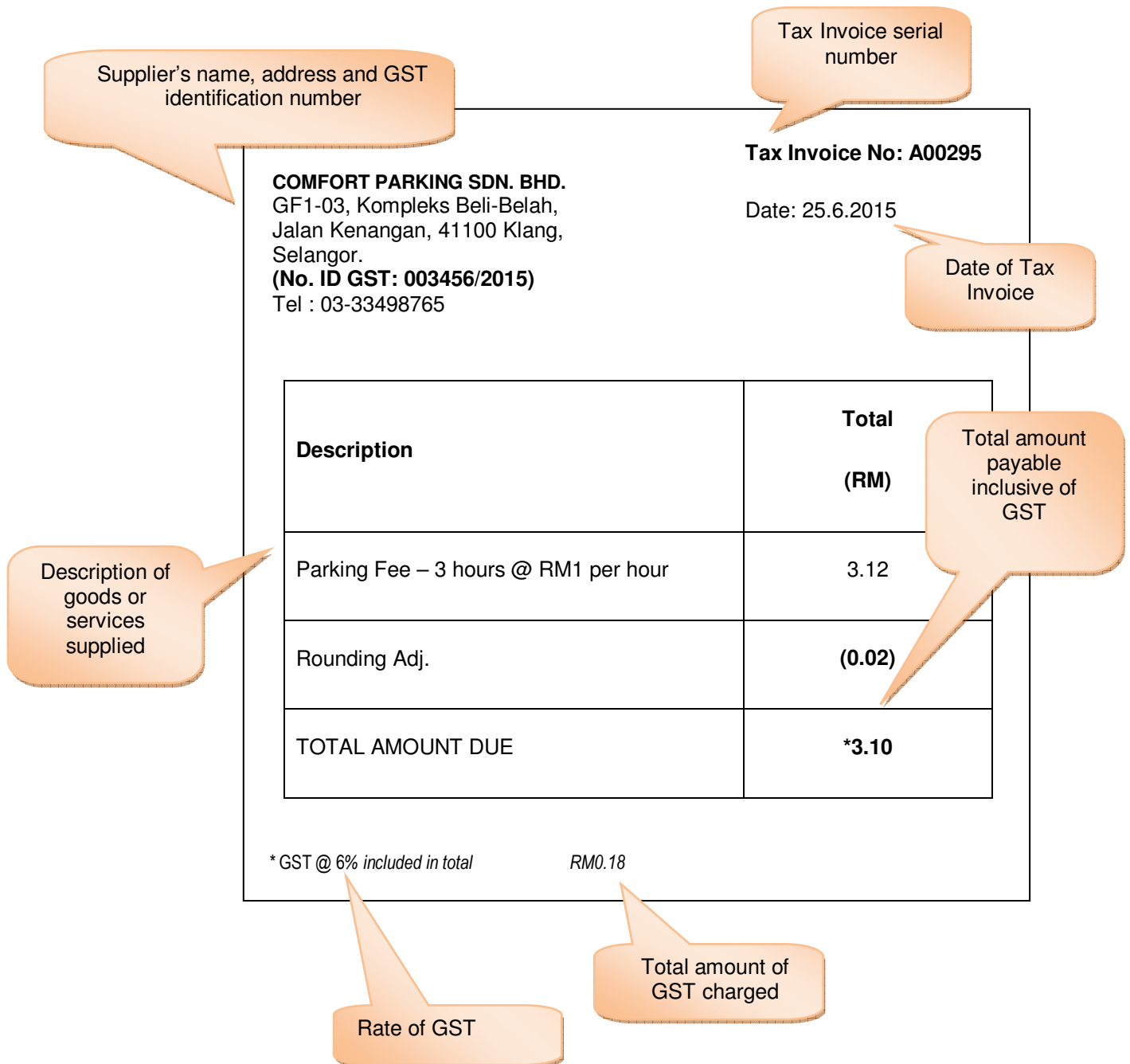
121. In this case, the Director General may allow such invoice to be issued by the registered person provided the invoice contains the following particulars:

- (a) the name, address and GST identification number of the supplier;
- (b) the date of issuance of the tax invoice;
- (c) the tax invoice serial number;
- (d) a description sufficient to identify the goods or services supplied;
- (e) for each description, distinguish the type of supply for zero rate, standard rate and exempt, the quantity of the goods or the extent of the services supplied and the amount payable, including tax;
- (f) the total amount payable inclusive of total tax chargeable; and
- (g) the rate of tax and the amount of tax chargeable.

122. Simplified tax invoice can be used to claim input tax credit. However, if this invoice does not have the name and address of the recipient, the maximum amount of input tax that can be claimed must not exceed RM20. If the GST amount in the simplified tax invoice is more than RM20.00 (e.g. RM50.00) and the recipient wants to claim the full amount, he has to request for his name and address to be inserted in

the invoice. Example of a simplified tax invoice is shown in **Diagram 4**.

Diagram 4: Simplified Tax Invoice



Self-billed Invoice

123. Generally, a tax invoice is issued by a supplier. However, in cases where the value at the time of supply is unknown to the supplier, a self-billed invoice may be allowed to be issued by a customer (recipient) with the approval of the

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Director General. For example, a publisher can adopt a self-billing arrangement when paying royalties to taxable authors.

124. The issuance of this self-billed invoice by the recipient to himself shall be subject to the following conditions:

- (a) the value at the time of supply is not known by the supplier;
- (b) the recipient and the supplier are both registered persons;
- (c) the recipient and the supplier agree in writing to a self-billed invoice;
and
- (d) the supplier and the recipient agree that the supplier shall not issue a tax invoice.

125. Any recipient approved by the Director General to issue self-billed invoice, shall be subject to the following conditions:

- (a) the document may, with the prior approval of the Director General, be treated as a tax invoice;
- (b) a copy of any self-billed invoice is provided to the supplier and another copy is retained by the recipient; and
- (c) in the case where the self-billed invoice is issued before the time of removal of such goods, or before the time the goods are made available, or before the time the services are performed, the self-billed invoice shall be issued with payment.

126. The recipient approved by the Director General to issue a self-billed invoice shall state the following particulars on the invoice:

- (a) the supplier's and recipient's names, addresses and identification numbers;
- (b) the word 'self-billed invoice' in a prominent place;
- (c) the invoice serial number;
- (d) the date of invoice;

- (e) the reference number of Director General's approval;
- (f) a description sufficient to identify the goods or services supplied;
- (g) for each description, distinguish the type of supply for zero rate, standard rate and exempt, the quantity of the goods or the extent of the services supplied and the amount payable, excluding tax;
- (h) any discount offered;
- (i) the total amount payable excluding tax, the rate of tax and the total tax chargeable to be shown separately;
- (j) the total amount payable inclusive of the total tax chargeable; and
- (k) any amount referred to in subparagraphs (i) and (j), expressed in a currency, other than Ringgit, shall also be expressed in Ringgit in accordance with paragraph 5 of the Third Schedule of the *GST Act 201X*.

Statement of Sales or Invoice Issued by Auctioneer

127. Supplies made by auctioneer acting in his own name are regarded as supplies made by the principal or owner of the goods put up for auction. If the principal is a taxable person, the auctioneer whether or not he is a taxable person shall be liable to account for output tax on any goods which have been auctioned on the principal's behalf. In this situation, the auctioneer whether he is registered or not, has to issue a billing document to the buyer in the form of statement of sales or invoice which may be regarded as a tax invoice based on the tax inclusive principle. The statement of sale or invoice should contain the following details:

- (a) auctioneer's name, address and business registration number;
- (b) buyer's name and address
- (c) date of issue;
- (d) serial number of invoice
- (e) the description sufficient to identify the goods or services supplied;
- (f) the total amount payable inclusive of GST;

- (g) total tax chargeable; and
- (h) the word “Price payable inclusive of GST”.

Lost or Misplaced Tax Invoices

128. If a tax invoice is lost or misplaced, a recipient may request the supplier to issue a replacement copy of the tax invoice marked as “COPY ONLY” or “DUPLICATE”. This procedure is necessary to enable the recipient to meet the documentary requirement for claiming input tax.

Pro forma Invoice

129. A pro forma invoice is not regarded as a tax invoice for GST purpose. A registered person can only offset his output tax against input tax if he has a proper tax invoice. If his supplier does not send him a proper tax invoice, then he has to request for one.

Invoice in a Foreign Currency

130. If a tax invoice is stated in a foreign currency, the following particulars in the tax invoice have to be converted into Ringgit Malaysia (RM) for GST purposes:-

- (a) the amount payable before GST;
- (b) the total GST chargeable; and
- (c) the total amount payable (including GST).

131. The foreign currency is converted into Ringgit Malaysia by using the open market rate of exchange prevailing in Malaysia at the time when the supply takes place. In the case of importation, the importer can use the exchange rates published by Customs which are updated every week.

Other Circumstances

132. There are some situations where a tax invoice is not required to be issued while in some situations, a tax invoice must not be issued. In the case of mixed supplies (taxable and exempt supplies), a tax invoice is required to be issued.

(a) Zero rated supplies and supplies without consideration

A tax invoice is not required to be issued when a registered person makes a zero rated supply or a supply with no consideration.

(b) Relief for Second-hand Goods (Margin Scheme) and Imported Services

A tax invoice must not be issued for a supply of second-hand goods for which tax is charged on the excess between the consideration for which the goods are supplied and acquired (margin). Similarly, a tax invoice must not be issued for any supply of imported services.

(c) Mixed Supplies

There are situations where a supplier may make exempt, zero-rated and/or standard rated supplies simultaneously to the same customer and then issues one invoice to document such transactions. When such situation occurs, the tax invoice issued must clearly distinguish the taxability of the supplies (exempt, zero-rated or standard rated) made and indicate separately the applicable values and the GST rate charged (if any) on each supply.

Record Keeping

133. It is a requirement that a taxable person keeps records which affects his liability to GST for seven (7) years and the records must be in English or national language. The records must be kept in Malaysia unless otherwise approved by the Director General. The required records are:-

- (a) all records of goods and services that a person supplies or receives in the course of his business;
- (b) all records of goods imported; and
- (c) any other supporting document such as contracts and price quotation to show his liability to GST.

134. The above records can take the form of:-

- (a) physical books of accounts and paper based source documents including computer printouts;

- (b) electronic records; and/or
- (c) all details of the accounting system including charts, codes of accounts, system and program documentation and specification and instruction manuals.

135. Certain non-taxable persons are also required to keep records and these non-taxable persons are as follows:

- (a) any person who has ceased to be a taxable person and has made or may make bad debt relief claim;
- (b) imported services supplied to a recipient who is a non-taxable person for the purposes of business;
- (c) goods of a taxable person sold by a non-taxable person to recovery any debt owed by the taxable person;
- (d) supply by auctioneer who is a non-taxable person, in his own name on behalf of the principal/owner of the goods who is a taxable person; and
- (e) a non-taxable person in Malaysia who receives goods in the course or furtherance of business, from an Approved Toll Manufacturer.

136. Where records are kept in an electronically readable form, such records must be readily accessible and easily converted into writing. Where records is initially kept in manual form but subsequently converted into electronic form, the records is required to be retained in its original form prior to its conversion. For further information on this section please refer to *GST Guide on Tax Invoice and Record Keeping*.

CREDITS NOTES, DEBIT NOTES, BAD DEBT RELIEF AND ADJUSTMENTS

137. This section explains how a person would adjust his account when there is a change in the consideration on a supply or a cancellation in the supply. It also explains the procedures to claim bad debt relief when payments cannot be collected.

Credit Notes and Debit Notes

138. A credit note is issued when the amount previously invoiced is reduced or a

transaction is cancelled for whatever reason. On the other hand, a debit note is issued when the amount previously invoiced is increased for the same supply.

139. Credit and debit notes therefore provide a mechanism to allow a trader to make the necessary GST adjustments in the account to reflect the actual GST liability in his return.

Adjustments Due to Credit Notes Issued

140. When a credit note is issued and output tax has been paid, the taxable person must reduce his output tax for the corresponding amount stated in the credit note in the return for the taxable period in which the credit note was issued. The customer who is a registered person on the other hand, must reduce his input tax in the return for the taxable period in which he received the credit note if he has claimed the input tax.

Adjustments Due to Debit Notes

141. When a taxable person issues a debit note, he must increase his output tax for the corresponding amount stated in the debit note in the return for the taxable period in which the debit note was issued. The customer who is a registered person on the other hand, can increase his input tax in the return for the taxable period in which he received the debit note.

Issuance of Credit and Debit Notes

142. A taxable person is required to issue a credit note or a debit note after any change in the consideration on a supply or any cancellation in the supply. A credit note or a debit note must contain the following particulars:-

- (a) the words "credit note" or "debit note" in a prominent place;
- (b) the serial number and date of issue;
- (c) name, address and identification number of the supplier;
- (d) the name and address of the of the person to whom the goods or services are supplied;
- (e) the reason for its issue;

- (f) a description which identifies the supply of goods or services;
- (g) the quantity and amount for each supply;
- (h) the total amount excluding tax;
- (i) the rate and amount of tax; and
- (j) the number and date of the original tax invoice.

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Bad Debt Relief

143. A taxable person is entitled to a relief for bad debt on the whole or any part of the tax paid by him in respect of a taxable supply if:-

- (a) the person has not received any payment in respect of the taxable supply from the debtor six months from the date of supply or the debtor has become insolvent before the period of six months has elapsed; and
- (b) sufficient efforts have been made by him to recover the debt.

144. The date of supply refers to the date of invoice issued. A person is entitled to claim bad debt relief even though the bad debt is not written off from your books. It is sufficient if he has some documentary proof to show that some efforts had been made to recover the debt. Example of such efforts includes a reminder letter or notice to the customer.

Adjustment by Supplier

145. The supplier who is a registered person can claim the bad debt relief as input tax in the return for the taxable period in which the bad debts are given relief. The amount of bad debt relief must also be declared in the appropriate box in the return for the taxable period in which the claim is made.

146. If only part payment has been received by the supplier, then the bad debt relief is only restricted to the balance payment that has not been received. The amount of input tax to be claimed is computed as follows:-

$\frac{A1}{B} \times C$

B

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.

147. Where a claim for bad debt relief has been made by a taxable person and any payment in respect of the taxable supply for which the tax is payable is subsequently received by the person, the person shall repay to the Director General as his deemed output tax an amount which is calculated as follows:-

$\frac{A2}{B} \times C$

B

where A2 is the 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.

Adjustment by Customer

148. When a taxable person fails to pay his supplier the consideration or any part thereof for the supply of any goods or services made by his supplier to him at the end of the period of six (6) months following the date of invoice issued, he shall deem the amount of the relevant input tax he first credited or refunded to him (the input tax that corresponds to the payment that has not been made), as his output tax. The deemed output tax should be included in his return in the immediate taxable period after the expiry of the six (6) months.

149. When the taxable person subsequently pays his debt, he claims the GST paid as his input tax in the taxable period in which the payment is made.

TAXABLE PERIOD, ACCOUNTING BASIS, FURNISHING OF RETURNS AND PAYMENT OF TAX

150. This section explains the assignment of taxable period and requirements

to furnish returns and pay tax. It also covers the furnishing of declaration by non-taxable persons for the payment of GST.

Taxable Period

151. Every taxable person will be assigned a taxable period which will end on the last day of the month of any calendar year unless a varied taxable period has been assigned. The category of a taxable period will depend on the amount of annual sales:-

Annual sales	Category	Taxable period of
RM 5 Million and above	A	One month
Less than RM 5 Million	B	Three months

152. A taxable person may apply to be assigned in any category other than the category to which he was first assigned and the Director General may vary the length of taxable period or the date on which any taxable period begins or ends.

Accounting Basis

153. There are two (2) types of accounting basis namely:-

(a) Invoice Basis

Generally, every taxable person shall account for GST on an invoice basis. Under invoice basis, a taxable person shall:

- (i) account for output tax on the date in which tax becomes due (time of supply); and
- (ii) claim input tax on the date in which he holds a valid tax invoice.

(b) Payment Basis

The Director General may allow a registered person upon application in writing to account for tax solely on a payment basis.

154. Persons approved under payment basis should:-

- (a) account for output tax on the date in which payment or other

consideration is received; and

- (b) claim input tax on the date in which payment is made or other consideration is given.

155. Payment basis is applicable only to:-

- (a) public body; or
- (b) certain group of registered person due to the nature of business and the nature of the accounting system employed by that person.

156. Some of the persons who are allowed to account on payment basis are retailers, grocery shops, hair salons and restaurant operators. Payment basis is not intended for professional services.

157. Approval under payment basis is effective for a period of three years only and is subject to renewal by the Director General. Upon expiry of the payment basis, a taxable person has to account for and pay tax on an invoice basis.

158. The Director General may revoke an approval where the approved person has:-

- (a) ceased to be a public authority;
- (b) changed his nature of business;
- (c) applied to account for his tax on invoice basis;
- (d) claimed input tax as though he had not been on payment basis; or
- (e) provided any false, misleading or inaccurate declaration or information in his application for approval.

159. The Director General may also revoke an approval for the protection of revenue.

160. Where the approval for payment basis has been revoked, a taxable person has to account for and pay all GST which has not been accounted for and paid in accordance with payment basis.

161. Where there is a change in accounting basis, the registered person has to

make adjustment of tax and inform the officer of GST regarding the tax payable in respect of the change in the basis of accounting.

GST Return

162. Every taxable person is required to account for tax in a GST return by using the GST-03 form.

Obtaining a GST Return Form

163. The GST return form can be obtained through any of these means:-

- (a) for e-services users, the GST-03 form can be downloaded from the GST portal.
- (b) for non e-services users, the taxable person can download and print the GST-03 form from the GST portal;
- (c) alternatively, taxable person can also request for a printed copy of the GST-03 form from the nearest GST office or by contacting Customs Call Centre.

Last Date to Furnish the GST Return

164. The GST return is required to be furnished to the Director General not later than the last day of the month following the end of the taxable period.

165. Where a taxable person's taxable period does not end on the last day of the month, the GST return should be furnished not later than the last day of the thirty (30) days period from the end of the varied taxable period.

Submission of GST Return

166. The taxable person can submit the GST return through any of these means:-

- (a) by submitting electronically;
- (b) by posting to the GST Processing Centre; or
- (c) by furnishing to the GST Processing Centre.

167. The GST return should be furnished whether or not there is tax to be paid.

Notice of GST Assessment

168. The Director General may assess the amount of tax including the penalty due and payable from the taxable person who fails to furnish GST return for that taxable period. A notice of the GST assessment will be sent to the taxable person.

GST Return Amendment

169. Where a registered person has made an error in declaring the GST return he can correct the errors/mistakes by making amendments in the returns (GST-03). For a non taxable person, the amendment should be made in GST-04 form. Any amendment made not later than the return due date will not be subject to late payment penalty. After the return due date, any error should be made through voluntary disclosure by a registered person.

170. Voluntary disclosure by any person will be entitled a reduction on penalty for late payment subject to the following conditions;

- (a) voluntary disclosure must be made after the return due date;
- (b) errors/mistakes must be genuine;
- (c) voluntary disclosure should be initiated by a person and not discovered during auditing conducted by Customs;
- (d) only related to over claimed input tax or under declared output tax;
- (e) voluntary disclosure is made within three (3) years from the tax due date or before the case has been selected for audit; and
- (f) voluntary disclosure is applicable upon full payment of tax at the time of disclosure.

171. There is no restriction in the number of times the taxable person would like to submit his voluntary disclosure. However, each voluntary disclosure must be accompanied with payment due in lump sum for the short-paid GST in order to enjoy the discounted rate on late payment penalty.

172. Voluntary disclosure can also be used to amend any input tax and output tax declared in previous returns which may not result in any change in the declared net tax amount.

173. For voluntary disclosure of errors that involves overpayment of GST, the person may apply for refund and make amendments in the GST-03 or GST-04.

Final GST Return

174. Any taxable person who ceased to be registered has to furnish a final GST return not later than thirty (30) days from the date he ceased to be registered.

Payment

175. Any taxable person who is required to furnish a GST return must pay to the Director General the amount of tax due and payable by him.

Last Date to Make Payment

176. Any tax due in respect of a taxable period becomes payable not later than the last day on which the taxable person is required to furnish the GST return.

Method of Payment

177. Tax payment can be made by:-

- (a) Electronic fund transfer (EFT);
- (b) Cheques;
- (c) Bank drafts; or
- (d) Money order or postal order.

Place of Payment

178. Any payment can be made at:-

- (a) GST Processing Center;
- (b) online (Portal bank/GST); or
- (c) designated banks.

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The GST Portal also provides facilities for taxable person to make payment via online fund transfer using internet banking or EFT.

Time of Payment

179. Any cheque, bank draft, money order or postal order for tax payment is considered received if:

- (a) by post, the date of the post mark is the date received; or
- (b) paid at the GST Processing Center, the date of payment is the date received.

180. Any payment made via credit transfer through a bank is considered received if such payment is made at the bank.

Penalty for Late Payment

181. If any tax due and payable remains unpaid by a person after the last day on which it becomes due and payable, a penalty will be imposed as follows:-

Tax remains unpaid	Rate of penalty	Cumulative
1-30 days	5%	5 %
31-60 days	5%	10 %
61-90 days	3%	13 %
91-120 days	3%	16%
121-150 days	3%	19%
151-180 days	3%	22%
181 days or more	3%	25%

GST Declaration and Payment by Non Taxable Person

182. A non-taxable person is liable to account tax in a declaration form by using the GST-04 form. The declaration must be furnished not later than the last day of the following month in which the supply is made or treated as taken place.

183. Examples of non-taxable persons who are required to furnish GST declaration are:-

- (a) any person who imports services for the purposes of business;
- (b) any agent acting in his own name as an auctioneer; or
- (c) any person approved under the Approved Toll Manufacturer Scheme as recipient of processed goods from toll manufacturer.

184. Any non-taxable person who is required to furnish GST declaration must pay the amount of tax due and payable by him not later than the last day on which he is required to furnish the declaration.

INPUT TAX CREDIT

185. This section provides the guidance on how to claim input tax credit for businesses.

Input Tax

186. Input tax is the GST incurred by a taxable person on business purchases or acquisition of goods and services for the purpose of making a taxable supply in the course or furtherance of business. These business purchases and acquisitions would include:-

- (a) goods or services purchased or acquired locally; and
- (b) goods or services imported.

187. Input tax will include any flat rate addition which an approved person under a flat rate scheme would include in the consideration for any taxable supply of goods made by him in a prescribed activity under the scheme.

Mechanism to Claim Input Tax

188. Claim for input tax can be made in the return for the taxable period in which the supply or importation takes place by offsetting against the output tax. A refund will be made to the claimant if the amount of input tax is more than the amount of output tax.

189. If input tax is not claimed in the taxable period in which he is supposed to claim, then such input tax can be claimed within six (6) years after the date of the supply to or importation by the taxable person.

Allowable Input Tax

190. Input tax incurred on the following supplies is allowed to be claimed:-

- (a) a taxable supply (standard rated supply or zero rated supply);
- (b) a disregarded supply such as supplies between group members registered under group registration;
- (c) an incidental exempt supply such as an inter-company loan and loan to staff;
- (d) a supply given relief; or
- (e) supplies made outside Malaysia which would be taxable supplies if made in Malaysia.

Criteria for Claiming Input Tax

191. Input tax incurred can be deducted from the output tax under the following conditions:-

- (a) The claimant is a taxable person;
- (b) The goods or services are acquired for the purpose of business;
- (c) The goods or services are acquired for the purpose of making taxable supply;
- (d) The claimant must hold a valid tax invoice in respect of a supply or a valid customs importation document Customs No. 1 in respect of importation of goods;
- (e) A full tax invoice must be issued under the name of the claimant. A tax invoice issued under the name of employees will not be eligible for input tax credit; and

- (f) The goods or services are not subject to input tax restriction such as passenger motor vehicle, family benefits and club subscriptions.

Blocked Input Tax

192. Input tax incurred by a taxable person in respect of the following supplies shall be excluded from any credit under GST:-

- (a) the supply to or importation by him of a passenger motor car;
- (b) the hiring of a passenger motor car;
- (c) club subscription fee;
- (d) medical and personal accident insurance premium;
- (e) medical expenses;
- (f) family benefits; and
- (g) entertainment expenses to a person other than employees or existing customers except entertainment expenses incurred by a person who is in the business of providing entertainment.

193. A *passenger motor car* means a motor car of a kind normally used on public roads which is constructed or adapted for carrying not more than nine passengers including the driver and the unladen weight of which does not exceed three thousand kilograms. A passenger motor car does not include:-

- (a) any public service vehicle licensed under Suruhanjaya Pengangkutan Awam Darat Act 2010, Commercial Vehicle Licensing Board Act 1987 or tourism vehicle licensed under Tourism Vehicle Licensing Act 1999;
- (b) a motor car supplied to or imported by a taxable person for the purposes of being let on hire or sold by that taxable person who is a dealer of motor cars licensed under the Second-Hand Dealers Act 1946;
- (c) an approved vehicle used for driving instructional purposes by a driving school or driving institute permitted under Motor Vehicles (Driving Schools) Rules, 1992;

- (d) a motor car which forms part of the stock in trade of a motor manufacturer or a motor dealer; or
- (e) any motor car which is used exclusively for the purposes of business as may approved by the Director General and subject to any condition as the Director General deems fit to impose.

194. Club subscription fee means any joining fee, subscription fee, membership fee, transfer fee or other consideration charged by any club, association, society or organization established principally for recreational or sporting purposes or by the transferor of the membership or such club, association, society or organization.

195. Medical and personal accident insurance premium or takaful contribution means any payment or contribution towards any of the following insurance contracts or takaful certificates:-

- (a) a contract/certificate for the provision of insurance or takaful for indemnifying the taxable person against the cost of medical treatment to any person;
- (b) a contract/certificate for the provision of insurance or takaful against the cost of medical treatment in which the insured or participant is any person employed by the taxable person; or
- (c) a contract/certificate for the provision of insurance or takaful against any personal accident in which the insured or participant is any person employed by the taxable person.

196. Medical expenses means any medical expenses in connection with the provision of medical treatment to any person employed by a taxable person.

197. Family benefits means any benefits (including hospitality of any kind) provided by the taxable person for the benefit of any person who is the wife, husband, child or relative of any person employed by the taxable person for the purposes of any business carried on or to be carried on by the taxable person.

198. Entertainment expense includes—

- (a) the provision of any food, drink, recreation or hospitality of any kind; or

- (b) the provision of accommodation or travel associated with the provision of food, drink or recreation;

by a person or an employee of his to anyone in connection with a trade or business carried on by that person.

199. *Employee*, in relation to an employment, means:

- (a) the servant, where the relationship of master and servant subsists; or
- (b) where the relationship of master and servant does not subsist, the holder of the appointment or office which constitutes the employment.

200. *Recreation or hospitality* would include:

- (a) a trip to a theme park or a recreation centre;
- (b) a stay at a holiday resort;
- (c) tickets to a show or theatre; and
- (d) entry to sporting activities/events

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201. Entertainment expenses to family members and potential clients (not existing clients) are disallowed.

Incidental Exempt Financial Supplies

202. A taxable person is eligible to claim input tax attributable to the following exempt financial supplies if he is not a financial institution mentioned in the paragraph below:-

- (a) the deposit of money;
- (b) the exchange of currency whether effected by the exchange of currency, bank notes or coin by crediting or debiting accounts or otherwise;
- (c) the holding of bonds, debentures, notes or other similar instruments representing or evidencing indebtedness;

- (d) the transfer of ownership of securities or derivatives relating to securities;
- (e) the provision by a taxable person of any loan, advance credit or other similar facility to his employee or between connected persons;
- (f) the holding or redemption of any unit or other similar instruments under a trust fund; and
- (g) the hedging of any interest rate risk, currency risk, utility price risk, freight price risk or commodity price risk.

203. The financial institution mentioned in the above paragraph refers to:-

- (a) bank or any other financial institution required to be licensed under the Financial Services Act 2013 (FSA), Offshore Banking Act 1990 and Islamic Financial Services Act 2013 (IFSA);
- (b) any development financial institution as prescribed under the Development Financial Institutions Act 2002 or any Act of Parliament;
- (c) a moneylender required to be licensed under the Moneylenders Act 1951;
- (d) a person licensed under the Money Services Business Act 2011;
- (e) a person required to be licensed under the FSA, IFSA or Offshore Insurance Act 1990 excluding insurance broker, insurance agent, insurance adjuster or financial insurance adjuster;
- (f) a holder of Capital Markets Services License or a holder of Capital Markets Services Representative's License dealing in securities or derivatives under the Capital Markets and Services Act, 2007;
- (g) a pawnbroker required to be licensed under the Pawnbrokers Act, 1972 or a pawnbroker in compliance with Syariah principles;
- (h) person who supplies goods and provides finance under agreement which expressly stipulates that the property will pass at some time in the future;
- (i) a credit card, charge card or debit card company; or

- (j) any unit trust or investment trust excluding Real Estate Investment Trust.

Refund of Input Tax

204. The refund of input tax will be made within fourteen (14) working days for online submission and twenty eight (28) working days for manual submission from the date the return is received. The whole or any part of any input tax due to a taxable person in any taxable period may be carried forward to the following or any subsequent taxable period upon application in writing by the taxable person or under the Director General's directive. Taxes, penalty or surcharge which has been overpaid or erroneously paid by a taxable person may be claimed by amending the GST-03 where the over payment occurs or in the case of a non-taxable person, the claim may be made by amending the GST-04 within six (6) years from the date the overpayment or erroneous payment occurs.

205. The Director General may withhold the payment of refund if:-

- (a) the taxable person fails to submit any previous return or furnish information;
- (b) there is a reasonable ground that the refund is not due to the taxable person; or
- (c) the taxable person does not comply with any condition imposed by the Director General.

206. Any refund of input tax credit may be offset against unpaid GST, unpaid sales tax, unpaid service tax, any penalty payable, any surcharge accruing, any fee, other moneys payable, excise duty, import and export duties.

Input Tax in Relation to Registration

207. Input tax claim in relation to registration involves the following activities:

- (a) Pre-Incorporation

Pre-incorporation expenditure is expenses incurred on supplies made before the incorporation of a business. Examples are secretarial

services, legal services and administrative expenses. These pre-incorporation expenses are not eligible for input tax credit.

(b) Pre-Registration

Services incurred before registration (both voluntary and mandatory registration including late registration) are not eligible for input tax credit. However, in the case of goods, the taxable person is entitled to claim input tax on the goods he holds at the time of registration. For goods which have been consumed, the GST paid on such goods is not eligible to be claimed as input tax. Consumed goods include goods which has been used partially and incorporated into some other goods. In the case of capital goods, he can claim the input tax based on the residual value. Input tax cannot be claimed on goods or services that have been consumed.

(c) Late Registration

Where a person registers on a date later than the date he becomes liable to be registered, he is entitled to claim input tax incurred on:-

- (i) goods or services used in making taxable supplies during the period he became liable to be registered; and
- (ii) goods (including capital goods) held on hand at the time he is registered and to be used in making taxable supplies.

Any input tax attributable to the making of taxable supplies made during the period in which a taxable person was liable to be registered (up to a maximum period of six years) can be claimed by the person. However, the claim for such input tax must be claimed in the return he first submitted (first return). If a taxable person fails to claim input tax at the time he is registered, he is entitled to claim input tax six (6) years from the date he is liable to be registered.

(d) Deregistration

Once a registration has been cancelled, the person cannot claim input tax on supplies acquired on or after the date of deregistration.

However, he has to account for tax on stocks and capital goods held on hand as output tax if input tax has been claimed for such goods. For a mixed supplier where the business asset is used to make an exempt supply and he ceases business, he is not required to account for GST. He only accounts for GST if the input tax on the asset is allowed. Similarly, if he purchases goods from a non-taxable person and he ceases business, he is also not required to account for GST.

If a person fails to claim any input tax other than the input tax mentioned in post deregistration, he is still eligible to claim such input tax after he has been deregistered provided that the claim is made within one (1) year from the date of deregistration or within a period of six (6) years from the date of supply whichever is the earlier. He has to account in the original return in which he fails to claim the input tax.

(e) Post Deregistration

A person who has been but is no longer a taxable person is eligible to claim input tax on services related to the deregistration process such as audit and secretarial fees. Amendments should be made in GST-03 for any post deregistration claim for the taxable period involved.

Input Tax in Relation to Special Transactions and Special Schemes

208. Input tax claim in relation to special transaction and special schemes are as follows:

(a) Transfer of Going Concern

The transfer of business as a going concern from one registered person to another registered person is not treated as a supply for GST purposes. As GST is not chargeable on the supply, there is no input tax to be claimed by the transferee (purchaser). However, any GST incurred by both transferor (seller) and transferee which is incidental to the transfer of going concern such as legal and accounting fees in carrying out the transfer is eligible for input tax credit.

(b) Joint Venture

In a joint venture, supplies can be acquired by a venture operator or venturers. Where a venture operator acquires any supply for the purpose of the joint venture, he may claim deduction of input tax on that supply. In the case where a venturer acquires any supply in respect of the joint venture, he may claim deduction of input tax on that supply.

(c) Flat Rate Scheme

Under the Flat Rate Scheme, an approved person who carries out prescribed activities may charge flat rate addition to a registered person. A registered person (recipient) may claim the flat rate addition on the taxable supply of goods acquired by him as input tax.

(d) Capital Markets

Under equities market, a stock broker and his remisiers are treated as a single entity and in futures market, a futures broker and his futures broker representatives are also treated as a single entity. Any input tax incurred by remisiers or futures broker representative for the purpose of business such as parking charges, telecommunication services, laptop and internet services has to be claimed by the stock broker or futures broker since the registration is under the name of stock broker or futures broker. The remisier or futures broker's representative cannot claim the input tax incurred by him. In addition, the stock broker or futures broker may claim any input tax incurred by him for the purpose of business of making taxable supply.

Input Tax in Relation to Own Use

209. Some business assets are used for business purposes as well as private use. If a business asset is used for business purposes, a registered person is allowed to claim input tax on the business asset. However, the registered person is required to account for GST on the usage of the business asset for private use.

(a) Supply Used by Directors or Staff

Where any input tax is excluded from any GST credit (blocked input tax), a taxable person is not allowed to claim such input tax. For

example, a company cannot claim input tax incurred on passenger cars used by its directors or senior managers.

On the other hand, a taxable person is allowed to claim input tax incurred on the business asset used for making taxable supply if:-

- (i) input tax on a supply (business asset) is not blocked; and
- (ii) the business asset is used by a director or staff of a business other than for business purposes (private use).

However, he is required to account GST on the private use of the business asset. An example is the usage of a laptop. A company is eligible to claim input tax on a laptop which is used for making taxable supply but is required to account GST on the private use of the laptop.

(b) **Integrated Products Used for Making Taxable Supply**

Where a taxable person used an integrated product to make another taxable supply, he is allowed to claim any input tax on supplies used in making the integrated product. For example, a company can claim input tax on plastic resins used for making plastic bottles (integrated product) which are used as containers for oils or mineral water.

(c) **Integrated Products Used for Making Exempt Supply**

On the other hand, some businesses may use an integrated product for making an exempt supply. In such a case, the taxable person is not allowed to claim any input tax on supplies used for making the integrated product. For example, a housing developer manufactures drain culvert (integrated product) which are being used to construct a residential house. The input tax on cement and sand is not allowed to be claimed because the supply of residential house is an exempt supply.

Input Tax in Relation to Change of Use

210. Generally, input tax is claimable when a taxable person intends to make taxable supply. A change of use will result if there is a change in the intention or there is an actual change in use. This will lead to over deduction or short claim of

input tax. If there is a change in use, the taxable person shall make an adjustment to the input tax that has been claimed earlier.

211. Over deduction will occur when the percentage of usage for taxable supply has decreased. On the other hand, short claim refers to situation where the percentage of usage has increased.

(a) Over-Deduction

Where a registered person has over-deducted input tax as a result of change of use of goods or services acquired, he is required to make an adjustment of the over-deducted input tax as output tax in the tax return for the taxable period in which the change of use takes place and shall repay the tax accordingly.

(b) Short Claimed

Where a registered person has short claimed input tax as a result of change of use of goods or services acquired, he is required to make an adjustment of the short claimed input tax as input tax in the tax return for the taxable period in which the change of use takes place.

Input Tax in Relation to Accounting Basis

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212. Input tax claim in relation to accounting basis is as follows:

(a) Invoice Basis

Generally, a registered person is required to account for tax on an invoice basis. Under an invoice basis, a registered person is eligible to claim input tax when he receives a tax invoice even though he has not made any payment in respect of the supply acquired.

(b) Payment Basis

A registered person can apply to account GST on a payment basis. Under payment basis, a registered person is eligible to claim input tax when he has made payment for the supply acquired even though he has not received any tax invoice.

Change of Accounting Basis

213. Where a change in the accounting basis has been approved by the Director General, a taxable person is required to make the necessary input tax adjustment and notify the Director General in the first GST return where the approval to change the accounting basis occurs.

PARTIAL EXEMPTION

214. This section explains how Partial Exemption is made in respect of input tax which is attributable to both taxable and exempt supplies.

215. Generally, a taxable person is entitled to claim input tax credit only on inputs attributable to making taxable supplies. Input tax attributable to exempt supplies or out of scope supplies are not claimable.

Partial Exemption

216. Partial exemption applies to a taxable person who makes both taxable and exempt supplies (mixed supplier) where he has to apportion the residual input tax accordingly. Examples of residual input tax include input tax on rental, utility and telephone.

217. Where input tax is not directly attributed to either taxable or exempt supplies, such input tax is termed as residual input tax. The amount of residual input tax that can be claimed is only the proportion that is attributable to taxable supply. This proportion is determined according to the ratio of the taxable supplies to the total supplies made by the taxable person in accordance with the formula:

$$\text{Input Tax} = \frac{\text{Taxable Supplies}}{\text{Taxable Supplies} + \text{Exempt Supplies}} \times \text{Residual Input Tax}$$

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Example 15:

ABC Insurance collects premium for general insurance policy amounting to RM250,000 and life insurance policy RM150,000 for August 2015. During the

taxable period, ABC Insurance pays GST on commission to agents for both general and life policy for RM17,000 and incurs GST on operating expenses i.e. office rental for RM3,000.

Input tax claimable during the taxable period is calculated as follows:-

$$\begin{array}{rcl} & & \text{RM250,000} \\ & & \hline \text{Input Tax} & = & \text{RM250,000} + \text{RM150,000} \times \text{RM20,000} \\ & = & \text{RM12,500} \end{array}$$

A mixed supplier can claim the full amount of the residual input tax incurred if the amount of exempt supply fulfills the de minimis rule. If he does not fulfill the de minimis rule, he is required to apportion the residual input tax incurred accordingly.

Methods of Apportionment

218. Under the standard method of apportionment, the percentage of claimable residual input tax for a taxable period is calculated by dividing the value of taxable supply to the total value of all supplies made in the taxable period. However, certain supplies such as value of supply of capital goods, imported services and incidental exempt supplies are excluded from the standard method.

219. The Director General may direct any taxable person to use another method of apportionment if the standard method of apportionment does not give him a fair and equitable recovery of his residual input tax.

220. The taxable person is required to get approval from the Director General to use alternative method of apportionment. An approval for or a direction to change the method of apportionment shall take effect from the date specified by the Director General.

221. Some examples of other methods are:-

- (a) number of transactions;
- (b) quantity of output;

- (c) floor space;
- (d) man hours used; and
- (e) input cost.

Annual Adjustment

222. A recovery of residual input tax is only provisional. The proportion recovered may not be reflective due to fluctuations in supplies from one (1) taxable period to another. To overcome this shortcoming, a mixed supplier is required to make an annual adjustment so as to ascertain whether there has been any over-deduction or under-deduction of residual input tax provisionally deducted over the whole tax year.

De Minimis Rule

223. A taxable person is allowed to claim all of his residual input tax if the total value of exempt supplies excluding incidental exempt financial supply does not exceed:-

- (a) an average of RM5,000 per month; and
- (b) an amount equal to 5% of the total value of all taxable and exempt supplies made in that period.

For more detail information on this section please refer to the *Specific GST Guide on Partial Exemption, Apportionment and Annual Adjustment*.

CAPITAL GOODS ADJUSTMENT

224. This section explains what Capital Goods Adjustment (CGA) is and when adjustment is required to be made.

Capital Goods Scheme

225. Generally, a taxable person is eligible to claim input tax credit on all taxable supply of goods including capital goods acquired in the course or furtherance of his business. Input tax can be claimed in full if the taxable person is making wholly taxable supplies. However, if the taxable person is a mixed supplier, he can only

claim the input tax which is attributable to his taxable supplies. In such situation, Capital Goods Adjustment (CGA) must be used to make adjustments to his initial input tax claim on a capital item when the capital item is used for making both taxable and exempt supplies.

Adjustment

226. The initial input tax claim is only provisional. However, adjustment is necessary if there is a change in the proportion of taxable use for the remaining adjustment period. The adjustment period for land and building is ten (10) years whereas adjustment for goods other than land and building is limited to five (5) years.

Non applicability of the adjustment

227. The adjustment does not apply in the following cases:-

- (a) when a registered person makes wholly taxable supply;
- (b) when a mixed supplier acquires a capital asset to be used solely for making taxable supplies;
- (c) when a mixed supplier acquires a capital asset to be used solely for making exempt supplies;
- (d) when an asset is acquired or imported solely for resale;
- (e) assets acquired are used for non-business purposes;
- (f) assets acquired where input tax claim is blocked such as passenger cars;
- (g) when the value of a capital asset acquired is less than RM100,000 exclusive of tax.

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For further details please refer to the *GST Guide on Capital Goods Adjustment (CGA)*.

REFUND AND REMISSION

228. This section provides an explanation on the types of refund and remission

other than the refund on input tax as in paragraph 202.

Refund

Refund for Overpayment or Erroneous Payment

229. Any person who has overpaid or erroneously paid any tax, penalty or surcharge may claim for refund within six (6) years from the time such overpayment or erroneous payment occurred.

230. Any person who has erroneously paid tax in pursuance of an order that has ceased to have effect in whole or in part, may claim for refund within one year from the date the order ceases to have effect. These claims may involve changes in the rate or type of supply.

231. For refund claim, the person has to submit an application and make amendments in GST-03 or GST-04 form.

Refund for tourist

232. A tourist is entitled to claim a refund on tax paid on certain goods purchased at approved Tourist Refund Scheme (TRS) outlets in Malaysia from an Approved Refund Agent.

233. A tourist is eligible for the GST refund, if he satisfies the following conditions:-

- (a) he is neither a citizen nor a permanent resident of Malaysia and he is holding a valid international passport;
- (b) a foreign diplomat leaving the country after completion of service in Malaysia and he is in possession of a document from the relevant diplomatic or consular mission stating that he is departing from Malaysia;
- (c) he has not, in the 3 months immediately preceding the date of purchase of the goods, been at any time employed in Malaysia;
- (d) he departs Malaysia by means of air transportation;

- (e) he is not a member of the cabin or flight crew of the aircraft on which he is departing out of Malaysia;
- (f) he purchased the goods within 3 months before the date of departure;
- (g) he spends RM300 or more at the same approved TRS outlet; and
- (h) the goods are to be brought out of Malaysia to another country as an accompanied luggage or unaccompanied luggage.

234. Tourists are not allowed to claim refund on the purchase of the following goods:-

- (a) wine, spirits, beer and malt liquor;
- (b) tobacco and tobacco products;
- (c) jewellery, precious metal and gems stone;
- (d) goods which are wholly or partially consumed in Malaysia;
- (e) goods which are prohibited from export under any written law; and
- (f) goods which are not taken out as an accompanied or unaccompanied luggage.

235. Tourists who are eligible for this refund are required to fill refund form at the Approved Tourist Refund Scheme Outlet and upon endorsement from Customs, may obtain refund from the Refund Agent at any international airport.

236. For further information on procedures and conditions for claiming refund under the Tourist Refund Scheme, please refer to the *GST Guide on Tourist Refund Scheme*.

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Remission

Remission by the Minister of Finance

237. The Minister of Finance may remit the whole or any part of the tax due and payable (including penalty and surcharge) by any person.

238. Application for such remission can be made in writing to the Minister of Finance. There is no specific form to be filled but the application should provide

all relevant details.

Remission by Director General

239. The Director General may remit the whole or any part of the penalty payable or surcharge accrued by any persons where it is just and equitable to do so. Such application can be made in writing to the Director General with supporting evidence and documents to substantiate the application.

240. The Director General may also remit tax payable on imported goods lost, damaged or destroyed while under customs control. Such application can be made to the relevant customs office.

SPECIAL TREATMENT/TRANSACTIONS

E-Commerce

241. Goods sold through electronic transaction are treated in the same manner as any goods supplied in a conventional manner. This means that the supplier is required to charge GST when he supplies the goods.

242. For supply of services, the belonging status of both supplier and recipient will determine the treatment of the supply. GST is required to be charged on any supply of services if both supplier and recipient belong in Malaysia. The supplier or recipient is treated as belonging in Malaysia if he has a Malaysian internet protocol (IP) address otherwise he is treated as belonging outside Malaysia. For further details, please refer to the *GST Guide on E-Commerce*.

Vouchers, Tokens and Stamps

Vouchers/Tokens

243. A vouchers or token entitles the holder to receive goods or services in accordance with its terms. There are two (2) types of vouchers/tokens:-

- (a) *Monetary* – a monetary value is stated on the voucher/token or embedded in the card as a credit such as phone card.

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- (b) *Non-monetary* – the provision of goods or services is specified on the voucher/token such as a voucher which entitles the holder to a two (2) night stay in a hotel.

244. For monetary vouchers/tokens, GST is chargeable when the vouchers/tokens are redeemed rather than at the time when the voucher/token is issued. A taxable person who issues the voucher/token is not required to charge GST on the issuance unless the consideration for such issuance exceeds its monetary value. In such case, GST is charged on the excess amount of the monetary value.

245. Discount vouchers are treated as monetary vouchers. When such vouchers are used to purchase for goods or services, GST is charged on the price after discount.

246. For non-monetary vouchers/tokens, GST is to be accounted at the time when the voucher/token is issued. When it is redeemed, no GST is due on the redemption.

247. If a non-monetary voucher/token is not redeemed due to cancellation or upon expiry, GST on the unredeemed vouchers/tokens can be claimed by the issuer provided that a credit note is issued to the holder. Adjustments are required to be made in the GST return.

Stamps (others than postage stamps)

248. Generally, stamps are given free as promotional business strategy. The gift of stamps is the supply of right to get something in the future and hence it is treated as not a supply. Stamps are normally given when customers purchase certain products or services from a retailer where GST is charged on the full value of the supply. When such stamps are used to redeem for goods or services, the redemption is subject to GST. The redemption operator has to account for output tax based on the open market value of the redeemed goods or services.

249. The same treatment applies to goods or services which are redeemed partly in stamps and partly in money where output tax has to be accounted based on the open market value of the redeemed goods or services. For further details, please refer to the *GST Guide on Retailing*.

Employee Benefits

250. Employee benefits may include any right, privilege, or facility provided free of charge to employees as stated in the contract of employment. Employee benefits are not subject to GST but any input tax incurred is claimable. Examples of employee benefits include goods given free of charge to employees, interest free loan provided to employees, leave passage, provision of accommodation and provision of transport.

251. Where any goods is given free of charge to employees is not stated in the contract of employment, it is treated as a supply by the employer and is chargeable to GST if it is a taxable supply. However, GST is not chargeable in the following cases:-

- (a) if the supply is a zero-rated supply;
- (b) if the input tax on the supply is not allowed as a credit; or
- (c) if the cost of the supply of goods given to the same employee in the same year is not more than RM500.

252. Unlike goods, services provided free to employees are regarded as not supply and hence is not subject to GST.

253. Goods or services acquired and given as employee benefits to employees are considered as used for the purpose of business and the employers are entitled for input tax credit.

Societies and Similar Organisations

254. Societies and similar organisations refer to any club-type organization registered under any written law.

255. The supply of goods or services by any society or similar organization shall not be treated as a supply if:-

- (a) the supply to its members is related to its aim and objectives and available without payment other than a membership subscription and the value of the supply is nominal; or

- (b) the supply to a donor or sponsor has no commercial value.

For further details, please refer to the *GST Guide on Societies and Similar Organizations (including Charitable Entities)*.

Charitable Entities

256. Charitable entities which are established exclusively for charitable purposes and for the benefit of the community or an appreciably significant part of it. Charities entities may be involved in business and non-business activities.

257. All charitable entities are required to be registered and charge GST on their taxable supplies if:-

- (a) they carry on business; and
(b) their supplies exceed the prescribed threshold.

These entities need to pay GST on their acquisition.

258. Selective charitable entities are given tax relief to acquire certain goods or services for charitable purpose and relieved from charging tax (for GST registered person) on supply of goods or services to its members in accordance with their charitable objectives irrespective of whether supplied free, at nominal cost or at a nominal charge as specified under *Goods and Services Tax (Relief) Order 20XX*. Selective charitable entities refer to charitable entities for disabled and handicapped; orphanage and children; and senior citizen health care and rehabilitation. For further details, please refer to the *GST Guide on Societies and Similar Organizations (including Charitable Entities)*.

Transfer of Business as a Going Concern

259. A transfer of business as going concern (TOGC) is a transfer or sale of business or part of a business from a taxable person (transferor) to another person (transferee) who is a taxable person or becomes a taxable person as a result of that transfer. The business transferred must also be able to operate on its own.

260. TOGC may include the following:-

- (a) business assets of a taxable person are taken over by another taxable person due to death;
- (b) a taxable person sells part of his business to another taxable person who then carries on that business as a going concern.

261. TOGC is a facility provided for both transferor and transferee to alleviate cash flow problem. The following are some examples of transfers which would not qualify as a going concern:-

- (a) sale of assets such as land and building which is not capable of operating as a business on its own;
- (b) transfer of shares in a limited company from one person to another where the asset still belong to the limited company and thus there is no change in the ownership of the asset.

262. TOGC is treated as neither a supply of goods nor a supply of services. Thus, there is no GST charged and payable on such transfer.

263. A transfer of business assets can only be regarded as a TOGC when certain conditions are satisfied as follows:-

- (a) the transferor must be a GST registered person at the time of the transfer and the transferee is a taxable person or by virtue of this transfer becomes a taxable person;
- (b) the business transferred must be going concern at the time of the transfer;
- (c) the transferee must use the transferred assets to carry on with the same kind of business of the transferor; and
- (d) where only part of the business is transferred, it must be capable of operating on its own.

264. The general provisions under Capital Goods Adjustment are applicable to a TOGC. This means that when any capital item which falls within the Capital Goods Adjustment is transferred as a going concern, the transferee is obliged to continue with the adjustment on the transferred capital item for the remaining adjustment

periods. For further details, please refer to the *GST Guide on TOGC and Capital Goods Adjustment*.

Joint Venture Under Production Sharing Contract

265. A joint venture (JV) under the Production Sharing Contract (PSC) can be approved for registration as GST joint venture.

266. Venturers in a JV will nominate one of the venturers as the venture operator to make acquisitions and supplies on behalf of the JV. Alternatively, the venturers may appoint a joint operating company (JOC) which is not a venturer to the JV to be the venture operator to manage the JV.

267. The GST joint venture treatment requires that:-

- (a) all venturers in a PSC must be registered persons before the JV can be registered in the name of the venture operator or JOC;
- (b) the venture operator shall maintain a separate account for the JV;
- (c) taxable supply of goods or services made between a venturer and the venture operator for the purposes of carrying on the business of the JV shall be disregarded;
- (d) the venturers can claim the deduction of input tax on acquisitions made by them for the JV;
- (e) the venture operator can claim the deduction of input tax on acquisitions made by him for the JV;
- (f) venturers of the JV under the PSC are to account and pay for the output tax on the supplies made from their shares of the benefits of the JV;
- (g) taxable supplies made between venturers are standard rated;
- (h) any activity which is outsourced to a third party shall be taken as an activity undertaken and managed by the third party and not an activity undertaken and managed by the JV;

- (i) all venturers of the JV shall be liable jointly and severally for any tax due from venture operator.

For more details, please refer to the *GST Guide on Petroleum Upstream Activities*.

Repossession

268. In any hire purchase arrangement, goods are usually repossessed if the buyer defaults in his payment. The lender or financier who provided a loan or credit facility will normally appoint a repossession agent to repossess or take back the goods from the buyer to recover the loan.

269. Usually, the goods repossessed would be sold by the lender or financier through an auction. Whether the sale from the repossessed goods is subject to GST will depend on the status of the owner (hirer), as follow:-

- (a) If the owner of the goods is a registered person, the financier or the seller must then account for the GST (output tax) irrespective of whether he is GST registered or not;
- (b) If the owner of the goods is not a registered person, the financier or the seller need not account for the GST (output tax).

270. If the repossession agent is a registered person, he must account for the GST on any fee or commission that be charged for the services he provided to the financier. For further details, please refer to the *GST Guide on Repossession*.

Auctioneer

271. In an auction sale, the auctioneer normally acts as an agent to sell the goods on behalf of the owner or financier known as principal. The principal has to account for GST on the sale while the auctioneer has to account GST on his commission or fee if he is a registered person.

272. However, an auctioneer could also act in his own name without disclosing the identity of his principal. In such a case, an auctioneer irrespective of whether he is a registered person or not, is required to charge and account for GST on the sale of

goods belonging to his principal if his principal is a taxable person. However, the supply of goods made by the principal to the auctioneer is disregarded.

273. Auctions should be conducted on a GST-inclusive basis. It should be stated at the beginning of the auction, so that the bidders know their bids include GST. For further details, please refer to the *GST Guide on Auctioneer*.

Agent

274. Generally, an agent is an intermediary who is authorized by a party to act on that party's behalf in arranging supplies of goods or services. The supplies that an agent arranges are actually made by or to the party he represents (his principal). The agent only facilitates the transaction and receives commission from his principal as a consideration for the service he provides.

275. An agent is liable to account for GST on the supply of services that he made to his principal if he is a registered person. The same treatment applies for any supply arranged by the agent on behalf of his principal. Such supply is made by his principal and not by him. Thus, the principal is liable to account for GST on the supply.

276. An agent can act not only on behalf of a local principal but also on behalf of a principal who does not belong in Malaysia. In such case, the agent shall be made responsible and accountable for tax liabilities on behalf of the principal even though the supply is made by the principal who does not belong in Malaysia provided that the agent is appointed by his principal and supply made by his principal shall not include any supply made the agent in his own name.

277. If an agent is acting on behalf of a principal who is not a taxable person, any goods imported and supplied by the agent shall be deemed to be imported and supplied by the agent if he is a taxable person.

278. An agent who acts in his own name for any supply of goods or services that he makes will be treated as a normal taxable person and hence normal GST rules apply to him. For further details, please refer this to the *GST Guide on Agent*.

Relief for Second-Hand Goods

279. Under normal rules, GST is chargeable on the full value of goods supplied irrespective of whether the goods are new or used.

280. However, there are situations where this rule does not apply. For prescribed second hand goods, a taxable person may charge GST on the excess as shown below:-

$$\text{Excess} = X - Y$$

where X = the consideration for which the goods are supplied; and
Y = the consideration for which the goods were acquired.

If there is no excess, no GST is chargeable. The second hand goods will be entitled to a relief if no tax was chargeable on the previous supply of goods acquired by the taxable person. The excess amount shall be deemed to be GST inclusive.

281. Goods eligible for relief for second-hand goods are used motor vehicle whether or not such motor vehicle was acquired before or after tax was chargeable at the time of supply or importation.

282. Prior approval to use this scheme must be obtained from the Director General. For further details, please refer to the *GST Guide on Relief for Second-Hand Goods*.

Warehousing Scheme

283. Under the GST system, goods are subject to GST upon importation. The payment of GST by importers at the point of importation would cause difficulties in terms of cash flow as they have to pay the tax upfront. Thus, a special scheme known as a warehousing scheme is introduced to alleviate the cash flow problem. Under this scheme, GST is suspended on all goods imported and deposited into a warehouse.

284. This scheme is eligible to any person who imported goods and deposited the goods into warehouse. The term 'warehouse' means –

- (a) any customs warehouse;
- (b) any licensed warehouse;
- (c) duty free shops; or

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- (d) any inland clearance depot,

which has the meaning as assigned to it in section 2 of the Customs Act 1967.

285. Under warehousing scheme, if there is more than one supply (for imported goods) within a warehouse, then only the last supply is subject to GST. The last supply is subject to GST because it is treated as taking place at the duty point. The value of such supply shall be treated as including any duties (whether customs duty or excise duty or both, if any). The GST on the supply shall be payable at the duty point together with the duties, if any. The intermediate supplies within the warehouse shall be disregarded for GST purposes. For further details, please refer to the *GST Guide on Warehousing Scheme*.

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Flat Rate Scheme

286. Flat Rate Scheme is a scheme that allows any person who is not liable to be registered and is carrying on a business involving the prescribed activities such as crop production, livestock and fishery to recover the embedded GST on his purchases.

287. Any person approved to use this scheme is subject to the following conditions:-

- (a) may charge a prescribed flat rate addition on the taxable supply including zero-rated supply that he made to any registered person;
- (b) must issue invoice and state clearly particulars of the prescribed activities if he charging a flat rate addition to the registered buyer;
- (c) shall not claim any input tax incurred on his purchases;
- (d) must submit yearly statement indicating the total sales to the registered buyer with flat rate addition; and
- (e) subject to an audit as and when required.

288. The approved person is no longer eligible for this scheme when his turnover exceeds the prescribed threshold limit and normal GST rules apply to him.

289. The registered buyer is entitled to claim the flat rate addition as his input tax by using the invoice issued by the person approved to use the Flat Rate Scheme. For more details, please refer to the *GST Guide on Flat Rate Scheme*.

Approved Trader Scheme

290. Approved Trader Scheme (ATS) is a scheme which allows any taxable person to suspend the payment of GST on goods imported at the time of importation. The GST due on all goods imported during a taxable period needs to be declared in the taxable period in which the importations took place.

291. A taxable person is eligible to apply for ATS if he is:--

- (a) licensed under section 65A of the Customs Act 1967;
- (b) operating in a free industrial zone under paragraph 10(1)(b) of the Free Zone Act 1990;
- (c) approved by the Director General of Malaysian Investment Development Authority to operate an International Procurement Centre (IPC) and Regional Distribution Centre (RDC);
- (d) a person with annual sales turnover exceeding RM25 million and making at least 80% zero-rated supplies;
- (e) a person other than a local customer of a foreign supplier, who has obtained approval to use the Approval Toll Manufacturer Scheme under section 73 of the Act;
- (f) a person who obtained approval to use the Approval Jeweller Scheme under section 74 of the Act; or
- (g) a person who is or belongs to class of persons so determined by the Minister.

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For further details, please refer to the *GST Guide on Approval Trader Scheme*.

Approved Toll Manufacturer Scheme

292. Approved Toll Manufacturer Scheme (ATMS) is a scheme which allows any taxable person approved (toll manufacturer) to disregard any value added activity

(contract services) on the goods belonging to a person who does not belong in Malaysia (overseas principal). Examples of value added activity may include treatment or processing of goods. There is no GST liability when the treated or processed goods are sent back by the toll manufacturer to the overseas principal.

293. Any delivery of the treated or processed goods by the toll manufacturer to a local customer of an overseas principal is a supply but the supply is regarded. The GST liability would shift to the local customers under a “recipient self-accounting” mechanism. Thus, the local customer whether or not he is a registered person has to account and pay for the tax as if he had himself supplied and acquired the goods.

294. A taxable person is eligible to apply for ATMS if he satisfies the Director General that:-

- (a) the value of supplies comprising the treatment or processing of goods for and to a person who belongs in a country other than Malaysia is RM2 million or more per annum; and
- (b) he must export at least 80% of the finished goods.

For further details, please refer to the *GST Guide on Approved Toll Manufacturer Scheme*.

Approved Jeweller Scheme

295. A jewellery manufacturer registered under GST is required to pay tax on the precious metal such as gold, platinum and silver. Such high value precious metals are sold in ingots or bars and may cause significant cash flow impact to the jewellery manufacturer. Approved Jeweller Scheme (AJS) is introduced to alleviate cash flow problem faced by jewellery manufacturer. However, the use of this scheme is subject to approval from the Director General.

296. Precious metal under this scheme is restricted to gold (99.5% purity), silver (99.9% purity) and platinum (99.9% purity). Under the GST Act, tax on any supply of prescribed precious metals to a jewellery manufacturer (approved person) under the AJS will become the liability of the manufacturer and not the supplier. Hence, the supplier does not have to account for output tax on such supply. On the other hand,

the approved person shall account for payment of GST on the supply by way of “recipient self-accounting”.

297. Under the concept of “recipient self-accounting”, the approved person will account for output tax on the supply of precious metals that he acquired locally as though he had himself supplied the goods in the furtherance of a business. He then nets off the output tax payable with the corresponding deemed input tax credits. In this manner, the approved person does not have to pay GST upfront on acquisition of prescribed precious metals.

298. When such precious metals are subsequently manufactured into finished goods and supplied as jewellery to the local market, the approved person would account for output tax. If such finished goods are exported, the supply is zero-rated. For further details, please refer to the *GST Guide on Approved Jeweller Scheme*.

Capital Markets

299. For dealer representatives and future broker’s representatives to trade in Bursa Saham Malaysia, they have to be attached to some dealers or futures brokers in Malaysia. For GST purposes,

- (a) the dealer representatives and the dealer; or
- (b) futures broker representatives and the futures broker;

are treated as a single entity. The registration will be in the name of dealer or futures broker who is regarded as lead member.

300. Any supply by or to the dealer representative or futures broker’s representative is treated as a supply by or to the lead member. As lead member, he is required to charge and account GST on all brokerage commissions charged irrespective of dealer representatives or futures broker representative’s turnover.

301. If the dealer or future broker is a taxable person, the dealer or futures broker is allowed to claim input tax credit on GST incurred on taxable expenses used for making taxable supplies. This includes the dealer representative’s or future broker’s representative’s expenses such as telecommunication services.

302. Intra supplies between the dealer and dealer representatives or between futures broker and future broker's representatives such as dealing system rental and office rental are disregarded for GST purposes. This means that the lead member is not required to charge GST on such supplies made to the leader representatives or futures broker's representatives.

Disbursement

303. Registered person may incur expenses and subsequently recover the expenses from their customers. The GST treatment for the recovery of such expenses depends on whether those expenses are acquired by such registered person as a principal or an agent.

304. Any recovery of an expense a registered person have "incurred in the course or furtherance of business" from another party is treated as a reimbursement. The recovery of the expenses from another party is a separate supply and is subject to GST. Registered person is acting as a principal in acquiring the goods and services if he himself contract with the supplier in his own capacity and since these supplies are "incurred in the course or furtherance of business".

305. A recovery of a payment the registered person "incurred as agent" for another party is treated as a disbursement. Such recovery is incurred by a registered person in his capacity as a paying agent on behalf of another party in order to discharge its payment obligation. Such registered person does not have the legal obligation to pay for the goods or services or a party to a contract and discretion to alter the nature or value of supplies made between his customer and the third party supplier but are authorized by his customer to make payment to the supplier on his behalf. Since he is only the paying agent, no supply was made by him. Such recovery of expenses under disbursement does not constitute a supply and is not subject to GST. As such, input tax can be claimed on the subsequent reimbursement by the other party.

306. The Payment to the third party will be treated as disbursements if:-

- (a) The disbursement is made by the person as an agent on behalf of the client;

- (b) The client actually received the goods or services;
- (c) The client is the person responsible to pay;
- (d) The payment is authorised by the client;
- (e) The client knew that the goods and services paid for is provided by the third party;
- (f) The payment is itemised;
- (g) The person claims the exact amount from the client; and
- (h) The payment is clearly additional to the supplies the person makes to the client.

Example 16:

Company A engages an event organizer B to help organize its “Majlis Anugerah Cemerlang”. A contracts with C for the gifts to be given away to the participants to thank them for their support. A ordered the gifts from Company C and instructed C to deliver them to B for logistics reasons. C invoiced A and upon receipt of the goods, B makes the payment for the gifts and subsequently reimbursement by A. B merely receives and pays for the gifts on behalf of A. Therefore, B’s recovery of the costs of the gifts from A is a disbursement and not subject to GST.

Example 17:

Customs Duty is levied on dutiable goods imported into Malaysia. In the course of clearance, freight forwarder AH is engaged by the importer B to pick up its goods from Customs and paid the duties. The goods are owned and imported by B. The import declaration is declared under B’s name. It is B’s obligation to pay tax on its imports and AH is merely acting as an agent in making the payment on behalf of B. Hence, AH’s recovery from B for the tax paid is a disbursement and not subject to GST.

Example 18:

AA & co a legal practitioner is asked to conduct the registration of various documents pertaining to ownership of real property for his client (Yes Sdn Bhd). He has initially to pay for these services to Land Office on the client’s

behalf. AA & co therefore issues an itemised invoice to Yes Sdn Bhd, treating the cost of the registration services as a disbursement and declaring output tax only on the value of his own services in procuring those. In the course of paying this invoice, Yes Sdn Bhd will thus refund AA & co the cost of the registration services. Hence, AA recovery of the cost of the registration from Yes Sdn. Bhd is a disbursement and not subject to GST.

AUDIT AND ASSESSMENT

307. This section explains the audit process and responsibilities of a taxable person. It is equally important for both Customs Department and the taxable person to ensure that the objectives of audit are met successfully.

Objective

308. An audit is a process of examining and verifying on the correctness of GST returns and taxable person's overall compliance with the GST legislation. The main objective of GST audit is to encourage voluntary compliance of the tax payer. For the purpose of achieving voluntary compliance, the GST audits carried out periodically by customs is also aimed at educating GST taxable persons as well as to create awareness of their rights and responsibilities under the provisions of the GST legislations.

Period Covered by Audit

309. Generally, a GST audit may cover a period of three to six years to which the latest returns relate depending on the type of audit to be carried out. However, the period to be covered in an audit may be less than three (3) years in some cases. The audit period may extend beyond six (6) years if the initial findings reveal irregularities or existence of fraud.

Types of Audit in GST

310. There are several types of audits that will be conducted under GST.

- (a) Desk Audit

Generally, desk audit involves checking and verifying of information on GST returns to determine the correctness and accuracy of information declared. Such audits are normally concerned with straightforward issues.

(b) Refund Audit

Refund audit is conducted for the purpose of verifying refunds claimed by taxable persons are true and correct.

(c) Transaction Audit

Transaction audit is conducted for the purpose of verifying that the transactions exist and are correctly complied and reported.

(d) Advisory Audit

Advisory audit is carried out to provide advisory services and tax education to taxable persons to enable them to fully understand the requirements of the GST legislations and henceforth encourage voluntary compliance from them.

(e) Compliance Audit

Compliance audit is a comprehensive audit conducted on all transactions to ensure that the taxable persons comply with the GST legislations.

(f) Cancellation Audit

This audit is comprehensive audit of all transactions before any cancellation of GST registration.

(g) Special Audit

A special audit is specially conducted as determined by the Director General.

(h) Large Tax Payer Unit (LTU) Audit

This audit is conducted on the taxable person who has been classified as a large taxpayer to ensure their full compliance to the GST legislations.

The selection of audit cases is based by way of risk assessment and also on information gathered from various sources.

311. Generally, Customs will inform the registered person that an audit is to be conducted to facilitate the audit process.

Place of Audit

312. All records relating to GST liability should be readily accessible to the auditor. For this reason, GST audit is normally conducted at the taxable person's premises where the records are kept or at a place agreed by the Customs except desk audit will be held at Customs office.

Responsibilities of Taxable Person

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313. The taxable person should extend his fullest cooperation to the auditor throughout the audit. During the course of an audit, the audit officer should be allowed to examine all business records including records kept electronically and physically inspect stocks and equipment's for the purpose of the GST liability verification. The GST legislation requires the taxable person to keep full and true records for a period seven (7) years. All records which relate to supplies made and received by the taxable person must be made available to the auditor. These include:-

- (a) tax invoice, receipts, credit notes and debit notes;
- (b) export, import declarations, bills of lading and other shipping documents;
- (c) payment documents, including bank documents;
- (d) ledgers, cash book, journals;
- (e) adjustment records such as bad debt adjustment
- (f) accounting charts, access codes, system instruction manuals;
- (g) contract/sales agreements
- (h) debtors and creditors list;
- (i) stock sheets and control list;

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- (j) financial statements; and
- (k) any other documents that relate to supplies made or received by the taxable person or any records that affect the taxable person's GST liability.

Assessment

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Power of Assessment

314. Under section 43 of the Act, the power to assess will be carried out in the following situations:-

- (a) if the taxable person fails to apply to be registered when he has exceeded the threshold level, does not furnish a return or furnishes a return that is incomplete or incorrect;
- (b) the Director General of Customs may assess the amount of tax payable when a refund of tax has been erroneously paid to any person;
- (c) if the taxable person fails to account for the goods acquired or imported but not supplied or available to be supplied or exported or lost or destroyed;
- (d) if the taxable person fails to submit a return for the taxable period and any subsequent taxable period, after assessment has been made under paragraph (a) above even though the tax has been paid in full;
- (e) the Director General of Customs deems the assessed amount to be the correct tax that is due from the taxable person unless the assessment is subsequently withdrawn or reduced;
- (f) if it appears to the Director General that the amount which ought to be assessed exceeded the amount which has been assessed; and
- (g) the Director General is allowed to make assessment at any time (without taking into account the time limit of six years) for fraud cases or non-compliance done on purpose by or on behalf of any person in relation to Goods and Services Tax.

315. Results of assessment for the taxable person will be notified in writing as soon as possible.

Method of Assessment

316. The methods of assessment are as follows:

(a) Auto Assessment

Auto assessment will be generated by the system and the taxable person will be issued with a notice of assessment.

(b) Manual Assessment

Following the conclusion of the audit, details of the findings of the audit will be discussed with the taxable person. In the event where any short payment of taxes or wrongful claims of input tax credits is uncovered, assessment notice will be issued by Customs.

Amount of Tax and Penalty Due and Payable to the Director General

317. Amount of tax and penalty from this assessment must be paid in full to avoid any further penalties. If the taxable person disagrees with the assessment, he has the right to appeal to the Director General on the assessment made.

GST RULINGS

318. There are two (2) types of GST rulings namely, public ruling and advance ruling.

Public Ruling

319. A public ruling is a ruling made by the Director General and issued to the public to provide guidance on the interpretation and application of any provision of the GST Act. The aim is to provide clarity and transparency in the application of the GST legislation.

320. Any public ruling issued is applicable to any person or class of persons, or any type of arrangement. Where a ruling has been issued to the public, the Director General may withdraw either wholly or partially such ruling to facilitate the

implementation of The GST Act.

Advance Ruling

321. An advance ruling is a ruling made by the Director General upon application by any person to seek ruling on the application of the provisions of the GST Act and to arrangement for which the advance ruling is sought. The issuance of an advance ruling aims to ensure clarity and certainty of tax treatment and consistency in the application of the GST legislations. This will help to promote compliance and minimize disputes.

322. An application for advance ruling is required to be made in such form and manner as the Director General may determine and subject to a prescribed fee.

323. When an application for an advance ruling is received, the Director General will make a ruling sought by the person which will take effect from the date as specified in the ruling.

324. A person who has obtained an advance ruling is required to notify in writing to the Director General the following information:-

- (a) whether there are material changes made to the arrangement identified in the advance ruling;
- (b) whether the person accepts the advance ruling and intends to apply such ruling to the said arrangement; and
- (c) whether the person has entered into or effected the arrangement for which the advance ruling is sought.

325. Any advance ruling issued for the purpose of any arrangement is final and no appeal can be lodged against such ruling.

326. Where a provision of the GST Act is amended or repealed which relates to an advance ruling issued, such ruling shall be treated as not applicable effective from the date when the provision is amended or repealed.

REVIEW AND APPEAL

327. Review and appeal are processes in the GST system to allow resolution on decisions disputed. A person may apply first to the Director General for review and revision of the disputed decision before appealing to the GST Appeal Tribunal (Tribunal). He can also appeal direct to the Tribunal on any decision made by the Director General without first going to the Director General for review and revision.

Review and Revision

328. Any person who is aggrieved with any decision made by the Director General or officer of GST may apply for review and revision of the decision to the Director General within thirty (30) days from the date of notification of such decision. Upon receiving such application, the Director General will make a decision within sixty (60) days or within the time practicable and notify the person.

Appeal

329. Where any person is aggrieved by the decision of the Director General (including decision after review and revision), he may appeal against such decision to the Tribunal within thirty (30) days from the date of the disputed decision. Any appeal must be made in a prescribed form together with a prescribed fee.

330. An appeal to the Tribunal can only be made on the matters other than those matters listed under the Forth Schedule of the GST Act 20XX as below:-

- (a) any matter which is inherent of a statutory restriction under this Act;
- (b) any direction to treat persons as a single taxable person;
- (c) any refusal to voluntary registration;
- (d) any refusal to group registration;
- (e) any matter relating to reassignment of the taxable period;
- (f) offsetting tax against refund;
- (g) any seizure and selling of any goods for recovery of any tax, penalty or other moneys;
- (h) any refusal to tax or penalty payment by installment;
- (i) any decision to reduce or disallow any refund under which would

- unjustly enrich the taxable person;
- (j) any refusal to refund an amount paid by any person by virtue that the amount is not due to him;
 - (k) any refusal to remit any penalty or surcharge;
 - (l) any refusal to approve any application for any scheme;
 - (m) any advance ruling made;
 - (n) the exercising of enforcement powers;
 - (o) the compounding of offences; and
 - (p) any matter relating to approval of reward by the Director General.

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