

DISCLAIMER :

The list of Frequently Asked Questions provided are for guidance only and are subject to change from time to time.

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Drive and Determination

**Assalamualaikum, Salam Sejahtera dan Salam 1 Malaysia:
Rakyat Didahulukan, Pencapaian Diutamakan.**

The implementation of GST effectively from 1st April 2015 will certainly bring the economy to a more sustainable level. GST is a consumption tax and based on the concept of value add. The Royal Malaysian Customs is the Government Body mandated to implement GST. This shift or change in the manner of taxation should be adopted by all Malaysians with determination, drive and resolve through better understanding of the implementation and compliance required under the GST legislation enacted.

The government's intention is noble in providing a safety net especially to the lower income group by providing many zero rated goods and exempting the critical sectors from GST. In doing so, the Malaysian model would pose some challenges to the businesses in implementing GST. Hence, the publication of this FAQ will provide a good platform to overcome some of the challenges.

My heartiest congratulations to the Royal Malaysian Customs Department for their efforts towards the publication of this book.

Thank you.

TAN SRI DR. MOHD IRWAN SERIGAR BIN ABDULLAH
Secretary General of Treasury



The Big Hope

Assalamualaikum dan Salam Sejahtera

Salam 1 Malaysia: Rakyat Didahulukan, Pencapaian Diutamakan dan Salam 1 Kastam.

April 1, 2015 is the commencement of a new system of taxation in Malaysia, namely GST. As the administrator of GST, the Royal Malaysian Customs Department hopes that all businesses are GST ready. The businesses will need to enhance and strengthen their understanding of the legal implications associated with the implementation and operationalisation of GST.

There will undoubtedly be issues and concerns in the early stages of implementing GST. The Royal Malaysian Customs Department to address issues and provide clarifications is publishing a collection of frequently asked questions and answers related to the legal requirements and implementation of GST. This collection can provide clarity for various industrial sectors.

My greatest hope is that this FAQ publication will be able to provide clarifications on the various GST issues arising and will assist the businesses in applying GST treatment to the transactions in a correct manner.

Thank you.

Berkhidmat Menyejahterakan Rakyat

DATO' SRI KHAZALI BIN HAJI AHMAD

Director General of Customs

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PART 1

INTRODUCTION

This list of Frequently Asked Questions (FAQ) was created to provide all taxable persons with an additional reference material. The book is a collection of the FAQ's from GST guides and is presented here in a clear and organised format.

It is confidently believed that it will furnish the taxable person with the necessary information to overcome difficulties likely to be encountered in the course of implementing the goods and services tax. We trust these materials will help as an easy to use tool and a practical guidance book. It can also be used as a supplement to other reading material related to GST.

PART 2

GENERAL

- REGISTRATION
- SUPPLY
- VALUATION
- INPUT TAX CREDIT
- INVOICING
- PAYMENT BASIS

REGISTRATION

Taxable Turnover

1. Who shall register under GST?

Any person who makes a taxable supply for business purposes and the GST exclusive value of the taxable turnover of that supply for a period of 12 months or less exceeds the threshold of RM500, 000 is required to be registered for GST.

However, businesses with taxable turnover of RM500, 000 and below, even though not required to be registered, may choose to apply for voluntary registration.

2. What is a taxable supply?

A taxable supply is a supply with consideration and it includes standard rated and zero rated supply. Supply without consideration can also be deemed to be a supply. However, certain taxable supplies are not regarded as supplies for GST purposes.

3. What is taxable turnover?

Taxable turnover means the total value of taxable supplies for a period of twelve months excluding the amount of GST.

Determination of Taxable Turnover

4. How to determine taxable turnover for GST registration?

The determination of taxable turnover for GST registration purposes has to include all supplies of goods and services which are taxable, i.e. standard rated supply, zero rated supply, deemed supply as well as disregarded supply. However, the following taxable supplies will not be included:

- a) disposal of capital assets;
- b) imported services;
- c) supplies made in relation to Warehousing Scheme;
- d) supplies made within or between designated areas; and
- e) supplies made by a foreign principal or a recipient under the Approved Toll Manufacturer Scheme (ATMS).

5. Is the method used for computing the taxable turnover depends on the category of person?

Yes, for GST registration purposes, the method used for computing taxable turnover depends on the category of person, e.g. sole-proprietorship, partnership or company.

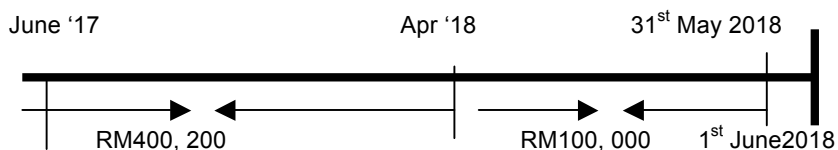
Table No. 1

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 (We allow branch registration only IF the company itself is already registered, i.e. either mandatory registration or voluntary registration. Sec 30 requires the company to fulfil 6 conditions before approval for branch registration is allowed)
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
A foreign principal	the value of all taxable supplies made in Malaysia by the foreign principal

6. How to determine the twelve-month period?

The taxable turnover for a period of twelve months can be determined based on either the historical or the future 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 months immediately before that month. The determination of historical method is explained as in Diagram 1

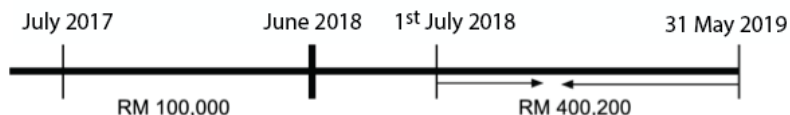
Diagram 1: Historical Method



At the end of May 2018, the value of taxable supplies for the month of May is RM100, 000 and the value of taxable supplies for the eleven months backward (i.e. from June 2017 to April 2018) is RM400, 200. The total value (annual taxable turnover) of all taxable supplies is RM500, 200. The taxable turnover has exceeded the threshold starting from 1 June 2018 and the business is liable to be registered for GST within twenty eight days from this date, i.e. 1 June 2018. The effective date for GST registration is 1 July 2018 (first day of the following month after the end of the twenty-eight day liability) since the annual taxable turnover has exceeded the threshold limit on 31 May 2018.

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 months immediately after that month. A business will have reasonable grounds to expect its taxable turnover to exceed the threshold if it has signed a written contract to supply taxable goods or services. The determination of future method is explained as in Diagram 2.

Diagram 2: Future Method



If at the end of June 2018, the value of taxable supplies for the month of June is RM100, 000 and his supplies for the preceding eleven months (i.e. from July 2017 to May 2018) does not reach the threshold, he must look at the expected turnover from July 2018 to May 2019. Since his taxable supplies for the month of June 2018 is RM100, 000, if he reasonably expects his turnover for the next eleven months (i.e. from July 2018 to May 2019) to be more than RM400, 000, then he is liable to be registered for GST within 28 days from the end of the month of June 2018, i.e. from 1 July 2018 to 28 July 2018. The effective date for GST registration is 1 August 2018 (first day of the following month after the end of the twenty-eight day liability) since the annual taxable turnover has exceeded the threshold limit on 30 June 2018.

Application For Registration

- 7. Currently my business is not liable to be registered for GST because my total taxable turnover is below RM500, 000. Am I required to apply for registration if my company has succeeded in obtaining a contract worth RM1 million to supply computers for the next one year?**

You are required to apply for registration because you have reasonable grounds to expect your taxable supplies to exceed the threshold.

8. The total taxable supplies of Company A for a period of 10 months has exceeded RM500,000. Is the company required to apply for registration now or has it to wait until the end of twelve-month period?

The company is liable to be registered because it has exceeded the registration threshold and it does not have to wait until the end of twelve-month period.

9. Do I have to fill any form for GST registration?

You have to complete registration form **GST-01**. Application for GST registration can be made in the following manner:

- a) apply electronically through www.gst.customs.gov.my
- b) at the registration kiosk made available at any Customs office; or
- c) manual submission by post

10. Where can I get the GST form?

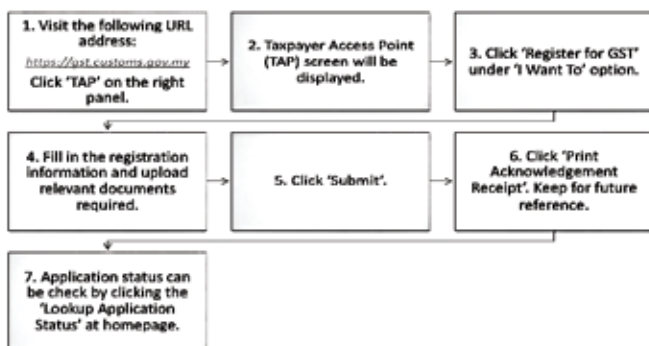
GST-01 registration form is available at the nearest Customs office or you may download from the GST website, i.e. www.gst.customs.gov.my.

11. Do I have to attach supporting documents when submitting **GST-01** registration form?

Documents relating to business or company registration are required to be submitted only upon request by Customs.

12. How to apply registration through TAP?

The steps to follow:



13. Will Customs issue a GST license if my application is approved?

Upon successful application, you will receive an approval letter which informs you of your GST registration number and effective date of GST registration. A license in the form of hard copy will not be issued.

14. As a registered person, what are my responsibilities?

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

- i account for GST on taxable supplies made and received, i.e. output tax and input tax respectively;
- ii submit GST return (**GST-03**) and pay tax not later than the last day of the following month after the taxable period;
- iii issue tax invoice on any taxable supply unless as allowed by Customs;
- iv Inform Customs of the cessation of business within thirty days from the date of business cessation;
- v inform Customs on any changes of address, taxable activity, accounting basis and taxable period; and
- vi keep adequate records of all business transactions relating to GST in the National or English language for seven years.

15. If I am not making any sales for a particular taxable period, do I still need to submit GST return?

If you do not have any business transaction for a taxable period, you are still required to submit a NIL return, i.e. to fill in 'zero' in the respective column.

16. Explain the manner of registration of agent and foreign principal.

Registration of a foreign principal who makes taxable supplies in Malaysia is allowed with the condition that he appoints a local agent to act on his behalf for all matters pertaining to GST.

Such appointed agent, irrespective whether he is a taxable person or not, will be liable for the accountability of tax. The registration of a foreign principal will be under the name of such foreign principal.

17. Can a person who have not started making a taxable supply apply for registration?

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

- a) details of business arrangements (e.g. business plans, plants and 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.

18. A non-profit organization provides sport and recreation facilities for the community free of charge. Is it required to register for GST?

Supply of sport and recreation facilities is taxable under GST and the organization has to register for GST if its annual taxable turnover exceeds the prescribed threshold. However, if the facilities are provided wholly free of charge, then GST is not chargeable and it is not required to register.

19. Muzium Kesenian, a non-profit organization, charges a fee for admittance to its premise. The museum also derives income from selling gifts and souvenirs, and rental of its eatery outlets. Is this museum required to be registered?

To determine whether the museum is required to be registered or otherwise, it has to take into consideration all taxable supplies, i.e. admittance fees, sales of gifts and souvenirs, and rental income in determining the annual turnover. If the annual taxable turnover exceeds RM500, 000, then it is required to apply for registration.

20. What is group registration and what is the condition to qualify for group registration?

Group registration is a facility that allows two or more related companies to register as a group for GST purposes. Inter-company charges on supply 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 therefore are subject to GST.

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 (Please refer to GST General Guide for details on incidental exempt supplies);
- b) each company must be GST registered individually before they register as a group;
- c) company holding more than 50% of the issued share capital whether directly, indirectly through subsidiary or together directly and indirectly through subsidiary, is considered as having controlling power over the other companies; and
- d) all members of the group shall be jointly and severally responsible for the payment of tax.

21. How to register branches or division?

A registered person having branches or divisions may apply to register its branches or divisions individually under the name of those branches or divisions. Application for branch registration has to be made by the registered person using form **GST-B** and post it to:

**GST Processing Centre,
Jabatan Kastam Diraja Malaysia,
Kompleks Kastam WPKL, 22,
Jalan SS 6/3 Kelana Jaya,
47301, Petaling Jaya**

Or you can apply through online via TAP using the following steps.



22. How do I know that my liability to be registered has ceased?

The liability for GST registration will end 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 months succeeding will not exceed the prescribed threshold i.e. taxable turnover for the next twelve months will not exceed the registration threshold.

A taxable person is still liable to be registered even though his annual taxable turnover for the next twelve months is not expected to exceed the prescribed threshold if during that twelve months period he has stopped making taxable supplies for a period of thirty days or more.

23. Do I need to notify the customs once I have ceased my business?

A registered person who has ceased business or has ceased making a taxable supply is required to notify Customs within thirty days from the date of such occurrence.

A registered person who has notified his cessation of liability to be registered has to continue to fulfil 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.

24. How to cancel my registration?

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. Application for registration cancellation can be made by completing and submitting the form **GST-Adm12** either on-line or manually in the following manner:

- a) apply electronically through www.gst.customs.gov.my
- b) at the registration kiosk made available at any Customs office; or
- c) manual submission by post

The registered person will be notified of the approval and the effective date of cancellation.

25. What is the GST implication on late registration?

A person who is liable to be registered but fails to do so must immediately apply for registration. The effective date of registration will be the date the person applies to be registered. A person who is late in applying for registration will be liable to pay a late registration penalty from the date he should have been registered to the date immediately before the date he is so registered, and this period is referred to as the late registration period. A late registrant is required to submit tax return according to the taxable period assigned to him, i.e. monthly or quarterly. The first taxable period will commence from the date he should have been registered.

A person who fails to register shall be liable to a late registration penalty of an amount of not less than one thousand and five hundred ringgit (RM1, 500.00) for a period within thirty days and not exceeding an amount of twenty thousand ringgit (RM20, 000.00) for a period of more than three hundred and sixty days.

26. I have applied to be registered, when can I expect to get the result of my application?

The result will be available within 21 working days.

27. How can I know the status of my registration application?

You may check the status of registration application by clicking 'Lookup Application Status' hyperlink on TAP portal. The related details required for this process are as such:

Application Method	Related Details Required
Paper	i. Acknowledgement Receipt Number
Taxpayer Access Point (TAP)	i. Acknowledgement Receipt Number or ii. Email Address & Confirmation Code

28. When I check with 'Lookup Application Status', "Your application is pending" message came out. What does it mean?

This message indicates the registration application is still undergoing validation process.

29. If I do not get my Authorization code, how can I get it?

Your authorization code was sent to the email address in your TAP profile. Some Internet Service Providers (ISPs) and spam filters may stop certain email to enter. Please check your Junk or Spam folder in your email. If you think you have entered your email address incorrectly, call Customs Call Centre (CCC) at 1-300-888-500 to get your authorization code.

30. If I forgot my password, what should I do?

You may reset the password by clicking 'Forgot My Password' hyperlink at Login option. To reset your password, enter current email address used during registration and answer the security question. The system will send you a link to a password reset page. After clicking the link, you will be prompted to create a new TAP password. Enter it twice to confirm. Click the "OK" button to continue.

31. When I tried to log on I receive "Exceed attempt" message. What does it mean and what should I do?

This message means you already exceeded the number of attempt to login by using the inappropriate details. Call Customs Call Centre (CCC) at 1-300-888-500 to have your account unlocked or to reset password.

32. How can I check whether the company is GST registered?

You may check the GST status of a company (GST registrant or Non-registrant) by clicking 'Lookup GST Status' hyperlink on TAP portal. The related details required are as such:

- GST number or
- BRN number or
- Business name

33. Upon registration for GST, my approval letter states that I am on a quarterly taxable period. However, the same approval letter further stipulated that my first taxable period as shown below is one month. Why is there a discrepancy in the taxable period?

Tuan,

KEPUTUSAN PERMOHONAN PENDAFTARAN DI BAWAH SEKSYEN 21 AKTA CUKAI BARANG DAN PERKHIDMATAN : PENDAFTARAN NORMAL

Perkara di atas dirujuk.

Dimaklumkan bahawa permohonan tuan telah diluluskan. Maklumat pendaftaran akaun tuan adalah seperti berikut:

Tarikh Permohonan	: 15-12-2014
Tarikh Kuatkuasa Pendaftaran	: 01-04-2015
Asas Perakaunan	: Asas Akruan
Tempoh Bercukai	: Tiga Bulan
Tempoh Bercukai Pertama	: 01-04-2015 hingga 30-04-2015
Tarikh Akhir Mengemukakan Penyata dan Bayaran	: 31-05-2015
Tempoh Bercukai Kedua	: 01-05-2015 hingga 31-07-2015
Tarikh Akhir Mengemukakan Penyata dan Bayaran	: 31-08-2015
Tempoh Bercukai Berikutnya	: Setiap Tiga Bulan
Tarikh Akhir Mengemukakan Penyata dan Bayaran	: Hari terakhir bulan berikutnya setelah tamat tempoh bercukai

Stesen Mengawal & Alamat

: Stesen Ayer Keroh
Jabatan Kastam Diraja Malaysia
Pengarah Kastam Negeri Melaka
Kompleks Kastam
Lebuh Air Keroh
75450 Ayer Keroh

The taxable period assigned is based on when your financial year end. In your case, your financial year end is in October. The taxable periods need to be adjusted so as to ensure the financial year ends with a 3 monthly taxable period. Hence, the adjustment is done beginning from the end of the financial year end. Therefore, the arrangement of the taxable period will be as follows:

1 st Taxable Period	April
2 nd Taxable Period	May, Jun, July
3 rd Taxable Period	August, September, October
Subsequent Taxable Period	Every three (3) months

SUPPLY

Type of Supply

- 1. The owner of shop lot A, Amber Real Estate offers to pay off any outstanding rental of ABC Firm currently renting shop lot B. ABC agrees to the arrangement and subsequently rents shop lot A. Amber settles ABC's outstanding rental. Is ABC making a supply?**

No, ABC Firm is not making any supply in this scenario.

- 2. A subsidiary company, ABC Sdn. Bhd. applies for a loan from a bank. The holding company of this subsidiary, XYZ Bhd., acts as a guarantor to ABC. XYZ Bhd. does not charge any guarantee fee for his services to ABC Sdn. Bhd. Is XYZ Bhd. making a supply of services to ABC Sdn. Bhd.?**

XYZ Bhd. is deemed to be making a supply of services to ABC Sdn. Bhd. although there is no consideration paid by ABC Sdn. Bhd. This is because XYZ Bhd. and ABC Sdn. Bhd. are connected person.

- 3. Nazir Sdn. Bhd. in Kuala Lumpur makes a supply of taxable goods to LCE Sdn. Bhd. in Alor Star. However, LCE instructs Nazir to deliver the goods to MNO Sdn. Bhd. in Langkawi. What type of supply is Nazir making to LCE?**

Nazir is making a taxable supply of goods to LCE although the delivery of the goods is made to MNO in Langkawi. The subsequent supply of goods to MNO by LCE can be zero rated if the export declaration was in the name of company LCE.

- 4. Local Company A sells garments to a local Company B. The garments are shipped directly from Company A's factory in Thailand to Company B's branch in Vietnam. What type of supply is A making to B?**

The supply of garments by A to B is an out-of-scope supply as the supply are made from a place outside Malaysia to another place outside Malaysia.

- 5. Company A made a supply of goods to his customer by delivering it to him on 20th October 2015. Company A has not received any payment from his customer. Company A issues a tax invoice to his customer on 15th November 2015. When is Company A's time of supply?**

Since Company A issued the tax invoice after 21 days from the date of delivery of the goods, therefore its time of supply of goods is on the 20th October 2015

- 6. Is the service charge stated in my hotel's bill subject to GST?**

Service charge is a charge for the supply of services by the hotel. Therefore, it is subject to GST.

Time of Supply

- 7. The time of supply of goods occur when the goods are removed or if the goods are not to be removed, the time when goods are made available to the customer. When are goods treated as made available?**

Goods are treated as made available by a supplier when:-

- The goods are delivered to his customer;
- The title or ownership of the goods has been transferred to his customer;
- His customer has full control or possession of the goods; or
- All rights pertaining to the goods have been transferred to his customer.

- 8. Company B has fully performed his services on 20th May 2016. B applies for de-registration and his de-registration date is 1st October 2016. The consideration for B's supply is RM 50,000. B issues two (2) invoices dated 1st June 2016 for the sum of RM 30,000 and 15th October 2016 for the balance of RM 20,000. Before 1st October 2016, he has received payment of RM 30,000 for the invoice dated 1st June 2016. When is the time of supply for the output tax on the supply which is not yet accounted for at the date of de-registration?**

Since Company B has fully performed his services on 20th May 2016 (the basic tax point is triggered on this date), the time of supply for the sum of RM 30,000 is the invoice dated 1st June 2016 (which is within 21 days from the basic tax point). The time of supply for the balance of RM 20,000 is on 20th May 2016 since Company B fails to issue a tax invoice on this amount within 21 days from the basic tax point that is 20th May 2016.

VALUATION

- 1. How to work out a price including the standard rate of GST (6%)?**

Multiply the price excluding GST by 6%. E.g. if the value of the product is RM100,

- The GST amount is $RM100 \times 6\% = RM6$.
- The total price is value + GST = $RM100 + RM6 = RM106$

- 2. How to work out a price excluding the standard rate of GST (6%)?**

Multiply the price including GST by $100/106$ to get the value of the product. To get the amount of GST, multiply the price including GST by the tax fraction ($6/106$). E.g. if the price of the product is RM100,

- The value of the product is $RM100 \times 100/106 = RM94.34$.
- The GST amount can be calculated by:
 $RM100 - RM94.34 = RM5.66$; or
 $RM100 \times 6/106 = RM5.66$

- 3. What is the value of product to be used in the event that the product has a recommended price by the supplier?**

Use the transaction value of the product. E.g. the recommended price is RM50.

However the supplier sold the product at RM46. Thus, to get the transaction value of the product, multiply the price with 100/106

The transaction value of the product is $RM46 \times 100/106 = RM43.40$

- 4. A product is normally valued at RM100 (inclusive of tax) at retail level. When the products are purchased at a large quantity, the value is reduced by 20%. At what value businesses has to account for GST?**

GST will be accounted based on the discounted value. In this example, the value of the product is reduced by 20%, thus the transaction value is now at RM80. The amount of GST is $RM80 \times 6\% = RM4.80$.

- 5. The price of some selected items is controlled by government under Price Control and Anti Profiteering Act 2011. Which price should be used in determining the amount of GST, the ceiling price fixed by government or the actual price of the item sold?**

The GST amount is based on the actual price of the item sold. E.g. the ceiling price set by government is RM20 (inclusive of GST). The selling price by business is RM18. The amount of GST is the tax fraction of RM18.

INPUT TAX CREDIT

Entitlement to Input Tax

- 1. I am a retailer and a GST registered person. I invest my excess money in properties and unit trust. I incur GST on these investments. Am I entitled to claim input tax?**

Yes, you are entitled to claim input tax since the investment in unit trust is an incidental exempt financial supply and as a retailer you are not in the business of providing financial services. In the case of properties, input tax incurred in the investment is claimable if there is a direct and immediate link between the acquisition and the taxable supply.

- 2. I am a GST registered subcontractor dealing in painting of furniture. Besides the furniture to be painted, the company also supplies me with the material such as paint, thinner for the paint and chemical. I carry out my business from a rented premise. Am I entitled to claim input tax?**

You are entitled to claim input tax on the rental payment and other input tax incurred.

- 3. I am a GST registered biscuit manufacturing company. In carrying out my business, I purchase 20 digital weighing machines at RM100, 000 (exclusive of GST RM6, 000) for my packaging department. After 5 years, I sold 10 of the machines to a sole proprietor who is not a registered person. What is the GST treatment?**

Since you are a taxable person and the machines are used in the course or furtherance of business you are entitled to claim the input tax incurred on the machines. When you sell the machines you have to charge GST since it is a supply of goods. The sole proprietor, being a non-registered person is not entitled to claim input tax even though he has incurred the input tax.

- 4. ABC Sdn. Bhd., a GST registered person operates a pension fund. Besides renting out of office buildings, ABC invests the funds in the capital markets in order to pay high dividends to the contributors. ABC engages an external fund manager to invest the funds and was charged a management fee for the investment services rendered by the external fund manager. Is ABC entitled to claim the GST paid on the management fees charged by the external fund manager?**

ABC is not entitled to claim input tax on the management fees charged by the fund manager since investment of the funds in the capital markets is an exempt supply.

Allowable Input Tax

- 5. I am a coin collector. I paid GST on the coins that I purchased. Can I claim the GST paid?**

You cannot claim the GST paid on the coins that you purchased since coins collection is a hobby and not business. You can claim the GST on the coins if you are in the business of trading coins.

- 6. I am a GST registered consultancy company and bought a set of antique furniture from Italy to be used in the business lounge amounting to RM100, 000 and GST RM6, 000 in July 2016. Can I claim the input tax?**

You can claim the input tax of RM6, 000 in the taxable period you purchase the furniture.

- 7. I bought painting for my office in which I had claimed the input tax incurred on the painting. After 6 months, I decided to remove the painting and put it in my house. Do I have to pay back the input tax which I have claimed earlier for the painting?**

When you remove the painting for personal use at home you have to account for output tax.

- 8. I am a GST registered retailer and purchase 100 cans sardines valued at RM600, of which 95 cans are subsequently sold and 5 cans are used for private consumption. How much input tax can I claim?**

You can only claim the input tax on 95 cans. Assuming the GST rate of 6%, the company can claim RM34.20 ($RM600 \times 6\% \times 95/100$).

- 9. I am a GST registered person running a hotel business. Occasionally, I provide complimentary rooms to persons such as travel agents or travel writers. Can I claim input tax on the complimentary room?**
Complimentary room is not subject to GST. However, input tax incurred on the complimentary room is claimable since it is for the furtherance of business.
- 10. I own a soap manufacturing company and registered under the GST Act. There are 75 employees in the company including the administrative staff. Every month I issue gifts of soap worth RM30 to every employee. Can I claim input tax incurred on the gifts of soap?**
Gifts of goods to the same person in the same year where the total cost is not more than RM500 is not a supply. Hence, the gifts of soap to the employees worth RM360 per year per person are not a supply and therefore not subject to GST. Input tax incurred on the soaps is claimable.

Blocked Input Tax

- 11. I am a GST registered company and bought a car for my director's use. I did not claim the input tax on purchase of passenger motor car because it is blocked. Every 4 months I incur GST on the maintenance services of the car. Can I claim the GST paid on maintenance services of the car?**
No, you cannot claim the GST paid on the maintenance services of the car since it is blocked.
- 12. I am a GST registered company. I arrange a golf tournament for my clients on the second anniversary of the company's establishment. Can I claim input tax on the green fees and meals for the clients?**
You can only claim input tax incurred on golf tournament held for existing clients. However, input tax incurred on entertainment for family members and potential clients is blocked.
- 13. I am a car importer and a GST registered person. On importation of the cars, I paid import duty, excise duty and GST. Can I claim the GST paid on the importation of the cars?**
You can claim input tax on the cars that you import because the imported cars are part of your trading stock.
- 14. I am a sole proprietor and a GST registered person. In doing my business I hire a car for delivering the goods to my clients. Can I claim the GST paid on the hired car?**
You cannot claim the GST paid on the hired car since it is blocked.
- 15. I own a company limited by shares. Every year I hold an Annual General Meeting where shareholders will attend and exercise their voting rights. Normally lunch will be provided. Am I entitled to claim input tax on entertainment expenses provided to shareholders?**
You are entitled to claim input tax on the entertainment expenses provided to shareholders since it is for the furtherance of business.

Incidental Exempt Financial Supplies

- 16. I am a GST registered telecommunication company. In order to raise capital, the company issues *sukuk*. In issuing the *sukuk*, the company incurs input tax on management services. Can I claim GST incurred on the management services?**

Since you are a telecommunication company and the issuance of *sukuk* is incidental to your business, you are allowed to claim the GST incurred on management services relating to the issuance of *sukuk*.

Manner to Claim Input Tax

- 17. In the taxable period of September 2016, I lost all my purchase invoices due to flash flood. Am I still entitled to claim input tax for that taxable period?**

If you can get certified copies of the invoices from your supplier you may claim input tax for the taxable period of September 2016. If you fail to claim in the taxable period of September 2016, you can still claim the input tax within six years from the date of the supply.

Input Tax In Relation To Registration

- 18. I have a transport company and on 1st January 2016 I purchased a lorry for RM250, 000 of which I have paid GST RM13, 000. I became a registered person on 1st June 2017. The book value of the lorry on 1st June 2017 is RM200, 000. Can I claim the GST paid on the lorry?**

You cannot claim the whole amount of GST paid on the lorry since you only registered for GST on 1st June 2017. However, you can claim a portion of GST paid based on the book value i.e. RM12, 000 (6% x RM200,000).

INVOICING

Tax Invoice

- 1. I am a GST registered person and make both standard rated and exempt supply to my customer. Can I issue one tax invoice for both supplies?**

You can issue one tax invoice if the transaction involves both taxable and non-taxable (exempt or out of scope supply). However, you must have indicators to distinguish the different types of supply in the tax invoice.

- 2. I am a GST registered mixed supplier making standard rated supply and exempt supply. Can I issue a tax invoice for a transaction which is a wholly exempt supply?**

If a transaction involves wholly non-taxable supplies e.g. exempt supplies, then you have to issue a normal invoice. In this case your company needs to have two (2) set of serial numbers i.e., one set for tax invoices and another set for the normal invoices.

3. **We are allowed to issue tax invoice in foreign currency and required to convert to Ringgit Malaysia. Do we need to convert to Ringgit Malaysia each item showed on the tax invoice? Will it be sufficient to convert the total amount (excluding GST) in Ringgit Malaysia?**

No, converting the total amount (excluding GST) in Ringgit Malaysia is not sufficient.

The following items on the tax invoice must be converted into Ringgit Malaysia for GST purpose:

- a) Total amount payable (excluding GST)
- b) Total tax chargeable, and
- c) Total amount payable (including GST)

4. **I am a registered second hand car dealer and also given approval under the margin scheme. In such a situation, is it true that I cannot issue a tax invoice for my sale of second hand cars?**

Second hand car dealer must not issue tax invoice for supply of second hand car under the Margin Scheme (issue normal invoice). However, if you supply the second hand car as a registered person (not using Margin Scheme), then you must issue a tax invoice and charge GST 6%.

Miscellaneous

5. **Do I need to convert foreign currency to Ringgit Malaysia in the tax invoice for goods that are exported?**

It is not necessary to convert foreign currency to Ringgit Malaysia in the tax invoice that are issued to overseas customers.

6. **Approved person under Flat Rate Scheme (FRS) must submit annual sales statement. Does this annual sales based on calendar year or financial year?**

The annual sales should be based on calendar year.

7. **Do I need to issue tax invoice for deposit or part payment if it is part of the consideration and can I claim input tax for deposit or part payment made?**

Yes, you have to issue a tax invoice and you can claim input tax on the deposit or part payment you had made provided a tax invoice has been issued to you

8. **I maintain an approved simplified tax invoice book (without customer's name and address) which is hand written for my sales. What should I do when my customer request to insert his name and address to enable him to claim full input tax which is more than RM30?**

Your approved simplified tax invoice book must have pre-printed particulars as approved by the Director General. You should only fill up the date, description of the goods, quantity, GST rate and price. In the event your customer request to insert his name and address (if not stated in the invoice) for the purpose of claiming full input tax, then the additions should be done by the supplier on both the supplier and customer's copy (carbonized).

9. **I have been approved to issue self-billed invoice on behalf of my suppliers. I have such billing arrangements with five (5) suppliers. Can I maintain five (5) different sets of serial numbers for each supplier?**

Yes, you have to maintain different sets of serial numbers for each supplier when you issue the self-billed invoice.

10. **What exchange rate should I use for my payment on supply of imported services (reverse charge mechanism) and supply of goods (recipient accounting) under Approved Toll Manufacturer Scheme?**

You should use the daily selling rates of exchange prevailing in Malaysia.

11. **Can I use credit notes to make contra payments with my customer who is also my supplier?**

If you are a GST registered person, you cannot issue a credit note to make contra payment. For the purpose of GST, credit note is issued if there is a change in consideration after a tax invoice has been issued for the respective supply. Contra payment does not involve a change in consideration that has been invoiced. You may issue other documents such as credit memo, remittance advice, voucher and etc. for the purpose of contra payment.

12. **I rent a business premise and pay utility bills such as electricity and water. Can I claim input tax credit if the bill is in the name of my landlord who is a GST registered person?**

You cannot claim the input tax since the bill is in the name of the landlord. To enable you to claim the input tax, the bill has to be in your name.

PAYMENT BASIS

1. **How to apply for payment basis?**

Registered person has to apply for approval to account for payment basis in Application Form GST01. DG will issue approval in writing stating all requirements as according to the payment basis conditions.

Once approved, you can start to use payment basis accounting and continue to do so for a period of 3 years or until your GST taxable turnover reaches RM1 million.

2. **How to account GST?**

There are two main methods you can prepare your GST returns based on and these are:

- a) **Payments basis** - This is when you prepare your GST return based on all the income you have received and expenses that you have paid for the GST taxable period. This is the easiest method to use for calculating GST returns. Provided you are 'approved person' in accordance with subsection 37(3) of the GST Act 2014.

- b) Invoice basis - This is when you prepare your GST return based on all the income you have received and expenses that you have paid for the GST period PLUS how much your debtors (customers) owe you at the end of the GST period LESS how much your credit owed you at the beginning of the GST period. The same applies for creditors (suppliers) including who you owed at the end of the GST period less who you owed at the start of the GST period. This is the most complex method to use for preparing your GST returns and it is compulsory to use this method if your turnover is over RM1 million per year.

3. What will cause revocation of approval to account on payment basis?

RMCD may by notice, revoke your approval from using the Payment Basis Accounting for a number of reasons including:

- a) There is a change in the nature of business.
- b) You notify in writing to leave the Payment Basis Accounting at the end of any GST accounting period. You can rejoin at the beginning of any GST accounting period, provided you meet the criteria at that point in time.
- c) If approved person not claiming input tax using payment basis.
- d) If there is any inaccurate information in application for approval.
- e) You must notify RMCD if your GST taxable turnover is over RM1 million a year and after revocation in writing by RMCD you should account for GST using invoice basis.
- f) In the event of any offense such as :
 - if you calculate your GST incorrectly
 - if you are convicted of a GST offence
 - if you are assessed for a penalty for GST evasion
- g) In the event of death, liquidation, bankruptcy, cessation of business, cessation to be registered and etc.
- h) Transferred business as a going concern and Subsection 20(4) of the Act does not apply (not becoming a registered person as a result of transfer).

4. What you have to do when your approval has been revoked?

Once approval has been revoked, you have to:

- a) account for all of the outstanding GST in the period which you had been approved to account for payment basis till the date the revocation take effects.
- b) You have to submit your tax due and payable according to the payment basis until the revocation date and account for invoice basis after the date of revocation, in the first return after the change takes effect.
- c) You have to make adjustment of tax for the change in accounting basis as a result of the revocation on the effective date and the amount can be determined using the formula in Paragraph 35.

5. What is the treatment (payment basis) for taxable supply that has not been received any payment more than six months?

If the taxable person has issued tax invoice and has not received any payment or part of payment in respect to taxable supply, six months from the date of supply:

- a) the taxable person has to account and pay the respected amount to RMCD in the taxable period after that six months has elapsed.
- b) He is eligible to claim a relief for bad debt by declaring the correct amount in the appropriate box in the GST03 return depending on the specified conditions.

PART 3

SPECIAL CASES

- TRANSITIONAL
- IMPORT
- EXPORT
- DESIGNATED AREA
- AUCTIONEER SERVICES
- AGENTS
- REPOSSESSION
- TRANSFER OF GOING CONCERN
- PARTIAL EXEMPTION
- CAPITAL GOODS ADJUSTMENT
- EMPLOYEE BENEFIT
- BEREAVEMENT CARE SERVICES

TRANSITIONAL

Time of Supply

- 1. What is the time of supply for real property (land and building affixed to the land)?**

A supply or acquisition of real property is made when the property is made available to the recipient. If the property is made available on or after 1 April 2015, the sale of the property is a taxable supply subject to GST at a standard rate.

- 2. A developer sells a commercial property (not subject to sales tax) before 1 April 2015 and scheduled to be completed after 1 April 2015. The scheduled payments are spanning 1 April 2015. What is the GST implication on the sale?**

Generally, the supply of commercial property is a taxable supply and subject to GST at a standard rate. The payments before 1 April 2015 are not subject to GST. However, the payments on the supply spanning the implementation date need to be apportioned and the period on and after such date are subject to GST.

- 3. I am a retailer. I sold goods on credit terms (credit sales), deliver and make available the goods before 1 April 2015 to my customer. When my customer makes the periodic payments (instalments) to me after 1 April 2015, must I charge GST on the payments?**

No, the sale of the goods is not subject to GST as the goods were made available before 1 April 2015.

Special Refund

- 4. I was a sales tax manufacturer and become a registered person when GST is implemented. I have purchased one unit reconditioned Japanese passenger car which I have registered under my company's name before GST is implemented. Can I claim special refund on the passenger car?**

No, you cannot claim the refund on the passenger car as it is an item that is excluded from such refund.

- 5. I am entitled to a special refund of RM80,000 where my instalments of RM8,000 will be refunded to me over 8 quarterly taxable periods. After the 3rd instalment, the balance of RM56,000 was set off against sales tax due from me for the sum of RM20,000. What is the implication on my subsequent instalments?**

You will continue to receive a refund of RM8,000 for four (4) taxable periods amounting to the sum of RM36,000 after the setting off process.

- 6. I am a vehicle lessor and I purchase a vehicle with sales tax for the purpose of an operating lease before 1 April 2015 and sold the said vehicle after 1 April 2015. Am I eligible for a special refund of sales tax?**

You are not eligible for a special refund as the vehicle is used for hire.

- 7. In relation to a claim a special refund on goods held on hand, can the date of issuance of a cheque be taken as the date payment is made for an acquisition of sales taxable goods purchased before 1 April 2015?**

No, the date of issuance of a cheque cannot be taken as the date payment is made for an acquisition of sales taxable goods purchased before 1 April 2015. The claimant must hold a payment receipt / voucher from the supplier.

- 8. One of the conditions to claim a special refund is that the goods must be held on hand on 1 April 2015 must be used in the making of taxable supplies. Am I considered making a taxable supply of goods after 1 April 2015 if I sell furniture (goods held on hand) on credit?**

Yes, you are considered making a taxable supply when you sell the furniture. The provision of financing to your customers is another separate supply by you which is an exempt supply.

Goods Returned

- 9. I am a sales tax licensed manufacturer and not registered for GST. How do I claim sales tax on goods returned to me after 1 April 2015?**

You are eligible to claim any sales tax on goods returned to you. The claim for the refund of sales tax must be made in JKED2 and submitted to the Customs office.

- 10. What is the treatment on goods returned by a GST registered person who was not a licensed manufacturer under Sales Tax Act 1972 where a claim for special refund had been made on such goods?**

A GST registered person is required to account the special refund on the returned goods as output tax.

Credit Note

- 11. I was a licensed manufacturer under Sales Tax Act 1972 and a GST registered person at 1 April 2015. I supplied taxable goods before the GST implementation but due to some defective qualities, 10% of the goods were returned after 1 April 2015. A credit note was issued on the returned goods. What is the GST implication to the buyer if he is a registered person?**

If your buyer is a registered person and he has claimed a special refund on those goods he returned to you, then he has to account for the special refund he had claimed as his output tax in the taxable period he returned the goods.

- 12. What is the GST treatment if the buyer is a not a registered person?**

The buyer is not entitled to claim a special refund on goods he holds on hand. Hence, if he subsequently return those goods, there is no liability on him to account any GST on those goods.

Debit Note

- 13. I was a licensed manufacturer under Sales Tax Act 1972 and am a GST registered person on 1 April 2015. What is the GST treatment on the debit notes raised by me on or after 1 April 2015 as I had undercharged my customer (registered person) before 1 April 2015?**

You have to account for sales tax based on the sales tax rate you charged your customer.

Supply of Membership Rights

- 14. I am a Malaysian Timeshare Industry member since 2002 and the contract is for 38 years. I paid my membership in full the same year. What is the GST treatment if I decide to sell my membership after the 15th year which is after 1 April 2015?**

The subsequent sale of your membership is subject to GST at a standard rate if you are a registered person.

- 15. Private recreation fitness club joining fee to be a member is not taxable under the Service Tax Act 1975 (STA). What is the treatment on joining fees paid in full before 1 April 2015?**

Joining fees paid in full before the GST implementation by current members are not subject to GST even if part of the right to the membership continues after 1 April 2015.

- 16. I hold a life membership at an exclusive golf club where the services such as usage of sporting facilities are currently not subject to service tax. What is the treatment on the fees for the usage of the facilities that I am charged by the club operator?**

The fees or charges on such services if provided on or after 1 April 2015 is subject to GST at a standard rate.

Road Transport

- 17. What is the GST treatment on transport services provided by executive coaches or airport limousines that commence before 1 April 2015 and ends on or after 1 April 2015?**

A supply of services is made when the services are performed. In the case of transport services provided by executive coaches and airport limousines that commenced before 1 April 2015 and ending after the GST implementation time, the portion of the supply on or after 1 April 2015 is subject to GST at a standard rate.

Deposit

- 18. I took a photo shoot on 31 March 2015 and paid a deposit of RM100 as part payment for it. The pictures were delivered to me on 4 April 2015 and I make the balance of payment on the same day. Are the payments subject to GST?**

Yes, as the pictures were only made available to you on 4 April 2015 when you made the balance of payment.

- 19. I placed a deposit of RM100 to book a photo shoot session before 1 April 2015. The photo shoot is scheduled to take place after 1 April 2015. What is the tax treatment on the deposit?**

Since the photo shoot is performed on or after 1 April 2015, the photo shoot is subject to GST. Hence if the deposit is taken to be part of the consideration for the supply of the service, then it is subject to GST at a standard rate. If it is not, the deposit made before GST is not subject to GST. However, any payment for the photo shoot is subject to GST.

Ticketing

- 20. On 12 September 2012, Harry buys three air tickets from KL to Kota Bahru, Kelantan. The first ticket is used on 28 December 2014 and the other two are open dated. On 15 March 2015, the second ticket was confirmed for a flight to take off on 31 March 2015 and the third for 15 June 2015. What is the tax implication on the tickets sold?**

The supply of air transport services on 28 December 2014 and 31 March 2015 is not subject to GST. However, the transport service to be taken on 15 June 2015 is subject to GST at a standard rate as the supply of transport services is to be made after 1 April 2015. Since the payment of tickets did not include GST at the time when the air tickets were issued, the airline operator has to charge GST at the time the third ticket is used.

Progressive and Continuous Supply

- 21. What is the GST treatment on the supply of taxable petroleum products delivered on a continuous basis by means of pipeline, conduits or other means beginning before the AD where consideration is paid continuously from the date prior the AD?**

Supplies of petroleum by means of a pipeline is deemed a supply of goods. Any such supply made before 1 April 2015 will not be subject to GST while a supply made on or after 1 April 2015 will be subject to GST. The supplier must conduct a meter reading of the supply immediately before 1 April 2015 to ascertain the value of the supply on and after 1 April 2015.

- 22. I am a utility supplier registered for GST and I bill my customers over a billing cycle that spans 1 April 2015. My services are taxable under the Service Tax Act 1975. I have a billing cycle from 15 March to 14 April 2015. What is the GST implication on my billing for that cycle?**

For the billing period 15 March to 31 March 2015, your supply of services is subject to service tax and the period from 1 April to 14 April 2015 will be subject to GST. You can no longer charge service tax on your services supplied on or after 1 April 2015 as the Service Tax Act 1975 has been repealed.

Relief on Second-Hand Goods

- 23. I intend to sell my company cars after 1 April 2015 using the scheme 'relief for second-hand goods' to secure a reduction of tax on the sale. What is the GST implication on the sales of the cars?**

You are making a taxable supply of goods when the cars are sold after 1 April 2015 and therefore are chargeable to GST. However, you may use the 'scheme' provided the previous importation or sale of the cars to you were subject to sales tax and you are an approved person to use the scheme.

Bad Debt

- 24. Can I claim refund on bad debts incurred under the Sales Tax Act 1972 and Service Tax Act 1975?**

Yes, the claims for refund on bad debts can be done under the provisions of the Sales Tax Act 1972 and the Service Tax Act 1975.

IMPORT

- 1. Are all goods subject to GST upon importation?**

Yes, all goods are subject to GST. However, you do not have to pay GST on your imported goods if a relief is given under Goods and Services Tax (Relief) Order 2014. GST is suspended if you enjoy facilities under Approved Trader Scheme (ATS) or under a Warehousing Scheme. No GST will be levied on supply of goods which are exempted and zero-rated.

- 2. How and when do I pay the GST on import?**

GST on imported goods needs to be declared in a specific customs declaration form and the tax must be paid at the point of entry. GST is generally payable before the goods are released from customs control.

- 3. Can an importer suspend the payment of GST on imported goods?**

Yes, an importer who is a taxable person may be able to suspend the payment of GST on imported goods by participating in the Approved Trader Scheme (ATS) and Warehousing Scheme.

For further information please refer to *Guide on ATS and Warehousing Scheme*.

- 4. My clerk unintentionally made a mistake during importation and later realized he overpaid the GST. Can I claim GST overpaid even though I am not a GST registered person?**

GST Act 2014 allows any person who overpaid or erroneously paid any GST to make a claim within six years from the date of overpayment or erroneous payment by filling up the prescribed form and submit it together with sufficient evidence such as invoice, K1 or K9, Customs Official Receipt (COR), bill of lading and other related documents to the relevant customs office.

5. My auditor informs me that I had short paid GST on certain importations made by me. How do I do the correction?

You have to notify in writing to the proper officer of customs at the point of import on the short payment. You can make the payment once you have received the notice of short payment. Then, you can claim the payment as your input tax credit if you are a registered person.

6. If my company does not belong in Malaysia, can my company appoint an agent in Malaysia to import and supply goods on my behalf?

A company which does not belong in Malaysia and is liable to be registered or who intends to be registered voluntarily is required to appoint an agent to act on his behalf and such agent, whether or not he is a taxable person, shall be liable for the tax and comply with any other requirements imposed under the GST law as if the agent is the person who does not belong in Malaysia.

7. As an agent who acts for an overseas principal whose total value of turnover does not exceed the prescribed threshold, do I have to declare importation of goods on behalf of my overseas principal under my own name?

Yes, because such importation is deemed to be your own importation and if you are registered person, you are liable to account for GST on the importation of goods as well as on the supplies that you made on behalf of the principal. Furthermore, any importation is subject to GST whether you have reached the prescribed threshold or not.

8. ABC Sdn. Bhd. has imported 1,000 sets of telephone with a value of RM50,000.00 and are being stored in a licensed warehouse under the Customs Act 1967. The storekeeper realized that there is a shortage of 200 sets of the telephone while depositing the goods into a licensed warehouse. Is there any implication of GST on the goods lost?

The goods lost are still subject to GST. However, ABC Sdn. Bhd. may apply for remission on GST paid together with any customs duty, if any, to the Director General.

If the goods are lost after removal from customs control on account of damage, theft or loss, no abatement of GST and customs duties shall be allowed.

- a) Calculation of GST and customs duty payable on goods lost under customs control is as follows
- b) Assuming import duty is 10% and GST at 6%.

Particular	Amount (RM)
Total value of goods based on invoice and Bill of Lading	50,000.00
Total value of goods (200 sets of telephone) lost (certified by custom officer)	10,000.00
Import duty at 10% for 200 sets of telephone	1,000.00
GST payable at 6% on RM11,000.00	660.00
Total amount GST and duty payable	RM1,660.00

- c) ABC Sdn. Bhd has to pay **RM1,660.00** for the lost goods, unless remitted by the Director General.

9. DEF Sdn Bhd has imported 2,000 units of LED TV from Korea with a price of RM2,000,000. The consignment has arrived at Port Klang on 1 October 2015. The description and quantity of the goods specified in the Bill of Lading and invoice are the same as those imported. Before the goods released from customs control 500 units of LED TV valued at RM500,000 were found to be short landed. Notice of short landing was issued by the supplier and followed by short landing certificate from the shipper. The balance of the goods will be shipped within a period of one month. How does the company pay the GST and customs duties for the short landed goods?

GST and customs duties, if any, is chargeable on the value of the full consignment of goods (including the short landed goods) as stated in the invoice and Bill of Lading upon arrival in Malaysia. Thus, GST and customs duties, if any, will not be charged when the short landed goods arrived later.

DEF Sdn Bhd is required to produce the supporting documents and evidence such as K1, invoice, Bill of Lading, Short Landed Certificate, letter from supplier and other documents as requested by the proper officer of customs at the point of import.

10. What is the treatment for goods temporarily exported for repair and subsequently re-imported?

Goods exported temporarily for repair and subsequently re-imported is given relief under item 16 of the Goods and Services Tax (Relief) Order 2014. However, any replacement of parts and any components added are subject to GST at the time of importation.

11. A local company would like to lease a machinery from an overseas company for a few years. Is there any GST implication on leased goods?

For the purpose of GST, leasing of machinery is a supply of services and subject to GST which is imposed on each successive lease payment. However, the leasing of goods imported from overseas is treated as importation of goods into Malaysia and is subjected to GST where the value of the machinery is determined by the rule of valuation as prescribed under the Customs Regulations (Rules of Valuation) 1999. The value is the transaction value of the goods, that is, the price paid or payable for the goods when sold for export to Malaysia, adjusted in accordance with regulation 5 of the same Regulations. In this case, the imported goods are leased from overseas. Thus, there is no transfer of ownership and no sale has taken place. Therefore, transaction value does not apply in the case of leased goods.

- (a) The importation value must then be determined by the order of application of rule of valuation as stated in regulation 3 of the same Regulations which are as follows:
- i. the transaction value of identical goods under regulation 6;
 - ii. the transaction value of similar goods under regulation 7;
 - iii. the deductive value of the imported goods under regulation 8;
 - and
 - iv. the computed value of the imported goods under regulation 9.
- (b) If none of the above values can be used as a basis of valuation for such goods, the valuation may be done under regulation 10, using any other method of valuation above but flexibly interpreted and reasonably adjusted to the extent necessary to arrive at a customs value.
- (c) Under the flexible method of valuation, the importation or customs value of leased goods is based on the total rent or lease payable, excluding the maintenance cost in Malaysia, which is payable to the foreign firm. GST on the leased goods will be imposed on the aggregate of the importation value and customs duties, if any.
- (d) For instance, the importation value is may be calculated according to the following formula:

$P + \frac{P}{(100\% + x\%)} + \frac{P}{(100\% + x\%)^2} + \frac{P}{(100\% + x\%)^{n-1}}$

where P = leasing payment per year;

(e) n = number of years; and

(f) x% = prevailing interest rate.

- 12. ABC Sdn. Bhd. has decided to lease second-hand machinery from an overseas company, i.e. XYZ Pte. Ltd. for a duration of 3 years. According to the terms of contract, maintenance costs incurred by Company A are RM100,000 per annum and are claimable from XYZ Pte. Ltd. The machinery is leased at a value of RM2,000,000 per year exclusive of maintenance costs. What is the import value and GST on the leased machinery?**

The import value of the machinery cannot be determined by the transaction value because there is no transfer of ownership of the machinery. The importation value must then be determined by the order of application of rule of valuation as stated in regulation 3 of the Customs (Rules of Valuation) Regulations 1999. Assuming that such rule of valuation cannot be used, the flexible method of valuation can be used for determining the customs value (CV).

- i. Under the flexible method of valuation, the importation value for the leased machinery is calculated according to the following formula:

$P + \frac{P}{1.05} + \frac{P}{(1.05)^2} + \frac{P}{(1.05)^{n-1}}$
--

Where ;P = leasing payment per year;
= RM2,000,000

n = number of years;
= 3

5% = prevailing interest rate.

- ii. Assuming import duty is 25% and GST is 6%,

Customs Value	$2,000,000 + 2,000,000 / 1.05 + 2,000,000 / (1.05)^2$ $2,000,000 + 1,904,761.90 + 1,818,181.82$ 5,722,943.72
Import Duty	$5,722,943.72 \times 25\%$ RM1,430,735.93
GST	$[5,722,943.72 + 1,430,735.93] \times 6\%$ RM429,220.77
Total GST and customs duty payable is	$RM429,220.77 + RM1,430,735.93$ <u>RM1,859,956.60</u>

13. Is there any GST implication on motor vehicle driven by a Singaporean entering Malaysia through Tambak Johor for a one month stay in Malaysia?

The car is exempted from custom duty under item 21 of Customs Duties (Exemption) Order 1988 if it has been registered or licensed in any foreign country. Similarly, a relief for GST is given under item xx of the Goods and Services Tax (Relief) Order 2014 subject to any conditions that the Director General may deem fit to impose.

14. What is the GST treatment on imported production samples?

Trade samples are given relief under item 18 of the Goods and Services Tax (Relief) Order 2014 at the point of importation. However, the trade samples are not to be sold, consumed, put to normal use, hire or reward while in Malaysia.

15. What are the types of document to be kept?

All documents related to importation must be kept for a period of seven years. Any failure to do so is an offence under GST Act 2014. Documents that have to be kept are as follows:

- a) Import declaration, form Customs No.1 (K1)
- b) Commercial invoice
- c) Bill of lading
- d) Shipping note
- e) Insurance note
- f) Payment document, such as documentary credit, debit advice, bank statement, etc.
- g) Sale invoices
- h) Debit and Credit note
- i) Shortage/short-landed certificate
- j) Tally sheet from Port Authority
- k) Other related documents

EXPORT

1. If my company does not belong in Malaysia, can my company appoint an agent in Malaysia to supply and export my products on my behalf?

Yes, as a company that does not belong in Malaysia you can appoint an agent in Malaysia, to supply and export goods on your behalf. If the goods are supplied by the agent on your behalf and the value of total supply exceeds the prescribed threshold, the supply shall be deemed to be made by your agent. Therefore, your agent is liable to account for GST on the supplies that he made on your behalf and he also can zero rate the goods when he exports them. The deemed supply that your agent made must not include any supply that he made in his own name.

2. As an agent who act for a non-taxable overseas principal, do I have to declare exportation of goods on behalf of my overseas principal under my own name?

Yes, because such exportation is deemed to be your own export.

3. I made a sale of goods to an overseas client. Upon his request, the goods were delivered to a local forwarding agent, who arranges them to be exported to my overseas client. Do I have to charge GST to my overseas client?

No GST is charged to your overseas client, if the export is done in your own name as the supply of goods is a zero-rated supply. However, you have to keep the proof of export such as export declaration form, bills of lading/airway bills, packing lists/delivery notes and other documents related to the export.

- 4. My local customer claimed that the goods he has purchased from me will be exported and requested me to zero-rate the goods. Can I zero rate my supply to him?**

No, you have to charge the GST since the supply is a local supply. Your customer can zero rate the goods when he exports such goods.

- 5. If I am a toll manufacturer under Approved Toll Manufacturer Scheme (ATMS), what is the GST treatment on treated or processed goods that I export to my overseas principal?**

Since the goods belongs to your overseas principal there is no supply made by you. However, you have acted as an agent on behalf of your overseas principal. Thus, you are deemed to have made the supply and entitled to zero rate such supply that you export.

- 6. Is GST imposed on raw materials and components used in the manufacture of goods that are meant for export?**

Yes, GST is chargeable on raw materials and components acquired by you from any GST registered suppliers. If you choose to import the raw materials and components, GST is payable at the time of importation. However, if you are a GST registered person, you are able to claim all input tax incurred by you for making taxable supply. The goods subsequently exported by you will be zero-rated.

- 7. What is the GST implication on machinery that I leased out to an overseas company?**

When you send the machinery to your lessee abroad, you should treat the goods as your export and zero rate the supply. When the goods are subsequently brought back into Malaysia from your overseas lessee, GST is payable on the machinery at the time of importation. Importation value is determined by the rule of valuation as prescribed under the Customs (Rules of Valuation) Regulations 1999. If you are a registered person, you can claim the GST paid on the machinery as your input tax credits.

For further details, please refer to *Guide on Import* and *Guide on Hire Purchase and Leasing*.

8. What types of export document records needs to be kept?

All documents related to exportation must be kept for a period of seven years. Any failure to do so is an offence under GST Act 2014. Documents that have to be kept are as follows:

- a) Export declaration, form Customs No.2 (K2)
- b) Permit to Tranship or remove goods (K8) e.g. Goods removed for outright export from Free Industrial Zone, Pulau Pinang to LTA Bayan Lepas, Pulau Pinang or goods removed from Public Bonded Warehouse to LTA Bayan Lepas, Pulau Pinang.
- c) Sales invoices
- d) Bill of lading
- e) Shipping note
- f) Insurance note
- g) Payment document, such as documentary credit, debit advice, bank statement, etc.
- h) Debit and Credit note
- i) Tally sheet from Port Authority
- j) Short ship/short landed certificate
- k) Other documents related to export

DESIGNATED AREA

Supplies within and between the designated areas

1. I am a trader in Labuan. If I sell goods only within the designated area, is there any GST implication on the goods?

There is no GST implication on supply of goods that you make only in Labuan as it is a designated area.

2. Further to my question in Q1 above, if I engage a financial adviser from a bank in Labuan for my business purposes, is there any GST due on the service rendered?

There is no GST imposed on the services provided within the designated area by a bank in Labuan if the bank is incorporated under the Labuan Financial Services Authority Act 1996 (LFSA)(the supplier belongs in Labuan). However, if the bank is a branch where its headquarters is established in Kuala Lumpur, then the supply is subject to GST as the supplier belongs in Malaysia.

3. I am a manufacturer in Langkawi. If I sell my goods to a buyer in Labuan, is GST chargeable on the sale?

Supply of goods between designated areas is not subject to GST. Thus, there is no GST chargeable on the supply.

4. Further to the question in Q3 above, how about the freight services between the designated areas?

Any supply of freight services between designated areas is standard rated.

- 5. If I, as a trader in Langkawi seek advisory services from a consultant in Labuan for my business purposes, does the advice attract GST?**

Such services provided between designated areas do not attract GST.

- 6. I am a businessman in a designated area. If I import goods for the furtherance of my business, is there any GST implication on the imported goods?**

No GST is chargeable on goods imported into a designated area from overseas. Declaration of goods must be made in Customs No.1 form at the point of importation in the designated area.

- 7. Further to my question from Q6, if I purchase goods from a person in Malaysia, does the purchase attract GST?**

If you purchase goods from a person in Malaysia, the goods supplied from Malaysia to a designated area are zero rated.

- 8. As a businessman in Langkawi, if I acquire goods from excise warehouse or bonded warehouse in Malaysia does the acquisition attract GST?**

Supply of goods from Malaysia to designated area is a zero rated supply. Therefore, there would be no GST incurred when you make purchases from excise warehouse or bonded warehouse. However, based on customs procedure, the movements of the goods from such premises must be declared in Excise No.8 and Customs No.8 forms respectively. The goods must be transported by bonded truck or sealed container approved by Customs from the premises to the customs office in the designated area.

- 9. If I buy a car from a trader in Langkawi for the furtherance of my business in the designated area, is the purchase subject to GST?**

No GST chargeable if a car is purchased in Langkawi irrespective of whether the car is bought for private or for business use because cars supplied in Langkawi are not subject to GST. However, the car must be used in Langkawi. If it is used in Malaysia, then GST has to be paid unless the conditions to the relief from payment of GST under the GST (Relief) Order 2014 are complied with. Similar treatment will apply for cars bought in Labuan. However, vehicles brought into (from overseas or Malaysia), or supplied in Tioman are subject to GST at a standard rate.

Supplies made between the designated area and the principal customs area

10. If I am a car dealer in Langkawi, do I have to pay GST on vehicles bought from Malaysia as well as on imported cars?

There is no GST imposed on cars imported from overseas into Langkawi. Imported cars from overseas must be declared in Customs No.1 form at the point of importation in Langkawi. Cars purchased and transported from Malaysia are zero rated. Declaration of the cars must be made in accordance with where the cars are removed from. Cars transported from excise premise in Malaysia to a designated area must be declared in Excise No.8 and Customs No.2 forms in Malaysia. If cars are removed from a licensed warehouse under the Customs Act 1967, declaration of the cars must be made in Customs No.8 form. Such forms shall then be endorsed by the proper officer of customs as a proof of transportation from Malaysia at the checkpoint in the designated area.

11. If I am an operator in a free commercial zone at Port Klang, what is GST implication on my goods supplied and transported to a designated area?

GST on supply of goods from the free commercial zone to a designated area is not subject to GST unless they are prescribed by the Minister in the Goods and Services Tax (Imposition of Tax for Supplies in respect of Designated Areas) Order 2014. The goods transported into designated area must be declared in Customs No.8 form

12. I am an exporter whose goods are currently warehoused in an Inland Clearance Depot (ICD). What is the GST treatment if I were to transport my goods to Tioman?

When the goods are transported from ICD to Tioman, the goods are subject to GST at zero rate.

13. I am a trader in Penang. If I have purchased goods locally for transporting to my customer in Labuan, can my local purchase be zero-rated?

Your purchase cannot be zero rated by your supplier because it is a local supply. You can zero rate the goods when you transport them to Labuan.

14. If a machine needs to be transported from Malaysia to Labuan for repair and is subsequently returned, what is the GST treatment on the movements of such goods?

GST is zero rated when you transport the machine to Labuan for repair. Subsequently, when the repaired machine is returned back to Malaysia, relief is given from payment of GST under item 14, First Schedule of the Goods and Services Tax (Relief) Order 2014 subject to conditions imposed. An important condition is that GST has to be paid on the value of any new parts or components added to the machine.

- 15. I have a company and my office is located in Langkawi. However, the premise where the business operation is conducted is located at the mainland in Kedah. I issue the bill for the taxable supplies that I sell to companies in Malaysia from my office in Langkawi using the address there. Do I have to account for my output tax?**

Your company's office is located in a designated area but you supply goods from a premise in Malaysia to companies which are also located in Malaysia. Hence, it is a local supply which is subject to GST at a standard rate. You have to charge GST as your output tax and account the tax in your GST return if you are a registered person.

- 16. As a businessman in Labuan, I hired a consultant from Kuala Lumpur to advise me on my business prospect, is there any GST implication on the consultation services provided to me?**

The service provided to you shall be standard rated because the service provider belongs in Kuala Lumpur.

- 17. Do incidental services such as freight and handling charges provided by companies located in Malaysia for transporting goods to a designated area attract GST?**

Services such as freight and handling charges provided by companies located in Malaysia for transporting goods would attract GST even though the services are provided to a designated area and the goods are zero-rated.

- 18. Are services provided from outside Malaysia into designated areas subject to GST?**

Services provided from overseas into designated areas are imported services. There is no GST chargeable on such services.

- 19. I am a manufacturer in Langkawi and I would like to export my products to South Africa. What is the GST implication on the exportation of such goods?**

Goods that you wish to export to South Africa or to any other countries are zero-rated. Declaration of exported goods must be made in Customs No.2 form in the designated area.

- 20. I am a trader in Langkawi and sell kitchenware to small retailers in Kedah. Is GST chargeable on the sale?**

If you sell your goods to a person in Malaysia, the goods supplied to Malaysia are deemed to be imported into Malaysia. Thus, import duty and GST shall be payable at the customs office in Langkawi. Declaration of the goods must be made in Customs No.1 form.

- 21. If I am a trader in Malaysia and I would like to purchase goods from Labuan, where and how should I pay GST on the goods that I brought into Malaysia?**

Goods that you purchased from Labuan are deemed to be imported goods from a designated area into Malaysia. Hence, customs duty and GST are imposed at the exit point in Labuan. Since you are in Malaysia you can declare the goods yourself or appoint an agent and register the name of such agent with the proper officer of customs in Labuan for customs clearance purposes.

- 22. Further to my question in Q21 above, can I pay the tax at the entry point in Malaysia if I have not appointed an agent for such purposes?**

If you have not appointed an agent for customs clearance purposes, the exporter in the designated area shall be deemed to be your agent, or the proper officer of customs may in lieu of accepting the duty and GST in the designated area, direct that such duty and GST be paid at the entry point or any place within Malaysia at which the imported goods may be produced to the customs.

- 23. If I am a manufacturer in Malaysia and I am also a participant under Approved Trader Scheme (ATS), do I have to pay the tax at the point of importation in a designated area if I purchase goods from the designated area?**

If you are a participant under ATS, you do not have to pay GST on your deemed imported goods at the point of importation in the designated area as the tax is suspended under this scheme. However, you must declare the goods at the approved entry point in Malaysia.

For further information, please refer to *GST Guide on Approved Trader Scheme*.

- 24. I am a manufacturer in Selangor and I have an agreement to lease a machine from a trader in Labuan for a period of two years. The equipment will be sent to my premise in Selangor and will be returned to Labuan as soon as the contract expires. What is the treatment of GST on the lease?**

Under the normal rule of GST, lease of goods is a supply of services and GST is imposed on the payment made regularly. However, if the lease involve goods transported from a designated area into Malaysia, the lease is deemed to be an importation of goods. In your case, when the machine is sent to you, that machine is subject to GST at the exit point in Labuan. Nevertheless, if you are a registered person, GST paid on the import is claimable as your input tax credit. Please refer to paragraph 9 above.

25. Are goods purchased and taken out from a designated area by tourists into Malaysia subject to GST?

Goods sold in the designated area to tourists regardless of whether they are local or from overseas are free from duty and GST. However, local tourists must prove that they have visited Langkawi and Tioman for a period of not less than 48 hours at the point of departure in the designated area to be given relief from the payment of GST. In the case of Labuan, local tourists would have to provide proof of their stay for a period of not less than 24 hours. Relief from payment of GST would be subjected to conditions stipulated in the GST (Relief) Order 2014.

26. I am a resident in Langkawi. I would like to go to Penang by car which I registered in Langkawi. Is there any GST implication on the car driven out of Langkawi to Penang?

The car can be brought out from Langkawi to Penang where relief from payment of GST is given subject to conditions in the Goods and Services Tax (Relief) Order 2014. The car may remain in Penang or any part in Malaysia, not exceeding 30 days per trip subject to a maximum period of 90 days in a year.

27. Is there any GST implication on the cars registered in Tioman when they are driven out of the island?

There is no GST implication on the cars brought into Malaysia from Tioman since such cars are subject to GST when they are registered for use in the island.

28. I have a construction company and my office is located in Kota Kinabalu. However, the site office is located in Labuan. I issue the bill from Kota Kinabalu for the services provided by me. What is the GST implication on the services provided from the designated area if my customers are in Malaysia and in the designated area as well?

Supply of construction services is subject to GST at a standard rate because the service provider belongs in Malaysia.

29. Are incidental services such as freight and handling charges for transportation of goods provided by a transport company located in a designated area subject to GST?

Services and other charges provided by a company located in a designated area are not subject to GST if they are supplied within designated areas.

30. I am an operator in Labuan. I supply machinery equipment and spare parts to an oil rig sites at the sea of Sabah coastal area. What is the GST treatment on the spare parts transported to the oil rig?

Your transportation of goods from Labuan to a person in the oil rig sites is deemed to be imported into Malaysia. Thus, it is subject to GST

- 31. NBI and Co. is a legal firm located in Kuala Lumpur. The firm has a few branches including in Langkawi. A hotel in Langkawi has bought a building in that island and engaged the legal firm for its legal services. NBI and Co. branch in Langkawi has provided the legal services which includes preparation of a contract and then issued the bill to the hotel. Is the fee for the legal services subject to GST?**

The legal fee charged by NBI and Co. branch in Langkawi to the hotel is not subject to GST because such supply of services is considered as supply of services made within the designated area.

- 32. CC Consultancy (located in Malaysia) was engaged by a hotel in Labuan to advise the hotel on marketing strategy. The firm sent one of its officers to the island to give consultancy services. Are the consultancy services subject to GST?**

When the firm billed his client, it has to charge GST as the supply of services is made from Malaysia to the designated area and therefore is subject to GST.

- 33. BB Advertising Sdn Bhd (located in Alor Setar) has obtained an order from a company in Langkawi to provide an advertisement in Langkawi. When BB Advertisement has completed providing the advertisement and bill his client, does the company have to charge GST?**

The company has to charge GST as the supply of services is made from Malaysia to Langkawi and not in Langkawi.

AUCTIONEER SERVICES

Auction Services

- 1. I am an auctioneer acting as an agent under my own name. Must I pay GST on goods that my principals send to me for auction?**

Goods supplied to you for auctioning are disregarded for the purpose of GST, meaning you do not have to pay any GST on such supplies. However, when such goods are subsequently auctioned off and if the owner of the goods (seller) is a taxable person, output tax has to be accounted by you.

- 2. Who should account for output tax on the goods sold in an auction if the owner of the goods is a taxable person?**

Under section 66(4) of the GST Act 2014, the auctioneer is liable to account for GST on the supply of auctioned goods made on behalf of the principal who is a taxable person irrespective of whether the auctioneer is a taxable person or not.

Tax Invoice

- 3. I am an auctioneer who is not GST registered, if I auction goods belonging to a taxable person, can I issue tax invoices?**

No, you cannot issue tax invoices even if you are auctioning goods belonging to a taxable person if you are acting in your own name. However, you have to issue a document containing the particulars of the tax chargeable and this document will be treated as a tax invoice provided by the taxable person.

- 4. As an auctioneer, am I required to find out the GST status of the owner of goods before I auction goods on his behalf?**

Yes, you are required to do so. Before you agree to auction goods for anybody, you must first inquire his GST status. You can counter-check his GST status from our GST website. Determining the GST status of owner of goods is necessary as you are liable to account for output tax on any goods which you auction on the owner's behalf if he is a taxable person.

Pricing

- 5. Is the auction price of goods inclusive of GST?**

The auction prices for goods which belong to the taxable person must be treated as GST inclusive. If the goods to be auctioned are taxable goods, you as the auctioneer must inform the bidders before the auction that the goods are subject to payment of GST. This is to differentiate that the goods sold is not your goods but you are liable to account for GST on the supply.

Time of Supply

- 6. In an auction when is the time of supply for the auctioned goods?**

The time of supply is the time when the auctioneer issues the document or goods are handed over to the successful bidder or when the payment received whichever is the earlier.

Auction Deposit

- 7. In certain cases, bidders to an auction may be required to furnish a certain amount of deposit to the auctioneer. Would such deposit attract GST?**

Deposit paid as a condition to an auction does not attract GST until the deposit become part of the payment made by the successful bidder to the auctioneer.

- 8. What is the GST treatment on a deposit that is forfeited when the successful bidder failed to pay the balance of payment before the stipulated date?**

Such deposit is deemed to be a payment made on a taxable supply if such payment is meant for payment of the auctioned goods. Output tax is chargeable on the deposit forfeited. Any commission derived from the part payment by the auctioneer is also a taxable supply.

- 9. What is the GST treatment on entry fees (a sum of money paid by the owner to the auctioneer to auction goods) if the auction is unsuccessful?**

If goods put up for auction is not sold and the entry fee is forfeited, the auctioneer has to account for output tax on the forfeiture because it is a payment for services rendered by the auctioneer.

Auction Relating To Government Assets

- 10. If a governmental department carries out the auction of its own vehicles, would that attract GST?**

GST Act does not apply in relation to supplies made by Government departments as they are treated as out of scope supplies.

- 11. Are vehicles that are owned by the Government but auctioned by a professional auctioneer still regarded as out of scope supplies?**

Yes, as the Government is the one who is making the supplies of the vehicles.

- 12. In furtherance to question in Q11 above, would the commission charge to the Government, being an out of scope supplies attract GST?**

Commissions charged by an auctioneer to the Government for the auction of vehicles or any other goods are still subject to output tax as the commissions are charged by the auctioneer for the services rendered.

Auction For Non-Resident

- 13. I was engaged by a non-resident who is not registered for GST to auction his goods in Malaysia. What is the GST implication on the goods imported and its subsequent sales through an auction?**

If you are importing and supplied for a non-resident person, you are deemed to be the principal importing the goods. You have to pay GST on the goods that were imported on behalf of your principal. If you are a registered person, you can claim input tax credit on the GST paid for the importation, and you must account for output tax on the goods that are subsequently auctioned by you.

For further details, please refer to *Guide on Agent*.

- 14. I was engaged by a non-resident from overseas to auction his goods in Malaysia, but currently the goods are located outside Malaysia. What is the GST implication on the goods if I manage to auction them?**

Goods located overseas would not be subjected to output tax even if they are auctioned here (in Malaysia). GST on the auctioned goods would be imposed at the time of importation when the successful bidder brings the goods back into Malaysia.

- 15. Must I account for output tax on commission charged to my overseas client if the auction is carried out on his behalf in Malaysia, but the auctioned goods remains overseas?**

Services performed for a non-resident in relation to land and goods situated outside Malaysia is treated as international services. You may zero-rate the commission to the non-resident.

Miscellaneous

- 16. I am an auctioneer and own a warehouse licensed under section 65 of the Customs Act 1967. What is the GST implication on goods that I brought from overseas and stored in the licensed warehouse while waiting to be auctioned?**

GST on goods is suspended when the goods are stored in your licensed warehouse. GST would only be due and payable when the goods are taken out from the licensed warehouse by the successful bidder or any other person.

- 17. In furtherance to question in Q16 above, how does the successful bidder account for GST and on what value should he declare?**

The successful bidder has to pay GST and any other taxes using a Customs No. 1 form. The price that he bid and paid for the goods in the auction would be treated as the last supply which is subject to customs duty and GST.

For further information, please refer to *Guide on Warehousing Scheme*.

- 18. What are those supplies that must be included by an auctioneer when determining his threshold?**

Normally for an auctioneer, the commissions earned by him would form the basis of his turnover in calculating the threshold. However, if the auctioneer is also making taxable supplies other than those related or incidental to his profession as an auctioneer, such other turnovers would be included in the calculation of his threshold for GST purposes

AGENT

1. As an agent, how am I involved with GST?

As an agent, you will usually be involved in at least two separate supplies at any one time:

- a) The supplies made between your principal and the third party; and
- b) The supply of your own services to your principal, for which you will charge a fee or commission. The normal GST rules apply to your services as an agent.

2. As an agent, do I have to charge and account for GST?

As an agent, you are providing a supply of services to the principal and the third party. Generally, you do not own the goods you deal with. Hence, the sale of the goods is not your supplies. Your supply of services is a taxable supply. Therefore, if you are registered for GST, you are required to account for GST on the commission you received. However, if you are not a registered person, you cannot charge GST on the services that you provide.

3. As an agent, how do I calculate my turnover for registration purposes?

The calculation of your turnover will be on:

- a) the value of services to the principal (i.e. commission charges).
- b) the value of taxable supplies that you make in your own name, but **excludes** the value of supplies arranged for the principal (since the supply is actually made by the principal)

4. Can tax invoices be issued by agents?

When an agent sells goods and services on behalf of a principal, the supplier for GST purposes is the principal and not the agent. Therefore, if the principal is a registered person, the tax invoice must be issued by the principal.

5. Do I have to apply to RMCD if I want to act as an agent for my overseas principal who is liable under the GST Act?

If an overseas principal is liable under the GST Act, he has to be registered through an agent appointed by him. Therefore, as a person appointed by the overseas principal, you must apply to RMCD to be such agent. You need to submit supporting documents such as an authorised letter from the overseas principal. Upon such registration, you will be held accountable for GST liabilities and need to file returns on behalf of the overseas principal.

You will also have to keep separate records for the overseas principal. If you are a taxable person yourself, you must also register yourself separately.

6. Who is accountable for GST if I import and supply the goods locally on behalf of my overseas principal who is not a taxable person?

If you are importing and supplying the goods on behalf of an overseas principal who is not a taxable person, the goods will be treated as imported by you if you declare the goods in your own name. However, the subsequent supply is considered as a supply made by you. You are accountable for GST and you must charge output tax on the sales if you are a GST registered person and may claim GST paid on the imported goods.

REPOSSESSION

1. I am a person appointed by a bank to repossess goods from a hirer. What is my GST liability?

Although you may repossess the goods, you are not the actual reposessor. You are only acting as an agent for the bank. Your GST registration status would depend on your total fees earned as well as any other taxable supply you make if any, for the purposes of determination of threshold. If your total turnover exceeds prescribed threshold you need to register for GST. Once registered, you must charge GST on any taxable supply that you make.

2. How about repossession carried out by a court bailiff acting on a court order. Does such repossession attract GST?

The court bailiff also acts as an agent on behalf of the party who succeeded in obtaining judgment from the court. Whether the goods or property repossessed by him attracts GST would also be determined by the GST status of the owner of the said goods or property. The fee the bailiff charges for his service would not be subjected to output tax as he is only carrying out his judicial duties as a bailiff. Such supply is regarded as an out of scope supply for the GST purposes.

3. In the act of repossession when does the point of supply arise for repossessed goods?

The act of repossession is not treated as a supply. However, when the repossessed goods are sold, the point of supply is the time when the sale takes place and the supply shall be deemed to be made on behalf of the taxable person.

4. As a reposessor must I need to know more about other aspects of GST?

The following guides may be of interest to you:

- i. GST registration;
- ii. Agent
- iii. Auctioneer
- iv. Tax Invoice and Record Keeping

TRANSFER OF GOING CONCERN

- 1. What is the GST implication on those business assets that are not transferred when I am deregistered from GST?**

You must immediately account for output tax on those assets that are not transferred by you.

- 2. I am a non-registered person and in the process of taking over a business from a friend. Despite the takeover, my annual turnover is not expected to exceed the prescribed threshold for GST registration. Can I apply for voluntary registration and treat the take over as a TOGC?**

You may apply for voluntary registration and if your application is approved under the voluntary registration, you may treat the transfer as a TOGC. However, under voluntary registration, you must remain registered for at least two years.

PARTIAL EXEMPTION

Alternative Method of Apportionment

- 1. Can a taxable person who has submitted a proposal for an alternative method of apportionment refuses to accept the counter proposal made by the Director General of Customs?**

Yes, but when the taxable person refuses the counter proposal, then he must use standard method of apportionment. However, he may appeal to the Director General of Customs for consideration.

- 2. Does a taxable person who is using an alternative method needs to apply when he wishes to revert to the standard method of apportionment for his business?**

Yes, he must obtained prior written approval before he can revert to the standard method even though the standard method is the specified default method for a new mixed supplier.

- 3. What are the contents that must be included in a proposal to use an alternative method?**

Generally, a proposal for an alternative method must be reflective and specifically relevant to the taxable person's business. It must also be practical, easy to verify and able to clearly determine the attribution of input tax to the supplies made by the taxable person. The apportionment to be made based on the proposed method must be fair and equitable.

Issues on The Annual Adjustment

4. **When a change in law effects a change in the intended use of an input, do the “over-deduction” or “short claimed” provisions apply?**

No, for the purpose of apportionment, the nature of any supply at the time the input tax was first attributed would not be affected by a change in law later on. Consequently, the liability of the taxable person would not be affected. Thus, the “over-deduction” or “short claimed” provisions would not be applicable.

5. **When a taxable person has made an apportionment, but the input was not put to use as supplies could not be made due to unforeseen circumstances, should the taxable person pay back the input tax that he has recovered?**

As long as the input is not put to use, no pay back is required. However, if there is a change in its subsequent use, then the provision of “over-deduction” or “under claimed” would be applied to it, as the case may be. But, if the change takes place before the end of a tax year or longer period, the annual adjustment would take care of the change.

6. **In the case of transfer of a business as a going concern made by a mixed supplier, is the apportionment and adjustment provision applicable?**

Any input tax incurred on expenses that relates to the transfer of a mixed supplier's business is treated as residual input tax and has to be apportion accordingly by both the transferor and transferee respectively.

CAPITAL GOODS ADJUSTMENT

Working Out Capital Goods Adjustment

1. **Initially I acquired a machine solely for the purpose of making taxable supply. I have recovered fully the input tax incurred. Later I used the machine for both taxable and exempt supplies. Do I have to make an adjustment under the Capital Goods Adjustment?**

If you begin to use the item for making exempt and taxable supplies, you have to make adjustments under the CGA if it falls within the adjustment period.

2. **Is the *De Minimis* Rule also applicable under the scheme?**

The *De Minimis* Rule is taken into account when determining the claimable percentage of input tax in an interval. Further explanation on *De Minimis* limit is provided in the Guide on Partial Exemption.

- 3. I am a registered person and acquire a machine for RM500,000 to make 55% standard-rated supply and 45% zero-rated supply. Do I need to do capital adjustment on the machine?**

No, because you are actually making wholly taxable supplies as zero-rated supplies are also taxable supplies.

- 4. I am a mixed supplier and acquire a machine for RM1.5 million to make 50% standard-rated supplies and 50% exempt-supplies for a period of 7 years. Do I need to do capital adjustment on the machine?**

You may make initial input tax claim amounting to 50% and in the subsequent years if the proportional taxable use of the machine does not change, no adjustment is necessary. However, you are required to make capital goods adjustment when there is a change in proportional taxable use of the machine.

- 5. Is there any restriction on the amount of tax claimable from the disposal of a taxable capital item?**

No, on condition the disposal value of the taxable capital item is based on actual consideration. However, if it is disposed of to a connected person who is not entitled to claim input tax, the value must be based on open market value.

Accounting For Adjustments

- 6. When do I have to account for adjustments?**

The GST amount on capital goods adjustment must be declared in your GST return for the taxable period immediately after the end of each relevant interval.

Example 1

If your second interval ends on 31 December 2016 and assuming that you are on a quarterly taxable period you will have to include the amount of adjustment in the tax return for the quarter from January to March 2017. The same requirement applies to all subsequent intervals.

Example 2

If your second interval ends on 31 December 2016 and assuming that you are on a monthly taxable period, you will have to make the adjustment and include the amount of adjustment in the tax return for the taxable period of January 2017. The same requirement applies to all subsequent intervals.

For capital goods disposed off before the adjustment period ends, a final adjustment has to be made and the GST amount on the final adjustment must be declared in your GST return for the taxable period immediately after the ends of the interval or tax year (if applicable) where the disposal took place.

Example 3

Assuming that your first interval for a computer, acquired by you, ends on 31 December 2016 and you dispose it off on 20 April 2017. You will have to make a final disposal adjustment inclusive of the remaining 3 intervals in your GST return for the period of January 2018, that is required to be submitted to the Customs, latest on the last working day of February 2018 (if registered person subject to monthly taxable period).

When you are deregistered as a registered person, a final adjustment also has to be made and the relevant GST amount must be declared in your GST return for the taxable period ending on the effective date of deregistration.

Example 4

Assuming that you are deregistered on 16 July 2016, you would have to make a final adjustment on all your capital goods which came under the scheme and declare the total amount in the GST return for July 2016.

Other Related Matters On Capital Goods Adjustment

- 7. I am a mixed supplier and I purchased a machine worth RM200,000 solely for the purpose of reselling. Does the Capital Goods Adjustment apply to this machine?**

Since you have not capitalized the asset and it is not used for making both taxable and exempt supplies, no Capital Goods Adjustment is necessary.

- 8. If my machine were temporary put off for 2 months for maintenance work, what would be the treatment like on its capital adjustment?**

Capital item temporary put off or not in use is still considered as if it were in normal use.

- 9. What would happen if a capital item is lost, stolen or destroyed?**

The item is deemed to be disposed off on the date the loss was discovered or destruction occurred. You will have to make a final adjustment for that particular interval where the loss was discovered or destruction occurred, but adjustment for any remaining intervals is not required.

- 10. If capital items are disposed off as a going concern, is it necessary to continue making adjustment on the items?**

The new owner must continue to work out adjustments on the remaining intervals without any break. The seller must furnish the necessary details to the buyer to enable him (the buyer) to work out adjustments on the remaining intervals.

11. What are the responsibilities and liabilities of a seller and buyer in respect of adjustment to a capital item sold?

The seller has to make a disposal adjustment and account for output tax on the disposal. On the other hand, the buyer, if he also uses the capital item for making mixed supplies, would claim initial input tax based on the partial exemption rule and make adjustment on the capital item over the next four subsequent intervals (including the final interval).

12. Can I use the purchase price of a capital item acquired prior to me becoming a registered person as a basis for making initial input tax claim and subsequent adjustments?

No, the book value of a capital item on the date the owner becomes a registered person will be the basis for calculating input tax and adjustments.

Example 5

ABC Sdn. Bhd., a mixed supplier, bought equipment on 3 July 2016 for RM200,000.00 and the company only becomes a registered person on 1 February 2018. On the day, the company becomes a registered person, the book value of the equipment has depreciated to RM120,000. Hence, the value to be used for calculating input tax and adjustments on the equipment is RM120,000.

13. Must I keep records on my capital goods adjustments for Customs auditor to verify?

Yes, you must keep all your proper records and book-keeping on capital adjustments you have made for a period of 7 years from the date of the last adjustment made on a capital item. In addition to records as specified under section 36 of the GST Act 2014, other records that need to be kept by you should include the following:

- Date of acquisition.
- Description of each capital item.
- Value of the capital item.
- Amount of input tax incurred on the capital item.
- Amount of input tax claimed on each capital item.
- The start and ends date of each interval.
- When adjustments are made.
- The date and value of disposal if capital item were disposed off.

EMPLOYEE BENEFIT

Recovery of Input Tax

1. **AB Cleaning Services Company provided free cleaning service to the home of his employees. Can the company claim input tax on purchase of the equipment used for providing the cleaning service?**

Yes, the cleaning services company can claim input tax that he incurred on the acquisition of the equipment used for providing the free services.

2. **A manufacturing company provided transportation (worker bus) for free to his workers. If the company rent a few buses for the transportation, can the company claim for input tax incurred on the rental?**

Yes, the manufacturing company can claim input tax that he incurred on the rental of the buses as it is his business expenses.

3. **A firm gives a trip to Pulau Redang to one of his staffs for excellent performance. Can the firm claim input tax that incurred on the purchase of the package?**

Yes, the company can claim the input tax incurred on the purchase of the package.

4. **Company A purchased 10 hampers worth RM2,000 to be given to his workers. Can the company claim input tax incurred on the acquisition?**

Yes, the company can claim the tax that he incurred on the purchase of the goods.

5. **What document must I use to claim input tax on goods and services given as employee benefits?**

You can claim input tax incurred on goods and services which you acquired and given free to your employees as long as you hold the relevant document such as tax invoice on your acquisition.

6. **If the tax invoice is addressed to the employee, can input tax be claimed?**

No, except for Q8.

7. **Can a company claim GST incurred on training for his staff?**

Yes, GST incurred is claimable because training is directly attributable to business.

8. Can a company claim input tax on mobile phone expenses which is in the employee's name?

Generally, invoices under the employees name cannot be used for claiming input tax. However, for mobile phone bill expenses used for business purpose is allowable. The registered person can use the mobile phone billed in his employees name for claiming input tax as long as the expenses are reimbursed and accounted as business expenses.

Disallowance of Input Tax

9. Is GST incurred on purchase of corporate membership in recreational club claimable?

No, because GST incurred on club membership fee is blocked under GST Regulations 2014.

10. Can a company claim GST incurred on food and beverages (F&B) for annual dinner?

Yes, provided that the function is attended by the employees of the company only. However, if the function is also attended by family members of the employees, apportionment has to be made accordingly. GST incurred can only be claimed on those attributable to employees.

11. I purchased a car and registered under my company's name for business use including for employees official use. Can I claim input tax incurred on the car acquired?

Generally input tax incurred on any acquisition of passenger motor car for company use is not allowed to be claimed.

However, if the car is exclusively used for business purpose, you are allowed to claim the input tax subject to approval and conditions imposed by the Director General. In such a case, the car can be identified, for example, there is a company logo and/or name attached on the car. However, if the car is used for non-business purpose, output tax needs to be accounted for on the usage of the car because it is deemed to be a supply of services.

12. Can input tax be claimed when a company pay for medical expenses for his employees?

Normally a company has private clinic as its panel. Medical expenses paid by the company to the private clinic for his employees is not subject to GST because it is exempted.

However, if the employees get alternative medical treatment such as homeopathy, Ayurveda, acupuncture or reflexology, this kind of expenses is standard rated.

If the company pay such expenses for his employee, input tax incurred is NOT claimable as it is blocked under the GST Regulations 2014. Similarly for expenses borne by the company on one off purchase of medical equipment such as wheel chair for a specific employee. Input tax incurred by the company is also not claimable.

Output Tax

13. Under what instances do I have to account for output tax on employee benefits?

Basically for goods, any goods given free to employees are subject to GST. However, under the gift rule, if the cost of the goods to the donor does not exceed RM500.00 and given free to the same employee in the same year, you (as the donor) do not have to account for output tax. If the cost is more than RM500.00, you have to account for output tax except for those that come under Blocked Input Tax Recovery or anything to be given free to employees as stated in your contract or policy.

On the other hand, for services, you do not have to account for GST as long as the services are provided free to your employees except for services of using business assets whether or not for a consideration.

14. As a taxable person, should I account for output tax if I provide free accommodation to my employees?

No, you need not to account for output tax since free accommodation is not a supply.

15. As a taxable person, should I account for output tax if I give goods for free such as a home theatre system to my employees?

Yes, as a taxable person you must account for output tax on goods given free to your employees. However, you do not have to account for the tax if the value of the goods does not exceed RM500.00 (gift rule).

16. Should output tax be accounted for if employees temporarily use business goods free of charge for their private use?

Yes, the taxable person is required to account for output tax on any use of business goods put to private use because it is deemed to be a supply of services even though the usage is for no consideration.

17. Can a taxable person avoid accounting for output tax when he gives free goods to his employees if he did not claim input tax when he actually entitled to claim the input tax?

A taxable person is still required to account for output tax when the goods are given free to employees as employee benefits even though he did not claim input tax incurred on the goods.

18. Is monetary rewards given as employee benefits to employees subject to GST?

Any employee benefits given in the form of money is not subject to output tax since money is neither goods nor services.

19. If I supply free meal to my employees in the company's canteen, do I have account for output tax?

No, free meal given to employees is not subject to GST because it is not a supply.

- 20. If I provide car and housing loan to my employees as employee benefits, do I have to account for output tax?**
You do not have to account for output tax on such loan as they are exempt supplies.
- 21. Are shares given free to employees subject to GST?**
Shares given to employees are an exempt supply. Therefore, you do not have to account for output tax.
- 22. Does a company have to issue a tax invoice on goods given free where output tax has to be accounted for on the gift?**
The company does not have to issue a tax invoice on the gift for the purpose of accounting for output tax. It is sufficient to account for the tax in the company's accounting record and relevant GST return.

Value Of Supply On Employee Benefits

- 23. What is the value of supply that should be taken to determine GST if a company provides employee benefits to his employees at a subsidised or discounted price?**
Where employee benefits are provided to employees at a subsidised or discounted price, the value of supply for calculation of GST is based on the subsidised price or discounted price.
- 24. When business assets are temporarily used free of charge by employees for their private use, how do I determine the value?**
In determining the output tax on the supply of services of business assets put to private use, it is to be based on the open market value of the services provided.

BEREAVEMENT CARE SERVICES

- 1. I am a Bereavement Care Services Provider (BCSP) that provides exempt and standard rated supplies in a package to a bereaved family. Can I claim the input tax I have incurred on some of the acquisitions which I made?**

You are eligible to claim full input tax incurred which are attributable to making taxable supplies only. However, for residual input taxes which may be incurred for making both exempt and taxable supplies, you need to apply the apportionment method in claiming such input taxes.

For further information on the apportionment rules, please refer to *GST Guide on Partial Exemption*.

- 2. What is the GST treatment on supplies made in relation to the exhumation and reburial of the remains of a dead human body?**

Any supplies made in connection with the exhumation and reburial of the remains of a dead human body is treated as making exempt supplies. This includes those made at the request of the deceased's family members or by any government administration.

- 3. What is the GST treatment on coffins supplied by a coffin maker to a BCSP or an undertaker?**

A supply of coffin by the coffin maker is a standard rated supply. The coffin maker is eligible to claim input tax credit (ITC) on his inputs in making his taxable supplies if he is registered for GST.

- 4. If a funeral parlour service provider provides a coffin as part of his services to the bereaved family, is such provision of services a taxable supply?**

The supply to the bereaved family is an exempt supply of services. However, any commission received by the funeral parlour service provider from the coffin maker is a taxable supply made by funeral parlour service provider and is subject to GST at a standard rate.

- 5. What is the GST treatment on supply of tombstones, gravestones or headstones by a maker of such items to a grave builder?**

The supply is a standard rated supply. In addition, the onward or subsequent supply by a grave builder to his client is a supply of services which includes the supply of tombstones, gravestones or headstones, is a taxable supply of services.

- 6. What is the GST treatment on the supply of a burial plot which is reserved by an individual where the supplier imposes a maintenance fee for the supply?**

The supply for the burial plot is an exempt supply while the maintenance service is a standard rated supply.

- 7. Is transportation services provided by a BCSP as a package for the family and friends of the deceased attending the funeral service exempted from GST?**

It is an exempt supply by the BCSP. However, if such services are engaged by the family of the deceased for the ease of attending the funeral service, it is a taxable supply subject to GST at a standard rate.

- 8. Can a crematorium operator claim input tax credits on utilities used to carry out cremation of bodies?**

Since the supply made by the crematorium is a standard rated supply, the GST incurred on the utilities are claimable.

- 9. What is the GST treatment on cremation service?**

Cremation is an exempt supply and is classified under GST (Exempt Supplies) Order 2014 if it provided as part of a package. However, if the cremation service is supplied not as part of a package, the service is a standard rated supply.

- 10. Some legal documents are required for cremation. Examples are death certificate signed by the attending physician and Medical Examiner's Permit for cremation issued by the local authority. What is the GST treatment on the acquisition of these documents?**

The GST treatment on fees/charge paid to acquire these legal documents is not within scope of GST.

PART 4

INDUSTRY

SECTOR 1

(Health, Education, Government and Other Public Body, NGO,
Charitable Organization and Utilities)

SECTOR 2

(Manufacturing, Wholesaling and Retailing)

SECTOR 3

(Property, Construction and Professional Services)

SECTOR 4

(Finance, Entertainment and Tourism)

SECTOR 5

(Transportation, e-Commerce and International Services)

SECTOR 6

(Special Scheme, Agricultural and Petroleum)

SECTOR 1

*(Health, Education, Government and Other Public Body,
NGO, Charitable Organization and Utilities)*

- Healthcare Services
- Pre-Tertiary Education
- Government, Local Authority and Statutory Body
- Societies and Similar Organization
- Telecommunication Services
- Utility (Electricity, Water & Sewerage)
- Cooperatives

HEALTHCARE SERVICES

Registration

1. Are private healthcare facilities required to be registered under GST?

No, registered or licensed private healthcare facilities are not required to register under GST if they are supplying wholly exempt supplies even though their annual turnover exceeds RM 500,000.

Charges

2. What is the GST treatment on registration fee charged to patient by the hospital?

Any registration fee charged by any hospital except government hospital is subject to GST.

3. Should GST be charged on medicine prescribed by a hospital doctor where the supplies are from a pharmacy other than hospital's pharmacy?

The GST is charged at a standard rate on the supply of medicine other than the medicines listed in the NEML prescribed by a hospital doctor where the supplies are from a pharmacy other than the hospital's pharmacy.

4. Pharmacy in a private hospital/ clinic sells medicine to its own patient/ employee over the counter. Is this subject to GST?

No, any medicine sold over the counter to its own patient/ employees which already has a medical record/ prescription with the hospital/ clinic is an exempt supply. However, if the patient is from another private hospital/ clinic, it is subject to GST at a standard rate if the medicine is not listed in the NEML.

5. Hospital Pakar Rahman is a GST registered hospital and make both standard rate (e.g. additional bed for patient's family member) and exempt supplies (e.g. treatment for cancer) to my patient. Can Hospital Pakar Rahman issue a tax invoice for both supplies?

Hospital Pakar Rahman can issue one tax invoice if the transaction involves both taxable and non-taxable supplies. However, you must have indicators to distinguish the different types of supply in the tax invoice.

For further information, please refer to *Guide on Tax Invoice and Records Keeping*

- 6. Hospital Kelana Medical Centre is a GST registered private healthcare facility which makes both taxable and exempt supplies. A patient came and was treated for diabetes illness at this hospital. Can Hospital Kelana Medical Centre issue a tax invoice for this exempt supply?**

Hospital Kelana Medical Centre must differentiate between the taxable and exempt supplies. The hospital must not issue tax invoice for services related to wholly exempt supply. The hospital would have to issue a normal invoice where it needs to have two (2) set of serial numbers, i.e., one set for tax invoices and another set for the normal invoices. Hospital Kelana Medical Centre must differentiate between the taxable and exempt supplies.

For further information, please refer to *Guide on Tax Invoice and Records Keeping*

Treatment

- 7. A patient pays RM 1,000 for the hospital bill. An agreement/ contract between an outsourcing doctor and the hospital states that 30% of the price charged to the patient (i.e. RM 300) will be paid by the outsourcing doctor to the hospital for using the hospital space, facilities or operating cost. Is the charge of RM 300 subject to GST?**

The charge of RM 1,000 to the patient is not subject to GST as it is part of healthcare services provided by the hospital which is an exempt supply. The charge of RM 300 by the hospital to the outsourcing doctor will be subject to GST as rental charges are taxable. The remaining RM 700 which is the amount paid to the outsourcing doctor for his healthcare professional services is also subject to GST.

- 8. I am a professional doctor with a contract for service with the Jitra Medical Center. Are my healthcare professional services to the hospital subject to GST?**

If you are registered under the GST, it is mandatory for you to charge GST on your healthcare professional services to the Jitra Medical Center. As a GST registrant, you are also entitled to claim input tax credit.

- 9. A numbered of hospitals team up together to setup a company to handle the logistic and support services where the cost and management expenses would be shared in order to cut cost and increase efficiency. What is the GST treatment on the services?**

Shared management services provided by a company will be subject to GST.

- 10. Putrajaya Group Berhad has 2 companies and a few licensed private healthcare facilities under it. One of the companies supplies consumable medical products other than medicines (for example gloves, cotton wool) and another company supplies employment services mostly to their private healthcare facilities. What is the GST treatment on the services?**

The supply of consumable medical products is a taxable supply. A contract for services of healthcare professional is an outsourcing of services by the private healthcare facility which is also a taxable supply. Therefore both services will be subjected to standard rate.

- 11. Ahmad used Puchong Ambulance Services Sdn. Bhd. to transport him to Hospital Putra. What is the GST treatment on these ambulance services?**

The supply of ambulance services provided by Puchong Ambulance Services Sdn. Bhd. is subject to GST at a standard rate because these services are not provided by the registered or licensed private healthcare facility.

- 12. Dr. Asmadi was invited to give a talk in a hotel regarding to his expertise at a medical seminar. What is the GST treatment?**

Giving a talk at a seminar is a taxable supply and will be subject to GST at a standard rate. If Dr. Ahmad is a GST registered person, his supply (the talk) is subject to GST. However, if the talk is given free, then it is not subject to GST.

- 13. Acupuncture is also a form of healthcare service. Can the service be treated as an exempt supply?**

Acupuncture is categorized under traditional and complementary medicines (TCM) which is subject to GST at a standard rate.

- 14. I need to use an oxygen tank often at home so I rent it from the Pantai Putra Hospital. Is this subject to GST?**

The rental of oxygen tank is subject to GST at a standard rate.

- 15. Good Sight Eye Clinic rent an operating theatre in Pantai Putra Hospital to operate its patient. Will the invoice issued by the Good Sight Eye Clinic to the patient subject to GST?**

The invoice issued by the Good Sight Eye Clinic to the patient for the operation will not be subject to GST. On the other hand, the invoice issued by the Pantai Putra Hospital to Good Sight Eye Clinic for rental of the operating theater will be subject to GST.

- 16. Puchong Hospital Sdn. Bhd. outsources its food catering services to Awie Food Catering Sdn. Bhd. Is this services subject to GST?**

Yes. Any supply of outsourced service by a licensed healthcare facility is subject to GST at a standard rate.

- 17. Puan Mary owns Mary Beauty Slimming Centre Sdn. Bhd. which provides services related to healthcare such as gymnasium, spa, sauna and massage. What is the GST treatment on such services?**
Marry Beauty Slimming Centre Sdn. Bhd. is not a private healthcare facility that is a registered or licensed healthcare facility under the Private Healthcare Facilities and Services Act 1998 and the services provided are not categorized as healthcare services. Therefore services provided by any beauty slimming centre will be subjected to GST at a standard rate. Input tax is claimable provided the company is registered under GST.
- 18. A registered Nurul, Nurin and Partner Clinic organized a health screening at the foyer of Superstore Rahman. What is the GST treatment for this service?**
Health screening is considered healthcare service but this services is not given in the registered private healthcare facility. If the clinic charge for the health screening service, it will be subject to GST. If there is no charge, free service is not a supply and not subject to GST.
- 19. Ahmad Pharmaceutical Co. Sdn. Bhd. supplies equipment to government hospitals. Is the company required to charge GST on the supply?**
Supply of healthcare services by the government hospital is an out of scope supply. Under the GST (Relief) Order 2014, the government has given relief from paying GST on the acquisition of goods. Therefore, Ahmad Pharmaceutical Co. Sdn. Bhd. will not charge GST on his supply to the government hospital. On the other hand, Ahmad Pharmaceutical Co. Sdn. Bhd. is entitled to claim input tax incurred if it is a GST registered person.

Apportionment Rule

- 20. Some inpatients may require family members to stay with them at a private hospital. What are the services exempted under this scenario?**
Food and bed to patients are exempted supplies. However, charges to family members are subject to GST.
The private hospital has to segregate the bill between the exempt and taxable supplies based on the apportionment rule for the purpose of claiming input tax.

For further information, please refer to *Guide on Partial Exemption*.

- 21. Hospital Putri Medical Centre also provides traditional and complementary medicine services (TCM) such as massage and acupuncture in a different wing. Is Hospital Putri Medical Centre making both exempt and taxable supplies?**

Yes. Hospital Putri Medical Centre is making both exempt and taxable supplies. Hospital Putri Medical Centre can only claim input tax credit on its taxable supplies by using the apportionment rule.

For further information, please refer to *Guide on Partial Exemption*.

- 22. Harmony Medical Supplier Sdn. Bhd. has two branches. One of them is Harmony Specialist Clinic and another one is supplying medical equipment using the same company registration number under SSM. How can Harmony Medical Supplier Sdn. Bhd. claim its input tax?**

Harmony Medical Supplier Sdn. Bhd. is making both exempt and taxable supplies. Input tax is claimable only which relates to its taxable supply, based on the apportionment rule.

For further information, please refer to *Guide on Partial Exemption*.

- 23. Hospital Mawar Medical Centre provides 70% of exempt supply and 30% taxable supplies. How many input tax can Hospital Mawar Medical Centre claim?**

Hospital Mawar Medical Centre has to be a registered person under GST in order to make input tax credit (ITC). Input taxes are claimable for the 30% of the taxable supplies, based on the apportionment rule.

For further information, please refer to *Guide on Partial Exemption*.

PRE-TERTIARY EDUCATION

1. Are administrative services subject to GST?

If the education provider supplies administrative services directly related to the supply of a childcare, pre-school, primary or secondary course of study, the supply is not subject to GST as these services are treated as out of scope supply for public school and as an exempt supply for private school. In both cases, no GST is charged to the students.

2. What are course materials and the GST treatment on course materials?

Course materials are materials that are directly used, utilised and expended by students undertaking the course of study. If a public school provides the course materials directly to students then the GST treatment is out of scope and exempt if it is provided by private school.

Sales of materials directly to the students and where those materials are necessarily used up by the students in undertaking the course of study will be subjected to GST. Though it may be necessary in order to teach the curriculum but the act of selling constitute a business activity and therefore is subject to GST.

3. Are activities supplied by third party that do not form part of any primary or secondary extra curriculum, subject to GST?

Activities that do not form part of primary or secondary extra curriculum under the National Curriculum or approved curriculum by Ministry of Education such as swimming, dancing and piano lessons are subject to GST.

4. Will the school canteen operator or cafeteria that operates in primary or secondary schools charge GST to the students?

Any canteen operator or a cafeteria of a public or private primary or secondary school that supplies food primarily to the students including staff of that school is making an exempt supply. The supplies of food to students are not subject to GST. However, the canteen or cafeteria operators are not able to claim input tax on any taxable goods charged to them.

5. In order to provide service of transporting students to and from the school, School A rents a school bus from a transportation company. Is the school bus rented by School A subject to GST?

The supply of school bus services is a supply of public transportation and it is an exempt supply. The rental of a school bus to School A or the supply of school bus services by a private transportation company to School A is a standard rated supply and School A will have to pay GST on the rental of the bus which school A cannot claim the input tax credits. The subsequent supply of transportation to students by school A is an exempt supply and not subject to GST.

6. Should GST be chargeable on supply by Students Cooperative Bookshop (Kedai Buku Koperasi Pelajar) situated at the school?

The Students Cooperative Bookshop is not an educational institution as defined under the GST (Exempt Supply) Order 2014. Thus, if the Cooperative is registered under GST, supplies made by it are either subject to GST at a standard rate (6%) or zero rate.

7. What is the GST treatment on Parents Teachers Association (PIBG) activities?

The establishment of PIBG is required under the Education Act 1996 and must be registered under the Ministry of Education. The purpose of the establishment is for the enhancement of education and maintaining good relationship between parents and teachers and not for doing business.

PIBG activities in relation to the purpose of its establishment are treated as related to education services. Supply by PIBG in relation to education services for both government and private school is not subject to GST.

On the other hand, if the PIBG is making any business activity such as selling of goods to the students and the taxable threshold reaches RM500,000.00, then PIBG must be registered and charge GST like any other normal business.

8. Is GST be chargeable on fund raising activities arranged by PIBG e.g. sales of tables for an Annual Dinner?

Under GST, PIBG is not considered as a charitable organisation. In this case, the fund raising activity can be given relief under GST (Relief) Order 2014 given relief from charging GST subject to conditions as mentioned in paragraph 57 of this guide.

9. What is the GST treatment for a company who donates or sponsors an award to a school or student in a form of monetary or goods?

Sponsorship is a taxable supply if there is benefit in return. Sponsorship payment which involves the sponsor receiving clearly identifiable benefit in return, example either in terms of advertising or publicity is a consideration for this supply. If the sponsorship does not involve any identifiable benefits in return, then the sponsorship payment is not a consideration for the supply and no GST is chargeable.

10. What is GST treatment on tuition fee by post such as Adabi Gaya Post?

Tuition centre is registered as a private educational institution which provides extra classes and involves teaching of subjects in school either by attending classes at a premise or by post. It is a business entity providing education services to students. However, this service is excluded from being an exempt supply under the GST (Exempt Supply) Order 2014 neither it is included in the GST Relief Order 2014. The tuition centre charges fees for every subject which a student takes and the course materials are sent by post for home tuition. The fees charged are subject to GST at a standard rate.

- 11. Qawiey Child Development Centre is an educational institution registered under the Education Act 1996 that caters care and education services for new born to 5 years old. The services include music, arts and sports classes. Children attend classes at the Centre on a weekly basis. Besides providing child development, the centre also sells products such as books to the students. What is the GST treatment on the services provided by this centre?**

Child development services are not considered as education services under the GST (Exempt Supply) Order 2014.

For GST purpose, the requirement to be registered under the Education Act 1966 is not the only condition to qualify as an exempt supply.

In order to qualify as an exempt supply, the education services provided by the educational institution must be listed in the GST (Exempt Supply) Order 2014.

In this case, the services of child development is excluded as an exempt supply. Therefore, the services provided by this company is subject to GST at a standard rate of 6%.

- 12. ABC Sdn. Bhd. imports text books and scuba diving equipment from Australia to teach scuba diving courses. Is Scuba diving course an exempt supply and are these imports exempted from GST?**

Education services provided by private educational institutions which are exempted from GST are specified under the GST (Exempt Supply) Order 2014. In this case, teaching scuba diving courses are not course of study in accordance with the National Curriculum and therefore are subject to GST at a standard rate. Only books described specifically in the GST (Zero Rated) Order 2014 are subject to GST at zero rate. For the text books and scuba diving equipment imported by ABC Sdn. Bhd., GST has to be paid upon importation.

- 13. Is a private tuition centre whether registered or otherwise falls under the category of exempt supply? Generally, a tuition centre operates on "semester" basis. Before a new semester begins, the tuition centre will collect either 100% tuition fee or 60% tuition fee in advance. In this regard, will the collection in advance before 1st April, 2015 subject to GST?**

The supply of education services by tuition centres are excluded under the GST (Exempt Supply) Order 2014 and the services are not exempt supplies. This means the supply by tuition centres are taxable supplies and subject to GST. If the tuition centre is a GST registered person, GST must be charged to the students and any GST incurred in providing the services is claimable by the tuition centres as its input tax credit.

If the tuition fees are collected before the effective date of GST (1 April 2015) and part of the supply will take place after 1 April 2015, the payment made would be inclusive of the GST chargeable after 1 April 2015. There is a need for the tuition centre to apportion the amount that should be subject to GST

- 14. Is subscription of Electronic Database (database of Electronic Books and Electronic journals) is subject to GST? This is a non-annual subscription where a fee payment is charged in order to allow access. Once the subscription fee is not paid the access is stopped. Is purchase of Electronic books like e-book similar to buying a printed book subject to GST?**

Subscription of Electronic Books and journals are subject to GST at a standard rate as they are not under the GST (Zero rated) Order 2014.

- 15. Maha Music Sdn. Bhd. is an educational institution that provides music lessons for example piano, violin, cello, dance & arts. The students enrol the exams under the Malaysian Examination Syndicate. Are the services provided by the company taxable and subject to GST? Do we need to be registered under GST?**

The education services provided by Maha Music Sdn. Bhd. are not listed as exempt supplies under the GST (Exempt Supply) Order 2014 therefore the services provided are taxable and subject to GST.

If the supplies of music lessons by Maha Music Sdn. Bhd. exceeds the threshold of RM500,000.00, it is mandatorily required to be registered under GST. Once registered, GST must be charged at a standard rate and any input tax incurred is claimable.

The Malaysian Examination Syndicate, Ministry of Education as the controlling body, provides examinations of music on behalf of Associated Board of the Royal Schools (ABRSM). As a federal ministry, Malaysian Examination Syndicate supplies of examinations are out scope and no GST will be charged to students taking the examinations.

- 16. Are services provided by a company registered with Companies Commission of Malaysia (SSM) under Company Limited by Guarantee operating as training centres for public servants subject to GST?**

For GST purpose, such companies are regarded as any other business entity. Thus, the services provided are taxable and subject to GST even though it is operating as training centres for public servants.

GOVERNMENT, LOCAL AUTHORITY AND STATUTORY BODY

Federal and State Governments

1. **If a government department disposes off its assets (office equipment or land or building), is the disposal of asset subject to GST?**

All Government assets, including capital assets, disposed off to the public are regarded as out of scope supplies, hence not subject to GST. If it is disposed through a third party e.g. auctioneer, the services provided by the auctioneer are subject to GST.

2. **Are licenses issued by a Government Department subject to GST?**

No, licenses issued by a Government Department are not subject to GST because licenses are issued as regulatory and enforcement requirements.

3. **What are the responsibilities of the Government Departments whose supplies are listed in the GST Government (Application to Government) Order 2014?**

The department, which makes the taxable supply, must register with the Royal Malaysian Customs as a GST registered person if the turnover of the taxable supply exceeds the prescribed threshold of RM 500,000 within 12 months (past or future). Once registered, the department must charge GST on the taxable supplies made and account for the tax collected to Royal Malaysian Customs.

4. **Can a supplier claim input tax on taxable supplies made to the Government who is given relief from the payment of GST?**

The supplier can claim input tax on these supplies because the supplies are regarded as taxable supplies.

5. **Do I have to issue a tax invoice for GST-relieved supplies made to a Government department?**

If you are a GST registered person, you have to issue a tax invoice for such supplies as these are taxable supplies. You also have to attach a certificate certifying that you are relieved from charging and collecting GST under section 56(4) GST Act 2014 on your supply to the government department given relief from payment of GST under item 3 of the GST (Relief) Order 2014.

6. **Can a below threshold trader making taxable supplies to the Federal Government claim input tax credit?**

A below threshold trader who have not registered voluntarily as a GST registered person is not allowed to claim input tax credit on the inputs of such taxable supplies. However, if he is registered voluntarily under GST, the trader is eligible to claim the input tax.

Local Authorities and Statutory Bodies

- 7. The local authority provides development plan for any person who wishes to have it in his possession and charges payment for it. Is the payment subject to GST?**

It is subject to GST as providing the development plan is not a regulatory and enforcement function in nature.

- 8. Is assessment rate collected by a local council subject to GST?**

No, assessment rate collected by local council is not subject to GST since it is form of regulatory and enforcement function of the local council.

- 9. The local authority do impose fine for improper parking, hawker trading without licence or late payment of quit rent. Are the fines imposed subject to GST?**

Such fines are not subject to GST as they are more in the form of a penalty not a supply.

- 10. A local authority provides billboards for companies to advertise their products or services. Are the provision of such billboards subject to GST?**

Charges imposed by the local authority for the use of the billboards for advertisement are subject to GST. However, the charge to the company which relates to the issuance of permit/ license to advertise is treated as an out of scope supply and is not subject to GST.

- 11. The local authority leases out premises to be used for example as wet market. Do the local authority have to impose GST on the traders in the wet markets who are provided lots subject to a certain fee?**

The local authority is making a supply of the right to use the lots in the wet market by the traders to sell their products. This is a form of business activity and is subject to GST

- 12. Dewan Bandaraya outsourced street lighting to a third party, what would be the GST treatment on such outsourced supply?**

Street lighting is part of the regulatory functions carried out by Dewan Bandaraya. However, if a third party is contracted to undertake the street lighting, the third party is actually making a taxable supply to Dewan Bandaraya and is subject to GST.

- 13. Does a sub-contractor need to charge GST to the main contractor who has been contracted to carry garbage collection on behalf of a local authority?**

The sub-contractor, if he is a GST registered person, must charge GST on the services he provides to the main contractor because the sub-contractor is actually making a taxable supply to the main contractor. Likewise if the main contractor is a GST registered person, the main contractor should charge GST to the local authority for the services supplied.

14. What is the GST treatment on assets owned by the local council and disposed by it to the public?

If the assets are used for making taxable supply and the local council is a GST registered person, GST has to be charged and accounted for such asset disposed off.

15. Is the supply of facilities such as renting out badminton hall, community hall, etc by a local council subject to GST?

The supplies made are not related to regulatory and enforcement functions, hence it is subject to GST.

16. Does a local authority need to register separately its divisions that make taxable supplies?

GST registration will be made in the name of the local authority established under the relevant law unless the divisions request this facility.

17. Does a statutory body which makes wholly out of scope supply need to be registered under the GST Act?

Statutory body making wholly out of scope supply is not required to be registered under the GST Act. This rule also applies to a statutory body that makes wholly exempt supply or a mixture of out of scope supply and exempt supply. If statutory body makes mixed supplies, that is, both out of scope supply and taxable supply, the statutory body is required to be registered.

18. Are examination fees charged by statutory bodies e.g. Board of Engineers (BEM), Board of Architect (BAM) etc. for admission to the profession subject to GST?

Supplies by statutory bodies e.g. BEM, BAM etc. that relate to regulatory and enforcement functions are out-of-scope supplies.

19. What is GST treatment on registration fees paid by architects to Board of Architects Malaysia (BAM) to enable to practice in their field?

BAM is a statutory authority responsible for the enforcement of Architects Act, 1967 to enable members to practice in their field. This is considered a regulatory and enforcement function. As such the registration fee imposed is an out-of-scope supply.

20. A statutory body holds conventions, seminars or conferences for members and the general public who have to pay registration fees to attend these events. What is the GST treatment on these registration fees?

The registration fees paid to attend conventions, seminar or conferences supplied by a statutory body is a taxable supply. Therefore, GST is charged on the registration fees.

Grants, Subsidies and Royalties (Government's Supplies)

21. Are grants given by Government through a Government department subject to output tax?

There will be no GST implication on the grant because they are given in the form of money, hence, a non-supply. Furthermore, supplies made by the Federal or State Government are out of scope supplies and are not subject to GST. Likewise, grants received by the Government or any Government agencies (NGO) from overseas donors such as DANIDA, UNESCO and World Bank is regarded as a non-supply.

22. What is the GST treatment on research grant given by the Government?

Outright grant given by the Government is regarded as non-supply and not subject to GST. If in return for the grant the Government receives benefits in the form of research patent rights as a consideration, the patent right is regarded as a taxable supply. The receiver of grant, if he is a GST registered person, must charge GST to the Government on the patent rights supplied to the government.

SOCIETIES AND SIMILAR ORGANIZATION

Non-Profit Organisation

1. We are a non-profit organization providing sport and recreation facilities for the community free of charge or at a nominal fee. We receive some grants from the government. Are we required to register?

Supply of sport and recreation facilities is a taxable supply. However, if this supply of services is provided free of charge, it is regarded as not a supply and is not subject to GST. If you supply these services to community or others for a charge, it is subject to GST. You have to register for GST if your taxable supplies exceed the prescribed threshold.

2. Muzium Kesenian Islam, a non-profit organization charges admission fee to its museum. The museum also obtains income from calligraphy classes, selling of gifts and souvenirs, and renting out its restaurant premise. Is the organization liable to be registered?

Since the museum is making taxable supplies, it is liable to register if its annual taxable turnover in a twelve month period exceeds the prescribed threshold. Taxable supplies made by the museum would also include sales made by its retail outlets, and renting of premises within the premise of the museum.

3. Will an admission fee to entertainment events offered by any society or similar organization (including charitable entity) be subjected to GST?

Admissions to a place of amusement or recreation charged by any society or similar organization (including charitable entity) will be subjected to GST. These include, among others, admissions to stage and film presentations, exhibitions, sporting events, museums, parks and recreational facilities.

4. What is the GST treatment on advertising services provided by societies or similar organisations?

Societies and similar organisations sometimes sell advertising space in their own brochures, programs, annual reports etc. The sale of such advertising space is a taxable supply and is therefore subject to GST.

5. Are ambulance services provided by societies and similar organisations (including charitable entities) subject to GST?

Ambulance service is taxable supply and subject to GST. If the service is provided free of charge, it is not a supply and not subject to GST. If the ambulance service is provided by a public charitable entity, it is an out-of-scope supply in line with GST treatment for Government.

6. Will first aid courses offered by a non-profit organization such as St. John Ambulance, Red Crescent be subjected to GST?

The supply of a first aid course by a non-profit organization which relates to its main objective offered to its members and general public free of charge, it is not a supply and not subject to GST. However, if the first aid course is offered to non-members for a charge, it is subject to GST. The non-profit organization has to charge and account for GST if it is a GST registered person.

7. What is the GST treatment on counseling services provided by a non-profit organization such as the Befrienders to the general public?

Counseling service is taxable supply and subject to GST at a standard rate. If the service provided is free of charge it is not regarded as a supply and not subject to GST.

8. Are courses conducted by non-profit organization subject to GST?

In house training to members of the non-profit organization is taxable supply and subject to GST at a standard rate. If the training provided is free of charge it is not regarded as a supply and not subject to GST.

However, if the non-profit organization outsourced its training to another party, normal GST rules will apply depending on the status of the service provider. If it is a GST registered person then it is subjected to GST at a standard rate.

9. **Malaysian Textiles Manufacturers Association (MTMA), a non-profit organization, has been appointed as the authorized body to issue and endorse Certificate of Origin for all textile related products by the Ministry of International Trade and Industry (MITI) since 1990. MTMA charges a fee to its member for endorsement of the Certificate of Origin (CO). What is the GST treatment on this fee?**
Endorsement fee is subject to GST at a standard rate.

Miscellaneous Supplies by Societies, Clubs and Similar Organisations

10. **Berjaya Vacation Club charges affiliation fees to affiliated hotels and resorts abroad. What is the GST treatment on this affiliation fees?**
Affiliation fees charged by Berjaya Vacation Club to affiliated hotels and resorts abroad are considered exported service and therefore zero-rated.
11. **Malaysian Institute of Accountants (MIA) pays affiliation fees to The Chartered Association of Certified Accountants (Association of Chartered Certified Accountants (ACCA), United Kingdom). What is GST treatment on this affiliation fees?**
Affiliation fees paid to international bodies situated outside of Malaysia is not subject to GST.
12. **My club organizes golf tournament for members and the general public and charge competition fees. What is the GST treatment on competition fees?**
Competition fees are subjected to GST at a standard rate.
13. **A Sports Club in Kuala Lumpur offers horse riding lessons for a fee. What is the GST treatment on this fee and who should account for GST if the lessons are provided by an employee of the club, a professional or a free-lance instructor?**
Horse riding lessons are taxable supplies and therefore the fees are subject to GST at standard-rate. If the lessons are provided by an employee of the club, then the club itself should account for GST. If the lessons are provided by a professional or free-lance instruct, then such person should account for GST provided he is a GST registered person.
14. **X association provides library or resource centre services for members and non-member, and imposes a charge/ fee on these services. What is the GST treatment on this charge/ fee?**
GST treatment on the charges/ fees pertaining to library or resource center services is as follows:
(a) Annual subscription fee, admission charges, non-refundable deposit, photocopying services charges, printing services charges, fax services charges; internet services charges, compensation charges for damages or loss of books or materials borrowed (cost of the books or materials) and reference services charges (to other organisations, university/college students undertaking research) are subject to GST.

- (b) Refundable deposit, penalty for damages or loss of books, fine for each book that is overdue and penalty for replacement card are not subject to GST

15. XYZ organization, a professional association, publishes monthly magazine for subscription at the following rates:

Rate	Per Issue	Per Annum (12 issues)
Malaysia	RM7.00	RM84.00
Singapore	RM9.00	RM108.00
Australia/New Zealand	RM13.00	RM156.00
United Kingdom	RM16.00	RM192.00
United States	RM17.00	RM204.00

- (a) Is the subscription for the magazine subject to GST?
- (b) How does XYZ account for GST?
- (c) During promotion, souvenir items such as umbrella, watch, etc. are given as a free gift to the new subscribers. Are these free gifts subject to GST?

The GST implication are as follows:

- (a) Yes, the subscription of magazine is taxable supply and subject to GST.
- (b) Supply within Malaysia is taxable at standard-rate and supply outside of Malaysia is taxable at zero rate.
- (c) Gifts (goods) given to new subscribers in a promotional campaign, provided the cost of the gifts does not exceed RM500 per person in a year are not required to be accounted for output tax.

- 16. My organization publishes books, handbooks, compact disc etc. that relates to our aims and main objectives which are given to the public either free of charge or sold at a nominal charge. Are these publications subject to GST?**
Publications are taxable supplies and subject to GST (standard-rated). However, if these publications are circulated outside of Malaysia, they are zero-rated.
- 17. My association rents out rooms, halls and facilities to members and general public. What is the GST treatment on this rental?**
The rental of a room, a hall or facility for weddings, parties and other functions is subject to GST at standard-rate.
- 18. Is the rental of mailing list subject to GST?**
Yes. Rental of mailing list is a taxable supply of service by your organization. But, if the service is provided to an entity belonging outside Malaysia, this supply of service is zero-rated.
- 19. My association rents out space for commercial use in the premise. What is the GST treatment on the rental of the space?**
The rental of the space is subject to GST at standard-rate.
- 20. My association receives donated goods periodically. Excess donated goods are then sold to the general public. What is the GST treatment on these sales?**
Sales of donated goods are taxable supplies and subject to GST.
- 21. XYZ is a trade association which provides the following benefits (supplies) to its members. How is the GST treatment on the following benefits?**
- a). Representation of industry's problems and concerns to the Government through representatives in bodies such as MIDA, SIRIM, Task Force on Small and Medium size Industries and others, on issues such as industrial development, technology, trade promotion, quality controls and standards.
 - b). Free listing in the annual XYZ Directory of Malaysian Industries, which is recognized as the authoritative handbook on manufacturing companies in Malaysia, and widely circulated in Malaysia and overseas
 - c). Assistance to participate in overseas trade fairs and missions such as facilitate members to penetrate export market, issue and endorse certificate of origin etc.

The GST implication on the supplies are as follows:

- (a) Not subject to GST if XYZ (trade association) represents its members for free.
- (b) The sale of the handbook is subject to GST. If the handbook is given free from any charge, then it is not subject to GST.
- (c) If XYZ (trade association) charge its members for the assistance given, then it is subject to GST. If the members are not being charge (free of charge) for the assistance given by XYZ (the trade association), then it is not subject to GST.

22. X Furniture Association, a trade association, organizes furniture exhibition overseas for the purpose of promoting the industry that relates to its aim and objective. Are such promotions subject to GST?

Trade promotion done outside of Malaysia is out-of-scope supply. However, any GST incurred locally in organizing the promotion can be claimed if it involves only administrative work relating to its aim and objective.

Acquisitions by Societies and Similar Organisations

23. What is GST treatment on goods and services acquired by charitable entities?

Public charitable entities are given relief from the payment of GST to acquire goods (excluding petroleum and imported motor cars) imported or purchased locally under item 3, First Schedule, Goods and Services Tax (Relief) Order 2014 subject to conditions as specified under this Order.

Whereas for private charitable entities, only the entity for persons with disabilities registered with the Social Welfare Department or a private charitable entity registered under the Care Centres Act 1993 can be given relief on the acquisition of selected goods as are listed under items 7 and 8, First Schedule, Goods and Services Tax (Relief) Order 2014 subject to the conditions specified under this Order.

24. My club purchases some goods to be given out as souvenirs or lucky draw prizes to club members or employees. What is the GST treatment on these purchases?

Business gift rule applies for this supply, where a gift of goods made in the course or furtherance of the business made to the same club members or employees in the same year where the cost to the club is not more than RM500 is regarded as non-supply. If the goods cost more than RM500, then it is subject to GST and input tax is claimable.

- 25. Y Company is a local agent appointed by my association to bring a professional golfer for appearance in the Malaysian Open Golf tournament. The local agent is required to pay appearance fee to the golfer. Is the appearance fee subject to GST and who should account for it?**

Appearance fee paid to professional sportsperson (in this case the golfer) is a consideration for services rendered that is the golfer's appearance in the event. The appearance fee paid by the local agent to professional golfer is deemed to be imported services and subject to GST by way of reverse charge mechanism.

For further information on imported services, please refer to *GST General Guide*.

- 26. Associations provide seminars, workshops and conference for its members and the general public for a fee. Members pay at the lower rate than the general public. How do I account for GST?**

The fees are subject to GST. For members, GST is to be accounted on the discounted fee.

- 27. ABC Association, a non-profit organization occasionally invites a foreign speaker to present papers for its seminars, conferences organized for its members and the general public. ABC pays for the speaker's accommodation, meals and traveling allowances including professional/ appearance fee. Does ABC have to account for GST on such payment?**

If ABC is registered under GST, he has to account for GST on the payment made. On the professional fee, it is to be accounted by way of reverse charge mechanism as it is regarded as an imported service.

- 28. A Football Association in Malaysia, a GST registered person, imports a professional footballer to play for the Association in the Malaysian Football League on a contractual basis. The Association pays a transfer fee to the former employer of the footballer overseas and pay salary and allowances to the footballer while on contract with the Association. What is the GST treatment on the transfer fee, salary and allowances? Who should account for the GST?**

The service by the footballer to play for the Association is regarded as an imported service and the Association has to account for the GST by way of reverse charge mechanism. A contract of employment is not regarded as business. Thus, the salary and allowances paid to the footballer are not subject to GST.

29. My club rents out space in the club's premises to a restaurant operator and there is a lease agreement which requires a certain amount of deposit to be paid by the restaurant operator to the club. Does the club need to account for GST on the deposit?

When you enter into a lease agreement, you may collect rental deposit from your tenant as a form of security. You do not have to charge and account for GST on the rental deposit if it is refundable upon completion of the lease term.

However, if you subsequently use the whole part or part of the deposit to offset against any rent payable, this amount is subject to GST. You have to account for the GST at the time you utilize the amount to offset against the rental.

If you forfeit the deposit according to the provisions of the lease agreement where there is an early termination of lease, you do not have to account for GST if it is compensatory in nature. If the forfeiture is a form of settlement for your surrender of right to continue the tenancy with the tenant, you have to account for GST.

30. Are takings from a coin operated vending machine located at an association or club's premise subject to GST? Who should account for it?

Supplies from a coin operated machine e.g. snacks and drinks are subject to GST. GST on the takings must be accounted by the person who supplies the use of the vending machine to the customer. GST has to be accounted at the time the coins are removed from the machine. As for the association or society, it has to charge GST to the supplier on rental of the space where the machine is placed or has to account for GST on any commissions received.

TELECOMMUNICATION SERVICES

Value of Supply

1. What is the value of telecommunication service?

The value of a telecommunication service means the total consideration paid by the recipient for the provision of the service and for each period in respect of which an invoice for the service is issued.

2. We receive excess payment from customer instead of actual amount stated in the invoice. For example:

Actual amount: RM 48.50

Payment received: RM 50.00 (excess payment of RM1.50)

Is the excess payment received subject to GST?

By virtue of Regulation 15, GST Regulations 2014, tax on supply chargeable only to the extent covered by the invoice.

Any excess payment in relation to the invoice issued is not a consideration for the supply and not subject to GST.

Time of Supply

3. When should GST be charged?

GST should be charged and accounted for at the time of supply. This is known as the 'tax point'. In general, services are supplied when they are performed or completed. This is known as the 'basic tax point'.

The basic tax point is set aside when an 'actual' tax point is created.

The supply of telecommunication services is treated as taking place at the earliest of the following events:

- (a) a tax invoice is issued for that supply; or
- (b) payment is received for that supply.

4. What are the tax points for particular transactions?

- (a) Continuous Supplies of Service

Where services are supplied over a period of time and paid for periodically, a tax point is created each time a payment is received or a tax invoice is issued, whichever is earlier.

- (b) Services supplied in units at frequent intervals

If the time when each unit was supplied cannot be determine, the tax point is taken as the time when an invoice is issued or when payment for services performed up to a specified date is received, whichever happens first.

- (c) Staged payments and part payments

Staged payments or part payments, create a tax point at the time the payment is due or is made; whichever occurs first.

- (d) Property and leasehold

For periodical payments of commercial rent, the tax point is that prescribed by the contract, i.e. when the service is performed, or the date when payment is received, or the date of issue of a tax invoice, whichever happens first.

Deposit

5. Are deposits received from customers subject to GST?

Deposits that form part payment of the total consideration payable by the customer, is subject to standard rate at the time of payment of the deposits. On the other hand, if the deposits are used as security and will be fully refunded upon completion of the contract, no GST will be chargeable.

6. Is GST chargeable on a security/floating deposit which is used as a security bond and is fully refundable?

No. However, if at the end of the transaction, the floating deposit is used as a payment for services, GST shall be chargeable at the time the deposit is used for the payment.

Bundled Supplies

7. Sometimes telecommunication services are bundled with non-taxable supply. What is the value of supply for GST purpose?

Telecommunication services are sometimes bundled with non-taxable or out of scope supply. For example, donation by way of short message service (SMS). SMS is taxable as a telecommunication service, whereas the donation is not a supply. If all of the following criteria are met, tax applies only to the taxable services provided as part of the package.

- Each supply is separately priced.
- The customer chooses the supplies that are part of the package.
- The total price of the package depends on the individually priced supply that the customer has selected.
- The supplies are separately itemized on the tax invoice.

If these conditions are not met, then tax applies to the total charge for the package.

Input Tax

8. Can the reseller of prepaid cards or airtime credits recover input tax on other costs relating to the sale?

The sale of prepaid card or air time credit is not subject to GST because the prepaid card or air time credit is treated as face value voucher. However the sale of the prepaid card or air time credit is a taxable supply. Thus, registered person can claim input tax incurred on the cost relating to the supply of prepaid card or air time credit.

Invoicing

9. Can the telephone bills be treated as tax invoices?

Yes. The bills can be treated as tax invoices if all the information that is required of a tax invoice is provided in the telephone bill.

10. Can adjustment be done in the next billing instead of issuing debit or credit note?

According to GST Act 2014, a taxable person making a taxable supply to another taxable person shall issue a credit note or debit note and make adjustment in his return when there is a change of any consideration. However, for telecommunication services made to end consumer who is a non-GST registered person, adjustment can be made in the next billing instead of issuing credit or debit note.

Telco Services Consumed by Telco Supplier

11. What is the GST treatment for self-consumed telecommunication services?

When Telco provides telecommunication services for its own use, there is no consideration for the services. Thus, such services are not considered as a supply.

12. If telecommunication services are provided free to employees, should output tax be accounted?

There is no need to account output tax as no supply is treated as being made by the taxable person when services are provided free to employees.

13. If the taxable person provides fringe benefits to his employees at a subsidized or discounted price, what is the value of supply on which output tax is accounted?

Where fringe benefits are provided to the employees at a subsidised or discounted price, the value of supply on which output tax is accounted should be the subsidized price or discounted price.

Promotion Packages

14. Are commissions derived from the sale of telecommunication services package subject to GST?

If a person is merely acting as a selling agent, GST will be chargeable on the commission received by him if the person is GST registered. As an agent the GST registered person concludes agreements in the name of and for the account of service of another person, he will be deemed to have supplied a service. His commission will therefore be liable to GST.

15. What is the GST treatment for a promotion package given by Telco to a new subscriber of telecommunication service, whereby an item (e.g. mobile phone) attached within the package is given free of charge to the customer who subscribes the service?

GST will be charged on the price paid by the consumer. The whole package is treated as being sold at a price offered by Telco to the customer for the service.

16. What is the GST treatment for a promotion package given by Telco to a customer whereby he is entitled to purchase another telephony service at a reduced price upon a purchase of a specific telephony service at normal rate?

GST will be charged on the full price of the first telephony service and on the reduced price of the second telephony service.

Bad Debts

17. What is the GST treatment on the bad debts due to non-payment of telecommunication services bill?

Provided that all the conditions of bad debt relief have been satisfied, Telco needs to make adjustment in the GST return within the stipulated time by decreasing the output tax.

18. What happens if the customer pays back the debts after the relief has been claimed?

Telco has to make an adjustment in the GST return by increasing the output tax.

Miscellaneous

19. If the hotel charges its customers for IDD calls, are such charges subject to GST?

The IDD calls supplier is not the hotelier but by the Telco. However, the hotelier may charge its customer surcharge, for example, call set-up charge. Such surcharge is subject to GST.

20. If I offer phone calling service (e.g. Wartel) in my outlet, do I need to charge GST on the phone calls made by my customers?

An entrepreneur that provide phone calling service in his premise may not be considered as telecommunication services provider. However, you are considered as reseller of telecommunication services. Since you are providing a comfortable and private setting in which customers can make calls in your premise, you are providing 'hospitality' services to your customer. If you are a taxable person, you are required to charge GST on the set-up charge in addition to the local call charges mark up.

UTILITY (ELECTRICITY, WATER & SEWERAGE)

Electricity Supply

1. **TGH Power System Manufacturer Bhd. (TGH) is supplying electrical components as well as providing consultancy for construction and maintenance of a power plant to a power generating company which is an independent power provider (IPP), does TGH has to charge GST on such a supply?**

Yes, supply of goods and services for the purposes of construction, or maintenance of a power generating plant is subject to GST at a standard rate. TGH, if it is GST registered, has to charge and account for GST for the supply of goods and services to IPP. GST on the acquisition incurred as Input tax to the IPP is claimable.

2. **ABC Power Provider Bhd. (ABCP) loans its electronic components to HAD Power Provider Bhd. (HPP). Does ABCP has to charge and account GST on the loaned goods?**

The general rule for goods on loan are:

- a). If the same goods will be returned to the supplier who loaned the goods, then the supply of goods is not subject to GST.
- b). If the borrowed goods are being used and is subsequently replaced by a similar goods for example in the process of electricity swapping by IPPs, will be subject to GST. An IPP who lends electricity must charge and account for GST to the other IPP following the time of supply rule i.e when the tax invoice (bill) is issued or payment has been made whichever is the earlier.

3. **Pemaju Untung Sdn. Bhd. (PUS) acquires supply of electricity from Tenaga Nasional Bhd. (TNB) as a single tenant premise to be supplied to 10 units of newly built residential terrace houses at Taman Untung. Is the supply to be zero rated for the first 300 units under GST (Zero Rated Supply) Order? Can it be devided by 10?**

The supply of electricity under the name of PUS is considered as supply made for commercial purpose. However, if PUS applies for connection as multi tenanted premise, separate meters and individual bills for each resident of the 10 units terrace houses are installed, the supply for the first 300 units will be entitled for zero rating.

4. **Is a domestic user of electricity supply who is subject to a minimum monthly charge for minimum usage or non-consumption be entitled for zero rating?**

Yes, a domestic consumer who is subject to a minimum monthly charge per billing cycle of a minimum period of twenty-eight days is entitled for zero rating.

- 5. Besides the prevailing tariffs, commercial customers are imposed a maximum demand charge normally for usage exceeds 6.6kv. Is the extra charge subject to GST?**

Yes, maximum demand charge is subject to GST at a standard rate since it is an additional charge on the supply of electricity to commercial customers.

- 6. What is the status of supply to religious building? Can the supply to religious building be considered as supply for domestic consumption and be entitled for the zero rating?**

The supply to religious building is not considered as supply for commercial purpose, therefore it is subject to GST at a standard rate.

- 7. Can the provision accommodation to workers with nominal payment be considered as incidental supply, thus will not put the power provider under a mixed supplier situation?**

The supply of accommodation to workers may be considered as for furtherance of business and input tax incurred is claimable. With nominal payment to the workers will put the power provider in a mixed supplier situation. However, if the amount is less than RM5,000 per month and the taxable accumulated amount is less than 5% of the total supply, it will be considered as “de minimis” and the power provider can claim the input tax incurred.

Other Services Performed by Power Supplier

- 8. Besides supplying electricity, a power company also performs services. Are the following services subject to GST?**

New connection or connection for increase of supply:

- a. Disconnection and reconnection of supply.
- b. Installation of new meters.
- c. Installation of additional meters and related metering facilities.
- d. Replacement of mechanical meters to electronic meters or reprogramming of electronic meters or repair of meters.
- e. Services in connection with test carried out to meters, upon request from the customers.
- f. Providing street lighting to the customer.
- g. Providing neon, floodlighting, emergency or decorative lighting.
- h. Providing electricity for mining works, etc.

Services as above are considered as supplies for GST purposes and will be subjected to GST at a standard rate.

Input Tax

- 9. TNB Energy Services, a subsidiary to TNB has implemented and commissioned solar hybrid generating stations on the islands of Mersing in Johor. What is the GST treatment on supply of electricity derived from this new energy resource?**

For GST purposes, the supply of electricity produced from new energy resource by TNB when it is disposed to the consumers with or without consideration is a taxable supply. Input tax incurred for the acquisition of goods and services to build the generating plant is claimable. For further details, please refer to Guide on Supply.

- 10. TNB and a developer share the cost of the capital asset on a 50-50 basis. The land for distribution substation is to be provided by the developer. It will be leased or purchased by TNB after completion. If TNB defaults on the agreement, and TNB was not able to provide the infrastructure, there will be a compensation paid by TNB to the developer. What is the GST treatment for such activity?**

When the developer pays upfront 50% of the total cost, it is not making any payment in consideration because the infrastructure belongs to TNB. TNB as a registered person needs to pay GST incurred on the acquisition of goods and services for the construction of the infrastructure.

TNB is eligible to claim input tax credit on all taxable supply of goods including capital goods acquired in the course or furtherance of business. Input tax can be claimed in full if TNB is making wholly taxable supplies.

For GST purposes, if a taxable person is a mixed supplier, he can only claim the input tax which is attributable to his taxable supplies. In this 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. Please refer to Guide on Capital Goods Adjustment for further details.

In the case of TNB making a compensation to the developer is not a supply and therefore is not subject to GST.

Electricity Exchange Programme

- 11. ASEAN member countries exchange electricity to resolve problems of power shortage and enhance cooperation and development among ASEAN countries. What is the GST treatment on the exchange of electricity?**

Treatment of GST on electricity exchange program between ASEAN countries is considered as a supply outside the scope of the GST Act (out of scope supply).

- 12. What is the GST treatment on compensation paid to consumer in the case of major interruption of supply, such as power outage?**
The payment of compensation which is in the form of money is not a supply and therefore is not subject to GST.
- 13. Connected Load Charge (CLC) is the penalty charged by TNB when there is a significant load burden reduction from the original burden declared by a consumer. The charge was introduced to avoid cases of under-utilization of load burden where consumers initially requested for high maximum demand. Are these charges subject to GST?**
The surcharges are not subject to GST since they are punitive in nature, and are not considered as part of the payment.

Billing

- 14. Back billing is done in situation where the amount billed was lesser than the actual amount consumed for a particular period. Back billing adjustment is made through the issuance of a debit note. Does the adjustment subject to GST?**
Yes, the issuance of debit note for the purpose of back billing adjustment is subject to GST at a standard rate and must be added to the output tax during the taxable period in which the debit note is issued.

For further details, please refer to the *General Guide*.

Miscellaneous

- 15. It is common for a power provider to receive excess payment from the customers. It will tedious to issue credit notes in order to make the necessary adjustments in the GST return. Can the excess amount be treated as deposit instead of payment?**
Yes, excess payment by virtue of Regulations 15, GST Regulations 2014 is not subject to GST. Tax on that supply shall be chargeable only to the extent covered by the invoice or payment.
- 16. Power provider sometimes received fund from the Government for example, shifting of road poles, building of solar hybrid system and etc. Does the fund be considered as consideration for a supply of services?** Yes, the provision of fund from the Government is considered as consideration and thus the power provider must account the GST included in the fund received.

- 17. In the case damage by a third party to asset of the power provider, for example a road accident whereby a road pole was run over, power provider will seek damage compensation from the person. Is the compensation subject to GST?**

No, the compensation sought is not a consideration for a supply, i.e. it is out of scope, and thus there is no GST implication on the compensation received.

Water Supply

- 18. What is the GST treatment on sale of drinking water from machine operated by coins, token etc. subject to GST?**

Yes, the supply is subject to GST at a standard rate and price of drinking water is inclusive of GST.

Example 1:

Price of 100 litres of drinking water inclusive

GST 6% = RM106.00

GST supplier has to account = RM6.00 (6/106x100)

- 19. Is GST chargeable on supply of goods and services related to the supply of water such as installation, repair, and maintenance by the providers? Examples of goods and services supplied are as follows:**

- First time connection of building to the water mains.
- Fluoridation charges.
- Pressure testing.
- Installation and repair works.
- Testing private pipework at the customer's request.
- The opening and closing of at stop cock at the customers' request.
- Rewashing ball valves and taps.
- Supply of water meters with or without installation.
- Meter survey fees.
- Meter testing fees at the request of the customers.
- Special meter-reading charges at the request of the customers.
- Separate charges for maintenance of meters, etc.

Supply of goods and services related to the supply of water is standard-rated if those of the above services are charged to the customers by the water providers.

20. What is the GST treatment on the supply of water to a country outside Malaysia?

Supply of treated water outside Malaysia is considered as exported goods which is subject to GST at zero-rate.

20. Syarikat Air JH Holdings Sdn. Bhd. imports treated water from neighbouring country. Is the imported water subject to GST?

Yes, importation of water is subject to GST at a standard rate.

21. Is Non Revenue Water (NRW) such as pipe burst and leakages, fire fighting, pilferages, and system maintenances subject to GST?

NRW will be treated as for the furtherance of business in the water supply industry and no GST is accounted for the water loss. However input tax incurred is claimable.

22. My company pays certain percentage of our annual turnover to SPAN as our contribution. What is the GST treatment to such contribution?

A contribution is not for consideration to any supply, therefore there is no GST implication on such transaction.

Sewerage Supply

23. IWK performs desludging service for premises with septic tanks approximately once every two years. However, customers can request for additional desludging at no charge except for the monthly charge. Is the charge subject to GST?

Yes. GST is standard-rated for monthly charges incurred to the customers. If additional desludging service is charged to the customers, GST has to be imposed.

24. Another type of sewerage service is the connected service whereby customers have sewerage outlets directly linked to IWK treatment plant via an underground network of sewer pipes. Monthly charge is also incurred for this service. Is this charge subject to GST?

Yes, the connected services is subject to GST.

25. Applicable to Commercial and Government premises, an excess charge is chargeable if the monthly average of water consumption exceeds 100 m3. What is the GST treatment for the charges?

Yes, this charge is subject to GST at a standard rate.

26. Sludge can be converted to organic stabilized fertilizers or utilized for reconditioning of sandy and degraded soils for agriculture and forestry development. Is disposal of treated or converted sludge subject to GST?

Yes, the supply of treated and converted sludge is subject to GST at standard-rate.

OTHER MATTERS

- 27. In a service apartment and condominiums it is commonly done by Joint Management Corporation (JMC) or Joint Management Body (JMB). Is the supply to JMC/MB be zero rated as domestic consumption?**

No, the supply of treated water by provider to JMC/MB is treated as business to business (B2B) supply, therefore the water provided must charge and account the GST for such supply. JMC/MB is required to onward invoice to the tenants, the tenants are entitled for the zero rating on the onward supply by the JMC/MB.

- 28. What is the status of supply of treated water to religious building? Can the supply to religious building be considered as supply for domestic consumption and be entitled for the zero rating?**

The supply of treated water to religious building is not considered as supply for domestic purpose, therefore it is subject to GST at a standard rate.

- 29. Can the provision of accommodation to workers with nominal payment be considered as incidental supply, thus will not put the provider under a mixed supplier situation?**

The supply of accommodation to workers without may be considered as for furtherance of business and input tax incurred is claimable. With nominal payment to the workers will put the provider in a mixed supplier situation. However, if the amount is less than RM5, 000 per month and the taxable accumulated amount is less than 5% of the total supply, it will be considered as "de minimis" and the provider can claim the input tax incurred.

- 30. A provider sometimes receive fund from the Government to for example for shifting of road pipes, building of reservoir etc. Is the fund to be considered as consideration for a supply of services?**

Yes, the provision of fund from the Government is considered as consideration and thus the provider must account the GST for the supply of service.

COOPERATIVES

Registration

1. How do I calculate threshold?

To calculate threshold, businesses must include taxable supplies such as;

- (a) standard rated supplies (goods and services taxed at 6%)
- (b) zero rated supplies (goods and services taxed at 0%)
- (c) deemed supplies such as use of business goods for private use;

but do not include:

- (i) exempt supplies e.g. public transport and tolled highway,
- (ii) out of scope supplies e.g. supplies made by Government or by any local authority or statutory body in performing its regulatory and enforcement function such as issuing of business license, approval to put up advertisements,
- (iii) imported services,
- (iv) sale of capital assets,
- (v) supply of goods and services in designated area which is Langkawi, Tioman and Labuan.

2. Co-operatives are also involved in the agricultural sector. Are they also required to be registered for GST?

GST covers all supplies of goods and services rendered in Malaysia in the course or furtherance of business except for the supplies under the GST (Exempt Supply) Order 2014. Products of the agricultural sector are mainly taxable supplies whether at zero rate (examples: fruits and vegetables) or at a standard rate (example: processed food). The co-operative has to register if the taxable supplies of the activities exceeds the prescribed threshold of RM500,000 within twelve months (past or future).

GST Implication on supplies made by co-operatives

3. How do I know that I am making a taxable supply for the co-operative?

Any goods or services which are not in the GST (Exempt Supply) Order 2014 are taxable supplies which can be at the standard rate of 6% or at zero rate. There are also goods given relief from the payment of GST under the GST (Relief) Order 2014 but these goods are also taxable supplies.

4. Are transactions in real estate co-operative subject to GST?

No, not all real estate transactions are subject to GST. The sale and lease of residential properties (building approved exclusively for residential purposes) are exempt and no GST will be charged.

Transactions involving other types of properties that do not fall within the definition of residential properties (that is commercial properties) will be taxable, such as hotel, shop house, chalet, boarding house etc.

5. Supplies of residential properties are exempt from GST. Does it mean that all works relating to the construction of residential properties by cooperative are also exempt from GST?

No, all construction services are subject to GST. Although the sale or lease of residential properties are exempt from GST, any construction services or any acquisition of goods done in relation to residential properties are subject to GST. For further details, please refer to GST Guide on Construction Industry.

6. The co-operative is operating a petrol service station, a super market and a mini market. What is the GST treatment on these activities?

All activities carried out by the co-operative above are subject to GST at a standard rate. The co-operative need to be registered as a GST registered person if the taxable supplies of the activities exceed the prescribed threshold of RM500,000 within twelve months (past or future). Once registered, the co-operative is eligible to claim whatever GST paid on its acquisitions in order to run such businesses.

7. A Co-operative sells goods to its members on hire purchase and credit sale where the price is payable by monthly instalments. How to account for GST on these transactions?

There are two types of supplies for hire purchase; that is the supply of goods and the supply of services (hire purchase). The supply of goods is subject to GST which is imposed on the full sales value at the time when the sales take place. There is no GST on the interest charges on the hire purchase. The monthly instalment is not subject to GST.

8. In hire purchase arrangements, goods are usually repossessed and resold if the buyer does not keep up with the payments to the co-operative. Do I have to charge GST when the goods are resold?

If the buyer is a GST registered person, the goods repossessed and resold are subject to GST (tax inclusive). GST must be accounted for when the goods are sold after repossession based on the value of the good sold. No GST is chargeable if the buyer is a not a registered person.

9. A Co-operative gives out loans to its members. Is the facility subject to GST?

No, it is not subject to GST. Provision of loan is an exempt supply.

10. A Co-operative charges processing fee when a loan application is approved. Is the processing fee subject to GST?

All fee based services such as loans processing fee and loan management fee are subject to GST at the standard rate. The instalment payments and the interest collected on the loan is not subject to GST.

11. What is the GST treatment on the dividend and bonus given to the members of the co-operative?

If the dividend and bonus given to members of the co-operative is as a result of shares held by the members in the co-operative, they are treated as not a supply. If they are given due to some profits made by the co-operative on sales made, the dividend and bonus are regarded as exempt supply. They are not subject to GST.

12. Co-operative offers 'Ar-Rahnu' facility to its members, that is pledging the gold articles as a security to pay the loan at the end of the agreed redemption period. What is the GST treatment on Ar-Rahnu facility?

The provision of loan under Ar-Rahnu to the co-operative's members is an exempt supply and the supply of the gold articles as a security is considered as not a supply. Both supplies are not subject to GST.

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

13. ACE Co-operative hire lorries to its members to transport their agricultural products. Is it subject to GST?

The hiring of lorry for transporting the agricultural products is a taxable supply of service and is subject to GST. ACE Co-operative has to charge and collect GST from its members on the hiring of the lorry if the co-operative is a GST registered person.

14. A co-operative runs a pre-school education and child care centre business. Is the co-operative required to be registered under GST?

A pre-school education has to be registered under the Education Act 1996 while the child care centre has to be registered under the Child Care Centre Act 1984. The educational services provided by the pre-school education and the child care centre registered under the relevant Acts are exempt supplies under the GST (Exempt Supply) Order 2014. The operators are not required to be registered for GST unless the operator is a mixed supplier who supplies both taxable and exempt supplies for example providing preschool (exempt supply) and transport of goods or trading (taxable supply).

15. ANGKASA manages the salary deduction service with the employer through the deduction from the member's salary and forward the deduction to the co-operative. ANGKASA charges a fee for providing such services. Is the fee subject to GST?

Yes, the fee is subject to GST at a standard rate, since the fee charged is in return (consideration) for the services given by the ANGKASA.

- 16. ANGKASA provides advice, services, guidance and practical training to members on how to further improve their performance. All these services provided are free-of-charge to all members of co-operatives. Is ANGKASA required to account GST on these services?**

The free-of-charge services provided by ANGKASA to the co-operative members are not subject to GST because there is no consideration in return.

- 17. A co-operative organizes conferences, seminars and training and charge participation fees. In organizing these events, the co-operative also incurred expenses on local speakers, space rentals and food catering. Is the fee subject to GST and can the co-operative claim input tax on these expenses?**

If the co-operative is a GST registered person, the co-operative must charge GST on the participation fee. As for the expenses incurred in organizing the seminar, the co-operative is eligible to claim input tax credit (ITC) provided that the tax invoices are issued under the co-operative's name.

Services Acquired by Cooperatives

- 18. A co-operative pays fees to Suruhanjaya Koperasi Malaysia (SKM) as an auditing fee yearly. The auditing is carried out by SKM. Is the fee subject to GST?**

The fees is not subject to GST because it is a part of regulatory and enforcement from SKM under the Co-operative Act 1993.

- 19. A co-operative bank appointed an audit firm (third party) to carry out yearly auditing on their accounts as required by SKM in relation to SKM's regulatory and enforcement (R&E) function. Should GST be charged on the fees paid by the co-operative bank to the audit firm?**

Fees are subject to GST because the auditing is done by a third party.

- 20. Based on the above scenario, can the co-operative bank claim input tax credit (ITC) on fee paid to the audit firm?**

The co-operative bank is entitled to claim input tax if it is a GST registered person. For further information on input tax, please refer to the GST Guide on Input Tax Credit.

Membership

- 21. Ali pays RM50.00 for co-operative membership fees. Is the transaction subject to GST?**

If in return for the membership fee the co-operative gives its members only newsletters or journals related to its aims and objectives, the cooperative is not making a supply subject to GST. Hence, the membership fee is not subject to GST.

SECTOR 2

(Manufacturing, Wholesaling and Retailing)

- Manufacturing
- Retailing
- Direct Selling
- Free Industrial Zone and
Licensed Manufacturing Warehouse
- Free Commercial Zone

MANUFACTURING

Inputs

1. **Can a GST registered manufacturer treat all of the GST paid for his business acquisitions or purchases as his input tax credit?**

All GST incurred by the manufacturer for the furtherance of his business can be claimed as his input tax. The manufacturer can offset his input tax against any output tax that he is liable to pay to the Director General of Customs (DG).

2. **Are raw materials and components used in the manufacture of goods meant for export subject to GST?**

Yes, you will have to pay GST on all raw materials acquired by you from any GST registered suppliers. If you choose to import the raw materials, GST is payable at the time of importation. However, if you are a GST registered person, you would be able to claim input tax credit on all GST incurred by you on your purchases. The goods subsequently exported by you will be zero rated.

3. **I am an export oriented manufacturer and incurred substantive GST on imported goods. Is there any facility for me to be exempted from paying GST upfront?**

Under the mechanism of the GST, whatever GST incurred on your acquisition whether locally sourced or imported is subject to GST and allowed for input tax claim. However, export oriented companies that are located in the Free Industrial Zone (FIZ) and with Licensed Manufacturing Warehouse (LMW) status, are eligible to apply for the Approved Trader Scheme (ATS) to allow them to suspend the payment of GST on all their importation of goods at the time of importation. For further details, please refer to *Guide on Approved Traders Scheme (ATS)*.

4. **Can I claim GST paid on administrative expenses?**

All administrative expenses incurred in making taxable supplies are entitled to input tax claim whether directly or indirectly used in the manufacturing process. The input tax can be claimed in full by offsetting it against your output tax in the GST return (GST-03).

5. **How about the GST incurred on capital items, for example, a computer system or an office building? Can I claim them as my input tax credit?**

As a GST registered person, you can claim the GST incurred on capital items that are to be used in your business to make taxable supplies. The input tax is claimable in the taxable period in which the capital items are acquired.

6. Are there any purchases in which input tax is not claimable?

Basically, input tax is claimable on all purchases, except for the following:

- (a) on goods and services which are not used for your business.
- (b) on goods (other than those on hand at the time of registration) and services obtained before the GST registration.
- (c) all supplies for which the input tax is blocked as stipulated in the GST Regulations 2014. Examples of such supplies include passenger cars.

7. If capital assets are used in making an exempt supply, can I claim full input tax credit?

Input tax claim on acquisitions of goods (includes capital assets) and services for making exempt supplies are not allowed.

8. If capital assets are used for making mixed supply, can I claim full input tax credit?

If you are making a mixed supply (taxable and exempt supplies), you will have to apportion the input tax based on the proportion of taxable supplies made. If the value of the capital assets is more than RM 100,000 (excluding tax), the GST incurred on the cost of the capital goods may be subject to adjustments under the Capital Goods Adjustment. The adjustment becomes necessary when there is a change in the proportional taxable use of the capital goods.

For further details, please refer to *Guide on Capital Goods Adjustment*.

9. If for some reasons such as defective or inferior goods where I have to return some of the goods to my supplier, can I claim the GST paid on the returned goods?

When you returned the goods, your supplier should refund you the payment for the goods and the GST paid using a credit note. If you have already claimed the input tax credit on the returned goods, then you will have to reduce the said input tax in the taxable period in which you received the credit note.

10. I am a GST registered manufacturer and acquire certain services from overseas. What is my GST liability?

When you acquire the services from overseas, you are treated as making the supply of imported services. Therefore, you need to account for tax on such services acquired where the time of supply is when the supply is paid by you. However, if you are making wholly taxable supplies, there will be no net GST implication because the amount of output tax that needs to be accounted would be the same as the amount of input tax that you claim. However, if you are making both taxable and exempt supplies you have to account for output tax in full and you can only claim your input tax proportionally.

11. Can I claim input tax on the whole value (purchase price) of the machinery acquired under a hire purchase agreement?

Under a hire purchase agreement, goods are paid by instalments to the vendor or a finance company that provides loan for the purchase. You can claim input tax based on the whole value of purchase price. However, if the interest charged is separately identified or shown and disclosed to you, the interest charged under the hire purchase agreement will not be subjected to GST as it is related to exempt supply.

12. What is the GST implication on property or machinery that I acquire under lease?

GST liabilities on leasing would depend on the type of lease whether it is an operating lease or a financial lease. Under the financial lease where the lease provides an option to purchase or transfer of asset at the end of the lease, then the leasing company or the financial institution will impose GST on the whole value of the property or machinery similar to the treatment under the hire purchase agreement in the answer for question Q13 above. If it is an operating lease, GST will be imposed on the value of each lease payment. If the interest charge is disclosed or separately shown under the leasing agreement, the interest element would not be subjected GST.

13. If at the end of the financial lease, I decide not to exercise the option to buy the machine, must I still have to pay GST on the whole value of the machine?

It doesn't matter whether you exercise the option to purchase or not. As long as the leasing agreement includes a clause for an option to buy the leased item, it is considered as a supply of goods and the whole value of the item is subject to GST.

14. I am a manufacturer of plastic products. Normally, I acquire a machine from a machine manufacturer by advance payment similar to progress payment until the machine is ready for collection. How do I claim input tax credit?

Your machine supplier would charge output tax on the value for each payment he received.

The machine manufacturer would also account for GST to the Director General at the earlier of the following event;

- When you make payment to him; or
- When a tax invoice is issued to you.

You can claim input tax according to your taxable period based on the tax invoices received.

- 15. Normally, in the manufacturing industry, we do not make cash payment for our purchase of raw materials. We are usually given credit terms by our suppliers. Would I be able to claim the input tax before I make the payment to my supplier?**

Yes, provided you have the tax invoices from your supplier.

- 16. For importation of goods, how is the value computed for GST payment?**

At the point of importation, value for GST purpose is based on the transaction value including insurance and freight, plus all duties payable and other incidental charges as shown in the example below:

Transaction value RM 50,000

Insurance and freight RM 2,000

Import duty *RM 5,200

Value of import: RM 57,200

GST payable = RM 57,200 x 6% = **RM 3,432**
(*Assuming Import Duty is 10%)

- 17. My overseas suppliers will bill me for my imports in foreign currencies. Can I declare the value of my imports in foreign currencies too?**

Your supplier may bill you in foreign currencies but for the GST purposes, the value of imports must be converted into Ringgit Malaysia (RM) using the exchange rate published weekly by the Royal Malaysian Customs. Such exchange rate can be accessed from the Customs Portal.

- 18. Is there any reprieve of GST for goods imported into a Free Commercial Zone (FCZ)?**

There is no charged on goods imported into FCZ for trading or commercial activities. However, the goods will be subjected to GST when it is removed from the FCZ for home consumption.

- 19. Since I am re-exporting my finished goods which are zero rate, can I be exempted from paying GST when I import the raw materials?**

We have a special scheme for export-oriented companies known as the Approved Trader Scheme (ATS). You may apply to join the ATS, subject to conditions imposed under the scheme.

For further details, please refer to *Guide on Approved Trader Scheme*.

- 20. What is the GST treatment on imported trade samples?**

Trade samples will be given GST relief under the GST Relief Order 2014 at the point of importation. You must comply with the conditions that the trade samples are not to be sold, consumed, put to normal use or in any way put for hire or reward while in Malaysia.

- 21. I send my semi-finished goods to my subcontractors, who are located in overseas, for value-added activities. When my subcontractors send back the value added goods to me, do I have to pay GST?**

When you send the semi-finished goods to your subcontractors overseas, you should treat the goods as your export and the supply is zero rate. When the goods are subsequently brought back into Malaysia from your overseas subcontractors, you are entitled to get relief from the payment of GST. However, GST is chargeable on the parts or components added on the processed goods. If you are a registered person, you can claim the GST paid on the finished goods as your input tax credit. Any value added services perform on the goods do not attract Customs duty or GST.

- 22. If I export my product to overseas, can I claim input tax credit on zero rate supply?**

The zero rated supply is taxed at zero percentage, for example, goods exported to overseas. For zero rated supply, a taxable person is eligible to claim input tax credit on his business inputs in making taxable supply.

Outputs

- 23. In the case of goods being returned by my customers, can I claim the GST paid?**

Yes, you can claim the GST paid on the goods returned by issuing a credit note to your customers. If you have already submitted your return related to this supply to the DG, then you need to make adjustments to your accounts and declare it in your return in the taxable period in which you issued the credit note.

- 24. I had wrongly undercharged the price of goods sold. How do I account for GST on the supply?**

If you have already submitted your return related to this supply to the DG, you need to issue a debit note and make adjustments to your account and declare it in your return in the taxable period when you issued the debit note.

- 25. If I give a trade discount to my customers, can I only charge GST on the discounted price?**

Yes, GST should be imposed on the discounted price.

- 26. When a certain quantity of goods are given free as incentive for bulk buying, for example, for every 20 units of a product purchased at a price of RM 5,000, I offer my customer 2 units free, must I also account GST on the 2 units given free?**

GST will only be based on RM 5,000 since the 2 units given free is considered as a discount.

- 27. Every year I will give a certain quantity of my manufacturing products as a business gift to my customers. Do I have to account GST on the gifts?**

In principle, gifts to your customers are deemed to be taxable supplies because it is made in the course or furtherance of your business. However, under the GST law, a gift is not a supply and no GST due, if the cost of gift is worth not more than RM 500 and given to the same customer in the same year. In such case, you do not have to account for output tax. You are allowed to claim input tax incurred.

- 28. I plan to give promotions in order to boost the sale of my products by giving away goods through a retailer. Do I have to account for output tax on the products that are given free within the promotional period?**

It depends on how you offered the product for a promotion. If the promotion is such as 'buy 1 free 1' or 'buy a sofa and free foot stool', it is considered as one supply. In this regards, normally the total amount paid by the buyer will usually cover all the goods offered. Therefore, you do not have to account output tax on the goods given free because it is considered as a discount.

- 29. I am a GST registered person and process toasted groundnuts for sale to the local market on credit term. The expiry date for my goods are six (6) months and many of my retailers would return to me the expired goods and I will refund their money accordingly. Can I claim the GST that is refunded to my customers?**

Yes, you are eligible to claim the GST paid on returned goods through adjustment in the period where you issued the credit note.

- 30. Is GST chargeable on after sales service provided to customers for goods sold under warranty?**

When goods are sold under warranty, the assumption is that the price, which is inclusive of GST, usually includes the charge for the after sales service and repairs during the warranty period. Any replacement of spare parts that is free of charge during the warranty period will not attract GST as long as such replacement is mentioned in the warranty.

- 31. Do I have to pay GST on goods (sold under warranty) that are temporarily imported into Malaysia from my overseas customers for repairs?**

When such goods are temporarily imported into Malaysia for repairs before they are re-exported, you can apply for temporary import tax relief with the **RM C** where GST can be temporarily suspended at the point of importation. For further detail, refer to *Guide on Import*.

- 32. What is the value for GST charges if the selling price of my manufactured products includes transportation charges and insurance coverage on the goods?**

The value of GST includes your transportation charges and insurance coverage fees. If you are merely arranging the transport and the transport fee will be directly charged to your customer, your customer will have to pay GST on the transport charges to the transport company.

- 33. Are sales of capital items subjected to GST?**

Sales of capital items, except for Transfer of Business as a Going Concern (TOGC), are regarded as making taxable supplies. Therefore, sales of capital items are also subjected to GST at a standard rate.

Exports

- 34. My local customer ordered some goods from me but he requested me to send the said goods to his overseas customer. Do I have to charge GST when I invoice my local customer?**

If you export the goods yourself you can zero rate the supply even though you have billed your local customer.

- 35. I built a machine for an overseas client. The sale invoice was issued to him, but at his request, I supplied the machine to his local customer. Can I zero rate the sale of the machine?**

No, you cannot zero rate the sale of the machine. Although the sale was made to a foreign person, the machine was not exported since it still remains in Malaysia. Thus, you will need to charge GST on the sale even though you bill your overseas client.

- 36. I made a sale of goods to an overseas client. Upon his request, the goods were delivered to a local forwarding agent, who arranged them to be exported to my overseas client. Do I have to charge GST to my overseas client?**

No GST is chargeable to your overseas client, if the export is done in your name. In other words, the sale of goods can be zero rated if it is exported by you. However, you need to keep the proof of export such as Customs No.2 (Export declaration), address of consignee, bills of lading/airway bills, packing lists/delivery notes, other shipping documents and insurance documents.

- 37. My local customer claims that the goods he purchased from me will be exported and requested me to zero rate the goods. Can I zero rate the goods sold to my local customer?**

You should treat the supply as a local sale and you have to charge GST. Your customer can zero rate his supply to his foreign customer if he exports the goods.

38. What is the treatment for goods temporary exported for repair and subsequently re-imported?

Goods exported temporarily for repair and subsequently imported back into Malaysia will be given relief. However, any replacement of parts and components added on the goods are subject to GST at the time of importation. Please refer to GST (Relief) Order 2014.

Farming In/Out (Subcontract Works)

39. If I am a manufacturer doing subcontract work, can I claim input tax incurred for my purchases?

Yes, you are allowed to claim input tax on the GST paid for your purchases even though you are not producing your own goods. As long as you are a registered person making taxable supplies like providing workmanship and some value added work, you can claim input tax incurred on your purchases. You must keep the original tax invoices from your suppliers to support your claim for input tax credit.

40. How is the GST treatment if I as a subcontract engaged in a contract manufacturing with overseas principals for local delivery and export purpose?

There is a scheme known as "Approved Toll Manufacturer Scheme (ATMS)" whereby the participants is eligible to use Approved Traders Scheme (ATS) to suspend payment of GST on imported goods consigned to him by the overseas principal. The GST on goods supplied by the overseas principal to the local customer is to be accounted by the local customer himself using the recipient accounting. The GST on services to process the consigned goods of the overseas principal by the toll manufacturer is disregarded under ATMS. Goods re-exported by the toll manufacturer is zero rate.

41. I did not meet the requirement under the ATMS where the percentage of drop shipment is more than 20%, what is the GST implication on the processed goods which I delivered locally?

In the case where you are not eligible to apply for ATMS, the processed goods delivered locally is subject to GST if the supply is more than RM 500,000 and the overseas principal has to be registered through a local agent appointed by him. If the processed goods delivered locally is less than RM 500,000 then it is an out of scope supply made by that overseas principal who is not a GST registered person. However, the services done by you for processing the goods consigned by the overseas principal is subject to GST for both scenario.

Other Related Matters

42. If I loan some materials to another manufacturer for his urgent use, do I have to account for GST output tax?

Yes, it is a supply because the business asset is transferred to another manufacturer.

43. If I loan a machine to another manufacturer for his use, do I have to account for GST output tax?

Yes, GST is due because it is treated as a supply of services even though the loan is not for a consideration. You have to account for GST based on the open market value of such supply of services.

44. My goods were lost in the course of delivery to my customer. Do I have to account for GST?

If goods are lost, stolen or destroyed during the delivery, GST is still accountable by the supplier unless the contract between the parties makes either party is responsible for the tax. If the supplier accounted for the tax, he may then apply for remission with a sufficient evidence.

45. What happen if my customers fail to make payment on goods previously supplied where the output tax has been accounted?

You can claim bad debt relief for your debts or any doubtful debts on the whole or any part of the GST output tax paid in respect of taxable supplies subject to the following conditions;

- (a) you have already accounted for and paid the tax on the supply;
- (b) you have not received any payment or part payment six months from the time of supply or the debtor has become insolvent before the period of six months has lapsed; and
- (c) you have taken sufficient efforts to recover the debt.

46. What is the GST treatment on disposal of manufacturing waste?

If the waste is destroyed, no GST is due as there is no supply made. However, if you decide to sell the waste, GST must be imposed on such sales.

47. I receive my goods in carton boxes and wooden pallets. These packaging materials will be taken by an appointed person who cleans the unloading area. What is the GST treatment?

Since the packaging materials are not recorded as your assets, there is need not account for GST.

RETAILING

Accounting

1. What is the GST requirement involved in the rounding adjustment of a fraction of a cent?

If the GST payable amounts is a fraction of a cent, the following treatment will apply;

- (i) for fraction of a cent that is .05 cent and above, it will be rounded up. For example, RM 2.245 will be rounded up to RM 2.25;
- (ii) for fraction of a cent below .05 cent, it will be rounded down. For example, RM 2.243 will be rounded down to RM 2.24.

2. How do I account GST on deposit?

Generally, retailers do not have to account GST on the deposit if it is not a part payment. If the deposit becomes part payment, then the deposit is subject to GST depending on the taxability of the supply.

3. What is the GST treatment on the bargaining price?

Price bargaining is a normal practice in the retail business. The amount of GST charged to the customer will be the prevailing tax fraction of the final price paid by the customer. The amount of GST is included in the consideration and is calculated as follows

Example:

Display price:	=	RM 106
Price after bargain	=	RM 95.40
GST to be accounted:	=	tax fraction of the consideration

=	Consideration	X	$\frac{\% \text{GST}}{100\% + \% \text{GST}}$
=	RM 95.40	X	$\frac{6\%}{100\% + 6\%}$
=	RM 95.40	X	$\frac{6\%}{106\%}$
=	RM 5.40		

Other Transactions

- 4. When a coach driver brings a passenger to my supermarket. I will give him a RM 10 voucher to spend in my supermarket. Do I have to charge GST when issuing the voucher?**

The retailer does not have to account GST when he issues the voucher, but he has to account GST when the driver redeems the voucher for taxable goods or services.

- 5. Is GST chargeable on the sales of second hand goods such as used furniture, shoes and electrical household items?**

The sale of second hand goods are treated as a normal supply under GST. If the retailer is a GST registered person, the retailer must charge GST on the supply of the used furniture, shoes and electrical household items irrespective of whether the goods are purchased from a non-registered person or not.

- 6. Is GST chargeable on goods sold to foreign tourists?**

As a registered retailer, you have to charge GST on goods sold to all customers including foreign tourists. The GST paid on the goods by a foreign tourist can be refunded upon leaving Malaysia under the Tourist Refund Scheme provided that he fulfils the prescribed conditions.

- 7. Can I claim input tax credit on motor vehicle for the transportation of business goods?**

The GST paid on the acquisition of commercial motor vehicle such as a van or lorry except passenger motorcar is entitled for input tax credit. However, when he subsequently sells the commercial motor vehicle, he is required to charge GST on the sales.

- 8. I am a GST registered person. Do I have to account for GST on my business assets used for personal purpose?**

Yes, business assets used for personal purpose is subject to GST. Therefore, GST has to be accounted on goods based on the open market value.

- 9. When should I account GST for coin operated machines in my premise?**

You have to account for GST in the relevant taxable period when coins are removed from the machines.

DIRECT SELLING

- 1. What is the GST treatment on the supply of sales aid kit to distributors?**

The DSC is required to charge GST on the supply of sales aid kit to any distributor/stockist.

- 2. Can a distributor/stockist issue a tax invoice using DSC's name for the supply made to the customer?**

A distributor/stockist can issue an invoice on behalf of DSC that contains the details of the DSC who is the principal. However, the name, address, code and GST ID no. of distributor/stockist should also be included in the tax invoice for the purpose of accounting for GST.

- 3. Does the DSC need to account the GST charged by a distributor when the distributor makes a supply to the customer?**

No, the distributor has to account GST for the supply he made.

- 4. I am a stockist for a DSC. Is the commission given by the DSC to me subject to GST?**

The commission earned is the consideration for the supply of services made by the stockist/distributor to the DSC. Therefore, such supply of services is subject to GST. If the stockist is not a registered person, he is not required to account for GST on the commission received (no GST chargeable on services rendered). However, if the stockist/distributor is a registered person, then he has to account for GST on the services supplied by him and the registered DSC can claim the GST incurred as its input tax.

Commission is an income earned by the stockist / distributor for supply of services made to the DSC.

FREE INDUSTRIAL ZONE AND LICENSED MANUFACTURING WAREHOUSE

- 1. As a person operating in a Free Industrial Zone (FIZ), do I have to pay GST upon importation?**

Under the normal GST rules, all importation of goods are subject to GST. However, you are eligible to apply for ATS to allow the payment of GST on imported goods to be suspended at the time of importation.

- 2. Can the GST charged on local purchases made by a company having Licensed Manufacturing Warehouse (LMW) status be suspended?**

The GST charged on local purchases made by a company having LMW status cannot be suspended. GST on the acquisitions has to be paid but it can be claimed as input tax credit. Similar treatment applies to local purchases made by companies operating in a FIZ.

3. Is the GST chargeable on the acquisition made by a person operating in a FIZ from another person who is also operating in the FIZ?

Acquisition made by a person operating in a FIZ from another person who is also operating in the FIZ or from a person licensed under section 65A of the Customs Act 1967 is standard rate.

4. What is the GST treatment on goods that I export on behalf of my local customer?

The supply made by you to the local customer is a standard rate supply, because the transfer of ownership of the goods took place in Malaysia. The supply made by your local customer to his overseas client can be zero rated if the export declaration is in the name of your local customer.

5. If I am operating in a FIZ, do I have to charge GST on a supply made to a company operating in a Free Commercial Zone (FCZ)?

Any supply made from a person operating in a FIZ to a person operating in a FCZ is standard rate.

6. I am a registered person operating in a FIZ. What is the treatment of GST if I make a supply to a company located in a Designated Area (DA)?

A supply of goods from a company operating in a FIZ to a company located in DA is zero rate. However, the supply of services from Malaysia to DA is standard rate unless it is performed in DA (not subject to GST).

7. What is the GST treatment on product samples from a person operating in a FIZ?

Industrial and trade samples that are in a form of not ordinarily available for sale to public are not treated as supply. Therefore, no GST is chargeable on such samples given by a person operating in a FIZ.

8. What is the GST implication on services imported by a company operating in FIZ?

Any services imported by a company operating in FIZ is deemed to be a supply made to and by the company. Thus, it is subject to GST. If the company is a taxable person who makes wholly taxable supply, he can net off the equivalent GST liability as his deemed input tax. However, if the taxable person is a mixed supplier, he can only claim the input tax which is attributable for his taxable supplies.

9. Is there any GST implication on services supplied within a FIZ?

All services supplied and consumed within a FIZ, for example, rental for forklift, storage charges, workmanship, rental of premise, packing and re-labelling charges are standard rate. The provider of such services must account for output tax, if he is registered under GST. Similar treatment applies to any company with LMW status.

10. Is there any GST liability on supply of services between FIZs?

Services supplied between companies operating in a FIZ or companies with LMW status is standard rated.

11. If the goods do not attract import duty do I still need to declare the local supply (from FIZ to PCA) in Customs No.1 form?

All local supplies made must be declared in Customs No.1 form irrespective of whether such supplies are dutiable or not.

Delivery of Goods To a Local Customer

12. What is the GST treatment if I act as a toll manufacturer for overseas principal and I am instructed to send the goods to a local customer of the overseas principal?

A registered person operating in a FIZ can also act as a subcontractor for an overseas principal. Any importation of goods from the overseas principal to a toll manufacturer is subject to GST. However, the toll manufacturer who is a registered person is eligible to apply for ATS to get the suspension of the payment of GST.

The toll manufacturer is not required to charge GST on the local delivery of finished goods to the local customer of his overseas principal if he is an approved person under the 'Approved Toll Manufacturer Scheme' (ATMS). GST on goods supplied by the overseas principal to the local customer is to be accounted by the local customer himself using recipient accounting. If the local customer is a registered person, he shall account for output tax and claim input tax in the same GST-03. GST on services to process the consigned goods of the overseas principal by the toll manufacturer is disregarded under ATMS.

13. What if the local customer is not GST registered under the above situation?

You can only sell to the local customer if he has approval from the Director General to receive the goods. You do not have to charge GST on the delivery. The local customer needs to account for the output tax, even if he is not a registered person under GST, based on the value of the invoice received from the overseas principal within 30 days from the date the supply is treated as taking place. The tax must be accounted in a prescribed form (GST-04).

GST Treatment On Goods Lost / Damaged / Destroyed / Rejected

14. What is the treatment if my goods are lost, stolen or destroyed while the goods are being transported under Customs control?

When the goods are lost, stolen or destroyed while being transported under Customs control, you must account for tax. However, you can apply for remission of GST to the DG.

15. Can I suspend the payment of GST on goods lost or destroyed until I receive the outcome of my application for tax remission?

No, for the purpose of revenue protection you have to account immediately for GST on any goods lost, damaged or destroyed, even though you have made an application for remission.

16. What must I do if the goods are lost, destroyed or stolen during delivery of supplies?

If goods are lost, stolen or destroyed during delivery, the GST is still accountable by the supplier unless the contract between the parties makes either party responsible for the tax. If the supplier accounted for the tax, he may then apply for remission with sufficient evidence.

17. What is the GST treatment on the manufacturing waste if it is destroyed or sold by me as a registered person with LMW status?

If the manufacturing waste is destroyed, no GST is due as such waste is not regarded as business assets since no supply is deemed to have taken place. However, if you decide to sell your manufacturing waste, GST must be imposed on such sales.

Other Related Matters

18. If I loan some raw materials to another registered person who is not operating in a FIZ or does not have LMW status for his urgent use and later he replaces those raw materials with his own raw materials sourced elsewhere, do I have to account for output tax?

Yes, you need to account for output tax because it is deemed to be a supply since the raw materials which are part of the business asset has been transferred to the other registered person.

19. If I loan mould to another registered person who is not operating in a FIZ or does not have LMW status for his use, do I have to account for output tax?

Yes, you need to account for output tax because a deemed supply of services had taken place even though you do not charge on the loan (free of charge).

20. What is GST treatment on goods returned from overseas customer for repair?

You may claim relief from GST on returned goods from overseas customer under item 16 of the Goods and Services Tax (Relief) Order 2014.

FREE COMMERCIAL ZONE (FCZ)

Goods or Services Supplied Within FCZ

- 1. AB Sdn Bhd is a retailer registered under GST. The company is operating in Stulang Laut FCZ. Does he have to charge GST on his sale?**

He does not have to charge GST on his sale which is made within the zone. The goods purchased by his customer will trigger GST when the customer takes out the goods from the zone.

- 2. CD Hotel (registered person) is operating in Stulang Laut FCZ. The hotel acquires goods from AB Sdn Bhd (registered retailer in the zone) for provision of food and beverages by his restaurant located in the hotel. What is the treatment of GST on the provision of food and beverages by the hotel?**

CD Hotel must charge GST on the provision of food and beverages because such provision is a supply of services and this supply is standard rated when it is supplied in a commercial zone located outside ports/airports.

- 3. XX Sdn Bhd is a registered person under GST. This company is operating in a FCZ at Kuala Lumpur International Airport. The company has supplied his products to YY Trader who is also operating in the zone. Is there any GST implication on the supply that XX Sdn Bhd made to YY Trader?**

The supply of goods are subject to GST.

- 4. GG Sdn Bhd is a company who provides space for rental in a FCZ located at Kuala Lumpur International Airport. If GG Sdn Bhd is a registered person under GST, does he have to charge GST on the rental of spaces?**

GG Sdn Bhd has to charge GST on the rental of spaces provided by the company because it is a supply of services which is standard rated under GST.

- 5. Some of the services provided by an operator in FCZ located at ports/airports are contracted out (outsource) to another operator in the zone. What is the treatment of GST on such services?**

Services provided within FCZ located at ports/airports are standard rate. Thus, GST needs be charged on such services except for services which are listed under the Goods and Services Tax (Zero Rate Supply) Order 2014. Such supply of services are zero rate.

Goods or Services Supplied Between FCZ

- 6. Is transportation of goods from a FCZ to another FCZ subject to GST?**

Transportation of goods from a FCZ to another FCZ is a supply of services. Thus, GST is chargeable at standard-rate.

- 7. Further to question in Q6, what document shall I produce for the movement of goods from FCZ to another FCZ?**

Movement of goods between FCZ without passing through Principal Customs Area (PCA) must be covered by ZB form. The ZB form must also be used when the goods has reached the destination while Customs No.8 form must be used when the goods are passing through PCA.

Goods or Services Imported or Supplied Into FCZ

- 8. I am an operator in a FCZ at Tanjung Pelepas, Johor Bahru. What is treatment of GST on goods that I import from overseas into the zone?**

Goods imported into a FCZ Tanjung Pelepas for commercial activities are not subject to GST.

- 9. What is the treatment of GST on services imported by a registered person operating in FCZ located at Rantau Panjang?**

GST is chargeable at a standard rate on services imported into a FCZ located at any port or airport as well as outside port or airport.

- 10. As an operator in a FCZ outside ports/airports and registered under GST, what is the GST treatment on goods that I purchased from a registered person in PCA?**

If you purchase goods from a registered person in a PCA, the goods are subject to GST. Thus, GST is chargeable on such supply. However, if the imported goods are subject to a warehousing scheme, in which the goods are removed from a bonded warehouse, duty free shop or inland clearance depot, then GST is suspended.

- 11. What happens if I am an operator in a FCZ located at Port Klang and I purchase goods from a person in PCA for export?**

If you are operating in a FCZ at a port, your purchase of goods will be zero rated for outright export, i.e., the consignee of the goods are an overseas person.

- 12. I am an operator in a FCZ at Johor Port, Pasir Gudang, Johor. My customer sent his goods for further processing to me. Is there any GST liability when the goods are sent back to my customer?**

Goods sent to any person operating in a FCZ for further processing are not subject to GST as there is no transfer of ownership. Similarly, GST is not charged upon goods that are sent back from the zone after further processing. However, GST needs to be charged on the workmanship (services performed) if you are a GST registered person.

- 13. What is the treatment of GST on services rendered from PCA into a FCZ located at ports/airports and outside port/airport?**

Services rendered from PCA into a FCZ are standard rate regardless of whether the zone is located at port, airport or outside ports/airports.

Goods or Services Supplied From FCZ

14. I am an operator in a FCZ in Port Klang. What is the treatment of GST on supplies of goods from my company to a person in PCA?

All supplies of goods made by a person operating in a FCZ at ports/airports to a person in PCA are deemed to be imported into the PCA and hence subject to GST. The payment of GST must be made in Customs No.1 form at the Customs check point of the zone.

However, if your customer has an approval under ATS, GST can be suspended at the point of importation. Similar treatment applies to any supply of goods made by a person operating in a FCZ outside ports/airports to a person operating in PCA where GST is charged at a standard rate.

15. How about supply of goods made from a FCZ to a free industrial zone (FIZ)? What is the implication of GST on such supply?

Any supply of goods made from a FCZ to FIZ are treated as ordinary local sales and it is subject to GST. However, the person operating in a FIZ is eligible to apply for ATS. In such a case, GST on the supply of goods are suspended if the person has an approval under ATS.

16. What is the GST treatment on products samples from FCZ?

Industrial and trade samples are given GST relief under the Goods and Services Tax (Relief) Order 2014. Hence, no GST is chargeable.

17. What is the GST treatment on the goods exported from a FCZ?

Goods that are exported from a FCZ whether the zone is located at ports/airports or outside ports/airports are zero rate.

18. How about services provided from a person operating in a FCZ to overseas?

Any services provided by a person operating in a FCZ located at ports/airports or outside ports/airports to overseas is zero rated.

Responsibilities of the Free Zone Operator

19. As a GST registered person who carries out a business in a FCZ, do I need to know more about other aspects of GST?

The following guides may be of interest to you:

- (a) GST Registration
- (b) Guide On Import
- (c) Guide on Export
- (d) Guide on Free Industrial Zone and Licensed Manufacturing Warehouse
- (e) Related Guides on Special Schemes, i.e., Approved Trader Scheme and Warehousing Scheme.

SECTOR 3

(PROPERTY, CONSTRUCTION AND PROFESSIONAL SERVICES)

- Property Developer
- Construction
- Valuers, Appraisers and Estate Agents
- Professional Services
- Legal Practitioners
- Advertising Services

PROPERTY DEVELOPER

Registration

- 1. As a developer, I supply both commercial and residential property. Am I liable to be registered?**

Supply of commercial property is a taxable supply whereas supply of residential property is an exempt supply. Taxable supplies include sale, lease and rental of commercial property. For a mixed supplier, if your supply of commercial property exceeds the threshold in the past 12 months or within the future 12 months, then you are liable to be registered.

- 2. I am a developer who is doing fully residential property development. Do I need to register?**

Yes, you may apply for voluntary registration. Supply of residential property is an exempt supply and you are not entitled to claim input tax incurred on your acquisitions. However, if you are registered person, you are entitled to claim input tax:-

- i) attributable on any exempt supplies of land for general use if it is made in compliance with the requirement enforced by any public body as provided under Regulation 42 of GST Regulation 2014.
- ii) on any supply of land to the government, local authority or any other person in compliance of the requirement by the government or local authority for the purpose of providing public amenities and public utilities as provided under Goods and Services Tax (Relief) Order 2014.

Place of Supply

- 3. If I am a developer registered in Malaysia and sell non-residential property in Malaysia, do I have to account for GST on my supplies?**

Supply of non-residential property by a developer in Malaysia is subject to GST. The developer is required to charge GST on the sale and lease of such properties and account for GST as output tax in the GST returns.

- 4. If I am registered in the designated area (Langkawi, Labuan and Tioman) and making a supply of non-residential property in Langkawi, do I have to account for GST?**

No, tax will be charged if the supply of goods is made within or between the designated areas.

- 5. If my office is registered in the designated area and supply non-residential property in Johor, do I have to account for GST?**

Yes, this supply is subject to GST.

6. If a local developer in Malaysia develops non-residential property in the designated area, is the supply subject to GST?

Yes, the supply is subject to GST. However, if the developer develops residential property in the designated area, he is making an exempt supply.

Time of Supply and Accounting Period.

7. When and how do I account GST for supplies of uncompleted non-residential property under progressive payment contracts?

You have to **account for GST, as provided in regulation 4 of the GST Regulation 2014**, at the various stages of the progressive / scheduled payment based on the time of supply which is earlier of the following:

- (a) when tax invoice is issued; or
- (b) when payment is received.

Example 1:

A purchaser enters into an agreement to buy a commercial building which is under construction. The price of the building is RM300,000 exclusive of GST. The payment is scheduled for four successive interval payment and the respective amounts to be paid are as follows:

Scheduled payment period	Amount
1 st payment (1 April 2016)	RM 40,000.00
2 nd payment (1 July 2016)	RM 60,000.00
3 rd payment (1 October 2016)	RM 80,000.00
4 th payment (1 January 2017)	RM 120,000.00

The developer subsequently issues a tax invoice at each successive period. The GST chargeability is as follows:

1st interval (1 April 2016)

Tax invoice = RM 40,000.00

GST (40,000 X 6%) = RM 2,400.00

2nd interval (1 July 2016)

Tax invoice = RM 60,000.00

GST (60,000.00 X 6%) = RM 3,600.00

3rd interval (1 October 2016)

Tax invoice = RM 80,000.00

GST (80,000.00 x 6%) = RM 4,800.00

4th interval (1 January 2017)

Tax invoice = RM120,000.00

GST (120,000.00 x 6%) = RM 7,200.00

The developer accounts for GST based on the date of the tax invoice issued. Assuming he is on a monthly taxable period, when he issues a tax invoice on 1st April, he has to account for GST in the April GST return by 31st May, 2016.

If he is in a quarterly taxable period his first submission of GST03 should be submitted by 31st July 2016 and the GST amount of RM2, 400.

8. When does the developer account for GST on the sale of a completed non-residential property which involves lump sum payment?

The sale of completed non-residential property is a supply of goods. The time of supply for this transaction is the date when the developer should account GST on the supply. The time of supply for the sale of the completed non-residential property is when the property is made available to the buyer or the transfer is already in effect (either by vacant possession of the property already be delivered or document of title).

However if the developer issues a tax invoice or receives payment before the property is made available to the buyer then the time of supply for this transaction is the time when the developer issues a tax invoice or receives payment. On the other hand if the developer issues a tax invoice within 21 days after the property is made available, then the time of supply is the date of the tax invoice issued.

If the developer issues a tax invoice more than 21 days after the property is made available, then the time of supply is the date when the property is made available to the buyer.

Booking Fee, Tender and Contract Deposits

9. Do I have to account for GST on receipt of payment for a booking fee?

If the booking fee forms part payment of the total consideration payable by the recipient, GST will be chargeable at the time of payment of the booking fee. On the other hand, if the deposit is used as security and will be fully refunded upon completion of services, no GST will be chargeable.

10. Are tender and contract deposits subjected to GST?

- (a) The deposit for payment of contract documents is subject to GST because it involves the supply of goods.
- (b) No GST is payable, if the deposit serves as a security will be refunded.
- (c) Yes, if a deposit is intended to be used to offset against the future payments (partly or fully) once the supply has been made, GST is chargeable on such a deposit.

Example 2

A property developer, DZ Sdn Bhd, calls for main contractors to tender for a large scale project in Puchong. Interested tenderers have to purchase the tender documents containing details of the project (e.g., plans, specifications, schedule of quantities) for a fee of \$250. This fee is non-refundable and is subject to GST as it is a sale of tender documents. GST is chargeable and GST has to be accounted at the earlier of when payment is received or tax invoice is issued.

DZ Sdn Bhd then awards the building contract to main contractor; MS Sdn Bhd. MS Sdn Bhd is required to submit a security deposit in the form of a banker's guarantee of 5% of the contract sum for non-performance. This deposit will be refunded upon the completion of the contract. This security deposit received by the developer is not subject to GST as there is no supply made.

Since this is a large-scale project, DZ Sdn Bhd is asked to give MS Sdn Bhd an advance payment (akin to a deposit) which will be used to offset against future progress payments. GST should be charged on this advance payment. GST has to be accounted by MS Sdn Bhd at the earlier of payment received or tax invoice is issued.

Tax Invoice

11. In the case of JV of non- residential property, can a developer issue a tax invoice on behalf of Landlord to the purchaser?

Yes if you are registered person, you can issue the tax invoice to the buyer on behalf of the land owner.

12. Can tax invoice be issued on the lender's (i.e Bank) name in relation to commercial property?

No, because if the invoice issued on the Bank's name, the purchaser cannot claim the input tax. Therefore, the tax invoice must be issued on the purchaser's name. A registered person claiming input tax must hold a valid document (tax invoice) under his name which is required to be provided under section 33 Goods and Services Tax Act 2014 (Goods and Service Tax Act 2014) (refer section 33 Goods and Services Tax Act 2014 and reg.38(1)(a)(i) GSTR).

Supplies

13. In the case of land and property, what are the supplies subject to GST?

All supplies involving the sale and lease of non-residential property are subject to GST. The developers who are registered under section 20 of GST ACT 2014 are liable to charge GST on such supply and account for GST as output in the GST return.

Example 3:

DEF Developer Sdn Bhd carries out a mixed development project incorporating 200 units of residential houses, 20 units of commercial building and 10 units of industrial building. The sale of the 20 commercial and 10 industrial units are subject to GST. The sale of the 200 residential houses is exempt from GST.

14. In the course of undertaking a property development project, I have to surrender part of my land / property back to the State Authority for no monetary considerations to be used for educational, religious, charitable or public purpose. These supplies include roads, police station, schools, recreational areas and other public amenities. Are these supplies subject to GST?

There are two types of supplies here:

- (1) Supply of land for the purpose of playground or religious building. Item 1 of the GST Supply (Exempt) Order 2014 states that supply of land for general use is exempt supply. Regulation 42 of the GST defines "general use" means the use of land for the purpose of burial ground, playground and religious building. In the case of land for general use be supplied by the taxable person to the Federal Government, State Government, local authority and statutory body, such regulation allows any input tax attributable to such supply be treated as input tax attributable to taxable supply if such supply be made in compliance with the requirement enforced by any Federal Government, State Government, local authority and statutory body.

- (2) Supply of land for the purpose of roads, police station, schools and other public amenities. Such supply is a taxable supply and basically, GST is chargeable. However since this supply is to the state authority which is in compliance of the requirement by the state authority for the purpose of providing public amenities and public utilities, then such taxable person are relieved from charging GST to the state authority. This is stated under item 2 in the Second Schedule of the GST Relief Order 2014. Such taxable person are allowed to claim input tax under section 39(1)(a) of the GST Act 2014.
- 15. I provide administrative services such as provide endorsement of deed of assignment. Are such administrative fees subject to GST?**
Yes, administrative fees incurred such as endorsing the deed of assignment are subject to GST because administrative services are standard rated supplies.
- 16. I charge interest for late payment. Is this interest payment subject to GST?**
Interest payment related to late payment is regarded as a penalty and is not a supply. Therefore, it is not subject to GST.
- 17. Merah Developer sells only 180 units of residential condominium. In the contract, two free car park are supplied, with an option to sell the extra car park @ RM18,000 each. Is this to be treated as a composite supply? How do I treat the input tax in respect of the car park?**
Item 1 of the GST (Exempt) Order states that any supply of land used for residential purposes is an exempt supply. Under sub item (1)(b) states that supply of residential property will include any supply of parking facilities which is ancillary to the supply of residential building. Hence, the sale of extra car park at RM18,000 each to the owner of the residential property is an exempt supply. Therefore input tax incurred in the construction of the car park cannot be claimed.
- 18. If Merah Developer sells 500 units of non-residential properties include of shop lots and office building. In the contract, it will supply two free car park, with an option to sell the extra car park @ RM25,000 each. Is this to be treated as a composite supply? How do I treat the input tax in respect of the car park?**
The supply of non-residential properties is standard rated supply. The sale of extra car park at RM25,000 each to the owner is also standard rated supply. Therefore input tax incurred in making the car park is claimable.

- 19. If Merah Developer sells the building with mixed development includes 500 units of residential condominium and 200 units of shop lots. In the contract, it will supply two free car park, with an option to sell the extra car park @ RM20,000 each. Is this to be treated as a composite supply? How do I treat the input tax in respect of the car park.**

The supply of residential condominium is an exempt supply and supply of shop lot is standard rated supply. The sale of extra car park at RM20,000 each to the owner of shop lot is also standard rated supply. But the sale of the extra car park at RM20,000 each to the owner of residential condominium is an exempt supply. Therefore input tax incurred in the construction of the car park, Merah Developer should do the apportionment.

- 20. XYZ Developer sells only 200 units of residential condominium. In the contract, it will supply four units air-conditioner, one new refrigerator and free club membership. Is this to be treated as a composite supply? How do I treat the input tax in respect of the :**

- (a) air-conditioner and refrigerator; and
- (b) free club membership?

The supply of residential condominium is an exempt supply. Based on the above scenario, the supply of the air-conditioner and refrigerator are standard rated supplies and subjected to GST because these are basic fittings as stipulated in Schedule H or G of the Housing Development (Control and Licensing) Act 1966.

Treatment for input tax as follows :-

- (a) If XYZ Developer supply the goods without consideration to the buyer, XYZ Developer has to account for GST on the supply of the goods. Therefore input tax incurred in making the supply is claimable.
- (b) Free club membership is a supply of service. However in this instance the supply of service is given free and therefore it is not a supply. Furthermore input tax on club membership cannot be claimed because it is a blocked input.

Input Tax Credit

21. Is the input tax incurred for the entire property development incorporating residential, commercial and industrial units recoverable?

No, only the input tax on goods and services which are used or will be used wholly in making taxable supplies is recoverable. You should identify the inputs that are directly attributable in making taxable supplies and claim that portion. In this case, only the input tax incurred on inputs used wholly in making commercial and industrial buildings (commercial) is recoverable. Input tax used for making exempt supply is not claimable. Input tax used for making both taxable and exempt supplies should be apportioned.

Example 4:

DEC Developer Sdn Bhd carries out a development project consisting of 1,000 units of residential houses and 200 units of high rise commercial lots. The developer identified the lifts to be used in commercial building. The input tax incurred on the purchase of lifts can be fully recovered. Input tax incurred on professional services acquired for making both residential and commercial building required to be apportioned accordingly. Please refer to Guides on Partial Exemption for further information

However, under the Regulation 42 of GST Regulations 2014, input tax that is attributable to exempt supply of land for general use may also be treated as being attributable to taxable supplies. The terms of general use means that the usage of the land is for the purpose of burial ground, play ground or religious building. The input tax incurred on these supplies is treated as attributable to taxable supply and it is claimable. However such supply of land for general use must be made by a taxable person to the federal or state government, local authority or statutory body.

On the other hand, supply of road, drainage, oxidation pond and others public amenities are taxable supply. In the case where such taxable supplies are supplied to the government, local authority or any other person in compliance of the requirement by the government, the GST Act allows input tax on such supplies to be claimed by the developer who is registered under GST Act even though item 2 of the second schedule of the GST (Relief) Order 2014 relieved the developer from charging the output tax to the government local authority or any other person.

22. Can I claim input tax incurred on the upgrading works such as to widen the road and other public amenities that are belong to the government?

The upgrading work done is a supply of services and subject to GST. You are required to charged and account for GST. Indeed, the services are supply to the government but such services are not given any relief in the GST (Relief) Order 2014. Therefore, the input tax incurred is claimable and you are required to charge GST on such supplies.

23. Residual input tax is input tax for making both exempt and taxable supplies. How do I apportion the claim of the residual input tax?

Residual input tax relates or incurred to both taxable and exempt supplies.

It should be apportioned to determine the portion of input tax that is recoverable. For example, the rental, utilities bill of the developer office, machines etc. that attributes to the development of the residential and commercial buildings maybe apportioned for the incurred input tax incurred. To apportion it, the partial exemption rules applies.

Example 7:

DEF Developer Sdn Bhd carries out a development project consisting of 200 units of residential houses, 20 units of commercial building and 10 units of industrial building. (These units are regarded as the main development). For the relevant taxable period, the value of the residential houses is RM5,000,000 and the value of the commercial and industrial buildings is RM3,000,000. In the course of carrying out this project, the developer also supply basic amenities such as roads, footpaths, drains and communal parking. The residual input tax incurred in supplying these residual inputs is RM40,000 in that taxable period. The residual input tax recoverable in that taxable period (using the turnover method) is as follows:

Value of Supplies	Amount
Total value of taxable supplies	RM 3,000,000.00
Total value of exempt supplies	RM 5,000,000.00
Residual input tax incurred	RM 40,000.00

Input tax recoverable:

$$\begin{aligned} &= \text{Residual Input Tax} \times \frac{\text{Total Value of Taxable Supplies}}{\text{Total Supplies}} \\ &= \text{RM } 40,000.00 \times \frac{\text{RM } 3,000,000.00}{\text{RM } 8,000,000.00} \\ &= \text{RM } 15,000.00 \end{aligned}$$

Input tax recoverable is **RM 15,000.00**

Please refer to Guides on Partial Exemption for further information.

24. **ABC Developer sells residential properties only. It contracted to sell a condominium to Ms. Lela. The cost incurred by the developer for the condominium is as follows:**

Description	RM	Type of supply
The condominium unit	460,000	Exempt
Renovation to extent kitchen	40,000	Standard
Italian sofa set	25,000	Standard
Refrigerator	7,500	Standard
Curtain set	12,500	Standard
Legal fee (free)	5,000	Standard
Total	550,000	

Can we consider ABC Developer as a mix supplier and claim the input tax incurred? What if the construction cost for the renovation and the condominium itself is separated?

From the scenario given, there are three different supplies. ABC Developer is supplying residential property which is exempted from GST. The developer cannot charge GST to the buyer. Therefore ABC cannot claim all the input tax incurred in making the exempt supply. However, if he fulfills the condition in regulation 42, the input tax incurred on the supplies such as road, playground, sewerage etc that will be handed over to the government may be recovered. This is because such supplies attribute to taxable supply. At the same time the developer also supply renovation services, sofa, refrigerator and curtain. This is a separate supply from ABC to the buyer. This supply is a taxable supply. Such input tax is claimable. Here, the developer is considered as a mix supplier.

The third supply is the supply of services by the legal practitioner to the developer. However, the legal fee incurred is a supply made by the legal practitioner to the developer. He may charge GST to the developer and it becomes an input tax to the developer. If such supply is incurred on the sale of the residential property of which is an exempt supply, the input tax on such acquisition is not claimable.

25. Can I claim input tax on speculative supplies such as consultant / professional fees, finder's fees and feasibility studies, which are incurred in the course of investigating potential projects?

Speculative supplies such as consultant / professional fees, finder's fees, feasibility studies are inputs to business. If the taxable person is making wholly taxable supplies, he can claim all the input tax incurred. On the other hand if he is a mixed supplier, he should apportion the input tax claim.

Example 5:

RZM Development Sdn Bhd intends to develop a piece of land into the residential property. A valuer is engaged to perform value of the land and to perform legal and ground site investigation. Based on the report prepared by the valuer, RZM bought the land and start the development project. Later in the middle of the development, he may make changes for the change in used of the development from residential property to commercial property. Then he may incur cost and the input tax is claimable.

26. If a residential building built along the main road, and is converted into non-residential use (showroom), is it possible for me to claim the input tax?

Residential building is exempted from GST. However, if the residential building owner convert the residential building to commercial use (showroom), then the building will be subjected to GST and the input tax claim is allowed. Any supply of the building after conversion is subjected to GST.

27. Maju Developer develops a building consisting of 40 units shop-houses (ground floor) and residential apartments (1st, 2nd & 3rd floor). Apart from apportionment of input tax based on the selling price, what other methods of apportionment is acceptable to Customs?

The supply of shop houses is a taxable supply and supply of residential apartments is an exempt supply. The standard method for apportionment is based on the turnover method. Under the turnover method, the residual input tax is multiplied with a taxable portion. The taxable portion is derived from the value of taxable supplies divided by the value of total supplies made in the taxable period.

Besides the standard method, other alternative methods such as floor space, input cost, transactions, output quantities and man-hour may be used. However, the developer must get prior approval from the Director General of Customs to use the alternative method of apportionment before using it. The Director General of Customs may approve the application if the alternative method is found to be fair and equitable. The developer shall start using the alternative method beginning from the date specified in the approval letter from the Director General.

Please refer to the *GST Guide on Partial Exemption* for further details about the apportionment rules.

Gift Rules

28. What is the GST treatment on gift given free by the property developer to the purchaser?

Paragraph 5(2)(a) of the First Schedule of Goods and Services Tax Act 2014 provides that GST is not chargeable on gift made in the course or furtherance of business to the same person in the same year where the total cost of the gift to the donor does not exceed RM500. However if the total cost to the donor is more than RM500, GST need to be accounted for and input tax is claimable.

In the case where the gift was bought by a taxable person from a non-GST registered person worth more than RM500 and given as a gift without consideration, no input tax is claimable as the gift is acquired without tax. Determination of RM500 per person per year is the aggregate of all gifts given in such the tax year. If the total cost exceeds RM500, it is subjected to GST (account for output tax).

Example 6:

Mr. Abu purchase 2 units of commercial properties from RZM Development Sdn. Bhd. RZM Development Sdn Bhd agreed to give a laptop worth RM3,000 to Mr. Ahmad as a gift. Such supply of laptop is subject to GST because its value is more than RM500.00 (gift rule) and input tax incurred on the purchase of laptop is claimable.

However, No GST is chargeable on gift if such gift is given to the same year in the course of furtherance of the business if the total cost of the gift does not exceed RM500.

Damages and Out of Court Settlement

29. What is the GST treatment for damages and out of court settlements?

Damages and Out of court settlements which are paid for the breach of warranty or delays in completion of contract, are compensatory in nature. Hence such settlement cannot be treated as taxable supply and GST need not be charged for such recovery. However, GST is chargeable for settlements payments made for taxable supplies.

Liquidated Damages

30. Are liquidated damages such as delay in completion of work subject to GST?

No, liquidated damages due to delay in completion of the construction project is not subjected to GST.

Example 7:

The main contractor, ABC Construction Sdn. Bhd, did not complete the building project by the stipulated completion date stated in its contract with its developer, XYZ Development Sdn Bhd. It is required to pay liquidated damages to the XYZ Development Sdn Bhd at a rate of RM3,000 per calendar day (including Sundays and public holidays) for every day where the completion of the project is delayed. Such liquidated damages are not subjected to GST as it is compensatory in nature.

(ii) Rectification of defect

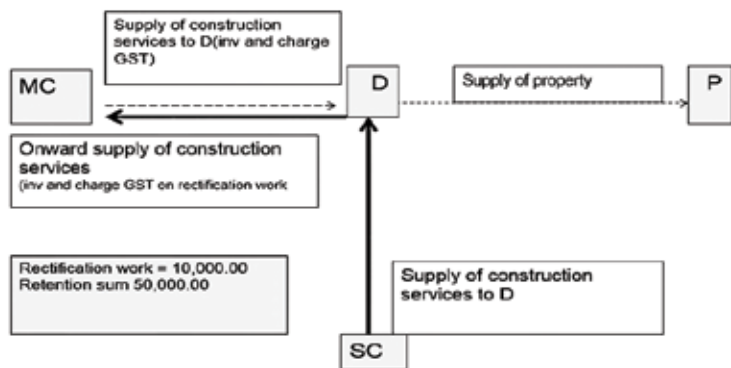
"Rectification of Defect" is one of the provisions in the construction contract. It is allowed even after the issuance of Certificate of Compliance and Completeness (CCC) and the purchasers will take possession of the properties, if there's defect in the new units that needs rectification. Such contract stipulates that the main contractor is required to carry out such rectification works during the defect liability period. Hence, such rectification of defects are compensatory in nature, and cannot be treated as taxable supplies

- 31. Under a contract, the main contractor is required to carry out rectification works during the defect liability period. However, since the main contractor did not want to rectify this defect, another contractor is hired by developer to rectify the poor workmanship done by the main contractor. As a result, additional cost incurred. What is the GST treatment on this?**

Generally, if the main contractor does not perform the rectification works, the developer may engage another contractor to do the job and subsequently deduct such costs from any payment due to the main contractor.

First Scenario

If the developer ("D") hires another sub-contractor ("SC") to do the rectification, the sub-contractor ("SC") is supplying his construction service to ("D"). If the sub-contractor ("SC") is registered for GST, he has to charge ("D") GST on the rectification works performed. ("D") then onward supply this construction services to the main contractor ("MC"). ("D") have to charge "MC" GST on the said works.



Second Scenario

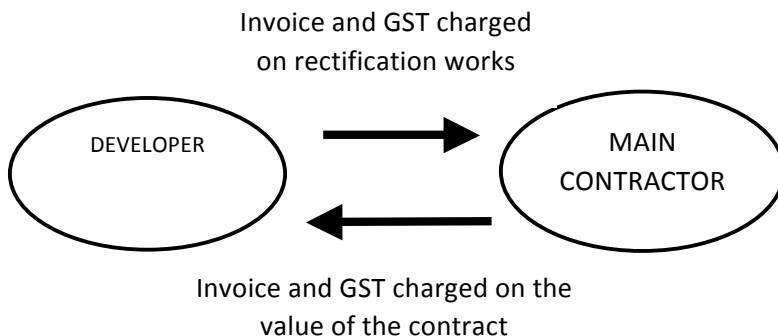
At times, the purchaser may engage his own contractor to do the rectification and claim compensation for the costs or deduct the amount from any payment due to the developer. The developer in turn deducts such amount from any payment due to the main contractor. In either situation, the developer is making a supply of rectification works to the main contractor. The developer have to charge and account for GST on the amount he claimed or deducted from the main contractor.

If the purchaser ("P") hires his own sub-contractor ("SC") to rectify the defects, there is a supply from the purchaser ("P") to developer ("D") because the purchaser ("P") is making good the defects that should have been done by ("D"). If the purchaser ("P") is registered for GST, he has to charge ("D") GST on the cost of the rectification works carried out by his subcontractor ("SC"). ("D") will in turn onward supply this construction service to the main contractor ("MC") and charge him GST accordingly.

The developer can recover the amount for rectification of defect in 2 ways:

- (a) Deduct the cost of rectification work from the retention sum. Such supplies will be treated as two separate supplies. One supply is from the main contractor for completing the entire job (though not entirely to the developer's satisfaction) on the full value of the contract (including the retention sum).

Another supply is from the developer to the main contractor for the full value of the rectification works because the developer is making good the defects that should have been done by main contractor.



- (b) Claim payment from the main contractor. The developer may go to court to seek payment from the main contractor for the rectification cost, or this may be agreed by an out-of-court settlement. Such payment is subjected to GST as it is in relation to taxable supplies made from the developer to the main contractor for repairing the defects which should have been rectified by the main contractor. The main contractor should still charge GST to the developer on the full value of its supply, and the developer should charge GST to the main contractor for the rectification works, similar to (a).

32. What is the GST treatment if the compensation only relates to the poor work done and does not involves any rectification works?

If no rectification work is to be carried out and the developer is only claiming compensation from the main contractor for the poor work done, such compensation is not subjected to GST as there is no supply made. The main contractor will still have to bill the developer for the full value of the contract including the retention sum.

Transitional Issues

33. Are contracts signed before the GST implementation date liable for GST?

First of all look into the details of the contract. If the contract is about supplying an exempt supply, then it is not subjected to GST. On the other hand if the supply is a taxable supply, then the supply made on or after the implementation date is subjected to GST even though the contract is signed before the implementation date.

34. Are contracts signed which span the transitional period (pre and post GST implementation date) liable for GST?

Commercial property made available before the implementation of GST is not subjected to GST. However if the property is made available on or after GST implementation date, the supply of the property will be subjected to GST. This applies for completed constructed property or existing property. The phrase “made available “means that vacant possession of such property delivered by the developer.

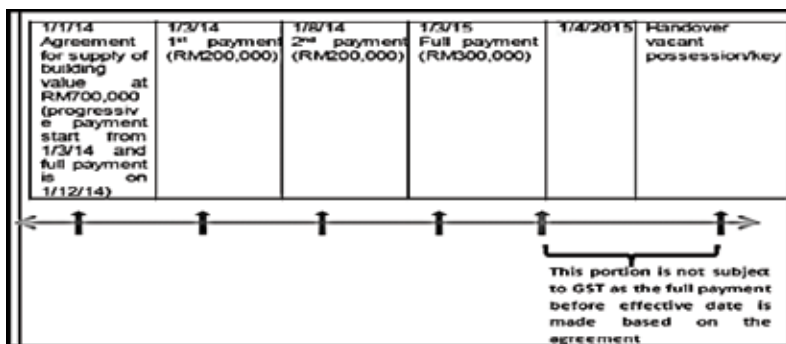
On the other hand, if the property is still under construction and there is a contract for a period or progressively over a period before and after the implementation date, GST is applicable only on the portion of the property under construction from 1st. April 2015.

35. I have sold a shop lot worth RM1 million. I have made the full payment and S&P signed before 1st April 2015 but the key is handed over on the 5th April 2015? Is the property subject to GST?

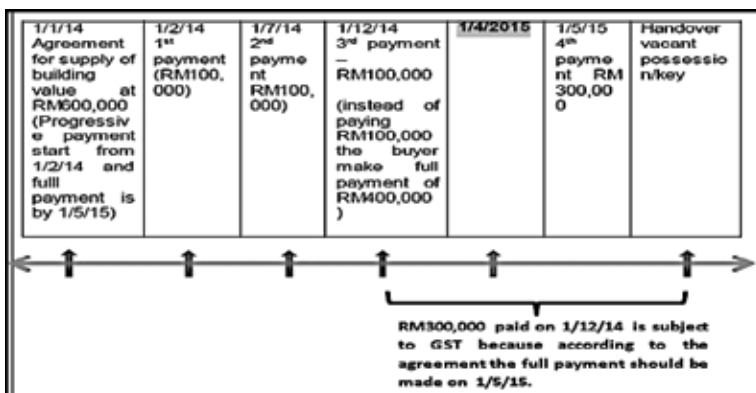
Supply of land or property made:

- a) under an agreement for a period or progressively over a period, whether or not at regular intervals and that period begins before the effective date and ends on or after the effective date the proportion of the supply which is attributed to the part of the period on or after the effective date shall be chargeable to tax. (refer s.188 Goods and Services Tax Act 2014);

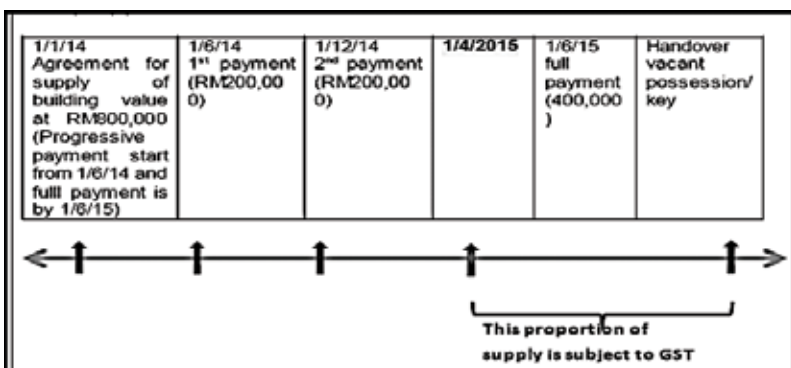
Example 8



Example 9

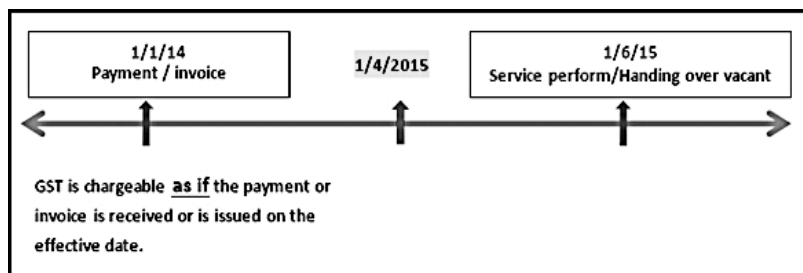


Example 10



- b). under an agreement but not for a period or progressively over a period or not under an agreement, where any payment received or invoice issued before effective date and the supply is on or after effective date, GST is chargeable as if the payment or invoice is received or issued on the effective date (s.183 Goods and Services Tax Act 2014).

Example 11



Hence, such land is treated to be supplied if vacant possession is to be delivered before 1st of April 2015 regardless whether such supply is under section 183 or 188 of the Act.

36. What are the consequences if I do not make a provision to include the element of GST in my contract?

Failure to include the GST provision may make the developer unable to recover GST from the client because the price stated in the contract is deemed to be the consideration paid to the developer. Consideration is the value of property including GST.

37. How do I calculate GST on value of the building if the building is constructed during the time spanning GST implementation?

You must apportion the value of building pre and post GST. GST is only chargeable for the part of the building constructed after GST implementation.

This value will include the value of all works incorporated into the building pre-GST and post GST. A recognized person such as engineer and architect can verify the value of that part of building through the issuance of an interim certificate.

This certificate issued by a recognized person under any written law may include any certificate issued by Construction Industry Payment and Adjudication Act (CIPAA) or Uniform Building By-Laws 1984 (UBBL) (written law in Malaysia) .

Example 12:

KL Contractor signs a contract with JK Developer to build a RM 1,000,000 commercial building. The contract is scheduled to begin on 16 April 2014 and completed by 30 April 2015. Under the contract of agreement, KL Contractor will receive an amount as provided under the progress payment schedule. KL Contractor will issue invoice to JK Developer on 15th of each month. By 1st of April 2015 KL Contractor has received RM 800,000 from JK Developer for the construction services done and on 15 April 2015, KL Contractor lodges a claim amounting to RM 200,000.00 for the remaining value. How much should KL Contractor account for GST if the valuation on 1 April 2015 is RM 900,000?

If the valuation is at RM900,000 then the remaining RM 100,000 is subject to GST. Therefore, KL Contractor has to only account for $(100,000 \times 6/106)$ RM 5,660.38 to customs if he is GST registered.

38. Do I have to account for GST on non-residential property completed before implementation of GST but sold after the GST implementation?

Non-residential property completed before the implementation of GST but sold only after GST implementation period will be subjected to GST. Completed commercial property refers to property issued with a Certificate of Completion and Compliance (CCC).

39. Developer A commenced its construction project on 1 January 2012 and is expected to be completed on 31 July 2015. All the products, consisting of retail lots and serviced apartment, are sold in the year 2012 and scheduled for progress billings up to July 2015. Some of the products are sold with interior design complete with finishing. Whether the progress billings and contractors' claim after 1 April 2015 are subjected to GST? Does the billings on interior design complete with finishing after 1 April 2015 subjected to GST too?

The portions of good (retail lots and serviced apartment) that have been supplied before the GST implementation date are not subjected to GST. The portion that is to be supplied after GST implementation is subjected to GST. Progress billing for the portion of goods to be supplied after GST implementation shall include GST.

The portion of construction services supplied after the implementation of GST date is subjected to GST. Similarly, the portion of interior design complete with finishing supplied after GST implementation date is subjected to GST.

40. On 1 July 1992, land owner RZM Sdn Bhd have entered into agreement into a leasing agreement under section 222 of NLC where MS Sdn Bhd be given the right to occupy the land for 65 years and will end on 30 June 2057. The whole agreed payment is to be paid to RZM Sdn Bhd upon signing such agreement and by submitting form 15A of NLC to the land office. Whether such payment received subjected to GST?

Any supply of leasing services is supply of services and subjected to GST if such supply is related to commercial land or property. Basically, GST treatment for spanning period is based either on:-

- a). whether such contract has no provision for general review opportunity to change /renegotiate the consideration for such supply of leasing services(section 187 Goods and Services Tax Act 2014).

The provision of such leasing services under a reviewable contract entered into not less than two years before 1 April 2015 can only be zero-rated until its first opportunity after that date for review or for a period of five years after 1 April 2015, whichever is the earlier.

However this section is only applicable if:

- (i) the supplier and recipient of the supply are registered persons;
- (ii) the supply is a taxable supply; and
- (iii) the recipient is making wholly taxable supply



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Hence, If the parties have an opportunity to review the contract, the supply of leasing services will be subjected to GST when the first review opportunity arises and in the case where no review opportunity arises, such supply will subjected to GST after the expiry of the five year period from 1 April 2015 .

- b). Application of section 188 of the Act, supply of leasing services for a term of 65 years by RZM Sdn Bhd to MS Sdn Bhd is a continuous supply of leasing services spanning the GST commencement. Section 188 of the Act allows only the portion of supply made before 1 April 2015 is not subjected to GST. The proportion of supply made on or after 1 April 2015 is subjected to GST. The supply is taken to be made on a continuous and uniform basis throughout the period. In this case, RZM Sdn Bhd as a taxable person makes a continuous supply of services spanning 1 April 2015, then RZM Sdn Bhd have to apportion the supply and account for GST accordingly.

Other Issues

41. What is vacant possession?

Giving 'vacant possession' refers to a legal obligation to ensure that a property is in a state fit to be occupied at a given point in time. Vacant possession is an essential element of any land transaction which includes the right to occupy the property, and the obligation will normally appear as an express term in the land agreement. It means that at the moment that 'vacant possession' is required to be given, the property is empty of people and that the purchaser is able to assume and enjoy immediate and exclusive possession, occupation and control of it.

It must also be empty of chattels, although the obligation in this respect is likely only breached if any chattels left in the property substantially prevent or interfere with the enjoyment of the right of possession of a substantial part of the property.

The obligation to give vacant possession has been breached if :

- a). Where people are in lawful possession of the property under a lease or licence. For vacant possession to be given, there must not be anyone else with a right to possession of the property. This means that vacant possession will not be given if anyone has lease or an occupational licence in respect of the property even if they are not in fact in possession of it
- b). Where squatters were in unlawful occupation of the property (*Cumberland Consolidated Holding Ltd v Ireland [1946]*, *obiter dicta*).
- c). Where something is left in the property that substantially interferes with the physical enjoyment of the property but which may be removed e.g. large quantities of rubbish left inside the property (*Cumberland Consolidated Holding Ltd v Ireland [1946]*) or a large number of chattels such as furniture and personal goods (*Scotland v Solomon [2002]*) or indeed people carrying out repair works required to comply with lease obligations (*NYL Logistics (UK) Ltd v Ibrend Estates BV [2011]*).
- d). Where something exists that is a legal obstacle to the enjoyment of the property, such as an order to requisition the property (*Cook v Taylor [1942]*).

Hence, for the purpose of GST, the vacant possession of the property deemed as be delivered if :

- i. Building is completed and CCC be issued by the Authorised person where vacant possession means completion of the individual units up to the stage of "electrical cabling is ready for connection to the Property.
- ii. The key of the building and a notice for such delivery of vacant possession be issued to the purchaser. Upon that the purchaser take such delivery; and
- iii. Full payment for such supply of goods be made to the developer. Hence, failure to made full payment means no vacant possession of such property delivered and such developer only give right to occupy the property only.

42. Is the capital contribution fee subjected to GST?

Capital contribution fee is payment required to be made by the developers to the utility providers for the provision of water, sewerage, electricity and telecommunication services. Developers are mandatory to supply such facilities to ensure such services are made available to all project.

The developers who run the project are required to pay capital contribution charges for infrastructure works such as trunking, cabling, etc. It is a voluntary basis to provide such facilities.

The GST treatment on the capital contribution fee is a standard rated supply. This is due to the supply made by the service provider to the developer. For example, in the case of "Tenaga Nasional Berhad (TNB)", the amount of contribution fee paid due to the charges for the planting of the cable in order to supply the electricity to the development area . TNB are required to issue a tax invoice and charge GST to the developer. The time of supply is when the service is performed or payment received or tax invoice is issued, whichever is the earlier.

43. A property developer wants to change the land title from agriculture to commercial. He needs to pay the conversion premium which is imposed by the State Authority. Is the conversion premium imposed subjected to GST?

No, the conversion premium imposed by the State Authority is not subjected to GST.

44. What is the GST treatment on long lease or subleasing of the Property?

It is a contract of leasing between a land owner and a tenant. Section 221 of NLC allows the land owner to grant the right to lease the property for the maximum term up to 99 years if it relates to the whole of any alienated land and 30 years if it is relates to a part of alienated land only. For sub leasing of the property, NLC allows such right to be granted for a term exceeding 3 years.

For the purpose of GST, any supply of leasing services is a supply of services and subjected to GST if such supply is relates to commercial land or property. Hence, GST is chargeable on any supply of leasing services made after 1st April 2015.

45. I received a project to build a mosque on the “wakaf land” and give it to the Majlis Agama Islam Negeri. What is the GST treatment on such developing services? Does it subjected to GST?

There are 2 supplies involve:-

- (i) Supply of “wakaf land” which is use as commercial property to the Majlis Agama Islam Negeri is a taxable supply. GST has to be accounted by the taxable person who surrendered such land to Majlis Agama Islam. On the application made by the taxable person, section 56(3) of the Goods and Services Tax Act 2014 allows the Minister subject to such condition relief Majlis Agama Islam from payment of the whole or part of GST charged or relieve the taxable person from charging and collecting GST on such supply of “wakaf land”.
- (ii) Supply of mosque on the “wakaf land” is treated as a supply of land for the purposes of general use and falls under GST (Exempt) Order. Developer cannot impose any GST on such supply. However, regulation 42 of The GST Regulations 2014 allows any input tax attributed to such supply to be treated as taxable supply and such taxable person allowed to claim for input tax if such supplied be made to any public body and such supply of goods by the taxable person is made in compliance with the requirement enforced by any taxable person.

46. What is the GST treatment on the amalgamation of land?

Amalgamation of land is the process of combining two or more adjoining pieces of alienated land. Originally the lands are held under separate document of titles, after the land are combined, they will be held under a single land title with all proprietors appearing in the title together with their shareholding. The other titles cease to function. For the purposes, application to amalgamate the land is not a supply and not subjected to GST.

47. Do I have to account for GST if my project is abandoned?

During the period the project is abandoned, you may not be making a taxable supply and therefore you do not have to account for GST. However, if you received any payment or issued any tax invoice during this period, you have to account for it. If you had issued a tax invoice and accounted for it but did not receive payment within 6 months, you can recover GST as bad debt relief.

- 48. I make payment to my contractor to compensate him for losses due to temporary suspension of work. Is the payment paid for temporary suspension of work subjected to GST?**

Any payment to the contractor due to the temporary suspension of work is not subjected to GST. Such payment is a compensatory in nature and not a supply.

- 49. I supply materials and utilities and loan workers to contractors for use in my project. Can I contra the value of the materials, utilities and workers with the value of the construction services?**

No. These are regarded as two different supplies. You have to charge GST for the full value of the materials, utilities and workers services supplied to the contractor. Similarly the contractor has to charge you GST on the full value of the construction services.

- 50. Due to the poor sales, Tinggi Developer is unable to manage in selling off the 20 units of shop houses. Out of that they decided to keep 10 units of shop-houses as its fixed asset/investment properties for rental income. How does Tinggi Developer treat the input tax claimed earlier on the changes made? Is converting an inventory to investment property be interpreted as taken for own use and considered as a deemed supply?**

Input tax claimed earlier in respect of intending to make taxable supplies of selling (expected sales) commercial units need not be adjusted because the proportion claimed does not change as rental of commercial units entitles the developer to claim the same proportion of tax. Both are making taxable supplies. Converting an inventory to investment property per se is not a supply. Renting out the property is a taxable supply. Using the property for business use without the consideration is not a supply but input tax can be claimed because the property is used for purpose of business. However, if the property is used by a developer who makes mixed supply, the developer will have to pay back the input tax earlier claimed by making adjustments. Using the property for private use is considered as a deemed supply and the developer will have to account for output tax.

51. Developers for high rise residential building usually have the following types of billings. What is the GST treatment for the following billing item?

No.	Billing Item
1.	Forfeiture sum
2.	Area variance
3.	Extra package billing
4.	Car park billing
5.	Administration fee
6.	Contra adjustment (debit)
7.	Reversal – discount allowed
8.	TNB deposit
9.	JBA deposit
10.	Quit rent
11.	Assessment

The GST treatments for the above billing item are as follows:

- The forfeiture sum is the money received due to the breach of contract. Therefore, if the money received as a deposit for the purpose of security and the money does not form as part of consideration, it is not subjected to GST. If such money is forfeited, there has no GST implication.
- Area variance, extra package billing, car park billing and administration fee is subjected to GST at a standard rate.
- Generally, contra adjustment is not applicable in GST. There should be two separate supplies where the supplier issues and charges GST to the customer. If the customer is a registered person, he is allowed to claim the input tax. Accounting for GST based on the difference (contra) is not allowed.
- The value for GST purpose of reversal or discount allowed will be reduced by the value of the discount given.
- Deposit for supplies of water and electricity is not subjected to GST if the money received is a deposit for purpose of security and does not form as part of consideration.
- Quit rent and assessment are out of scope supply.

52. What is the GST treatment on the service apartment and the shop houses which will be used as partially commercial and partially residential?

Generally, treatment of land to be based on the usage. Serviced apartment is treated as residential property. Therefore it is exempted from GST. Shop houses will be treated as partially commercial and partially residential if one floor is used for commercial and the other floor is for residential. You are required to do apportionment between the commercial and the residential usage. The commercial usage is subject to GST while the residential will be exempted from GST.

CONSTRUCTION

Registration

1. Who is liable to be registered?

All contractors and subcontractors in the construction industry, whether they are companies, partnerships or self-employed individuals are liable to be registered if their annual turnover involving taxable supplies exceeds the prescribed GST threshold in the past 12 months or within the future 12 months.

2. If my annual turnover of taxable supplies does not exceed the GST threshold, can I apply to be registered?

You may apply for voluntary registration, but once registered you must remain registered for a minimum of two years.

Taxable Supplies

3. What supplies are subjected to GST in the construction industry?

All types of construction services including construction of residential houses or agricultural buildings are subjected to GST. This is because construction services are standard rated and it does not matter that residential houses are exempt.

The illustration below shows the supply of the construction services;



Example 1

A property developer, KL Holding acquired a piece of land in Kuala Lumpur to be developed into commercial properties. He engaged a main contractor, PJ Sdn. Bhd. to be fully in charge of the project. As the main contractor, PJ Sdn. Bhd. engaged subcontractor Dengkil Sdn. Bhd. for site preparation work and subcontractor Serdang Sdn. Bhd. for foundation work on such project. Dengkil Sdn. Bhd. and Serdang Sdn. Bhd. as the subcontractors billed PJ Sdn. Bhd. progressively for their work done. As both are registered under GST Act, they will have to charge GST on the amounts billed to PJ Sdn. Bhd. for the work performed. PJ Sdn. Bhd. bills KL Holdings progressively for the work done for the whole project. Upon certification by KL Holding's architect, PJ Sdn. Bhd. will bill KL Holdings for the agreed amount of work done. GST is chargeable on all these amounts if PJ Sdn. Bhd. is a person registered under section 20 of GST Act.

4. What charges are subjected to GST in the construction industry?

The charges which are subjected to GST include the value of all works and materials permanently incorporated in or affixed on the site of the building or construction project, and any other movable goods that the contractor may charge to the customer.

Example 2

KLM Sdn. Bhd. awarded a contract to DEF Construction Sdn. Bhd. to build a commercial building. Under the contract agreement, the value of construction services including value of materials and work done is RM60,000.

The total amount of GST chargeable is RM3,600 ($\text{RM60,000} \times 6\%$). However, if the contractor gives to the customer movable furniture and charge him separately over and above the amount contracted above, this charge is also subject to GST. If he charges the customer RM2,000, he also has to charge GST of RM120 ($\text{RM2,000} \times 6\%$).

Time of Supply and Accounting Period**5. When do I have to account for GST?**

Your account for GST is based on the two situations:

- (a) Where the construction work does not involve the issuance of a certificate in relation to any work done, you have to account for GST at the earlier of the following:
 - (i) when a tax invoice is issued; or
 - (ii) when a payment (wholly in money) is received by you.
- (b) Where the construction work involves the issuance of a certificate in relation to any work done, you have to account for GST at the earlier of the following:
 - (i) when a tax invoice is issued;
 - (ii) when a payment (wholly in money) is received by you; or
 - (iii) when the certificate in relation to any work done is issued, if no tax invoice has been issued within 21 days after the certificate in relation to any work done is issued.

Example 3

In cases which do not involve issuance of certificate in relation to any work done and assuming you are on a monthly taxable period, if you issue a tax invoice on 15th June, you have to account for GST in your June GST return. However, if you issue a tax invoice on 3rd August, you have to account for GST in your August GST return.

In cases which involve the issuance of certificate in relation to any work done, if such certificate was issued on 12th June, and the invoice was issued after 21 days, that is on 9th July, the GST has to be accounted in your June GST return. However, if the invoice was issued on 2nd July (within 21 days from the date of issuance of certificate of work done), the GST will be accounted in your July GST return.

6. When do I have to submit GST payment to Customs?

On or before the last day of the month subsequent to the taxable period.

Example 4

Based on the above example, if you are on a one month taxable period, the last date to submit the June GST return is the last day of July. The last day to submit the July GST returns is the last day of August.

Place of Supply

7. If I have a construction business registered outside Malaysia, do I have to account for GST?

No. If the business is registered outside Malaysia, the supplies are considered as out of scope.

Example 5

X, a foreign contractor registered outside Malaysia provides construction services in Singapore. The supplies provided by X are regarded as not within the scope of GST.

8. If a contractor provides construction services on the islands of Langkawi, Tioman or Labuan, does he has to account for GST?

No, construction services provided within or between these islands are not subjected to GST. These islands are called designated area. Even though these supplies are treated as no tax chargeable, the contractor can claim input tax incurred in providing construction services in the designated area. However, GST shall be charged on taxable supply of construction services made by the contractor from a designated area to Malaysia or on construction services supplied by any contractor from Malaysia to a designated area.

9. If I am registered in Malaysia and provide construction services outside Malaysia, is the supply subjected to GST?

Yes, this type of supply is a taxable supply but it is zero rated. You will charge your customer GST at zero rate, and you are eligible to claim input tax for all supplies related to such construction services.

Example 6

Y, a local contractor provides contract works outside Malaysia. The value of the contract works is RM100,000. The GST to be charged is zero. In the course of providing the above the contract works, Y incurred input tax in the form of materials to be used or incorporated into the contract works. The value of the materials is RM50,000 and the GST incurred was RM3,000 (RM50,000 X 6%). Y is eligible to claim the RM3,000 as his input tax.

Progress Payment

10. When and how do I account for GST for progressive payment contracts which involve the issuance of certificate in relation to any work done?

GST has to be accounted for after the end of each successive progressive payment schedule and after you received the certificate in relation to any work done (progress certificate) from the architect, engineer or surveyor who values the amount of construction work done. You have to account for GST either based on payment received, tax invoice issued or certificate in relation to any work done be issued. The time to account for GST is at the earlier of the following:

- a). when payment is received;
- b). when tax invoice is issued;
- c). when the certificate in relation to any work done is issued, if no tax invoice has been issued within 21 days after the certificate of work done is issued.

Example 7

A contractor AB Sdn. Bhd. enters into a construction contract to construct a project for BC Sdn. Bhd.. Such construction contract entered by both parties allows BC Sdn. Bhd. to withhold 5% from the payment of each progress billings pending satisfactory completion of the entire contract as a retention sum. It also stipulates that the work is scheduled for 4 successive intervals and the estimated value of the contract work is as follows:

Date of claim	Estimated value by contractor
1 st interval (31 March 2016)	RM40,000.00
2 nd interval (30 June 2016)	RM100,000.00
3 rd interval (30 Sept 2016)	RM160,000.00
4 th interval (31 Dec 2016)	RM300,000.00

AB Sdn. Bhd. issues the letter of claim for the respective date and amounts as above.

The architect issues such progress certificate after each interval period as follows:

Progress Payment - 1st interim certificate

Value of material and works RM30,000.00

Less: Retention sum (RM30,000 X 5%) (RM1,500.00)

Amount Paid RM28,500.00

Progress Payment – 2nd interim certificate

Value of material and works RM90,000.00

Less: Retention sum (RM90,000 X 5%) (RM4,500.00)

Less: 1st interim certificate (RM28,500.00)

Amount Paid RM57,000.00

Progress Payment – 3rd interim certificate

<i>Value of material and works</i>	<i>RM150,000.00</i>
<i>Less: Retention sum (RM150,000 X 5%)</i>	<i>(RM7,500.00)</i>
<i>Less: 1st interim certificate</i>	<i>(RM28,500.00)</i>
<i>Less : 2nd interim certificate</i>	<i>(RM57,000.00)</i>
<i>Amount Paid</i>	<i>RM57,000.00</i>

Progress Payment – 4th interim certificate

<i>Value of material and works</i>	<i>RM300,000.00</i>
<i>Less: Retention sum (RM300,000 X 5%)</i>	<i>(RM15,000.00)</i>
<i>Less: 1st interim certificate</i>	<i>(RM28,500.00)</i>
<i>Less: 2nd interim certificate</i>	<i>(RM57,000.00)</i>
<i>Less: 3rd interim certificate</i>	<i>(RM57,000.00)</i>
<i>Amount Paid</i>	<i>RM142,500.00</i>

The contractor, AB Sdn. Bhd. received the respective amounts as follows and has to account GST accordingly:

1st interval

<i>Payment received</i>	<i>RM28,500.00</i>
<i>Invoiced issued</i>	<i>12 April 2016</i>
<i>GST (RM28,500.00 X 6%)</i>	<i>RM1,710.00</i>

2nd interval

<i>Payment received</i>	<i>RM57,000.00</i>
<i>Invoiced issued</i>	<i>18 July 2016</i>
<i>GST (RM57,000.00 X 6%)</i>	<i>RM3,420.00</i>

3rd interval

<i>Payment received</i>	<i>RM57,000.00</i>
<i>Invoiced issued</i>	<i>16 October 2016</i>
<i>GST (RM57,000.00 X 6%)</i>	<i>RM3,420.00</i>

4th interval

<i>Payment received</i>	<i>RM142,500.00</i>
<i>Invoiced issued</i>	<i>31 January 2017</i>
<i>GST (RM142,500 X 6%)</i>	<i>RM8,550.00</i>

The contractor accounts for GST base on the date the payment is received. In the above example, the contractor AB Sdn. Bhd. has to account for GST on the values and dates as stated above, that is account for GST of RM1,710.00 on 12 April 2016 for the first interval, account GST of RM3,420.00 on 18 July 2016 for the second interval, and so on.

11. How do I account for the GST if my client has paid less than the amount of progress claim?

If you issue a tax invoice equivalent to the value / amount stated in the certificate in relation to any work done (progress certificate) issued by any authorized person but is less than the amount stated in the progress claim, you may issue a credit note and shall make adjustment in the GST return. In this scenario the contractor shall reduce output tax in the return for the taxable period in which the credit note was issued.

Example 8

You issued tax invoice for services performed amounting to RM70,000 based on such progress certificate issued by the architect or engineer. However, the amount that should be due to you was estimated to be RM80,000 (contract amount). Under this situation you could issue credit note for the balance RM10,000 and account for GST based on RM70,000.

Payment Not In The Form of Money

12. How do I account for the GST when payment is not in the form of money?

You have to account for the GST based on the open market value of the consideration received.

Example 9

You provide construction services valued at RM5,000. In return, your client give you furniture. The open market value of the furniture is RM5,200. You account GST based on RM5,200 (GST inclusive) in the following manner:

$$\text{GST} = \text{RM } 5,200 \times \frac{6}{106}$$

$$\text{GST} = \text{RM } 294.34$$

Input Tax Credit

- 13. Can I claim input tax for the services related to the supply of construction project? For example, professional services of architects.**

Yes, you can claim input tax on services incidental to the construction project regardless whether the project is residential housing or commercial building. It is because all construction services are standard rated. However, if you are developer of residential properties and supply such construction services on such project, you cannot claim input tax because the supply of residential house is an exempt supply.

- 14. Can I claim input tax credit on landscaping work constructed on the residential property which is required by Planning Authorities?**

Yes, you can claim input tax credit because the inputs are attributable to a taxable supply. All construction services done in Malaysia are subjected to GST, regardless of whether such services in relation to residential or non-residential properties and such services may include landscaping services constructed by the contractors. GST will be imposed on the supply of such services at a standard rate even though residential properties are exempt supplies.

- 15. Can I claim input tax on built-in-furniture supplied together with the construction of building?**

Yes, if you are a contractor you can claim input tax if the built in furniture is supplied by you in the course of construction project. Any furniture and fittings that are supplied together with the construction of building are subjected to GST.

Contra Payment or Counter Supplies.

- 16. I provide construction services to a land owner who in return (after completion) leases the land and building to me for a period of 5 years. Can I contra the payment of the construction services with the lease payment? When do I have to account for GST?**

No, there are 2 supplies involved; the supply of construction services from the contractor to the land owner and the second supply made by the land owner to the contractor i.e. leasing services. You have to account GST on the open market value of the 5 years lease of the land and building. The time to account GST is when the lease is given to you. The land owner has to account for the open market value of the construction services. Both the land owner (if taxable person) and contractor should issue a tax invoice for the gross value of the supply made to each other and account the GST accordingly.

It is incorrect to contra the payment of the construction with the lease payment. The contractor as GST registrant has to charge land owner GST for the supply of construction services which the land owner can recover as input tax credit. The landowner also has charge GST for the leasing services and the contractor may recover it as his input tax.

- 17. I provide construction services to a landowner who in return gives to me 20 units of the commercial building. How and when do the land owner and I have to account for GST?**

You have to account for GST on the open market value of the 20 units of commercial building. The time to account is when the building was given or made available to you. The landowner (if GST registered) would account for GST on the open market value of the construction services provided by you. The landowner has to account for GST when the construction services is completed.

- 18. The developer purchased and supplied the contractor with building materials and workers. Can the contractor deduct the value charges for these supplies from the amount of progressive payments due to him?**

No, there are two separate supplies in this instance; the supply of building material and worker from the developer to the contractor and the second supply made by the contractor to the developer for the construction services. Both the developer and contractor should issue a tax invoice for the gross value of the supply made to each other and account the GST accordingly. Hence, it is incorrect to charge and account the output tax only on the amount being payment made by the developer being net off value of building material and worker. The developer as a GST registrant has to charge the contractor GST for the supply of building materials and workers which the contractor can recover as input tax credit.

- 19. In relation to the question above, how should the developer and contractor account for the GST?**

a). On the part of the developer:

The developer, DK Sdn. Bhd. supplies building material and workers amounting to RM50,000. DK Sdn. Bhd. has to issue the contractor a tax invoice of RM50,000 and account for GST amounting RM3,000 ($RM50,000 \times 6\%$).

b). On the part of the contractor:

Contractor may recover the GST above as input tax.

The progressive payment due is RM100,000. The contractor has to issue tax invoice of RM100,000 to DK Sdn. Bhd. and account for the output tax of RM6,000 ($RM100,000 \times 6\%$).

Construction Works Relating To Exempt Properties.

- 20. Supplies in form of sale, lease or rental of residential properties are exempted from GST. Does it mean that all construction works related to such residential properties, being an exempt supply, are exempted from GST too?**

No. All construction services are subjected to GST, irrespective of the types of property the construction works are carried out. Construction works related to residential properties will also be standard rated even though residential properties are exempt supplies.

Retention Amount

- 21. The construction contract allows the client such as the developer or an individual to withhold a percentage from the payment of each progress payment pending satisfactory completion of the entire contract. Is this withholding or the retention amount subjected to GST?**

The retention amount is not subjected to GST until the money is released to the contractor. The amount of the progress billings, excluding retention money, has to be accounted for GST based on the date the payment is received as stated in the construction contract entered. For retention amount/sum, the contractor has to account for GST after he received the money. Normally, construction contracts which have been agreed by both parties normally provide for a contractor to render, from time to time, progress billings as work progresses. Such contracts also normally stipulate that the contractor be paid, usually after the relevant part of the work has been satisfactorily completed, as certified by the client, the client's architect or engineer.

It may also require the client to withhold a percentage from the payment of each progress billings pending satisfactory completion of the entire contract. The retention money/sum withheld is not paid to the contractor until the conditions for the payment of the money or sum as specified in the contract are met.

Example 10

A contractor BB Sdn. Bhd. enters into an agreement to construct a project for BC Sdn. Bhd. and the project cost is RM84,000. The construction contract entered by both parties allow BC Sdn. Bhd. to withhold 5% from the payment of each progress billings pending satisfactory completion of the entire contract as a retention sum. It's also stipulates that the work is scheduled for 2 successive intervals. In his billing BB Sdn. Bhd. will have to account for GST as follows:

Progress Payment - 1st interim certificate

Value of material and works RM30,000.00

Less: Retention sum ($RM30,000 \times 5\%$) (RM1,500.00)

Amount Paid RM28,500.00

GST ($RM28,500 \times 6\%$) RM1,710.00

Progress Payment – 2nd interim certificate

Value of material and works RM84,000.00

Less: Retention sum ($RM84,000 \times 5\%$) (RM4,200.00)

Less: 1st interim certificate (RM28,500.00)

Amount Paid RM51,300.00

GST ($RM51,300 \times 6\%$) RM3,078.00

Total retention sum RM5,700.00

GST on retention money/sum RM342.00

22. When do I have to account GST for the retention sum?

You have to account for GST after you get the amount of retention sum, or when you issue an invoice related to the retention sum, whichever is the earlier.

Example 11

Based on Example 10, the retention amount is RM5,700 exclusive of GST. You must account for GST of RM342 ($RM5,700 \times 6\%$) after you received that amount from your client, or when you issue an invoice for the retention sum.

23. When can my client claim input tax on retention sum?

When the retention sum is released to you and you issue him a tax invoice, or you give to him a receipt of payment.

Damages and Out of Court Settlement

24. What is GST treatment for damages and out of court settlements?

Damages and out of court settlements which are paid for the breach of warranty or delays in completion of contract, are compensatory in nature. Hence such settlements cannot be treated as taxable supply and GST need not be charged for such recovery. However GST is chargeable for settlements that are payments for taxable supplies made.

Liquidated Damages

25. Are liquidated damages such as delay in completion of work subjected to GST?

No, liquidated damages due to delay in completion of the construction project is not subject to GST.

Example 12

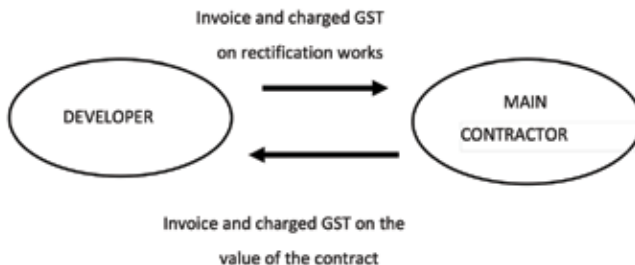
The Main contractor, AMC Sdn. Bhd, did not complete the building project by the stipulated completion date stated in its contract with its developer, DEC Pemaju Perumahan. It is required to pay liquidated damages to the DEC Pemaju Perumahan at a rate of RM3,000 per calendar day (including Sundays and public holidays) for every day where the completion of the project is delayed. Such liquidated damages are not subjected to GST as it is compensatory in nature.

Rectification of Defect

26. Under the contract, the main contractor is required to carry out rectification works during the defect liability period. However, since the main contractor did not want to rectify this defect, another contractor is hired by developer to rectify the poor workmanship done by the main contractor and as a result additional cost is incurred. What is the GST treatment on this?

The developer can recover the amount for rectification of defect in two ways:

- a). Deduct the cost of rectification work from the retention sum. Such supplies will be treated as two separate supplies. One supply is from the main contractor for completing the entire job (though not entirely to the developer's satisfaction) on the full value of the contract (including the retention sum). Another supply is from the developer to main contractor for the full value of the rectification works because the developer repair the defects that should have been done by the main contractor.



- b). Claim payment from the main contractor. The developer may go to court to seek payment from the main contractor for the rectification cost, or this may be agreed by an out-of-court settlement. Such payment is subjected to GST as it is in relation to taxable supplies made from the developer to the main contractor for making good the defects which should have been rectified by the main contractor. The main contractor should still charge the developer GST on the full value of its supply, and the developer should charge the main contractor GST for the rectification works, similar to (a).

27. What is the GST treatment if the compensation only relates to the poor work done and does not involve any rectification works?

If no rectification work is going to be carried out and the developer is only claiming compensation from the main contractor for the poor work done, such compensation is not subjected to GST as there is no supply made. The main contractor will still have to bill the developer for the full value of the contract including the retention sum.

Tender, Liquidated Damages and Contract Deposits

28. Are tender and contract deposits subject to GST?

- (a) The deposit for payment of contract documents is subject to GST because it involves the supply of goods.
- (b) No GST is payable, if the deposit serves as a security to ensure the contractor proceeds with the contract or to ensure that the contractor carries out all the obligations detailed in the contract.
- (c) Yes, if a deposit is intended to be used to offset against the future payments (partly or fully) once the supply has been made, GST is chargeable on such a deposit.

Example 13

A property developer, DZ Sdn. Bhd., calls for main contractors to tender for a large scale project in Puchong. Interested tenderers have to purchase the tender documents containing details of the project (e.g., plans, specifications, schedule of quantities) for a fee of RM250. This fee is non-refundable and is subject to GST as it is a sale of tender documents. GST should be charged on this supply.

DZ Sdn. Bhd. then awards the building contract to main contractor, MS Sdn. Bhd. MS Sdn. Bhd. is required to submit a security deposit in the form of a banker's guarantee of 5% of the contract sum for non-performance. This deposit will be refunded upon the completion of the contract. This security deposit is not subject to GST as there is no supply made.

Since this is a large-scale project, DZ Sdn. Bhd. is required to give MS Sdn. Bhd. an advance payment (akin to a deposit) which will be used to offset against future progress payments. GST should be charged on this advance payment.

Bad Debts

29. What will happen if my customer does not pay me after I have issued tax invoice after completion of work?

You can claim bad debts relief on the GST output tax paid in respect of taxable supplies. The GST portion of the bad debt can be recovered subject to certain conditions:

- a). The tax is already paid;
- b). You have not received any payment 6 months after the supply has been made, or the debtor has become insolvent; and
- c). Sufficient efforts have been made by you to recover the debt.

30. Do I have to make a formal claim to recover GST due to bad debts?

No, you only need to make adjustment by increasing your input tax in your GST return after you have satisfied all the conditions for bad debt relief.

31. What happen if my customer pays me back the bad debt after I have claimed bad debt relief?

You have to make adjustment by increasing your output tax in your GST return.

Supply of Workers or Services of Personnel From Overseas

32. What is the GST treatment if I were to employ workers or services of personnel from overseas?

The treatment is as follows:

- a) If the foreign worker works for you under contract of employment, it is not subject to GST.

Example 14

DEF Sdn. Bhd. is a registrant and hires foreign worker under contract of employment to work in their company. This supply of foreign worker is not subjected to GST.

- b). GST is chargeable if you supply the foreign worker under your employment to another company.

Example 15

ABC Sdn. Bhd. is a contractor that has a pool of foreign workers. XYZ Sdn. Bhd. requires workers in his construction industry. ABC Sdn. Bhd. provides foreign workers to XYZ Sdn. Bhd. in return for payment. Therefore ABC Sdn. Bhd. should charge GST when they provide foreign workers to XYZ Sdn. Bhd.

- c). If a foreign consultant does work for you, but is not under your contract of employment, you have to account for GST by reverse charge mechanism. Under this mechanism, 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, as the recipient of the services, the contractor is liable to account for GST on the supply made for the purpose of any business.

When such contractor 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. Since, construction services is a taxable supply, the contractor is entitled to claim the GST incurred as his input tax and have to declare both input tax and output tax in his GST return. The contractor as the recipient of the services is liable to pay the tax not later than the last day of the month following after the end of his taxable period where the payment for the supply of imported services is made to the supplier.

Example 16

KK Sdn. Bhd. hires a foreign consultant in building a bridge. Payment to the foreign consultant will be subject to GST. KK Sdn. Bhd. has to account for it by reverse charge mechanism. Reverse charge mechanism will shift the GST liability from the supplier to the recipient. Thus, when KK Sdn. Bhd. receives a supply of imported services (foreign consultant) for the purpose of business i.e. to construct a bridge, he is treated as if he is making and receiving the supply of consultancy services. Since he is treated as making a supply, he is required to account GST on the supply of imported services as his output tax. As construction services is a taxable supply, KK Sdn. Bhd. is entitled to claim the GST incurred as his input tax.

Contracts

33. Are contracts signed which span the transitional period (pre and post GST implementation date) liable for GST?

The value of contract works performed before GST implementation is not subject to GST. However, the value of contract works performed after GST implementation will be subjected to GST.

34. What are the consequences if I do not make a provision to include the element of GST in my contract?

Failure to include the GST provision may result in the contractor, if he is registered under GST, unable to recover the GST from the client.

Transitional Provisions

35. I bought goods that were subject to sales tax and I still have these goods in my trading stocks on 1 April 2014. Can I be refunded the amount of sales tax paid on those goods?

If you are registered under GST, you can claim special refund of sales tax paid on those goods provided you have documentation such as invoices and custom documentation to show sales tax have been paid.

36. What is GST treatment on progress payment on any construction contract made before 1 April 2015?

Generally, GST is only payable on any supply of goods or services to the extent that it is made on or after 1 April 2015. Basically, the value of work and materials permanently incorporated in or affixed on the construction site before 1st April 2015 will not be subject to GST.

In order to determine whether the performance of the service is subject to GST or not, a contractor is required to value all works and materials permanently incorporated in or affixed on the construction site of the building or civil engineering work at the beginning of 1 April 2015.

This value must be determined on or before the end of the first taxable period after 1 April 2015. Such valuation must be certified by an authorized person e.g. registered engineers, architects or quantity surveyors as in question 37. In the case where, the value of the supply after 1 April 2015 exceeds the value certified, then GST will be chargeable on the exceeded amount (apply GST on the margin). Whereas, if the value of the supply after 1 April 2015 is less than the certified value, no GST is chargeable on such amount. However, if the taxable person fails to comply on the certified value within the specified time, GST will not be charged on the margin but on the full value of the supply.

37. How do I calculate GST on value of construction work for project that straddles between two periods that is before and after GST implementation?

There are 2 situations:

- a). For projects above RM1,000,000 and which requires the issuance of certificate in relation to any work done.

You must apportion the value of construction works pre and post GST. GST is only chargeable for construction work done after GST implementation. A recognized person such as engineer and architect has to verify the value and amount of work and the materials permanently incorporated or affixed on the site of the building or civil engineering work for the period prior to commencement of GST.

Example 17

KLM Sdn. Bhd. has a contract above RM1,000,000 with JKL Sdn. Bhd. to build commercial building. The contract is scheduled to begin on 1 May 2014. Under the contract of agreement, KLM Sdn. Bhd. will receive payment inclusive of GST based on monthly progress billing. On 1 July 2015, the architect does the valuation and certifies the value of work done till 30 June is RM1,000,000. After completion of the project on 15 July 2015, KLM Sdn. Bhd. lodges a claim amounting to RM1,100,000. GST due is based on RM100,000 (RM1,100,000 – RM1,000,000) for the construction work done after GST implementation.

$$\text{GST} = \text{RM}100,000 \times 6\% = \text{RM}6,000$$

- b). For projects below RM1,000,000 and which do not require issuance of certificate in relation to any work done. As the contract value is below RM1,000,000 and does not require certification by the architect or engineer as a recognized person, you have to apportion the value of work done before and after commencement of GST. You have to account for GST for the value of work done after the period of commencement of GST.

Example 18

TJK has a contract with an individual to build a residential building. The contract is scheduled to begin on 15 March 2015. Under the contract of agreement, TJK will receive payment on completion of work. Upon completion of the project on 14 July 2015, TJK lodges a claim amounting to RM42,000. GST due is based on RM34,615 (RM42,000 X 75/91) for the construction work done after GST implementation.

$$\text{GST} = \text{RM}34,615.00 \times 6\% = \text{RM}2,076.00$$

Total number of days undertaken for project = 91 days

Construction work done after GST = 75 days.

38. What is the GST treatment on retention amount that straddles between two periods that is before and after GST implementation?

Where such retention amount under a construction contract relates to a supply of construction services made before 1 April 2015, such retention amount is not subject to GST. However, if such amounts relates to a supply made after 1 April 2015, it shall be subject to GST.

Example 19

A contractor makes a supply of services from 1 December 2014 to 31 May 2015. A sum of RM48,000 is retained for the satisfactory performance of the construction work. Since part of services are performed before 1 April 2015 (four months) and part of it is performed after 1 April 2015 (two months), the amount of GST payable on the retention sum is:

$$\text{RM } 48,000 \times 2 / 6 \times [6/106] = \text{RM } 905.66$$

Please refer to the GST Guide on Transitional Rules for further details about the transitional issues.

VALUERS, APPRAISERS AND ESTATE AGENTS

Registration

1. Who is a taxable person?

A taxable person is a person who is or is liable to be registered under the GST Act 2014 i.e. a person who makes taxable supplies above the prescribed threshold of RM500,000.00 threshold within a period of twelve months. Providing or determining the value of fixed property, executing feasibility studies, providing expert advice on property valuation by the valuers and appraisers or brokering services by the estate agents, negotiators or brokers are taxable supplies and are subject to GST at a standard rate. A taxable person can be an individual, a sole proprietor, a partnership, etc regardless whether they are registered under the Valuers, Appraisers or Estate Agents Act 1981 or not.

2. Who is required to be registered?

Valuers, appraisers, estate agents, negotiators or brokers whose taxable supplies exceed the prescribed threshold(RM500,000.00) in the past 12 months or will exceed it within the next 12 months.

Taxable Supplies, Time of Supply and Accounting For GST

3. What constitutes my taxable turnover?

Your taxable turnover is made up of all your consideration that you received in the course or furtherance of providing brokering services.

4. What constitutes taxable turnover for the valuers, appraisers or real estate agents?

The following will constitute the taxable turnover:-

- b). all fees;
- c). additional fee incurred by valuers, appraisers or estate agents excluding disbursements; and
- d). deemed supplies such as private use of business assets and disposal of business gifts.

5. If I trade in properties or rent out my property, do such payments also constitute my taxable turnover?

For estate agents, besides dealing with brokering services, if you also trade or rent / lease properties, then value of your taxable supplies will include:

- b). fee (consideration) received;
- c). the sale price of commercial properties sold as a trading stock;
- d). the rental / lease collected from the lease of your commercial properties.

6. Is the value from the disposal of property which is a capital asset taken into consideration in determining the taxable turnover?

No. The disposal of capital asset such as commercial property is not taken into consideration in determining the taxable turnover even though it is subjected to GST.

7. Is the value from the disposal of property which is a trading stock taken into consideration in determining the taxable turnover?

Yes. However only the value of the sale of certain taxable property such as commercial property is to be taken into consideration in determining the turnover.

8. As registered valuers, appraisers or estate agents under GST, do I have to charge and account for GST?

As registered valuers, appraiser or real estate agents, you are making a taxable supply of services to clients. You are required to charge and account for GST on the fee or commissions that you received. Section 9 of the GST Act provides that GST is charged on:-

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

However, those who are not registered for GST, cannot charge GST on any transaction and services that he make.

9. **What happen if I do not charge GST on the agreed fee or commissions?** If you fail to charge GST on the agreed fee or commission, such fee and commissions received shall be treated as inclusive of GST. You have to account for the GST based on the value of the services charged.

Example 1

Fee	= RM10,000
Value of GST	= RM10,000 X [6/106]
GST amount	= RM566

10. **Are commissions derived from the sale of all properties subject to GST?**

Yes. All commissions derived from the sale of properties are subject to GST, regardless whether the property is a taxable or exempt supply.

11. **What is the time of supply for valuers, appraisers or estate agents and when are they required to account for GST?**

Section 11(3) of the GST Act provides that the time of supply for services is when the services are performed. However, if tax invoice to be issued or payment to be received is before the time of supply under section 11(3), such valuers, appraisers or estate agents have to account for GST on the fee or commission at the **earlier** of the following dates:

- a) the date when you receive the fees or commission; or
- b) the date when you issue a tax invoice.

However if such registered valuers, appraisers or estate agents issue a tax invoice within 21 days after the date when such services are performed, GST have to be accounted based on the date of the invoice. In the case of a sale of property by the estate agents or the negotiators, your brokering service are considered performed when the sale is completed by you.

Example 2

AB & Co is the registered valuer. AB & Co provides valuation services to a client B. The valuation services were provided in February over a period of time and finally completed on 15th May. The invoice has to be issued within 21 days from the date of completion of services that is on or before 5th June. AB & Co has to account for GST based on the invoice date.

Hence, if the invoice was issued one month after on 15th June. The tax point shifts back to 15th May. GST has to be accounted for the taxable period covering 15th May.

12. How do I account for GST on fee or commissions received?

GST on fee or commissions received by the valuers, appraisers or real estate agent is exclusive of GST.

Example 3

SEVENTH SCHEDULE (Rule 48 – Valuers, Appraisers and Estate Agents Rules 1986)

Scale of Fees Valuations

Land Acquisition Valuation

1% on the first RM100,000, 2/5% on the residue up to RM2 million, 1/3% on the residue up to RM7 million, 1/4% on the residue to RM15 million, 1/10% on the residue over RM15 million (minimum fee: RM750).

Example;

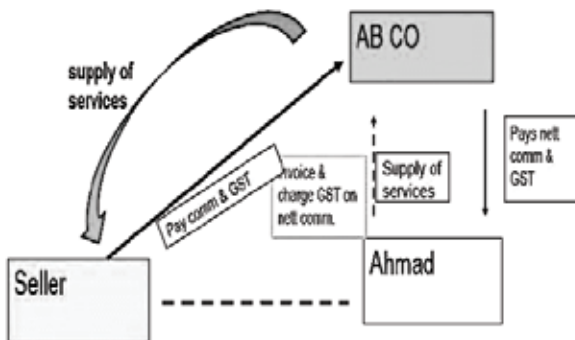
Fee	= RM10,000
GST rate	= 6%
Fee rate	= RM10,000 x 6% (GST rate)
GST amount	= RM600
Total amount payable	= RM10,600

13. What is the GST treatment on the sharing fee or commission between the estate agent and the individual negotiator?

The estate agent is the one who enters into a contract with the client to perform estate agency work. The estate agent will be represented by the individual negotiator. A registered estate agent under GST will have to charge and account for GST on the full commission that he receives from his client while the registered negotiator will have to charge and account for GST on the commission that he receives from the estate agent.

Example 4

A GST registered individual negotiator, Ahmad, deals with a GST registered estate agent, AB Co. AB Co enters into an agreement with a seller to sell his property and AB Co is represented by Ahmad. Both AB Co and Ahmad agreed to share the commission in the ratio 70:30. As the agreement is entered into between AB Co and the seller, the seller pays AB Co a commission of RM15,000.



The GST treatment is as follows:-

- (a) GST on the commission received by the estate agent
AB Co makes a supply of brokering services to the seller. The full commission of RM15,000 that AB Co charges to the seller is the consideration for its taxable supplies and is subject to GST.
- (b) GST on the commission received by the individual agent (Ahmad)

Though the individual agent, Ahmad deals directly with the seller and is responsible for closing the deal, he is actually providing a taxable supply of service to AB Co. Therefore, the commission of RM4,500 that Ahmad receives from AB Co is the consideration for his service. As Ahmad is registered for GST, he will have to charge GST of RM270 ($6\% \times RM4,500$) on the 30% commission of RM15,000 that he receives from AB Co.

14. What is GST treatment on the sharing fee or commission between the estate agent and individual negotiator who is not registered under GST ACT?

Based on the above example, GST treatment is as follows:

- (a) GST on the commission received by the estate agent AB Co makes a supply of brokering services to the seller. The full commission of RM15,000 that AB Co charges to the seller is subject to GST.
- (b) GST on the commission received by the individual agent (Ahmad)

As the person who is not registered under GST, Ahmad cannot charge GST on the consideration received (RM4,500) from AB Co. Ahmad is also not entitled to claim input tax on his acquisition.

15. For GST purposes, is the negotiator acting on behalf of the real estate agency for the service (not under the contract of employment) required to charge GST when he closes a deal?

Yes, using the same scenario as in the above example, the negotiators, Ahmad is actually providing a taxable supply of service to AB Co. Therefore, the fee or commission of RM4,500 that Ahmad receives from AB Co. is the consideration for his service. Ahmad has to charge GST on commissions received from ABC Co. AB Co. will claim GST incurred as his input tax. AB Co. will charge the customer GST on the full value of the fee or commissions.

Example 5

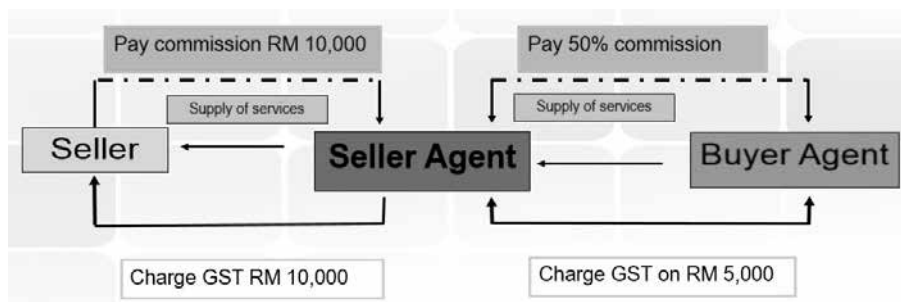
AB Co. pays Ahmad	: RM4,500.00
6% GST	: RM270.00
Total amount Ahmad charges ABC Co.	: RM4,770.00 (commissions + GST).

16. What is the GST treatment if the work done by the estate agent involves a co-brokering arrangement?

In the case where the estate agent enters into a co-brokering arrangement with another estate agent on the sale of property, both registered estate agents have to charge and account for GST on the fee or commission received.

Example 6

AB Co. (estate agent) is contracted by a seller to help him sell the property. BM Co. (estate agent) helps AB Co. to find a buyer. AB Co. and BM Co. have agreed to share the commission of RM10,000 payable by the seller in the ratio 50:50.



Assuming AB Co. and BM Co. jointly sell the property and share the commission on a 50:50 basis.

Total commission received by AB Co	=RM 10,000.00
AB Co. pays BM Co.	=RM 5,000.00
AB Co's GST liability: RM10,000.00 x 6%	=RM 600.00
BM Co's GST liability: RM5,000.00 x 6%	=RM 300.00
BM Co charges AB Co.	=RM 5,300.00
(commissions + GST amount)	

- 17. Based on the above scenario, what is the GST treatment if one of the parties (BM Co) in co-brokering arrangement is not registered with GST?**

Using the same scenario as in the above example, GST treatment is as follows:

Example 7

Total commission received by AB Co	= RM 10,000.00
AB Co pays BM Co	= RM 5,000.00
AB Co's GST liability: RM10,000.00 x 6%	= RM 600.00
BM Co's GST liability:	= RM 0
BM Co charges AB Co.	= RM 5,000.00

- 18. If Agent A and Agent B are registered and they jointly sell the property, what are their GST liabilities?**

They are liable to account for GST for their respective commissions received

- 19. Whether the supply of services by the probationary valuers and probationary estate agents to estate agents is subjected to GST.**

The treatment is as follows:

- a) If the probationary valuers and probationary estate agents work for such valuer and estate agent under the contract of employment, it is not subjected to GST.

Example 8

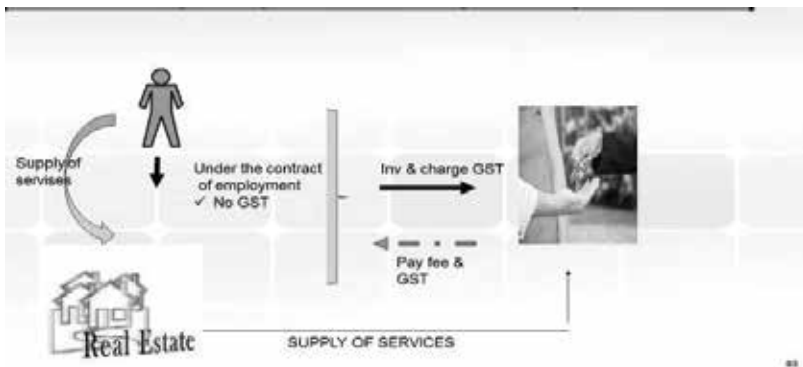
Estate Agent Sdn Bhd is a registrant and hires probationary estate agents under contract of employment to work in their company. This supply of service by probationary estate agents is not subjected to GST.

- b). GST is chargeable if such valuer or estate agent supplies the services of such probationary valuer or estate agent who are under their contract of employment to another company.

20. Following Q19, are the commissions received by probationary valuers and probationary estate agents from the Estate Agent Sdn. Bhd. are subjected to GST?

No. It is not subjected to GST if the probationary valuers and estate agents are under the Estate Agent Sdn. Bhd.'s contract of employment and acting as their representatives. They are not regarded as agents for GST purpose as they do not bear the risk.

Example 9



21. What happens to fees or commissions paid to valuers, appraisers or estate agents if the sale is aborted?

If the valuation of the property or negotiation for the purchase is aborted and the valuers, appraisers or estate agents and negotiators are still entitled to the agreed commission (in part or in full) for their services rendered, the fee or commission received is still subject to GST because it is the payment for the supply of services. Such valuers, appraisers or estate agents and negotiators have to charge and account for GST on the value of the commission received.

For the estate agents, the provision of service in estate agency work is treated as a separate taxable supply from the sale of the property.

22. What will happen if the fee or commission is returned to the recipient of their services when the project or sale is aborted?

The firm can recover the GST paid as input tax when the commission or fee be returned to the buyer and such valuers, appraisers or estate agents shall issue a credit note.

23. Will GST be levied on the stamp duty payable on the transfers of property?

No, GST is exclusive of stamp duty.

GST on Sale and Lease of Property

24. Is the sale of property as a capital asset or a trading stock subject to GST?

Yes, if the property is a standard rated supply such as commercial property. If the property is an exempt supply such as residential premises, then the disposal is not subject to GST.

In the scenario where the estate agency holds the property as their business asset, there are two separate supplies;

- (a) the supply of brokering services by the estate agency which is a taxable supply regardless whether such property is residential or commercial;
- (b) supply of goods made by estate agency to the house buyer where the disposal of the commercial property will be standard rated and it not subject to tax if such property is residential.

25. What will happen if the sale transaction is aborted?

If your sale of a non-residential property is aborted after deposit has been paid by the buyer, you are still required to charge and account for GST on the deposit retained because it is the payment for your supply of service in granting the buyer the right to purchase.

Client Account

26. Section 49 of Valuers, Appraisers and Estate Agents Act 1981 allows registered firms to hold or receive client's money in relation to its property management business. Do I have to account for GST on money deposited into the client's account?

No, you do not have to account for GST because the amount received is not payment for a supply. However, you have to account for GST when the money is transferred from the client's account to the office account for payment of services rendered to your client.

Deposit and Advance Payment

27. Is GST chargeable on deposits received from the recipient?

If the deposit forms part payment of the total consideration payable by the recipient, GST will be chargeable at the time of payment of the deposit. On the other hand, if the deposit is used as security and will be fully refunded upon completion of services, no GST will be chargeable.

28. Is advance payment subject to GST?

Yes, because it is payment for your supply. If the part of the advance payment is refunded, GST will be imposed on the part which is the payment of the services.

29. When do I account for GST on advance payment?

You have to account for GST on the date of receipt of payment.

Disbursement

30. Can general expenses qualify as disbursements?

General expenses such as telephone, telex, postage, advertising, and stationery charges are incurred in the course of providing services to the client and shall be treated as business costs. They are not to be treated as disbursements for GST purposes. However with regards to telephone calls, some firms may have a policy to charge separately for the cost of telephone calls, for example international calls or for the cost of a conference call. Even where these charges are itemized separately on the invoice, for GST purposes they are regarded as part of the cost of supplying the services to your client and these charges would attract GST. Valuers, appraisers or estate agents should therefore account for input tax in the normal way and charge GST at the standard rate on the value of the telephone calls or conference fee charges.

31. Can travel and accommodation expenses be regarded as disbursements?

As a general rule, travelling and accommodation expenses incurred by valuers, appraisers or estate agents in the performance of his client's instructions are not disbursements and must be included as part of their overall charge. These would include the accommodation and travelling expenses such as flight, taxi and train fares, toll charges and car parking. Such expenditures are incurred in the course of providing a supply of services to a client and if these expenses are borne by them and can be recovered as the consideration paid by the client.

Such expenses cannot be treated as reimbursements because such expenses were on the services supplied to valuers, appraisers or estate agents rather than to the client, and the charge made by them was part of the total consideration for all the services supplied to the client and could not be divided for the purposes of calculating GST

Input Tax Credit (ITC)

- 32. As the registered person under section 20 of GST Act, what can valuers, appraisers and real estate agents claim as their input tax?**

The input tax claimable includes the GST incurred on the advertisement, rental of premises, office stationeries, utilities, equipment, etc. Running expenses of a motor vehicle incurred by individual agents are not claimable.

- 33. Are registered estate agents who are involved in the business of selling or letting of non-residential properties owned by them entitle to claim input tax on their acquisition?**

If such estate agents are also involved in the business of selling and/or letting of non-residential properties owned by them, they can claim GST incurred in relation to the purchase of non-residential properties as their input tax, as long as the properties are acquired for the purposes of letting or sale. The input tax claimable include the GST incurred on the purchase price, maintenance or service charges, purchase of furniture and fittings, renovation and repairs, conveyance fees etc.

- 34. On the part of advertisement, Part XI of Valuers, Appraisers and Estate Agents Act 1981 allows the firm to advertise the services offered by them and to promote or provide the accurate description the property. Can the registered valuers, appraisers or estate agents claim advertisement's cost as their input tax?**

Registered valuers, appraisers or estate agents under section 20 of the GST Act can claim GST incurred in relation to their services. This includes GST incurred on advertisement regardless whether such advertisement be made in order to advertise the service offered or for the purpose of promoting the relevant property whether through "For Sale" announcement or a "wanted" publication.

Transitional Provisions

- 35. Can I claim input tax incurred on service tax for services procured before the commencement of GST?**

No, you cannot claim input tax on service tax incurred before the commencement of GST because the services were performed and consumed before the commencement of GST.

36. How do I account for GST on the supplies of the services provided by valuers, appraisers or estate agents if such services were performed spanning GST implementation?

Generally, GST is payable on supplies of services made on or after 1 April 2015 during which service tax cannot be imposed. However if there is a continuous supply of services spanning the GST Commencement, only the portion of supply made before 1 April 2015 is not subject to GST. The proportion of supply made on or after 1 April 2015 is subject to GST.

Valuers, appraisers or estate agents must apportion their services and charge accordingly. GST is only chargeable for such services rendered after GST implementation. Apportionment can be by way of time spent or the number of transactions of the services.

PROFESSIONAL SERVICES

1. How does GST works?

A taxable person will pay GST on his purchase of goods or services. The GST incurred is called input tax. When the goods are sold or services are performed, GST is charged and collected. The GST charged is called output tax. The GST payable to Royal Malaysian Customs Department (RMCD) will be output tax minus input tax. If output tax is greater than input tax, then the difference will have to be remitted to RMCD.

Example 1

Assuming your output are engineering plans charges and your input are utilities bills.

Output (Engineering plans)	= RM 2,000
Input (Utilities bills)	=RM1,000
Output tax (RM2,000 x 6%)	=RM120
Input tax (RM1,000 x 6%)	= RM60

The difference (output tax minus input tax) to be remitted to RMCD is RM60 (RM120 – RM60)

2. Who is a taxable person?

A taxable person is a person who is or is required to be registered under the Act i.e. a person who makes the taxable supplies of goods or services in the course or furtherance of business in Malaysia and his annual turnover of his taxable supply has exceeded the specified threshold. For example providing the engineering services is a standard rated supply. The provider of the services will charge GST on the services rendered. A taxable person can be an individual, a sole proprietor, a partnership, a corporate body, etc.

3. Who is required to be registered?

A body corporate, partnership or sole proprietor who provides professional services and whose taxable turnover exceeds the specified threshold in the past 12 months or will exceed the specified threshold within the next 12 months.

4. What constitutes my taxable turnover?

Your taxable turnover is made up of all your fees and payment that you receive in the course of providing professional services to a client and deemed supplies such as goods for personal use and business gifts.

5. Will GST be levied on all professional services?

Yes. All professional services are subject to GST because the provision of services are standard rated supplies. For professional services, other than employment services, where their nature of work is carried out on both taxable and exempt properties, their supplies is standard rates is irrespective whether such works are to be carried out on properties which are taxable or exempt under GST.

6. Is GST imposed if the project is put on hold or cancelled but where the services have been performed?

Yes. GST must be imposed on the provision of services that have been performed and billed, even though the project is not carried through. However, no GST will be imposed on such suspension, hold or cancelled project if the payment made is as a compensation for the loss of income or for costs incurred as a result of suspension, hold or cancelled work.

7. As a registered professional service provider, do I have to charge and account for GST?

As a registered professional service provider, you are making a supply of professional services. Supply of professional services is a standard rated taxable supply.

For professional services, even though their nature of work is to be performed on both taxable and exempt properties, such services are standard rated supplies regardless whether their type of work is to be performed on the commercial or residential properties. As the provider of the professional services, all charges and fees imposed for services provided will be subject to GST. This includes the value of services charged, commissions, all charges in respect of miscellaneous expenses, cost of extra work, travelling or accommodation expenses, overtime for the staffs and charges for normal copying and stationery.

The supplier of the professional services has to account for GST on any charges and fees imposed on the date of completion of the services performed. However, you have to account for GST if you receive payment or issue a tax invoice before the date of completion of services, whichever is the earlier.

Example 2

JB & Co provided employment services to client B. The services were provided in April over a period of time and finally completed on 15th May. If the tax invoice is issued within 21 days from the date of completion of services that is before or on 5th June, JB & Co account for GST based on the tax invoice date.

8. Do I have to issue tax invoices for the above charges and fees?

Yes, you have to issue a tax invoice for the charges and fees imposed that are subjected to GST. Your client, if he is a GST registered person, can claim GST as input tax.

9. Acting in the capacity of a principal, JL Cari Kerja as the provider of the employment services supply staffs to be based at the client's place. JL Cari Kerja pays its staff a monthly salary of RM5,000 and charged the client RM6,000 [RM5,000 (staff salary) plus RM1,000 (administrative fees)]. How should JL Cari Kerja charge its client with respect the GST?

The employment services above is a "contract for service" and as such JL Cari Kerja should charge the GST based on the full charge that is based on RM6,000.

10. Acting as an agent for the client (as a head hunter), JL Cari Kerja helps its clients (Baba & Co) to recruit workers who then enter into a direct contractual relationship with the client. JL Cari Kerja only charge a commission for such services. How should JL Cari Kerja charge Baba & Co with respect to GST?

In this particular case, JL Cari Kerja only account for GST on the commission charged to the client.

11. Are the fees imposed by a statutory body such as the Board of Engineers Malaysia, the Board of Architects Malaysia or Royal Institution of Surveyors subject to GST?

Yes. The fees are imposed for purpose of accreditation. It is a standard rated supply.

12. If I am engaged by local firm to undertake an engineering project in Indonesia, do I have to account for GST?

No. Services supplied in connection with land and improvements outside Malaysia are zero rated. Part of the work may be physically performed in Malaysia and the client may be a local firm, but because the land is situated outside Malaysia, the services are zero rated.

Generally, any supplies of services to be performed outside Malaysia is a zero rated supply and there is no GST is charged.

13. Upon the instruction or request of my client, if I incur expenses for my client such as printing, reproduction and purchase of documents, telegrams, telex, facsimile, advertisements for tenders, etc. do I have to account for GST when I claim for reimbursement of such expenses?

Yes. These reimbursements are incurred in course of providing services to your client. When you incur such reimbursements for your client, you are making a supply to him and GST is chargeable on all taxable supplies. Similarly, traveling, hotel accommodation and other similar reimbursements are subject to GST.

14. What can I claim as disbursements which are not subject to GST?

Disbursements are not subject to GST and do not constitute a supply. It is where the 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. However, he is authorized by his customer to make payment to the supplier on his behalf. As such, any recovery of a payment incurred by the registered person in his capacity as paying agent on behalf of another party in order to discharge its payment obligation is treated as a disbursement.

You may only treat a payment on behalf of a client for goods and services to a third party as a disbursement for GST purpose if the following conditions are satisfied:

- (a) You acted for your client when paying the third party.
- (b) The client actually received and used the goods or services provided by the third party.
- (c) The client knew that the goods or services would be provided by the third party.
- (d) The client authorized you to make payment on his behalf.
- (e) The client was responsible for paying the third party.
- (f) The payment is separately itemized when invoicing the client.
- (g) You recovered only the exact amount which you paid to the third party.
- (h) The goods and services paid for are clearly additional to the supplies which you make to the client.

Any payments made on behalf of the client which satisfy the above condition can be regarded as disbursements for GST purposes and such payment may include:

- (a) non-taxable disbursements including exempt and out of scope supplies and supplies by non-taxable person.
- (b) taxable disbursements; or
- (c) statutory fees such as seeking and obtaining statutory approvals from proper authorities.

15. My client asked me to act on his behalf in paying travelling and subsistence expenses of candidates attending interviews. What is the GST treatment of these expenses?

These expenses can qualify as disbursements. These expenses can be passed on to the client and excluded when calculating any GST due on the main supply. Alternatively, the employment agency can treat these expenses as incurred by the employment agency and it can claim input tax credit provided the tax invoices issued is under the agency's name. The agency then charge these expenses to the client. If the client is a registered person, then he can claim the input tax credit incurred.

- 16. I pay travelling and subsistence expenses of candidates attending an interview. These expenses form part of the agency's commissions and can they be treated as disbursement?**

These expenses are not treated as disbursements as it is part of the commission and the commission itself is the value of that supply.

- 17. Can general expenses qualify as disbursements?**

General expenses incurred by employment agencies such as telephone, telex, postage, advertising, and stationery charges are incurred in the course of providing services to the client. They are not to be treated as disbursements for GST purposes.

- 18. Are disbursements excluded from the value of the supply of services?**

Yes, disbursements are excluded from the value of supply of services. The example below illustrates how you exclude disbursements from the value of supply of services:

Example 3

Employment fees	: RM 3,000.00
GST (6 %)	: RM 180.00
Total charges (includes GST)	: RM 3,180.00
Disbursement:	
Lodging allowance to prospective candidate	: RM 100.00
Grand Total	: RM 3,280.00

- 19. As the provider of the employment services, JL Cari Kerja help its client Baba & Co to organize a recruitment drive. JL Cari Kerja incurred operational expenses such as printing brochures, advertising and hotel charges. What is the GST treatment on these expenses?**

If JL Cari Kerja incurred such charges, JL Cari Kerja can claim input tax on such expenses. But if the advertising fees and hotel charges are paid by JL Cari Kerja on behalf of Baba & Co, (invoiced to your client) then it becomes a disbursement to JL Cari Kerja and Baba & Co can claim the relevant input tax credit.

- 20. As the provider of the employment services, my client asks me to act on its behalf in paying travelling, insurance, accommodation and subsistence expenses of his staffs on secondment. What is the GST treatment of these expenses?**

These expenses can be regarded as disbursements.

21. Can travel and accommodation expenses be regarded as disbursements?

As a general rule, travelling and accommodation expenses incurred by the provider of the professional services in the performance of his client's instructions are not disbursements and must be included as part of their overall charge. These would include the accommodation and travelling expenses such as flight, taxi and train fares, toll charges and car parking. Such expenditures are incurred in the course of providing a supply of services to a client and if these expenses are borne by them and can be recovered as the consideration paid by the client. Such expenses cannot too be treated as reimbursements because such expenses were on the services supplied to such provider of the professional services rather than to the client, and the charge made by them was part of the total consideration for all the services supplied to the client and could not be divided for the purposes of calculating GST

22. I make capital contribution to Tenaga Nasional Berhad on behalf of my client for the supply of electricity for a development project. Can this payment be regarded as disbursement?

This payment by you can be regarded as taxable disbursement if it fulfils the conditions as listed in A14 above.

23. Are sub-consultants who provide professional engineering services to prime consultants subject to GST?

Yes. Sub-consultants who are GST registered who provide professional engineering services to prime consultants are required to collect GST as output tax.

24. Is GST chargeable on deposit received from the client?

Before commencing of work, if you received deposit and progressive payments for a fees for the surveyors services, you have to account GST on the payment you received at the earlier of the payment date or date you issue a tax invoice for payment. On the other hand, if the deposit is used as security deposit and is fully refunded upon commencing the work, no GST will be chargeable.

25. As a professional architect what can I claim as input tax?

The input tax claimable includes the GST incurred on the advertisements, rental of premises, office stationeries, utilities, equipment, traveling and hotel expenses, printing and purchase of documents, drawings, maps and records etc.

26. Do I have to account for GST if I no longer become a registrant?

Yes, the property you own will be regarded as a deemed supply. You have to account for the output tax on the deemed supply based on the open market value of the property. The deemed supply must be accounted in your final return.

27. How does GST apply when I discount my billing or reduce it in anticipation of bad debt?

GST is charged on the discounted or reduced amount.

Example 4

Assuming your total charges is RM5,000 and you give discount 10%.

Amount for GST = RM5,000 – RM500 (discount) = RM4,500

28. My head office is located in London. Sometimes, the London head office renders inspection services on vessels docked outside Malaysia. However, the invoice for the services is issued by us on behalf of the London office as their clients are in Malaysia. What is the GST implication of such practice?

The business establishment most directly concerned with the supply of service is your head office in London. If the services were rendered by London office, GST would not be charged on the inspections service as the London office is not a registrant. It is important to state clearly on your invoice that the billing is done on behalf of the London office.

29. What will happen if my customer does not pay me after I have issued tax invoice after completion of work?

You can claim bad debt relief on the GST output tax paid in respect of taxable supplies. The GST portion of the bad debt can be recovered subject to certain conditions:

- (a) The tax is already paid;
- (b) You have not received any payment 6 months after the supply has been made, or the debtor has become insolvent; and
- (c) Sufficient efforts have been made by you to recover the debt.

30. Do I have to make a formal claim to recover GST due to bad debts?

No, you only need to make adjustment in by increasing your input tax in your GST return after you have satisfied all the conditions for bad debts relief.

31. What happens if my customer pays me back the bad debts after I have claimed bad debts relief?

You have to make an adjustment by increasing your output tax.

32. Are local consulting companies who obtain the services of foreign consultant surveyors required to pay GST on these imported services?

Section 13(4) of the Goods and Services Tax Act 2014 provides that the time of supply for imported services shall, to the extent covered by any payment by the recipient, be treated to have been made when the supplies are paid for. Hence, imported services will be subject to GST by way of a reverse charge mechanism. Under this mechanism, the recipient of the imported services has to account for GST on the imported services as if he is providing the services himself, and at the same time claim input tax accordingly.

However, if the consulting company is not a taxable person, he has to account GST on the imported services incurred through GST-04.

However, Panel Decision 2014 allows a GST registered person may account for output tax based on the date of invoice if it is issued earlier than the date of payment and the value for imported services is tax exclusive.

33. I brought goods such as measuring instruments that were subject to sales tax. Can I claim input tax?

If you are registered under GST, you can claim input tax if these goods are trading goods and are reflected in your balance sheet and if you have documentation such as invoices and custom documentation to show sales tax have been paid. As measuring instruments are not your trading stocks, you cannot claim input tax credit.

34. As a surveyor I pay for some tools for my relative to help him set up in business in a small scale. As I paid for them can I deduct the GST paid for the tool?

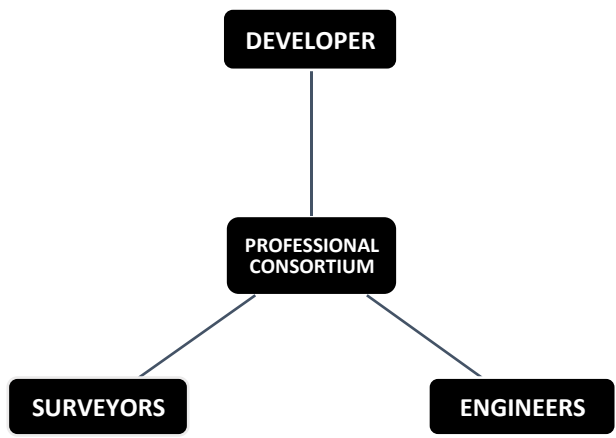
No. You can only deduct GST on supplies for your business. You cannot deduct GST on supplies for someone else, even though you pay for them.

35. Besides making taxable supply I also make exempt supply such as the giving loans. What is GST treatment for this supply?

If your company is not a financial institution, then the supply of giving out loans can be treated as supplying incidental financial exempt supplies. This is a provision where companies that are not financial institution can claim the input tax incurred even though the company is making an exempt supply.

On the other hand if your company is a financial institution, then you cannot treat the supply of giving out loans as supplying incidental financial exempt supplies.

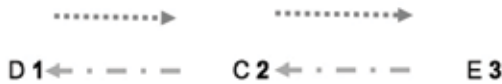
Diagram 1



36. Refer to Diagram 1, the developer contracted the professionals' consortium in engaging any professional services pertaining his construction industry. There are instances where the professionals will issue tax invoice to the consortium or maybe they will issue the tax invoice directly to the developer. Will these transactions affect the developer's input tax claim?

There are three occasion for this type of transaction. Please refer the diagram below.

Diagram 2



- a). Assuming the consortium (C) is a taxable person. Initially the developer (D) engages C to acquire an engineer (E) services for his construction industry. When E has completed rendering his services he will issue a tax invoice to C. C then will issue a tax invoice to D. Since both D and C are taxable persons, then they can claim input tax credit respectively.

- b). Assuming C is not a taxable person. E will issue a tax invoice to C but C cannot issue a tax invoice to D because C is not a taxable person. Therefore both C and D cannot claim any input tax credit.
- c). In order to overcome the problem in 2, E will have to bill D directly. Then only D can claim the input tax credit. If C too is a taxable person D will incur input tax when C charges D commission for services rendered. Therefore D can claim both input tax from C and E.

Transitional Provisions

37. Are professional consultancy works performed spanning the transitional period (pre and post GST commencement) subject to GST?

Only the value on the portion of work done after GST commencement is subject to GST. This value can be apportioned according to the value of work done pre and post GST commencement date.

38. Can I claim input tax incurred on service tax for services procured before the commencement of GST?

No, you cannot claim input tax on service tax incurred before the commencement of GST because the services were performed and consumed before the commencement of GST.

39. How do I account for GST on the supplies of the services provided by the provider of the professional services if such services were performed spanning GST implementation?

Generally, GST is payable on supplies of services made on or after 1 April 2015 during which service tax cannot be imposed.

However if there is a continuous supply of services spanning the GST commencement, only the portion of supply made before 1 April 2015 is not subject to GST. The proportion of supply made on or after 1 April 2015 is subject to GST. The provider of the professional services must apportion their services and charge accordingly. GST is only chargeable for such services rendered after GST implementation. Apportionment can be by way of time spent or transactions of the services

LEGAL PRACTITIONERS

Place of Supply

- 1. If I provide legal services to an entity outside Malaysia and billed to the recipient in Malaysia, do I have to account for GST?**

A supply of legal services to an entity outside Malaysia but billed to a recipient in Malaysia is regarded as exported services. The supply is regarded as zero rated. There is no GST on the supply.

Example 1

A legal counsel AB provided legal advice to an accused person, BC who was detained and faced prosecution overseas. This provision of legal advice is regarded as a supply of export services even though payment for the services was made in Malaysia by BC's employer.

- 2. If a foreign legal practitioner registered outside Malaysia, provides legal services in Malaysia, who has to account for GST?**

The supply of legal services in Malaysia by a foreign legal practitioner is regarded as a supply of imported services. Such person does not have to charge GST. However, the recipient of the services who receives the services for the business carried on by him is required to account for it by a reverse charge mechanism. 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.

- 3. What is the GST treatment on the supply of legal services provided by legal practitioner in Principal Customs Area (PCA) to a recipient in Designated Area (Langkawi, Tioman or Labuan)?**

A supply of legal services by legal practitioner registered in the Principal Customs Area to a recipient in Designated Area is a standard rated supply.

- 4. What is the GST treatment on the supply of legal services provided by legal practitioner in the Designated Area to a recipient in the Principal Customs Area?**

Services rendered by legal practitioner in the Designated Area to a recipient in the Principal Customs Area is subjected to GST. The legal practitioner would be required to register and account for the GST subject to the GST registration threshold.

- 5. Are legal services provided within and between Designated Area subject to GST?**

The legal services rendered within and between the Designated Areas are not subject to GST.

Charges, Fees and GST

6. Do I have to account for GST for all charges and fees imposed?

All charges and fees, excluding disbursements imposed for services provided will be subject to GST. These include fees in respect of contentious or no contentious business, preparing and completing agreements, conducting and completing transactions, preparing filing or witnessing of miscellaneous documents. It also includes charges such as miscellaneous expenses, cost of extra work, travelling or accommodation expenses, allowances for the time of the solicitor and his clerk and all usual and necessary attendances and charges for normal copying and stationary.

7. Do I have to issue tax invoices for the above charges and fees?

Yes, you have to issue a tax invoice for the charges and fees imposed that are subjected to GST. Your client who is a GST registered person can claim the GST as input tax.

8. Do I have to account for GST for services provided free of charge?

No, where services are provided free of charge, there is no consideration received and therefore there is no supply. There is no liability to account for GST.

9. Is GST imposed on the interest charged on late payment?

The interest charge on late payment is not subject to GST as it is an out of scope supply.

Registration

10. Who is liable to be registered?

All legal practitioners who practice either as a sole proprietor or in partnership are required to be registered for GST if the total value of taxable supplies exceeds the GST registration threshold in the past 12 months or in the next 12 months or part thereof.

11. What constitutes the value of taxable supplies for purpose of registration?

The annual turnover value of taxable supplies includes the following:

- (a) All fees;
- (b) other charges incurred by legal practitioners excluding disbursements referred to in paragraph 17-19; and
- (c) deemed supplies such as private use of business assets and disposal of business gifts.

Branch and Division

12. My establishment has two branches. How do I determine the turnover of the business?

The combined turnover of the two branches will be regarded as the turnover of the business.

Example 2

A & Co has two branches in Kuala Lumpur and Johor Bahru. The branch in Kuala Lumpur has a turnover of RM250,000 while the branch in Johor Bahru has a turnover of RM150,000. The combined turnover of the company is RM400,000. A & Co is required to register if the registration threshold is RM300,000.

13. Can I register my branches separately?

You can apply to register your branches separately subject to certain conditions and requirements as referred to in General Guide.

Example 3

Based on the above example A & Co may register in Kuala Lumpur and a separate branch in Johor Bahru. Both branches will be given a separate GST number.

14. What are the conditions and requirements if I want to register my company separately?

This approval is subject to the following conditions and requirements;

- (a) Every separately registered branch has the same taxable period.
- (b) It is likely to cause difficulty for taxable person to submit a single return.
- (c) All branches must be registered although one branch is below threshold.
- (d) Each branch will be given a separate GST number and make their own return. However, the main branch remains accountable for all GST liability for all branches.

Time of Supply and Accounting Period

15. When do I have to account for GST?

As a legal practitioner, if you had not performed the services, you have to account for GST on the services at the earliest of the following:

- (a) The date of receipt of payment; or
- (b) The date of issue of a tax invoice.

However, upon completion of services and you issued a tax invoice within 21 days, you account GST based on the date of invoice.

Example 4

AB & Co provided legal services to a client B. The legal services were provided in February over a period of time and finally completed on 15th May. The invoice has to be issued within 21 days from the date of completion of services that is on or before 5th June. AB & Co has to account for GST based on the invoice date.

16. What is the consequence if I fail to issue a tax invoice within 21 days from the date of completion of services?

It is mandatory that a tax invoice be issued within 21 days after completion of services to ensure all GST registered clients receive it to enable them to claim the input tax credit. However, if you fail to do so within 21 days, your tax point will revert back to the date you completed performing of your services.

Example 5

J & Co provided legal services to a client D. The legal service was provided over a period of time and was completed on 15th May. The invoice was issued one month after on 15th June. The tax point shifts back to 15th May. GST has to be accounted for the taxable period covering 15th May.

17. As a permanent legal practitioners, I receive regular payment on a standing retainer. When do I have to account for GST?

You account for GST on the earlier of the following:

- (a) The date of receipt of payment; or
- (b) The date of issue of a tax invoice.

Client Account

18. As a legal practitioner, I have to maintain client's accounts. Do I have to account for GST on money deposited into the client's account?

No, you do not have to account for GST because the amount received is not payment for a supply. However, you have to account for GST when the money is transferred from the client's account to the office account for payment of services rendered to your client.

Deposit and Advance Payment

19. Is GST chargeable on deposits received from the recipient?

If the deposit forms part payment of the total consideration payable by the recipient, GST will be chargeable at the time of payment of the deposit. On the other hand, if the deposit is used as security and will be fully refunded upon completion of services, no GST will be chargeable.

20. Is advance payment subject to GST?

Yes, because it was payment for your supply. If the part of the advance payment were refunded, GST will be imposed on the part which is the payment of the services.

21. When do I account for GST on advance payment?

You have to account for GST on the date of receipt of payment.

22. What is the GST implication on contingency fee (if any)?

For the purposes of GST, GST will be chargeable on any percentage received by legal practitioner.

The legal practitioner is liable to account for GST on the earlier of the following:

- (a) When he receives any percentage of the client's monetary award or
- (b) on the date of issue of a tax invoice

Other Outputs

23. What is the GST treatment for non-billed income such as oath fees received by the legal firm or by individual solicitor under GST?

Non-billed income such as oath fees received in respect of oaths administered by a solicitor in sole practice or a partner in a legal firm are regarded as consideration for services supplied in the course of business, and thus is subject to GST

Disbursements

24. What are the conditional requirements of disbursements for GST purpose?

A legal practitioner may only treat a payment on behalf of a client for goods and services to a third party as a disbursement for GST purpose if the following conditions are satisfied:

- (a) The legal practitioner acted for his client when paying the third party.
- (b) The client actually received and used the goods or services provided by the third party.
- (c) The client knows that the goods or services would be provided by the third party.
- (d) The client authorized the legal practitioner to make payment on his behalf.
- (e) The client was responsible for paying the third party.
- (f) The payment is separately itemized when invoicing the client.
- (g) The legal practitioner recovers only the exact amount which he paid to the third party.
- (h) The goods and services paid for are clearly additional to the supplies which the legal practitioner makes to the client.

25. Can general expenses qualify as disbursements?

General expenses such as telephone, telex, postage, advertising, and stationery charges are incurred in the course of providing services to the client and shall be treated as business costs. They are not to be treated as disbursements for GST purposes. However with regards to telephone calls, some firms may have a policy to charge separately for the cost of telephone calls, e.g. for international calls or for the cost of a conference call. Even where these charges are itemized separately on the invoice, for GST purposes they are regarded as part of the cost of providing the supply of legal services to your client and these charges would attract GST. The legal practitioner should therefore account for input tax in the normal way and charge GST at the standard rate on the value of the telephone calls or conference fee charges.

26. Can travel and accommodation expenses be regarded as disbursements?

As a general rule, travelling and accommodation expenses incurred by a legal practitioner in the performance of his client's instructions are not disbursements and must be included as part of the legal practitioner's overall charge. These would include the accommodation and travelling expenses such as flight, taxi and train fares, toll charges and car parking an. Such expenses are incurred in the course of providing a supply of services to a client.

If these expenses are borne by the legal practitioner, they can be recovered as the consideration paid by the client will include these expenses. Such expenses cannot too be treated as reimbursements because such expenses were on the services supplied to the legal practitioner rather than to the client, and the charge made by the legal practitioner was part of the total consideration for all the services supplied to the client and could not be divided for the purposes of calculating GST.

27. Are disbursements excluded from the value of the supply of services?

Yes, such disbursements are excluded from the value of supply of services. Example 7 illustrates how you exclude disbursements from the value of supply of services.

Example 6

TAX INVOICE

ABC CO.
Address : No. 1, Ampang.

InvoiceNo:00018/1
GST Registration No. : KL9991608

Date :
To : MCC Sdn. Bhd., Kuala Lumpur.

No.	Particulars	Charges / Fees (RM)	GST Rate (%)	GST @ 6% (RM)
1	Legal services for purchase of KL Apartment	3,000	6	180
	Total Charges	3,000	6	180
	Total Charges inc. GST	3,180		
2	Disbursements :			
	a) Land Registry Fees	50		
	b) Stamp Duty	1,000		
	Total Due	4,230		

28. Can payment on reports by third party be regarded as disbursement?

In the case of ordinary report by third party, if the legal practitioner acquires the report for his own use (analyses or comments on it), payment on such reports are not regarded as disbursements. They are part of the cost in providing services to the client (general expenses). However, if the legal practitioner merely passes on the report to the client, payment on such reports can be regarded as disbursements.

However, in the case of expert fees, such fees are regularly instructed in connection with court proceedings, both civil and criminal, to give or prepare expert evidence. Court procedural rules provide that experts have an overriding duty to help the court on matters within their expertise. This duty overrides any obligation to the person instructing or paying them. Experts must not serve the exclusive interest of those who retain them. Experts can be asked by the court to produce an expert report or to give oral evidence in court as an expert witness.

Order 40 Rule 5, The Rules of Court 2012 states that the parties shall be jointly and severally liable to pay the amount fixed by the Court for the remuneration of the Court expert as part of the costs of the cause or matter. Meaning, the parties are encourage the use of joint experts in civil proceedings this would be for claimant and defendant. Whereas, in criminal proceedings this would be one expert for all co-defendants. Wherever possible, a joint report should be obtained. In such cases there will be a statement that all the instructing parties are jointly and severally liable to pay the experts' fees and accordingly, that experts' invoices should be sent simultaneously to all instructing parties or their solicitors, as appropriate. Hence, in deciding whether such expenditure on experts' services can be treated as a disbursement for GST purposes, it is necessary to consider who receives the supply of the services provided. Where an expert's report has been obtained by a legal practitioner, for example handwriting experts, printing experts as part of the evidence in support of their client's case then they can be treated as a disbursement.

29. Can witness fees paid by the legal practitioner be regarded as a disbursement?

The procedural rules for both criminal and civil proceedings require witnesses (other than experts) served with a witness summons to be offered or paid a sum to cover their travelling expenses to and from the court and compensation for loss of time. Such payments are made on behalf of the client because the witnesses are giving evidence to support their cases and as such can be treated as disbursements for GST purposes. These fees will therefore not attract a GST charge when legal practitioner bill their client.

30. How do I treat disbursements?

Legal practitioner have 2 options:

- (a) To exclude the disbursement when calculating GST on the main supply. In this case, you pass on the disbursement to the client. The legal practitioner and the client are not allowed to claim input tax;

Example 7

ABC & Co supply legal services to MC & son for a basic fee of RM8000. In addition, ABC & Co incur RM200 expenses which he passes on to MC & son as the client, but which do not qualify for treatment as disbursements for GST purposes. ABC & Co also pay RM1200.00 on behalf of his client in circumstances where that payment can be treated as a disbursement.

ABC & Co as the legal practitioner must issue a tax invoice to his client, showing:

<i>Legal Services</i>	<i>RM 8,000.00</i>
<i>Expenses</i>	<i>RM 200.00</i>
<i>Value for GST</i>	<i>RM 8,200.00</i>
<i>6% GST</i>	<i>RM 492.00</i>
<i>Disbursements</i>	<i>RM 1,200.00</i>
<i>Total Billed</i>	<i>RM 9,891.00</i>

- (b) To treat the legal practitioner as principal for the disbursement. The Legal Practitioner may reclaim the related input tax, subject to the normal rules, and must charge GST on the onward supply, if appropriate.

Example 8

Using the same scenario and figures as in the example under option A, ABC & Co may claim input tax of RM72 in respect of the disbursement of RM1,200.00. He charged MC & son GST on the net amount of RM9,964 which is itemised on his tax invoice. MC & son be able to claim input tax.

<i>Legal Services</i>	<i>RM 8,000.00</i>
<i>Expenses</i>	<i>RM 200.00</i>
<i>Value for GST</i>	<i>RM 8,200.00</i>
<i>Disbursements</i>	<i>RM 1,200.00</i>
<i>6% GST</i>	<i>RM 564.00</i>
<i>Total Billed</i>	<i>RM 9,964.00</i>

Overseas Telecommunications

31. In supplying my legal services, I have to make calls to my overseas client. Are these calls zero rated?

The services that you provide to overseas client will be zero rated but the charges on telephone bill that you receive will be standard rated. However because the calls were made for making taxable supply, you can claim input tax credit.

32. Who is entitled to recover the GST if someone else pays for my services?

Only the recipient of the service or goods is entitled to recover the GST. If your client pays for your hotel accommodation, you can claim the GST if the invoice is issued in your name.

33. What is the GST treatment on costs awarded to the legal practitioners?

The costs awarded to the legal practitioners will subject to GST if the payments were consideration of the services.

Transitional Provisions

34. Can I claim input tax incurred on service tax for services procured before the commencement of GST?

No, you cannot claim input tax on service tax incurred before the commencement of GST because the services were performed and consumed before the commencement of GST.

35. How do I account for GST on the value of legal services if the services were performed spanning GST implementation?

You must make apportion the legal service, which you perform before and after GST implementation. GST is only chargeable for legal service rendered on or after GST implementation. Apportionment can be by way of time spent, transactions or number of court appearances.

Example 9

Apportionment by number of court appearances LM & Co has been appointed as litigation lawyers for RZ to act as his lawyer in the Magistrate Court. The lawyers attended court a total of 5 times, that is 3 times before and 2 times after commencement date of GST. After completion of services, LM& Co lodged claim for his services amounting RM10,000.00.

<i>Total court appearance days</i>	<i>= 5 times</i>
<i>Court appearances after GST implementation</i>	<i>= 2 times</i>
<i>GST liable</i>	<i>= 2 / 5 X RM10,000.00 x 6% = RM240.00.</i>

LM & Co has to account for GST of RM240.00.

36. Is the payment I received after commencement of GST for services performed before GST implementation subject to GST?

No, payment received after commencement of GST for services provided before GST implementation is not subject to GST.

ADVERTISING SERVICES

Taxable Supplies and Accounting For GST

1. What types of advertising services are subject to GST?

The provision of advertising services is a standard rated supply. Thus, all advertising services are subject to GST.

Such advertising services includes :-

- (a) airtime advertisement through radios and television.
- (b) the right to place advertisement on a billboard.
- (c) advertising time or space in any publication and newsprint.
- (d) promotional activities such as an entry in a telephone enquiry directory and advertising space in any electronic location.

Meanwhile, for the creative agencies that provide creative artwork services is a standard rated supply.

2. What constitutes my taxable turnover?

Your taxable turnover includes commissioner other fee based charges received from your clients. For media owner, it includes advertising sales and sales through newspapers, magazines, bulletins, billboards, TV, radio, mobile phone or internet (digital form).

3. As an advertising agency acting as a principal, how do I account for GST?

GST constitutes on the selling price, including the cost of advertising space or time.

Example 1:

ABC Sdn Bhd engaged local advertising agency, Syarikat Pengiklanan Haslim to act on his behalf as a principal to advertise their product in the local newspaper. The Syarikat Pengiklanan Haslim values his work as follows :

Cost of advertising time or space	:	RM 8,000
Advertising fee	:	RM 3,000

The amount of GST chargeable to ABC Sdn Bhd by Syarikat Pengiklanan Haslim is RM660 ($\text{RM}11,000 \times 6\%$), which is output tax to Syarikat Pengiklanan Haslim.

The amount of GST chargeable by local newspaper (media owner) is RM480 ($8,000 \times 6\%$), which is Syarikat Pengiklanan Haslim input tax.

Time of Supply

4. When do I have to account for GST?

You have to account for GST at the earliest of the following:

- (a) when the advertising service is performed,
- (b) when payment is received, or
- (c) when the tax invoice is issued.

5. When is the basic tax point for “Media Owner” and “Creative and Production Services”?

The basic tax point for advertising services providers are as follows:

- (a) Media Owner
 - i. When the circulation takes place i.e. when it was viewed or broadcasted.
- (b) Creative and Production Services
 - ii. When the creative work and artwork is created and accepted.

Place of Supply

6. Hotel Sri Malaysia places a booking with a media owner to air an advertisement in Malaysia on its worldwide hotel chain. Whether the sale of airtime subject to GST?

The sale of airtime is subject to GST at a standard rate as the circulation of the broadcasting is in Malaysia.

7. I am an advertising agency registered in Malaysia and I provide advertising services in Malaysia. Do I have to account for GST?

Yes, all advertising services provided and circulated in Malaysia, are subjected to GST at a standard rate regardless whether the supply is made to a local or an overseas customer. For TV and radio broadcasting, advertisement placed on TV and radio channels in Malaysia are considered to be made in Malaysia and it is standard rated supply. This is because these TV and radio channels are aired mainly in Malaysia. For media sales advertising through mobile phones, the place of subscription of the telephone line is used as a proxy to determine the place of circulation. If an advertisement is sent to subscribers of local telephones, the circulation is in Malaysia and such supply is standard rated. However, if the circulation of media advertisement is outside Malaysia, the supply is zero-rated.

8. If I am an advertising agency registered in Langkawi and provide billboard advertising in Langkawi, do I have to account for GST?

No, advertising services provided inside these islands (Langkawi, Tioman and Labuan) are not subject to GST. These islands are called designated area. Services supplies inside the designated area are treated as no tax chargeable. Even though these supplies are treated as no tax chargeable, the advertiser can claim input tax incurred in providing advertisement services in the designated area.

9. If I am an advertising agency registered in Langkawi and provide media sales advertisement in Langkawi, do I have to account for GST?

No, advertising services provided inside these islands (Langkawi, Tioman and Labuan) are not subject to GST. These islands are called designated area. Services supplies inside the designated area are treated as no tax chargeable. Even though these supplies are treated as no tax chargeable, the advertiser can claim input tax incurred in providing advertisement services in the designated area.

However, for regional circulation of media advertisement, the supply is considered to be substantially circulated outside designated area if at least 51% of the total circulation of the same media advertisement through physical or digital media is circulated outside designated area. The 51% rule applies only to publication of the same version or edition for distribution to multiple areas or countries. Magazines or newspaper with the same content printed in different languages or with slight modifications for distribution in different countries cannot be regarded as the same version or edition.

For media sales of airtime such as through television and radio, the 51% rule applies only to the same advertisement aired simultaneously in designated area, Malaysia and overseas (if any).

10. What is the GST treatment for providing media sales for advertisement circulated both in Malaysia and overseas by the advertising agency registered in Malaysia?

Generally, if the supplies involves a mixture of standard rated and zero-rated supplies, 51% rule circulation is applies and the entire media sales advertising can be zero rated if at least 51% of the circulation is outside Malaysia.

11. What are the GST implications if I am an advertising agency registered in Malaysia and provide media planning services arranging for foreign client to advertise their product?

The provision of services to foreign client for arranging advertising services overseas is a zero-rated supply.

- 12. What happens if a local company advertises his products directly in overseas newspaper without using advertising agency?**

The supply of advertising overseas is considered out of scope. Local company getting imported services has to account for GST by way of imported services.

- 13. If an overseas advertising agency has a contract with the local client to advertise their product in a local media TV station in Malaysia. That overseas advertising agency appoint a local advertising agency in Malaysia to arrange all the advertising work, advertise the product and then bill local client directly. How should GST be accounted?**

The media owner must account for GST at a standard rate for the advertising space provided to local advertising agency and the local advertising agency must account for GST for the production work provided to local client.

However the commission charged to the overseas advertising agency by local advertising agency is not subject to GST because the supply of services by local to overseas agency is zero rated.

- 14. An overseas restaurant owner places an advertisement in local television station to promote their restaurants outside Malaysia. Is the supply of advertising space in the local television station subject to GST?**

Yes, the media owner must account for GST because the provision of advertising space in Malaysia is a standard rated supply even though it is related to land and building outside Malaysia.

- 15. XYZ is multinational company with branches in Asia and headquarters in Malaysia. The multinational company appoints a Malaysian advertising agency to do media planning services and to advertise in Hong Kong, Indonesia and Japan. The Malaysian advertising agency later appointed advertising agencies in Hong Kong, Indonesia and Japan to arrange the advertisements in those countries. Is the Malaysia advertising agency subject to GST when it invoices XYZ company for the services render?**

The provision of media planning services by the Malaysian advertising agency to XYZ is subject to GST because the services are provided to XYZ in Malaysia. Malaysian advertising agency has to charge and account GST on his supply at a standard rated. However the supply of advertising in Hong Kong and Indonesia are not subject to Malaysian GST because the services are provided outside Malaysia and considered zero rated supply.

- 16. What is the GST treatment for media planning services registered in Malaysia provides a services to the overseas holding company's client?**

If the media planning provider have a contract with overseas holding company to do media planning to its group companies (to provide services such as market studies, choosing advertising media, time and frequency of advertising; etc), the contracting party is the immediate recipient who will directly benefit from your services. Hence media planning provider can zero rate the services.

- 17. An overseas agency, SH Agencies has a contract with a Malaysian client. SH Agencies engages a local agency KS Media to buy advertising space in Malaysia and bill directly to the Malaysian client. What is the GST treatment with regards to the above?**

KS Media will zero rate the service fee charged to SH Agencies for media planning. Any services provided by the Malaysian media owner to broadcast the advertisement in Malaysian is standard rated.

- 18. JL Creative Works does creative and production work for a Malaysian client, who uses the production work for use in advertising overseas such as in his overseas website, or for filming work overseas.**

The creative and production work is standard rated because it is provided to the client in Malaysia, even though the advertising work will be used overseas.

- 19. JL Creative Works a creative agency is appointed by ABC Sdn. Bhd as the sole agency to provide creative works for all its advertising campaigns in ASEAN countries. Most of the productions are carried in Thailand. Is GST chargeable on the creative and production costs?**

The services are provided contractually to Malaysian's company (ABC Sdn. Bhd). Creative works are not directly in connection with advertising media in circulation. Even, the fact that the production may take place in Thailand (outside Malaysia), this supply do not qualify for zero rating. GST is chargeable on the creative and production costs at a standard rate.

- 20. What is the GST treatment on advertisements on in flight magazines and media?**

Such advertisements are zero rated if they are provided to be circulated outside Malaysia.

Advertising Services Provided to Charities

21. What happen if the advertising agency is acting as a principal and provide advertising services to approved charities?

When a charity uses an advertising agency to supply advertisement services, the GST liability is decided whether the advertising agency is a principal or an agent. If the advertising agency acts as a principal, the supply of advertising time or space (for example television or radio) and production work without any charge to the approved charity will be relief from GST. However the supply of advertising time or space by media owner to the advertising agency will be standard rated.

22. What happen if the advertising agency is acting as an agent and provided advertising services to charities?

When an advertising agency acts as an agent, the agency fees charged to the media owner is subjected to GST. However, the media owner (for example television or radio) has to issue the bill directly to charity to be eligible for the GST relief treatment.

23. Does advertising on a charity's web-site qualify for GST relief?

No, the charity has to account for GST.

24. In relation with question above, how does the charity account for GST if there is no monetary consideration?

You must account for GST based on open market value.

Sponsorship

25. What happen if a company gives me monetary sponsorships and in return I (media owner) provide advertising in my own web-site? Is my services subject to GST?

The supply in the form of monetary is not subject to GST. But if in return you provide advertising for your supply, you must account for GST based on open market values. In case the open market value cannot be ascertained, the media owner has to account GST based on the money the media owner receives.

Example 2:

ABC company sponsors YY (charities bodies) RM5,000.00 for a concert at KS Cafe organised by YY and in return, YY provide the sponsor a free page to advertise the sponsor's name or products in the YY's web-site, YY have to account for GST based on open market value of the free page. Assume the open market value to advertise in the web site is RM500.00 for a page. So you have to account GST RM28.30 (RM 500.00 x 6/106).

26. If waive the pitch fee upon securing a contract, can I recover the GST portion?

You can recover the GST paid by making adjustment in your GST returns after issuing a credit note to your client.

Licenses

27. Advertising agency or individual pay to the Land Office a fee for temporary occupation of land to be allowed to place billboard advertisement? Is this fee subject to GST?

No, this Temporary Occupation License fee is imposed by the Land Office which is outside the scope of GST.

28. Advertising agency or individual pay a fee to local authority to get a permit for billboard advertising. Is this fee subject to GST?

The fees for this permit imposed by local authority is not subject to GST because it is imposed for regulatory and enforcement purpose.

Complimentary Copies

29. Are complimentary copies of magazines given to readers, other persons or potential clients subject to GST? Such complimentary copies are regarded as business gifts are not subject to GST. However, it is restricted to a value of RM500 per person per year.

30. If media owners give complimentary copies of current issue to an advertiser who placed an advertisement in that issue, does he have to account for GST? No, it is not subject to GST because it is part of the advertisement package supplied.

SECTOR 4

(Finance, Entertainment and Tourism)

- Commercial Banking
- Islamic Banking
- Investment Banking
- Development Financial Institution
- Insurance and Takaful
- Hire Purchase & Credit Sale
- Leasing
- Trustee Services
- Venture Capital
- Pawnbroking
- Fund Management
- Share Issuing House & Share Registrar
- Money Lending
- Money Services Business
- Entertainment
- Event Management
- Accommodation Premises and Similar Establishment
- Travel Industry

COMMERCIAL BANKING

Registration

- 1. Banks and financial institutions provide financial services. Since most financial services are exempted from GST, are banks and financial institutions required to be registered?**

Even though most financial services are exempt supplies, banks and financial institutions also provide fee-based services which are subject to GST at a standard rate. If the amount of these taxable supplies exceeds the prescribed threshold, then it is a mandatory requirement for the banks or financial institutions to be registered.

- 2. Can ACE Bank and Risk General Takaful Sdn Bhd under the same holding company be registered under group registration?**

GST Group registration is restricted to businesses which make wholly taxable supplies. Banks being suppliers of exempt supplies are not eligible for GST group registration.

Tax Invoices

- 3. My customers perform many banking transactions in a taxable period. Must I issue a tax invoice for every banking transaction or is there de minimis value on invoicing?**

You need not issue a tax invoice for every transaction. You can apply to the Customs Department for approval to issue a monthly statement covering every banking transaction that has taken place within the calendar month. In addition, there is no de minimis value on invoicing.

- 4. Do I have to issue a tax invoice to an individual customer who is a non-registered person?**

Generally a registered person must issue a tax invoice in respect of a taxable supply. If there is no taxable supply, then it is not required to issue a tax invoice. The bank can apply to the Customs Department for approval to be exempted from issuing a tax invoice to a non-GST registered person. However, the bank is required to issue serially numbered receipts for audit purposes. Alternatively, instead of issuing receipts manually, electronic receipting is also allowed, as long it is captured and recorded.

- 5. Do I have to issue tax invoices for transactions to customers abroad with zero-rated supplies?**

You need not issue a tax invoice for a zero-rated supply.

Input Tax Recovery

6. As a registered person, I am eligible to recover my input taxes on my acquisition. To what extent can I recover my input tax?

Generally banks, financial institutions and development financial institutions (DFI) make both exempt and taxable supplies. In principle, only input tax directly attributable to taxable supplies can be recovered in full. Input tax that is attributable to exempt supplies is not recoverable. Furthermore, for inputs which can be directly attributed to taxable and exempt supplies (i.e. residual input), the bank needs to use a standard method to apportion the input taxes that are claimable. To simplify the process of recovering the input tax and to reduce the high administrative compliance costs of tracking each input to a particular product, only banks and other financial institutions which provide loans to businesses and other exempt financial services are relieved from the task of attributing their input taxes by opting to use fixed input tax recovery (FITR) method.

However, banks and other financial institutions which provide financial services but do not provide loans (to businesses) are not entitled to recover their input tax in full using FITR method.

7. Can I claim input tax incurred in respect of medical and hospitalisation benefits of its employees?

The bank is not entitled to claim the input tax because medical and hospitalisation benefits for the employees are blocked inputs.

8. Can I claim the input tax incurred in relation to entertainment expenses to employees?

The bank may claim the input tax incurred since business entertainment expenses to employees are not blocked inputs.

Accounts Operation (current, deposit or investment accounts)

9. When a customer deposits or withdraws money from his savings, fixed deposit or current account, are they subject to GST?

Deposits or withdrawals from the savings, fixed deposit or current account are not subject to GST.

10. Is interest paid to or received from a bank subject to GST?

Interest paid or received from a bank is not subject to GST.

11. Bank charges its customers certain fees such as half yearly service charge for current account and fifth cash ATM withdrawal charge. Are they subject to GST?

Yes, these charges are subject to GST at a standard rate. Any fee based charge in the form of explicit fees imposed by any bank or financial institution are subject to GST at a standard rate.

12. I charge my customers a fee on the replacement for the loss of ATM cards. Is this subject to GST?

There are fees and charges being imposed to compensate for lost or damaged ATM cards. Such fee is not subject to GST since it is a penalty.

Provision of financing any loan, advance or similar facility

13. Is the provision of loans subject to GST?

When a bank provides loan to its customer, it would enjoy interest payment. The interest with regards to the provision of loan is not subject to GST. However, any fee or charges in relation to it, for instance processing fee, advisory services fee or charges on making copies on the document are subject to GST at a standard rate.

14. Are repayments of the principal amount subject to GST?

The repayment of a loan, i.e. the instalment of the principal amount with or without interest is also not subject to GST.

15. Is late payment penalty subject to GST?

Late payment penalty is not subject to GST.

16. I provide a loan to finance a project in Vietnam. Will this loan be subject to GST?

A loan to finance a project outside Malaysia is a zero-rated supply and the processing fee in respect of the loan given is also zero rated. The principle of GST provides that services rendered for customers abroad will be zero-rated if at the time the services are rendered, he is outside Malaysia. This is considered as an export service. Similarly, any commercial banking service rendered in connection with land and goods situated outside Malaysia is also zero rated.

17. Bank XYZ is a lead arranger for a syndicated loan. As a lead arranger, Bank XYZ enlists the support of other participating banks to provide loan to its customer. The customer pays management fee to Bank XYZ. How and who should account for the GST?

In a syndicated loan arrangement, as the lead arranger, Bank XYZ is responsible to issue a tax invoice for the management fee to the customer. Each participating bank in return issues his tax invoice to Bank XYZ for its portion of the management fee and Bank XYZ then distributes the appropriate amount accordingly. Bank XYZ then account the full GST as the output tax and claims input tax using FITR. Meanwhile, each participating bank will account GST on the management fees received from Bank XYZ as their output tax.

Credit, debit or charge card

- 18. Most banks waive the annual subscription fee on the credit card to make it competitive in the market. Is the waived annual subscription fee subject to GST?**

Since there is no consideration for the supply of service, the bank need not charge GST on the waived annual subscription fee.

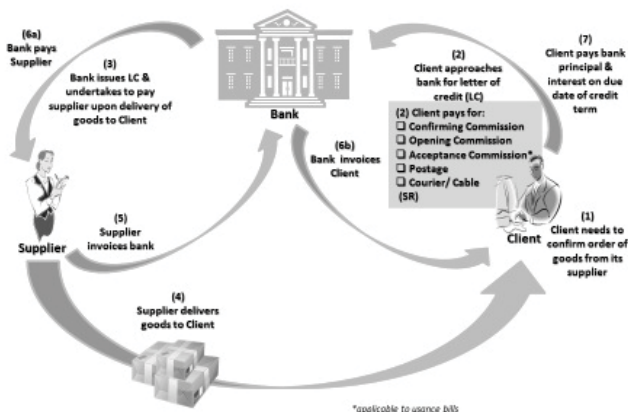
Documentary Credit

- 19. As an advising bank, I charge a confirmation commission for confirming a letter of credit (L/C) relating to the export of goods to Dubai. Is this commission subject to GST?**

This commission is subject to GST at zero rate as it relates to the export of goods outside Malaysia.

- 20. I issue an L/C to a local trader for the importation of goods and charge a fee for the issuance of the L/C. What is the GST treatment on this fee?**

Confirming - Charges Involved



Such fee is subject to GST at a standard rate.

- 21. Bank also provides advisory service in relation to the issuance of the L/C. Is advisory service subject to GST?**

Advisory service is a taxable supply and is subject to GST at a standard rate.

Foreign Exchange

22. What is the GST treatment on foreign currency exchange?

Bank profits from spread resulting from the difference between the rates of selling and buying of the currency. Spread is exempt and not subject to GST.

23. What is the GST treatment on the fee or commission charged on the issuance and encashment of traveller's cheque within Malaysia?

The fee or commission is subject to GST at a standard rate.

Factoring

24. Can you illustrate the GST treatment in a factoring transaction?

A seller X makes a taxable supply of goods to buyer Y for RM1,060 (to include amount of GST payable at 6%). Seller X will account RM60 as his output tax in his tax return.

Instead of waiting payment from buyer Y, seller X assigns the accounts receivable to the bank for RM800 (being 80% of the accounts receivable). At this juncture, the bank acts as a factor by providing financing to seller X and undertakes the responsibility and task of recovering the outstanding amount from buyer Y. For this service, the bank charges a fee to seller X.

Financing is not subject to GST but the factoring fee charged by the bank is subject to GST at a standard rate.

Safe-Keeping and Custodial Service

25. What is the GST treatment on safe-keeping and custodial services?

Bank provides safe-keeping or custodial services to its customers by offering a safety deposit box, and charges rental on the box. This rental charges are subject to GST at a standard rate.

Treasury Services

26. Illustrate some examples of standard rated and exempt supplies with regards to bank's treasury function in the GST regime?

Exempt supplies include any of the following activities:

- contracting as principal to sell an amount of currency for another in a foreign exchange contract;
- sale as principal of financial futures contract;
- contracting as one of the counterparties in a Forward Rate Agreement, Interest Rate Swap Agreement, Currency Swap Agreement, Commodity Swap Agreement; and
- contracting to sell securities to another party with a commitment to repurchase them.

Standard rated supplies include services related to the:

- arrangement as an agent for foreign exchange contract;
- arrangement as an agent (not as counterparty) for Forward Rate Agreement, Interest Rate Swap Agreement, Currency Swap Agreement, Commodity Swap Agreement;
- acting as agent in procuring the supply of financial future or option;
- acting as agent in connection with Forward Rate Agreement, interest rate cap, floor or collar agreement;
- arranging as an agent for the purchase and sale of an option, discount and premium securities, zero coupon bonds; and
- Making arrangements for underwriting services.

ISLAMIC BANKING

GST Registration

- 1. Most of the financial services are not subject to GST. Do Islamic banks and Islamic financial institutions need to be registered?**

Even though most of the financial services are not subject to GST, Islamic banks and Islamic financial institutions provide fee-based services which are subject to GST at a standard rate. If the amount of these taxable supplies exceeds the prescribed threshold, then it is a mandatory requirement for the Islamic banks or Islamic financial institutions to be registered under GST.

- 2. Can several banks under the same holding company be registered under group registration?**

GST Group registration is restricted to businesses which makes wholly taxable supplies. Banks being suppliers of exempt supplies are not eligible for GST group registration.

Tax Invoices

- 3. My customers perform many banking transactions in a taxable period. Should I issue a tax invoice for every banking transaction?**

You need not issue a tax invoice for every transaction. You can apply to the Customs Department for approval to issue a monthly statement covering every banking transaction that has taken place within the calendar month.

- 4. Should I issue a tax invoice to an individual customer who is a non-registered person?**

Generally, a registered person must issue a tax invoice in respect of a taxable supply. If there is no taxable supply, then it is not required. The bank can apply to the Customs Department for approval to be exempted from issuing a tax invoice to a non- GST registered person. However, the bank is required to issue serially numbered receipts for audit purposes. Alternatively, instead of issuing receipts manually, electronic receipting is also allowed, as long it is captured and recorded.

- 5. Do I have to issue tax invoice for transactions involving customers abroad with zero-rated supplies?**

You need not issue a tax invoice for a zero-rated supply.

Input Tax Recovery

- 6. Can I claim input tax incurred in respect of medical and hospitalisation benefits for my employees?**

The Islamic bank is not entitled to claim the input tax incurred on medical and hospitalisation benefits for the employees since it is blocked.

- 7. In December 2016, I organize an annual dinner for the employees at a hotel. Existing clients are also invited for the dinner. Can I claim input tax incurred for the dinner?**

You are entitled to claim input tax on business entertainment to employees and existing clients.

Accounts Operation (current, deposit or investment accounts)

- 8. When a customer deposits or withdraws money from his current, deposit or investment account, is he subject to GST?**

Deposit or withdrawal from the current, deposit or investment account is not subject to GST.

- 9. Is profit subject to GST?**

Profit is not subject to GST.

- 10. I charge my customers certain fees such as half yearly service charge for current account and fifth cash ATM withdrawal charge. Are they subject to GST?**

These fees and charges are subject to GST at a standard rate. Any fee based charge in the form of explicit fees imposed by any bank or financial institution is subject to GST.

Provision of Financing, Advances or Credits

- 11. Is the provision of financing subject to GST?**

When a bank provides financing to its customer, the bank would enjoy profits. The profit charge with regards to the provision of financing is not subject to GST. However, any fees or charges in relation to it, for instance processing fee, advisory services fee or charges on making copies on the document are subject to GST.

- 12. Are repayments of the principal amount subject to GST?**

The repayment of financing, i.e. the instalment of the principal amount with or without profit charge is also not subject to GST.

- 13. Is late payment penalty subject to GST?**

Late payment penalty is not subject to GST.

- 14. I provide financing to a project in Vietnam. Will this financing be subject to GST?**

Financing a project outside Malaysia is zero-rated and its processing fee in respect of the financing given is also zero rated.

Credit, Debit or Charge Card

- 15. Most banks waive the annual subscription fee on the credit card to make it competitive in the market. Is GST still be imposed on the waived annual subscription fee?**

Since there is no consideration for the supply of service, the bank need not charge GST on the waived annual subscription fee.

Documentary Credit

- 16. As an advising bank, I charge a confirmation commission for confirming a letter of credit (L/C) relating to the export of goods to Dubai. Is this commission subject to GST?**

This commission is subject to GST at zero rate as it relates to the export of goods outside Malaysia.

- 17. I issue a letter of credit to a local trader for an importation of goods and charge a fee for the issuance of the letter of credit. What is the GST treatment on this fee?**

Such fee is subject to GST at a standard rate

- 18. I also provide advisory service in relation to the issuance of the letter of credit. Is advisory service subject to GST?**

Advisory service is a taxable supply and is subject to GST at a standard rate.

Foreign Exchange

- 19. What is the GST treatment on foreign currency exchange?**

Bank profits from spread resulting from the different between the rates of selling and buying of the currency. Spread is exempt and not subject to GST.

- 20. What is the GST treatment on the fee or commission charged on the issuance and encashment of travellers cheque within Malaysia?**

The fee or commission is subject to GST at a standard rate

Safe Keeping and Custodial Service

- 21. What is the GST treatment on safe keeping and custodial services?**

Bank provides safe-keeping or custodial services to its customer by offering a safe deposit box and charges rental on the box. The rental charges are subject to GST at a standard rate.

INVESTMENT BANKING

GST Registration

1. Am I eligible for group registration?

You are not eligible to register for group registration because as an investment bank, you are making both taxable and exempt supplies. To be registered as a group, you must make wholly taxable supplies.

2. Can I use the bank account number that appears in the monthly bank statements as the GST registration number required on tax invoice?

You are not allowed to use the bank's account number as your GST registration number on your tax invoice. You will be given a GST registration number when you register your business.

3. I am a dealer representative. Am I required to be registered?

You are not required to be registered. However, your stock broker will be required to be registered if his taxable sales turnover exceeds the threshold and he has to account the GST on your brokerage commission irrespective of whether the amount of your annual brokerage commission is above or below the threshold limit.

4. If my dealer representative wants to quit from my stock broking company and intends to join with another stock broking company, what must I do? What do I have to do if a new dealer representative joins my company?

If your dealer representative wants to quit from your company, you must inform the Customs Department on the withdrawal of the dealer representative by filling the form GST-A. Similarly, you must inform the Customs Department if a new dealer representative joins your company.

Structured Investment Product

5. I structure an investment product for my client. In the process, I also supply advisory service for which the charge is embedded into the price of the structured investment product. Do I have to charge GST on my supplies?

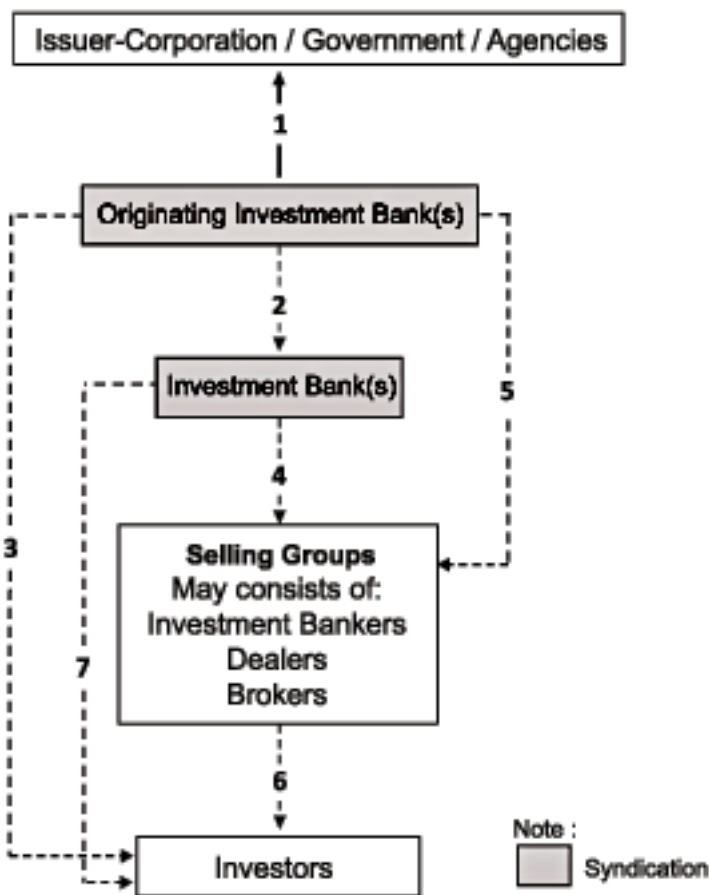
Since the provision of advisory services is part of the cost in the structuring of the investment product, you are not required to apportion the advisory service. GST is not chargeable to the structured product as it is exempt.

Securities Syndication

6. I enlist the support of other investment banks to sell securities, thus forming a security syndicate. In addition to that, each member of my syndicate have their own selling groups, consisting of other investment bankers, dealers and brokers that sell to their own investors. How should I account for the GST?

As the originating bank, you are accountable for the GST on the fee based services related to the syndication. Therefore, you should charge GST at a standard rate on any fee based service which you make to your customer. Briefly, the GST treatment can be illustrated in the following diagram:-

Diagram 1: Securities Syndication



Explanation on GST treatment:

No.	Transactions	GST
1	Originating Investment Bank(s) charges arranger fee to issuer for the syndication service.	Standard Rate
2	Originating Investment Bank(s) sell securities to Investment Bank(s) and receive commission.	Sell securities - Exempt Commission – Standard Rate
3	Originating Investment Bank(s) may sell securities directly to investors and receive commission.	Sell securities – Exempt Commission – Standard Rate
4	Investment bank(s) sell securities to Selling Group (SGs); receive commission from Originating Investment Bank(s) and pays brokerage fee to (SGs).	Sell securities - Exempt Brokerage and Commission – Standard Rate
5	Originating Investment Bank(s) may sell securities directly to Selling Groups (SGs) and pay brokerage fee.	Sell securities - Exempt Brokerage – Standard Rate
6	SGs sell securities directly to investors, charges brokerage fee and receive commission.	Sell securities - Exempt Brokerage and Commission – Standard Rate
7	Investment Bank(s) may sell securities directly to investor and earn full commission from Originating Investment Bank(s)	Sell securities - Exempt Commission – Standard Rate

Loan Syndication

7. I am the arranger of a syndicated loan. I provide the loan of RM100 million and receive an arranger fee of RM50,000. How do I charge GST?

Since the provision of a loan is a provision of credit, it is an exempt supply. However, you are required to account GST on RM50,000.00, since arranger fee is subject to GST at a standard rate.

Example 1: Mixed Supply

<i>Loan Amount:</i>	<i>RM100 million</i>
<i>Arranger Fee:</i>	<i>RM 50,000.00</i>
<i>GST @ 6%: (RM50,000 x 6%)</i>	<u>RM 3,000.00</u>

8. I am the mandated arranger as well as the administrative agent of a syndicated loan facility. The other participating banks' roles in the syndicates' composition is shown in Table 1. What is the GST treatment on the supply of these participating banks?

The GST treatment is shown in the **Table 1** below:-

Table 1: Example of a Syndicated Loan Structure

Participating Banks' Role	Services	Fee/Income	GST Treatment
1.Mandated Arranger (Lead manager/ Administrative agent)	Originate, structure and syndicate the transaction	Syndication fee	Standard rate
	Provides portion of the loan to the syndicate.	Loan	Exempt
	Receives portion of the interest on the loan from borrower.	Interest	Exempt
2.Joint Manager/ Co-Manager	Member of the syndicate receiving a portion of the syndication's fee.	Syndication fee	Standard rate
	Provides portion of the loan to the syndicate.	Loan	Exempt
	Receives interest on the loan	Interest	Exempt
3. Book Runner	Issues invitations to participate in the syndication, disseminates information to banks and informs the borrower about the progress of the syndication.	Book Runner fee	Standard rate
	Provides portion of the loan to the syndicate.	Loan	Exempt
	Receives interest on the loan.	Interest	Exempt
4. Participants only	Provides portion of the loan to the syndicate.	Loan	Exempt
	Receives interest on the loan.	2. Interest	Exempt

- 9. Sometimes an application fee on a non-syndicated loan may be termed as “acceptance fee” or “review fee” and it is charged upon approval of the loan. What is the GST treatment on this fee?**
Irrespective of the term you use for the fee, the application fee is subject to GST at a standard rate.
- 10. I charged a processing fee when a non-syndicated loan application is approved. Is there GST on processing fee if the loan is declined?**
GST is chargeable at a standard rate even though the loan is declined.

Corporate Financing

- 11. Debt assignment is the assignment of debt for a consideration. In this assignment, the debt factor will charge service fee. What is the GST treatment on the service fee?**
The service fee on the debt assignment is subject to GST at a standard rate.
- 12. Is there GST for late payment penalties?**
If you impose a penalty because your clients did not pay by the due date, the penalty is not subject to GST.

Securities Services

- 13. Many securities transactions are effected by electronic means. Is the supply through a dealing system that matches and sell deals subject to GST?**
The trading of securities is an exempt supply. However, the rental of the dealing system is a taxable supply and therefore is subject to GST at a standard rate.

Initial Public Offering (IPO)

- 14. What is the GST treatment on fees paid in an IPO exercise?**
Fee based services relating to IPO exercise is standard rated even though you may have progress billings. The GST is due when the billing is made or payment received. This may include any kind of additional costs on report preparation, administrative and maintenance on corporate governance.

- 15. My supply in an IPO exercise is basically related to the new securities of a public company in which I am also the company's underwriter. What is the GST treatment if I sell the new securities in large blocks to institutional or retail buyers?**

The sale of securities to institutional or retail buyer is an exempt supply since the underwriter earns a spread and therefore it is not subject to GST. GST is not chargeable even though you resell the securities to a retail purchaser. However, if there is any brokerage fee or commission, it is subject to GST at a standard rate.

Acquisition through Borrowings

- 16. A leveraged buyout is essentially a strategy involving the acquisition of another company using borrowed money through bonds or loans in order to meet the cost of the acquisition. Often, the assets of the company being acquired will be used as collateral in addition to the assets of the acquiring company. Is collateral subject to GST?**

Collateral is a form of security to ensure settlement of the loans. Hence, it is not subject to GST.

Takeover

- 17. A friendly takeover occurs with the consent of the management of the target company and consists of a straight buyout of the company. In this kind of takeover, the shareholders either receive cash or an agreed-upon number of shares of the acquiring company's shares. What is the GST treatment?**

Cash payment and shares buyout is not subject to GST.

Stock Lending

- 18. I lend shares to another entity (borrower) for it to complete some shares transaction. The borrower will return the same number of shares to me at a later agreed date. In this transaction I charged the borrower some fees. Is the fee subject to GST?**

The fee you charge the borrower is subject to GST at a standard rate. However, the lending of shares is not subject to GST.

- 19. Where stocks are loaned, the borrower has the legal title of the shares and receives the dividend until these shares are returned. What is the GST treatment on the dividend received by the borrower?**

The dividend received is not subject to GST.

Swap

- 20. When is the tax point in an interest rate swap i.e. when the banks and other financial institutions exchange fixed interest rate on their debts?**

An interest rate swap is an exempt supply. Therefore, the issue of tax point does not arise.

- 21. Is the GST treatment on interest rate swap similar to currency swap?**

The GST treatment will be similar since currency swap is also an exempt supply.

Preparatory Services

- 22. I provide preparatory services to my nominee companies. What is the GST treatment on these preparatory services?**

Preparatory services such as preparing and filling of documents in a rights issue are subject to GST at a standard rate.

Stock broking

- 23. My client is a Singaporean. He trades shares on Bursa Malaysia. Do I charge GST on brokerage commission?**

You are required to charge GST on the brokerage commission even though your client is not a Malaysian.

- 24. I purchase 10 lots of shares from Hong Kong stock market through my stock broking company in Johor and I have been charged commission by the stock broking company. The stockbroker in Hong Kong charges commission for the stockbroking services to the stockbroker in Johor. What is the GST treatment?**

The stockbroker in Johor has to account for imported services in the taxable period for commission paid to the stockbroker in Hong Kong. The commission charged by the stockbroker in Johor to you is subject to GST at a standard rate.

- 25. I intend to buy 20 lots of a foreign-listed company's call warrants which are also listed at Bursa Malaysia. Do I have to pay GST on commission for such dealing?**

You have to pay GST on the commission charged.

Input tax recovery

- 26. Can an IB claim input tax incurred in respect of medical and hospitalization benefits of its employees?**

The bank is not entitled to claim the input tax incurred since medical and hospitalization benefits for the employees is blocked.

27. Can an IB claim the input tax incurred in relation to entertainment to existing clients?

The bank may claim the input tax incurred since entertainment to existing clients is allowed.

28. As a dealer's representative or futures broker's representative, I incur GST on telecommunication services when I call my clients through my mobile phone. Can my lead member claim the GST incurred on my behalf?

Your lead member can claim the GST incurred on telecommunication services made by you when you call your clients through your mobile telephone.

29. As a dealer's representative or futures broker's representative, I sometimes incur parking charges on the car which I use to meet up with my clients. Can the stockbroking company claim the GST incurred on my behalf?

Your stockbroking company can claim the GST incurred provided that parking charges incurred is related to meeting your client.

30. As an investment bank, I sometimes provide margin financing to my clients besides charging brokerage commission. How do I claim the GST incurred on my expenses?

Margin financing is an exempt supply. Since you are an investment bank you are required to use FITR for claiming input tax.

Bad Debts

31. After paying upfront the value of a share transaction which includes the share price, commission, stamp duty and GST on commission to my lead member eight months earlier, as a dealer's representative I still have not received any payment from my client. My lead member then proceeded to treat the unpaid dues as bad debts. Can my lead member claim the GST that I have paid on commission?

Your lead member can claim GST in full provided that your lead member has satisfied all of the requirements of bad debt relief. However, when your lead member subsequently recovers the bad debt, the lead member shall pay the GST recovered to the dealer's representative.

32. After I have claimed the GST due to the unpaid account, one of my clients pays me. Do I have to pay GST back to the government?

You have to pay back the amount of GST which your client has paid to the government as output tax.

DEVELOPMENT FINANCIAL INSTITUTIONS

Supplies made by Development Financial Institutions

- 1. What is the GST treatment for the funding to Malaysian entrepreneurs for the purpose of setting up or expanding Malaysian restaurants overseas?** The loan and the processing fee imposed on the loan for the customer the purpose of setting up or expanding Malaysian restaurants overseas is treated as a zero-rated supply.

- 2. Agro Bank gives souvenir items such as coin box, pencil box, cap, etc. as free gifts to new depositors for opening a savings account. Are these free gifts subject to GST?**

Free gift items are subject to GST at a standard rate. However, under business gift rule, the banks are not required to account for output tax on the gifts (goods) to depositors provided the cost of the gift does not exceed RM500.00.

- 3. Bank XYZ provides Premium Savings Certificate (PSC) scheme whereby lucky draw prizes such as cars, travel package, camera, PSC certificate and cash will be given away to customers. Are these free prizes subject to GST?**

Such goods or services given away in the form of cars, travel package and camera as prizes to PSC winners are taxable supplies and subject to GST at a standard rate. However, the PSC certificate and cash are not subject to GST.

- 4. Credit Guarantee Corporation provides a guarantee scheme to SMEs who have been awarded with the government or government linked agency's contract. What is the GST treatment on the guarantee scheme?**

The guarantee scheme is not subject to GST but the fee imposed for the issuance of the guarantee is subject to GST at a standard rate.

- 5. Are advisory or consultancy services provided by the Malaysian Industrial Development Finance Berhad (MIDF) subject to GST?**

Advisory or consultancy services are taxable supplies and subject to GST at a standard rate. If the service is provided free it is not a supply and not subject to GST.

- 6. Perbadanan Usahawan Nasional Berhad (PUNB) provides courses for SMEs and charges a minimal fee. Is the fee subject to GST?**

The fee charged is subject to GST at a standard rate provided PUNB is registered under GST.

Acquisitions made by Development Financial Institutions

7. Are grants received by Development Financial Institutions subject to GST?

Grant is not a supply and not subject to GST.

Accounting for Tax

8. MARA provides seminars or workshops for entrepreneurs and individuals undertaking its financing scheme or the general public for a fee. Entrepreneurs and individuals pay at the lower rate than the general public. How do I account for GST?

If discounts are given to entrepreneurs and individuals undertaking its financing scheme, GST is accounted on the discounted fee.

9. Can MARA claim input tax incurred in respect of medical and hospitalisation benefits of its employees?

MARA is not entitled to claim the input tax on medical and hospitalisation expenses since these are blocked inputs.

10. Can MARA claim the input tax incurred in relation to entertainment expenses to existing clients?

MARA is allowed to claim the input tax incurred since business entertainment expenses to existing clients are claimable.

INSURANCE AND TAKAFUL

Insurance Products, Premiums and Fee

1. How is GST calculated on a general policy premium sold to a registered person?

The GST incurred is as shown in the following example:

Example 1

<i>Basic premium</i>		<i>780.00</i>
<i>Loading</i>		<i>300.00</i>
<i>Total</i>		<u><i>1080.00</i></u>
<i>NCD</i>	<i>(-) 450.00</i>	
<i>Gross premium</i>		<i>630.00</i>
<i>Rebate</i>	<i>(-) 40.00</i>	<i>590.00</i>
<i>GST (6%)</i>		<i>35.40</i>
<i>Stamp duty</i>		<i>10.00</i>
<i>Premium payable</i>		<u><i>635.40</i></u>

- 2. An insurer or takaful operator sells a liability insurance policy plan covering all phases of the work done including towing, hook up, installation and commissioning process to a shipbuilder. The shipbuilder carries out vessel conversion services at a local shipyard for a foreign ship owner and eventually tows the vessel out to international waters for the benefit of the foreign ship owner. What is the GST treatment on the single premium on the insurance plan where the plan is renewable annually?**

The shipbuilder's liability insurance policy will be subject to GST at the standard rate.

- 3. Under the guidelines for Islamic financial services on international currencies issued by Bank Negara, a licensed international takaful operator (ITO) incorporated as an entity/branch in Malaysia may conduct non-ringgit general and family takaful business and retakaful businesses. Presently, ITOs enjoy full income tax exemption for a period of 10 years. Are they also such similar treatment under the GST regime?**

There will be no GST exemption for all taxable supplies made by ITOs.

- 4. What is the GST implication on the personal accident policies (PA) sold to pupils studying in public or private schools, colleges, universities and other institutions of higher learning?** The insurance policies sold to students in educational institutions will be subject to GST at a standard rate.

- 5. What is the GST implication on the PA policies purchased by MARA from a local insurer or takaful operator to insure their scholars studying in universities and other institutions of higher learning in Australia?**

The supply of a group PA to MARA for its scholars will be subject to GST at a zero rate.

- 6. What is the GST implication on the PA policies purchased by an Educational Institution from Indonesia from a registered insurer or takaful operator in Malaysia to insure their scholars studying in universities and other institutions of higher learning in Malaysia?**

The supply of a group PA to the Educational Institution from Indonesia for its scholars in Malaysia will be subject to GST at a standard rate.

- 7. What is the GST implication on a Personal Accident (PA) policy plan sold in a package with other taxable goods or services?**

Since the supply of goods or services and PA are all taxable supplies, the supplier need not apportion the single charge. GST is chargeable on the single charge.

However, if the package consists of general insurance and an exempt supply, the supplier is required to apportion the single charge according to the proportion for exempt and taxable supplies. The proportion for the exempt supply will not be subject to GST while the proportion for general insurance will be standard rated.

8. What is the GST implication on a life policy plan sold in a package with other taxable goods?

Since life policy is an exempt supply and goods are taxable supplies, the supplier is required to apportion the single charge. The proportion for the exempt supply will not be subject to GST while the proportion for taxable supply will be standard rated.

9. What is the GST implication on the premium for general insurance to cover a property outside of Malaysia?

Since the property is located outside of Malaysia, the premium will not be subject to GST being a zero-rated supply.

10. What is the GST implication on the premium for general insurance to cover a property in Malaysia owned by a foreigner who is not in Malaysia at the time the insurance coverage takes place?

The premium charged will be subject to GST at a standard rate.

11. Are annual registration fees imposed on insurers/takaful operators regulated by the Financial Services Act 2013 and the Islamic Financial Services Act 2013 subject to GST?

No, such regulated fees are not subject to GST. Similarly, the licensing fee requirement on offshore insurer or takaful operators regulated by the Labuan Financial Services and Securities Act 2010 and Labuan Islamic Financial Services and Securities Act 2010 is also not subject to GST.

12. What is the GST treatment on the policy surrender fee charged and the cash value paid out by the insurer or takaful operator when the policyholder surrenders a policy?

The surrender fee will be subject to GST at a standard rate while the cash value paid out is not subject to GST.

13. What is the GST implication on stand-alone non-life policies issued by life insurer or family takaful operator?

The stand-alone non-life riders will be subject to GST at the standard rate.

14. Are offshore insurance companies supplying life reinsurance or family retakaful services to recipients in Kuala Lumpur subject to GST?

They do not have to register, as those supplies are exempt supplies. However, if they supply taxable insurance services to recipients in the Principal Customs Area (PCA) where their annual taxable turnover exceeds the required threshold, they need to register.

- 15. Under a superannuation scheme, a member to the scheme contributes to the life insurer or takaful operator administering the scheme. At the time of maturity of the scheme, the insurer or takaful operator will pay the member of the scheme monies accumulated together with the interest earned in one lump sum or in a series of payments. Are the contribution and the payout subject to GST?**

The contribution made by a member of a superannuation scheme and the payout by the insurer or takaful operator is not subject to GST.

- 16. I supply investment-linked takaful or investment-linked insurance plans and charge fees such as establishment cost/initial charge (for policy issuance and marketing), monthly management fee and monthly managed portfolio fee (for managing the investments of the funds), policy fee (ongoing administration costs of the premium plan) and bank handling fees to my policyholders. Are these fees subject to GST?**

The fees charged are subject to GST at a standard rate.

- 17. What are the GST implications in the event of a cancellation of a general insurance policy, which entails a refund of premium to the policyholder?**

The insurer or takaful operator needs to raise a credit note when he refunds the premium, subsequently adjust his accounts, and reduces output tax in the return for the taxable period in which the credit note was issued.

- 18. Fees are charged for processing termination of group and individual ordinary family plans due to expiry and other causes such as switching to other plans. Are the fees subject to GST?**

Yes, the fees are subject to GST at a standard rate.

- 19. Is general insurance sold to non-profit organisations or charitable organisations subject to GST?**

Yes, the insurance service is subject to GST at a standard rate.

- 20. I am a marine insurer registered for GST and I provide marine hull and machinery and ship insurance for my clients' ships, vessel or yacht. Are such general insurance subject to GST?**

The insurance services you cover on ships, vessel or yacht that are local or foreign bound is subject to GST at a standard rate. However, if the supply of such insurance coverage is for ships, vessel or yacht sailing outside Malaysian waters, the supply is zero rated e.g. the ship insurance is to cover a ship that sails from Port Klang to ports of call outside Malaysia only and not from Port Klang to Kota Kinabalu Port and later to Muara Port, Brunei.

- 21. For Director & Officer Liability Policy (D&O), the premium is split into two where the Company pays 95% and the directors pay 5%. Currently, the insurer issues a policy to the Company and debit notes to both the company and the directors based on the percentage of 95% and 5% respectively. Some insurers do issue one debit note for such policy and impose service tax on the 95% component because directors pay the other 5%. Are both components subject to GST after 1 April 2015?**

Under the Service Tax Act 1975, no service tax is imposed on a non-business entity i.e. the directors where it relates to a supply of insurance services. However, effective 1 April 2015, both components of the premium is subject to GST.

Time of Supply

- 22. I am a GST registered insurer and I receive premium payments from my insurance agent for various policies (life and general policies) sold where the insurance agent has issued a cover notes to the policyholder. Upon receipt of the payments, I am unable to match the premium payments with the type of policy sold. What are my obligations as a taxpayer on the payments I have received?**

Your time of supply to account for tax on the supply of insurance services is the taxable period in which your agent issued the cover notes. Hence, you must identify the type of supply you are making upon receiving the premium payments.

- 23. I am a GST registered insurer; provide insurance coverage for a mega project beginning from 1 January 2015 to 31 December 2018 and issue a tax invoice for the premium on 15 June 2015. The delay is due to underwriting the risk elements and coverage. When is my time of supply?**

Your time of supply is at the time you issue the tax invoice that is on 15 June 2015.

- 24. When is payment treated as received by me in the case where I (GST registered insurer) am required to account for GST when I receive a premium payment from my agent?**

The premium payment is treated as received by you when the payment is credited into your bank account.

Mixed Supplies and GST Treatment

- 25. What is the GST treatment on a medical insurance plan and a PA plan?**
Medical insurance and PA are both taxable supplies and they are subject to GST at a standard rate. The same also applies to similar products provided by general takaful and family takaful operators.

26. What is the GST implication on non-life policies (personal accident, medical and health policies) attached to individual or group life insurance policies?

The premium of the non-life policies will be subject to GST at a standard rate while the premium for the individual or group life policy will not be subject to GST as it is an exempt supply.

Co-Insurance Plan

27. What is the GST implication in a co-insurance or co-takaful arrangement (joint assumption of risk between various insurers/takaful operators) involving general insurance?

The GST implication will depend on the billing arrangement among the coinsurers/co-takaful operators. If the Lead insurer or takaful operator (agent for the other co-insurers/co-takaful operators) bills the customer on behalf of the other co-insurer/co-takaful operator, he is required to charge and account for GST on the whole premium charged. The other co-insurer/co-takaful operator will in turn charge and account GST on their respective share on the premium and subsequently issue a tax invoice to the Lead. The Lead will then claim GST incurred as his input tax credit.

Example 2

Lead insurer or takaful operator bills the customer

Under a co-insurance arrangement, three co-insurers/co-takaful operators supply a general insurance policy to a customer. The premium is RM200m of which the Lead takes 50% share and the other two co-insurer/co-takaful operators take 25% each. The Lead charges and accounts RM12m as his output tax. His tax invoice to the customer is as follows:

<i>Premium</i>	<i>RM 200m</i>
<i>GST 6%</i>	<i>RM 12m</i>
<i>Total</i>	<i>RM 212m</i>

Subsequently, the other two co-insurer/co-takaful operators will issue a tax invoice each to the Lead as follows:

<i>Premium</i>	<i>RM 50m</i>
<i>GST 6%</i>	<i>RM 3m</i>
<i>Total</i>	<i>RM 53m</i>

The two co-insurer/co-takaful operators will each account RM3m as their output tax and the Lead will claim a total of RM6m as input tax in the relevant taxable period.

Example 3

Each co-insurer/co-takaful operator bills customer individually.

Under such an arrangement, each co-insurer/co-takaful operator is required to charge and account GST according to their respective share.

Using the above example, the Lead will charge and account GST as follows:

<i>Premium</i>	<i>RM 100m</i>
<i>GST 6%</i>	<i>RM 6m</i>
<i>Total</i>	<i>RM 106m</i>

and the other two co-insurers/co-takaful operators will each charge and account GST as follows:

<i>Premium</i>	<i>RM 50m</i>
<i>GST 6%</i>	<i>RM 3m</i>
<i>Total</i>	<i>RM 53m</i>

28. **As a Lead insurance company in a co-insurance arrangement, I am responsible for administering various aspects of the insurance policy such as handling claims and insurance documents. I subsequently levy a charge for these services to the other insurance companies sharing the risk based on percentages. Is this charge subject to GST?**
Such charges are subject to GST at a standard rate.

Insurance Product with Local and Overseas Coverage

29. **What is the GST implication on policies that cover either local and overseas employment or study; and health insurance, which includes overseas medical coverage?**

Such supplies of global plan and worldwide coverage policies will be subject to GST. Further examples include key man, public liability insurance, and executive or corporate travel policies.

30. **What is the GST implication on policies where the supply of general insurance services covers a domestic and an international component of the risk?**

There are two (2) GST treatments:

- (a) Where the single general policy covers a domestic and international component of risk, the insurance services is subject to GST.
- (b) Where there are two separate policies where one covers the international component and another covers a domestic risk, then the coverage outside Malaysia is zero-rated and the latter is standard rated.

- 31. What is the GST implication on policies where the supply of life insurance services is global where it provides coverage in and outside Malaysia to the policyholder?**

The supply of life insurance is an exempt supply.

Investment Activities

- 32. What is the GST treatment on investment activities undertaken by takaful operators from funds based on contributions collected from general takaful and family takaful supplies?**

Generally, investment activities such as trading of equities, bonds, government securities, loans and fixed deposits are not subject to GST. However, investment in the form of buying and selling of commercial properties or rental of such properties are subject to GST at a standard rate.

- 33. What is the GST treatment on surplus sharing in the form of Ma'asyi bonus and income pay out – income derived from 'investment' made by takaful operators for the participants?**

Investment income payout is not subject to GST.

Discount

- 34. How is GST calculated on the premium if an insurance agent gives a discount on the premium for a general product to a regular client?**

Where an insurer or takaful operator gives a discount on the premium, GST is charged on the discounted amount. However, for discounts given by agents on the premium, it will not be taken into account for purposes of GST as the agents are not regulated by Bank Negara Malaysia to give such discounts.

Registration of Insurance Intermediaries

- 35. I am an employee of an insurance company. At the same time, I act as an agent to sell my company's products. Am I required to register for GST?** Yes, you are required to register for GST if your past taxable turnover for the period of twelve months has exceeded the threshold or the future taxable turnover is expected to reach the threshold. In calculating the taxable turnover, you only have to take into consideration the commission received in your role acting as an insurance agent.
- 36. If an unregistered insurance agent's annual taxable turnover fluctuates above and below the threshold from year to year, what are his liability to be registered and his eligibility to seek cancellation of registration?** The insurance agent may register voluntarily to become a registered person although his annual taxable turnover is below RM500,000. However, he is required to stay in the system for a period of no less than 2 years before he may seek to deregister.

- 37. I am a resident agent for several non-resident principals and will register for GST. Do I have to register separately for each principal?**

No, you are required to make one registration only although you may have several agencies since you deal with more than one principal.

Insurance Related Services

- 38. As a takaful operator, I provide facilities/services (free office space and utilities) to my agents and brokers for which there is no consideration for the supply. What is the GST treatment on these free facilities/services?**

Such supplies by the takaful operator will not be subject to GST since there is no consideration received. Similar GST rules will apply if conventional insurance companies supply those services.

- 39. I employ a loss adjuster who assesses the losses of my company's insurance claims. What is the GST treatment on my employee's services?**

Such a supply will not be subject to GST since the person supplying the services is your employee.

- 40. What is the GST treatment on insurance policies sold by way of telephone sales services?**

General insurance policies will be standard rated while life insurance policies will be exempt irrespective of whether they are sold by conventional methods, through telephone sales or online. However, if the marketer at the call centre is remunerated by way of commission or flat rate fee, he is required to register for GST if his past taxable turnover for the period of twelve months has exceeded the threshold or the future taxable turnover is expected to reach the threshold.

- 41. In the course of selling insurance, some agents or brokers provide nonfinancial services such as advice on risk-control programs, insurance evaluation and financial or estate planning, are these services subjected to GST?**

If non-financial services are provided by an insurance agent or broker for which there is a consideration for the services supplied, such services are subject to GST at a standard rate. However, if there is no consideration for the services then there will no GST charged accordingly.

- 42. What is the GST treatment on intermediary insurance services performed in Malaysia by insurance agents or brokers for a non-resident principal (insurer or takaful operator)?**

The services is a taxable supply and subject to GST at a standard rate.

- 43. What are the GST implications on expenses such as travelling and accommodation expenses incurred in the course of investigating an insurance claim by the insurer's/takaful operator's employee?**

The insurer or takaful operator will have to pay GST on those expenses and subsequently claim GST incurred on input.

- 44. What are the GST implication on expenses that insurers incur in relation to medical check-up for potential customers made in the furtherance of the insurers' business and not fringe benefits provided to the insurers' employees?**

The insurer is allowed to claim the input tax incurred for such expenses if it relates to making a supply of general insurance services. It would then be the responsibility of the insurer to provide supporting documentations during an audit exercise to substantiate the claim made.

Fees and Commissions by Agents and Brokers

- 45. Are commissions and brokerage earned by insurance agents and brokers relating to life insurance exempted from GST?**

No, they are not exempted from GST. Commissions will be subject to GST at a standard rate irrespective of whether it relates to a contract of general or life insurance.

- 46. Are the value added services such as fees for arranging insurance for specific projects and liability exposure provided by insurance brokers subject to GST?**

Yes, it is subject to GST at a standard rate.

- 47. An insurance company can fund either directly or indirectly an insurance agent's expenses in recognition of the volume of business generated by him. This funding is known as soft commission. Is soft commission subject to GST?**

There is no supply made by the insurer or takaful operator to the agents when he funds their expenses in this situation. Hence, soft commission is not a consideration for a supply and not subject to GST.

- 48. When my insurance company makes a certain amount of profit, I share the profits with my insurance agents. Is profit commission subject to GST?**

There is no supply made by the insurer or takaful operator to the agents when he shares the profits with them. Hence, profit commission is not a consideration for a supply and not subject to GST.

- 49. Does the same GST treatment apply if a life insurance company provides profit and soft commissions to banks, direct marketers or insurance brokers?**

Yes, the GST treatment is the same.

- 50. An investment bank acting as an insurance agent purchases a general insurance for an employee and requests that the commission earned to contra off from the premium charged. How is GST calculated on such transaction?**

Since the supply of general insurance and commission are taxable supplies, both insurance company and investment bank have to issue tax invoices. The GST is calculated as below:

Annual premium charged	RM1,500.00
Commissioned earned	RM 100.00

Tax Invoice Issued by Insurance Company:

Annual premium	RM1,500.00
GST 6%	RM 90.00
Total	RM1,590.00

Tax Invoice Issued by Investment Bank:

Commission	RM 100.00
GST 6%	RM 6.00
Total	RM 106.00

Bank pays insurer	RM 1,590 – RM106 = RM 1,484.00
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- 51. I am an insurance agent and provide service of arranging insurance cover before 1 April 2015 and receive my commission from the insurer or takaful operator after 1 April 2015. What is the GST implication on the commission paid to me?**

The supply of arranging insurance cover services by the agent will be performed progressively throughout the period of insurance cover and this will be spanning 1 April 2015. The supply of such services before 1 April 2015 will not be subject to GST but the services performed on and after 1 April 2015 will be subject to GST. Hence, the commission received by the agent before 1 April 2015 will not be subject to GST and subsequent commissions paid by the insurer or takaful operator on or after 1 April 2015 will be subject to GST.

- 52. I am an insurance broker and provide insurance intermediary services for the period of an insurance cover, which was entered into before 1 April 2015, and the cover spans 1 April 2015. What is the GST implication on the fee paid to me?**

As the supply you are making is for the duration of the cover spanning 1 April 2015, GST is only payable on the supply or service to the extent that it is made on or after 1 April 2015.

- 53. Upon the cancellation of a policy, that spans 1 April 2015, a percentage of the premium is refunded and following that some of the original commission is refunded. What is the GST implication on the commission refunded?**

If the pro rata refund is for a progressive supply or a supply made for a period of the policy, then adjustments need to be made if the refund relates to the supply on or after **1 April 2015**.

Input Tax Credit

- 54. I am a resident insurance agent acting for a non-resident principal (insurer or takaful operator). In the course of my business, I incur GST on expenses such as office rentals, utilities and stationeries. Am I entitled to claim the GST paid as my input tax credit?**

Since you are making zero rated supplies that are taxable supplies, you are entitled to claim the GST paid as input tax credit (ITC).

- 55. As an insurance agent, I incur expenses such as parking charges, petrol purchases for my passenger car and mobile phone charges. Can I claim full input tax on these expenses since I am making taxable supplies?**

Yes, you can only claim full input tax recovery on your parking charges, petrol purchases and mobile phone charges provided that the expenses incurred are used for making taxable supplies. If the inputs are used for making taxable supplies and private use, you are required to apportion them by using the standard method.

- 56. I supply taxable supplies and at the same time offer loans to my clients and my subsidiaries. Am I eligible to claim full input tax for this supply of incidental financial services?**

No, you are not eligible because you are also providing loans to clients other than your subsidiaries.

- 57. As a life insurer or takaful operator, am I entitled to a fixed rate of recovery of input taxes I incur on my acquisitions?**

No, you are not entitled for such recovery of taxes but you may recover using the normal rules of recovery if you make taxable supplies.

- 58. As a life insurer/family takaful operator, I need to perform a medical assessment as a step or component in the processing of a claim to determine my policyholder's medical status. Am I entitled to claim input tax incurred on this acquisition?**

No, you are not entitled to such a recovery as you are making exempt supplies i.e. supply of life insurance.

- 59. Is an insurance broker, loss adjuster or insurance agent eligible to claim input tax credits attributable to investment activities such as holding of bonds and shares made by them?**

Yes, they are entitled to the input taxes incurred on the investment activities as they are treated as input taxes attributable to taxable supplies.

Tax Invoice

- 60. As an insurance agent, I submit a submission sheet from time to time to my principal insurance company. This document details the payments for the insurance products sold and my entitlement for commission. Can this document constitute a tax invoice issued by me to the principal?**

The submission sheet does not constitute a tax invoice for GST purposes as it does not contain particulars of a tax invoice.

- 61. Is an offer letter or quotation to a prospective insurance client treated as a tax invoice?**

No, this document is not treated as tax invoice because you will not know whether there will be a supply at the time when you issue the document.

- 62. What kind of invoicing arrangement should the banks comply with if they act as agents (bancassurance) in the name of their principals (insurer or takaful operator)?**

The agent banks who act in the name of their principals can issue tax invoices on behalf on their principals. Any tax invoice issued must in the name of the principal containing all particulars of a tax invoice.

- 63. Can I treat insurance renewal notice (automatic renewal of the insurance as per the anniversary date) as a tax invoice?**

You cannot treat the renewal notice as a tax invoice.

- 64. Can an insurer or takaful operator use a self-billed invoice for the commission due to GST registered agents?**

The insurer or takaful operator may make an application to the Director General if he chooses to use self-billing for the payment of commission to his GST registered insurance agents.

Gifts, Vouchers, Sponsorship, Etc.

- 65. An insurance company sponsored a Creative Photo competition, as it is the company's way of reaching out to the public, which includes giveaways in the form of prize money and trophies. What is the GST treatment on this sponsorship?**

For trophies provided in the form of sponsorships for which there is no consideration, the company is required to account for GST if the cost of the trophies to the insurance company is more than RM500. Any sponsorship in the form of money is not subject to GST.

- 66. A life insurer or family takaful operator gives prospectuses, leaflets and brochures to their insurance agents to assist them in selling the insurance or takaful products. What is the GST implication on this supply?**

The supply of prospectuses, leaflets and brochures by the insurer or takaful operator is not subject to GST.

- 67. If my company arranges an exclusive gala dinner function and sells tables and tokens for the dinner to my insurance agents, is the sale subject to GST?**

Yes, the supply of tokens and arranging for dinner for a consideration by the agents will be subject to GST at the standard rate.

- 68. If I am an International Takaful Operator established as a branch in Malaysia under the Malaysia International Islamic Financial Centre (MIFC) initiative, carrying out non-ringgit (general and family) takaful business and retakaful business in Malaysia with non-residents in international currencies other than Malaysian ringgit. Are my supplies of takaful subject to GST?**

If you carry on takaful business with either residents or non-residents on risks related to land, buildings and goods located in Malaysia, you must charge GST on your general takaful business and you are exempted from charging tax on your family takaful business. However, if the same risk is located outside of Malaysia, then your supply of general and family takaful business is not subject to tax (zero rated supply).

- 69. Is an insurer or takaful operator or reinsurer or takaful operator allowed to apply to be a member for group registration if he is a non-entity or non-resident but have subsidiaries or branches in Malaysia?**

The insurer or takaful operator or reinsurer or takaful operator cannot apply for group registration.

Transitional

- 70. As a registered insurer or takaful operator, can I charge service tax on an annual life premium spanning 1 April 2015 before and up to the date before 1 April 2015 and no further taxes is imposed on the premium for the period of cover from 1 April 2015 to the end of the annual cover?**

Yes, you may do so as the provision of life insurance is an exempt supply and not subject to GST. However, if you have charged your policy holder service tax on the annual premium for the period before and after 1 April 2015, then you are required to account for the full sum of service tax when you receive payment from your policyholder.

Miscellaneous

- 71. Insurance companies have to contribute 0.25% from the collection of (motor) insurance premiums to the Road Safety Fund managed by the Transport Ministry. Is there a GST liability on this contribution?**

This contribution to the Road Safety Fund is not subject to GST.

- 72. What is the GST implication on the yearly premiums that the financial institutions are required to pay to the Malaysia Deposit Insurance Corporation (MDIC) that administers the deposit insurance system?**

The premiums charged by the Malaysia Deposit Insurance Corporation to the insurers will not be subject to GST.

- 73. An overseas insurance expert (loss arbitrator) is engaged by a GST registered insurer or takaful operator to settle a claims appeal in the Malaysian court. Since the LA is a foreign resident, he will not charge GST on his arbitrage fees. Do I need to account GST on the arbitrage fees as an imported service?**

The arbitrage fees charged will be treated as a supply of imported services received by the insurer or takaful operator. The insurer or takaful operator is required to account GST on the imported services and he is entitled to claim input taxes.

- 74. Is the annual levy imposed by PIAM on its member companies subject to GST?**

Yes, the annual levy charged by PIAM is subject to GST.

- 75. Is the supply of insurance services by Malaysian Motor Insurance Pool subject to GST?**

Yes, the supply is subject to GST at a standard rate.

- 76. MMIP Services Sdn Bhd provides management services to manage the Malaysia Motor Insurance Pool. Is the supply subject to GST?**

Yes, the supply is subject to GST at a standard rate.

- 77. The sale of fire insurance cover for a block of condominium arranged by the joint management body (JMB) is subject to GST. How does the JMB charge the owners of the commercial lots in the condominium who wish to claim input tax on the premium paid for the cover?**

When the JMB who is a registered person issues a tax invoice for his management fee, he can include the premium (inclusive GST) charges in that same tax invoice to the owners.

- 78. The takaful operator charges a fee to the participant's fund when the participant surrenders his certificate to the takaful operator. Is this charge subject to GST?**

Yes, the fee is subject to GST at a standard rate.

- 79. The contributions collected by a takaful operator in a personal accident takaful plan credited into the participants' fund. Is the contribution subject to GST when the contribution is credited into the fund?**

The contribution is subject to GST when the takaful operator bills the participant for the supply of the takaful plan.

- 80. What is an example of an inter fund transfer that is not subject to GST?**

Premiums on life insurance received from policyholders will be split into 2 portions i.e. allocated and unallocated premium. The allocated premium is invested into various investment funds while the unallocated premium is placed in the insurance fund. Periodically, the premium income from the investment fund is transferred to the insurance fund to cover cost of insurance. Such transfer of funds is not a supply for GST purposes and is not subject to GST.

HIRE PURCHASE AND CREDIT SALE

Registration

- 1. I am a car dealer and I sell cars through HP agreements. Do I need to be registered under GST?**

As a car dealer, you are making a taxable supply when you sell cars to customers. Hence, you are required to be registered under GST if your annual taxable turnover from the sale of cars has exceeded the threshold of RM500,000.

Entitlement to Input Tax

- 2. I understand that input tax on passenger cars is excluded from any input tax credit. If I am a car dealer, can I claim input tax on such cars which I supply to a hirer under a hire purchase agreement?**

You are entitled to claim GST incurred on that purchase.

Tax Invoice

- 3. As a dealer must I issue a tax invoice on/for the deposit payments made by the hirer?**

A tax invoice must be issued for the deposit payments by you to the hirer if you are a registered person.

- 4. As a FI, must I issue a tax invoice on the instalment payments I charge to the hirer under HP financing?**

Tax invoices may be issued for the instalment payments related to HP financing by the FI (registered person) even though it is an exempt supply where no tax is chargeable. However, the FI may also replace such invoices with a normal invoice without the particulars required for a tax invoice.

Sale to a Foreigner

- 5. Should I impose GST on a HP agreement to purchase a car if the hirer is a foreigner?**

You are required to charge GST at a standard rate to the foreigner.

Sale by HP in a Free Industrial Zone / Free Commercial Zone

- 6. What is GST implication on a sale using HP financing to customers inside free industrial zone or free commercial zone?**

You are required to charge GST on the supply at a standard rate.

Early Settlement

- 7. What is the GST treatment when the hirer makes an early settlement of the HP agreement?**

There is no GST implication when there is an early settlement by the hirer as financing is an exempt supply

- 8. When a hirer settles a balance outstanding under a HP agreement, he is entitled to a rebate by the company financing the goods. Is this rebate subject to GST?**

No, the rebate is not subject to GST as the rebate is calculated from the interest element which is an exempt supply.

Repossessed Asset

9. What is the GST treatment when the FI repossess the asset and subsequently returns the asset to the hirer?

If the asset is repossessed by the FI, there is no supply of goods made by the hirer to the FI. Similarly, if the FI repossess and subsequently returns the asset of the hirer, there is no supply of assets made by the FI to the hirer. The FI is merely recovering the debts owed and the asset is the security for the debts owed.

10. I am a second hand car dealer and will be selling used cars on HP agreement. Is there any tax relief on my sales and how do I account for GST on such sales?

Used motor vehicles are given tax relief when sold by you in the form of a reduced tax charged whereby the tax is charged on the margin of sale i.e. by deducting the resale value of the vehicle from the purchase value.

Example 1:

<i>Purchase price of used car A by second-hand car dealer</i>	<i>RM 30,000.00</i>
<i>Subsequent sale price of car A by second-hand car dealer</i>	<i>RM 44,300.00</i>
<i>Margin / Excess</i>	<i>RM 14,300.00</i>
<i>GST chargeable (6%)</i>	<i>RM 809.43</i>

Although the sale of Car A is made through a hire purchase agreement, the time of supply to account the output tax by the GST amount chargeable (RM809.43) to be account by the dealer is the normal time of supply rules.

If car A is sold by a vehicle manufacturer, he may also enjoy a similar relief if given prior approval by the Director General. Further details about the scheme may be obtained from the GST Guide on Relief for Second-hand Goods.

Transitional Issues

11. Is a dealer allowed to claim sales tax that he had paid on the purchase of an asset which he subsequently sold on HP terms before the implementation of GST?

No, he cannot claim the sales tax paid on the asset as he does not hold the asset on the date of implementation of GST.

- 12. My HP agreement is a non-reviewable agreement and it spans over the GST implementation date. Do I need to account for GST on the credit instalments payments I make after GST is implemented?**

No, as the supply of goods was made before the implementation of GST.

- 13. I purchased a bus to be used as a tour bus under a HP agreement with a FI before the implementation of GST. Can I claim a special refund on this bus?**

You may not be eligible to claim a special refund if the bus has been capitalised under accepted accounting principles.

- 14. I supply cars to car dealers whom I had invoiced before the implementation of GST and the cars are made available to them. However, the car dealers choose not to collect the cars until there is a sale and delivery to their client. If they pick up the cars after the implementation of GST, are the cars subject to GST?**

No, as the supply of goods was made available before the implementation of GST.

Miscellaneous

- 15. Is the HP ownership claim of RM 50 subject to GST?**

No, as it is a regulatory requirement under the Road Transport Act 1987.

LEASING

Registration

- 1. If I am a lessor who leases assets to various lessees, am I required to be registered for GST?**

Since both financial and operating lease are taxable supplies, you must be registered if your annual taxable turnover exceeds the prescribed threshold. In calculating this turnover, you must include the value of the financial lease, operating lease and other relevant taxable supplies but exclude your exempt supplies and disposal of assets.

How to Charge GST

- 2. As a result of a finance lease transaction, I charge my customer in one lump sum which includes the cash price of the asset and the interest charge. How do I calculate the GST on this transaction?**

Since the interest charge is not shown separately, GST will be chargeable on the whole amount (cash price and interest).

Example 1:

Assuming the asset is supplied by a GST registrant. The cash price of the asset is RM100,000. The rate of GST is 6%, and the interest rate is 3%. Period of lease is 12 months. The GST treatment is as shown below:

Cash price + Interest charge (one lump sum as shown in the tax invoice)	RM 103,000
GST @ 6%	RM 6,180
Amount payable in instalment	RM 109,180

The lessor has to account **RM 6,180** as his output tax in the relevant taxable period in which he makes his first supply. GST will not be charged on the subsequent lease payment.

3. What if I charge the cash price of the asset and the interest charge is shown separately in a finance lease?

Since the interest charge is shown separately from the cash price of the asset, GST will only be charged on the cash price of the asset.

Example 2:

Using the same facts as in Example 1, the GST charge will be as follows:

Cash price	RM 100,000
GST @ 6%	RM 6,000
Cash price + GST	RM 106,000
Interest charge (RM 100,000.00 x 3%)	RM 3,000
Amount payable in instalment	RM 109,000

The lessor has to account **RM 6,000** as his output tax in the relevant taxable period in which he makes his first supply. GST will not be charged on the subsequent lease payment.

4. How do I charge GST in an operating lease if the interest charge is not shown separately?

Since the interest charge is not separated, GST will have to be charge on the whole amount and at each lease payment. In this example, the amount of rental payments is taken to be the same throughout the period of the lease. (Otherwise, the amount may also be taken as the actual transacted value for each rental payment due).

Example 3:

Using the same fact as in Example 1, the GST charge will be as follows:

Cash price + interest charge	RM 104,000.00
Monthly instalment amount (RM104,000.00/12)	RM 8,666.67
GST @ 6%	RM 520.00
Monthly instalment amount + GST	RM 9,186.67

The lessor has to account **RM 520** as his output tax in the relevant taxable period for each lease payment.

5. How do I charge GST if the interest charge is separately shown in an operating lease?

Where the interest charge is separately shown, the GST will be only charged on the cash price of the asset, as shown in example below.

Example 4:

Using the same facts as in Example 1, the GST charge will be as follows:

Cash price	RM 100,000.00
Monthly payment amount on asset (RM100,000.00/12)	RM 8,333.33
GST @ 6%	RM 500.00
Interest Charge (RM 8,333.33 x 3%)	RM 249.99
Monthly payment amount + GST	RM 9,083.32

The lessor has to account **RM 500** as his output tax in the relevant taxable period for each leased payment.

Input Tax Credit (ITC)

- 6. I am a lessor leasing assets purchased from abroad and locally for which I am charging interest on the lease. How much input tax credit can I claim on my leased asset?**

If you purchase assets from outside Malaysia, you will pay GST upon importation and claim input tax credit on the GST incurred. Similarly, if the asset is purchased locally from a registrant, the local supplier will charge you GST and then you claim input tax credit upon receipt of the supplier's tax invoice or when payment is made by you to the supplier, whichever is the earlier.

Example 5:

The lessor purchases an asset at a cash price of RM100,000 and then leases the asset for a year. The GST rate is 6% and assuming the interest rate is 3%.

Local supplier's tax invoice:

Cash price	RM 100,000
GST @ 6%	RM 6,000 (lessor's input tax)
Total	<u>RM 106,000</u>

Therefore, the lessor is entitled to an input tax credit of RM6,000

Lessor's tax invoice:

Cash price	RM100,000
GST@ 6%	RM6,000.00
Interest Charges@ 3%	RM3,000
Total	<u>RM109,000</u>

- 7. As a lessee, I use the leased asset for the furtherance of my business. How much input tax credit can I claim?**

If the asset can be attributed wholly to the making of taxable supply then you can claim the input tax credit in full. If you make both exempt supply and taxable supply, then you only can claim the input tax credit that is attributable to the taxable supplies.

Example 6:

ABC Sdn. Bhd. is a GST registrant who makes **wholly taxable supplies** (commercial/industrial buildings). For the relevant taxable period, taxable supplies amounts to RM1,500,000. Under a financial lease agreement, ABC Sdn Bhd incurs GST amounting to **RM25,000** on the leased asset (crane). The crane is used wholly for building a commercial/industrial complex. Therefore, ABC Sdn Bhd is entitled to an input tax credit of **RM25,000**.

Example 7:

XYZ Sdn. Bhd. is a GST registrant who makes both **taxable** (commercial/industrial buildings) **and exempt supplies** (residential houses). For the relevant taxable period, the exempt supplies amounts to RM2 million and taxable supplies amounts to RM3.5 million. Under a financial lease agreement, XYZ Sdn Bhd incurs GST amounting to **RM25,000** on the leased asset (crane). The crane is used for building both commercial/industrial complex and residential houses. Therefore, XYZ Sdn Bhd is entitled to an input tax credit of **RM15,909.09**

Turnover method to claim input tax credit of :

$$\text{RM25,000} \times \left[\frac{\text{RM3.5 mil}}{(\text{RM3.5mil} + \text{RM2.0mil})} \right]$$

$$= \text{RM } 15,909.09$$

Tax Invoice**8. In a financial lease, do I need to issue a tax invoice for each lease payment since GST is charged on the first lease payment?**

Since the full GST liability is charged on the first transaction, you issue your tax invoice only once on the first payment for the lease contract. For subsequent payments, no tax invoice is required to be issued.

Example 8:

Using the same facts as in Example 1

Lessor tax invoice: (on the first lease payment)

Cash Price	RM 100,000
GST @ 6%	RM 6,000
Interest Charge @ 3%	RM 3,000
Total	RM 109,000

Subsequent lease payments:

Principal	RM 8,333.33
Interest	RM 249.99
Total instalment	RM 8,583.32

No GST is charged on subsequent payments.

9. Do I have to issue a tax invoice for each lease payment to my customer in an operating lease?

Yes, a tax invoice is required to be issued on each and every successive payment.

Example 14:

Using the same facts as in Example 6

Leased asset:

Cash Price	RM 100,000
GST @ 6%	RM 6,000
Interest charge (@3%)	RM 3,000
Lease Period	1 year (12 payments)

Lessor's tax invoice issued for monthly rental:

Principal	RM 8,333.33
GST (RM6,000 /12)	RM 500.00
Interest charge	RM 249.99
Total monthly rental	RM 9,083.32

The lessor accounts for GST of RM500 on each leased payment received.

10. In a lease agreement, a lessee is normally given a payment schedule at the onset of the leasing period and the lessor will not issue any invoice for each successive payment. However a receipt is issued for the payments. Can the receipts be treated as a tax invoice?

The receipts can be treated as a tax invoice provided it contains the particulars of a tax invoice. Those particulars can be obtained from the Tax Invoice and Record Keeping Guide.

Lease and Purchase

11. What happens if at the end of the operating lease, the lessee takes ownership of the goods?

At the end of the lease, the lessee may have to pay GST on residual payments under lease agreements.

These are payments the lessee makes to own the goods, which is treated as a separate transaction to the lease agreement. If the lessee purchases the goods at the end of the lease agreement to continue using it for his business, the lessee may be eligible to recover the input taxes he paid on the price of the purchase.

Leasing an Asset to a Foreigner

12. What is the treatment of GST on the leased asset if the lessee is a foreigner?

If the lessee is a foreigner and the leased asset is to be located used outside Malaysia, the supply of leasing services by the lessor is a zero rated supply. The lessor exports the goods to the foreigner, by declaring in the Custom Form 2 at the point of exit and the asset will not be subject to GST. The lease payments received from the lessee will not be subject to GST. However, if the asset is located in Malaysia, the supply becomes a taxable supply and will be subject to GST at a standard rate. The lessor is also entitled to claim input tax credit in full if he makes taxable supplies.

Leasing from a Foreign Lessor

13. If a foreign lessor leases an asset to a local company, is the lease subject to GST?

Yes, it is subject to GST. Where the leased asset is imported under the lessee's name, the lessee has to pay GST upon importation. If the leased asset is used wholly in making taxable supplies, the lessee can claim input tax credit in full. If the leased asset is used partially to make taxable and exempt supplies, the lessee is entitled to claim input tax credit proportionately.

Leasing to a Lessee Located In Designated Area

14. What is GST treatment on an operating lease contract made with a customer located in Langkawi?

If the leased asset is to be used in Langkawi, the supply of services by the lessor is a taxable supply. Hence, the monthly lease payments are subject to GST.

Other Charges Relating to a Lease Contract

15. In an operating lease, it is the lessor's responsibility to maintain and insure the leased asset. These charges are bundled up in the leased payment and no separate charges are made. How do I charge GST?

The supply of maintenance services and general insurance coverage are taxable supplies and the charges are subject to GST at a standard rate whether there is a separate charge or a single charge. If these charges are bundled up in the lease payment, GST will be charged on the whole amount.

16. What is the GST treatment on other lease charges such as administration fee, documentation or acceptance fee and transfer of title fee?

Administration fee, documentation or acceptance fee and transfer of title fee are all standard rated supplies and the lessor must charge GST on these fees.

17. Is introducer fee (dealer's commission) paid to agents or dealers subject to GST?

The agent or dealer providing introducer services to the lessor is a standard rated supply. Hence, they must charge GST on the introducer fee or commission earned by them. The lessor is entitled to claim input tax credit.

The Lessee Defaults in Payment

18. What happens if the lessee defaults in payment in an operating lease?

When the lessee defaults in the lease payment, the lessor must account and pay GST on the leased asset at the time when the supply is made. However, the lessor is entitled to bad debt relief six months after he had accounted for and paid GST provided all other conditions of a bad debt relief are satisfied.

For further detail please refer to the GST *General Guide*.

Early Lease Termination

19. Should the lease be terminated prematurely, the lessee will be required to pay the whole amount outstanding to fulfill the lease agreement. Will GST be chargeable on the outstanding amount received even though no supply is made?

Yes, GST will be chargeable on the outstanding amount even though no supply has been made.

Secondary Lease

20. Secondary lease allows the lessee to continue the lease at a lower rate upon expiry of the first lease. Is GST imposed on the secondary lease?

Yes, the secondary lease will be subject to GST at a standard rate.

Sub-lease

21. What is the GST treatment when the leased asset is subleased?

The first lessor will charge GST on the leased asset. Subsequently, the second lessor will charge GST when he subleases the leased asset and claims input tax credit in full.

Lease Rebate

22. The lessor usually gives a rebate to a lessee who has excellent payment record at the end of the leasing period. Is there a need to make a GST adjustment on the rebate given?

Yes, GST adjustment is needed. The effect is the same as issuing a credit note.

Repossession of Leased Assets

23. What is the GST treatment on repossession of assets?

Where goods are supplied under a financial lease agreement, GST has been paid in full on the first supply. If the goods are subsequently repossessed and the lessor sells the repossessed assets, he charges GST on the sale and accounts GST as his output tax. If repossession services are used by the lessor and the repossessing agent is a GST registrant, he will charge GST on his repossession services. The lessor however can claim input tax credit for this.

Shariah Advisory Services

24. Is shariah advisory services under Ijarah financing subjected to GST?

Generally any advisory service is subject to GST at 6%. Under Islamic financing, it is a mandatory requirement to engage a shariah advisor to ensure adherence to Islamic principles. Shariah advisory service is subject to GST at a standard rate..

Transitional Issues

25. Is the lessor allowed to claim sales tax that he had paid on the purchase of an asset before the implementation of GST which he intends to lease after implementation of GST?

No, the lessor cannot claim sales tax paid on the leased asset.

26. My finance lease agreement is a non-reviewable agreement and it spans over the GST implementation date. Do I need to account for GST on the instalment payments for the period on and after GST is implemented?

No, you do not have to charge GST on the lease supplied on and after the date of implementation.

TRUSTEE SERVICES

Time of Supply

1. Upon signing an agreement with a trustee, an institution has to pay a down payment of 30% of the consultancy fees for any services rendered by the trustee. When is the GST due for the prepayment of consultancy fees?

For the prepayment of consultancy fees, GST is due whichever earlier i.e. the date of tax invoice is issued or the date when payment is received during the taxable period even though the trustee services are not rendered yet.

Intercompany services

- 2. As a trustee, I outsource to my subsidiary company to manage the investment activities of the fund. What is the GST treatment on the management services supplied by my subsidiary company?**

The subsidiary company will be required to charge GST on the management services at a standard rate to the fund. For further details, please refer to the *General Guide*.

- 3. My subsidiary company requires Information Technology (IT) support from my trustee company. What is the GST treatment on the IT services supplied by my trustee company?**

Your trustee company is required to charge GST on the IT services. If the trustee company is a member approved under GST group registration, the services rendered will be disregarded and no GST is due on the IT services supplied.

Trustee for common fund

- 4. All monies received from an estate, trust or power of attorney forms part of the Public Trustee's Common Fund. The Trustee charged management fees to this common fund for administering and managing the fund. Are the management and trustee fees charged to the common fund subject to GST?**

Any management and trustee fee charged to the common fund is subject to GST at a standard rate.

Input tax credit

- 5. As a trust, I incur GST on trustee services, management services and commissions. Can I claim input tax on the GST incurred?**

You are not entitled to claim the GST incurred on the inputs. A trust is treated as a person different from the trustee. If the trust makes wholly taxable supplies e.g. rental of building then the trust can claim input tax on GST paid on inputs. However, if the trust makes wholly exempt supplies e.g. investment it is not entitled to claim any input tax credit.

Free gifts and sponsorship to clients

- 6. A trust may provide free gifts to clients for opening up a trust account. What is the GST treatment on free gifts given to clients?**

Free gifts given to the same clients amounting RM500 per year will not be subjected to GST. If it is more than RM500 it will be subjected to GST at a standard rate.

7. A trustee company sponsor hampers for clients' annual dinner or family day. What is the GST treatment on sponsorship of goods?

Sponsorship of goods in kind bearing company's logo on the goods is subject to GST at a standard rate. On the other hand, sponsorship in the form of money is not subject to GST

VENTURE CAPITAL

Registration

1. If a Venture Capital Company (VCC) makes only investment activities (exempt supplies), does the company need to be registered?

The Company is not required to be registered.

2. I am a VCC which makes investment as well as management services to an investee company, should I be registered under GST?

Since investment activities are exempt supplies and management services are taxable supplies, the taxable turnover for the purpose of registration will only take into account the management services. You are required to be registered if the taxable turnover exceeds the threshold. However, if your taxable turnover is below the threshold, you may apply for voluntary registration.

For further details, please refer to the *General Guide*

3. Can a VCC apply to be a member in a group registration?

Group registration is only allowed for companies making wholly taxable supplies. Since a VCC is normally a mixed supplier i.e. makes taxable and exempt supplies, VCC is not eligible for group registration.

Input Tax Credit (ITC)

4. I incurred legal expenses in arranging for an investment venture. As a registered VCC claim GST incurred on the legal services?

You are only allowed to claim GST incurred on your inputs which are attributable to taxable supplies. Since the investment venture is an exempt supply, you are not eligible to claim input tax credits attributable to that supply.

5. I am a registered VCC and incur entertainment expenses to secure some investment from potential investors. The bill was issued under my company's name. Can I claim GST on the entertainment expenses incurred?

Since the expenses incurred are attributable to an exempt supply, you are not entitled to input tax credit.

- 6. I am a registered VCC and I incur charges on telephone, electricity, rental and other operational expenses that relates to both exempt and taxable supplies. Can I claim input tax credit on such expenses?**

Such expenses are considered as residual charges. You are allowed to claim input tax credit on residual charges based on apportionment rules.

For further information please refer to *Guide on Partial Exemption*.

- 7. I as a registered VCC incurred medical expenses for my employees. Am I entitled to claim input tax credit on such expenses?**

You are not entitled to claim GST incurred on medical expenses for your employees because it is a blocked input.

For further information please refer to *Guide on Input Tax Credit*.

Imported Services

- 8. What is the GST implication on consultancy services acquired by the registered VCC when he acquires it from overseas and can the VCC claim input tax credit for this supply?**

GST is incurred on imported services. As a recipient, he must account for GST on the imported services as output tax (known as the reverse charge mechanism) in his GST return (GST Form No.3) and pay the related taxes. He is also entitled to claim the output tax as his input tax if the imported consultancy services is attributable in the making a taxable supply, i.e. management services. However, if the imported services are attributable to an investment venture, the VCC is not entitled to claim input tax credit as it is an exempt supply.

- 9. Do I have to incur GST on the imported services if I am not a registered person?**

Yes, GST is incurred on the imported services even though you are not registered for GST. You are required to declare and pay output tax on the imported services in the GST Form No. 4.

For further details, please refer to the *General Guide* on Imported Services.

PAWNBROKING

Registration

1. **What are the taxable supplies do I take into account for the purpose of GST registration?**

The supplies are:

- (a) Sales of unredeemed article
- (b) Handling/administration charges
- (c) Other taxable supplies.

Input Tax Credit

2. **I incur expenses on repairs and cleaning of broken unredeemed goods before I sell them. Can I claim GST on the expenses incurred on the sales of these unredeemed goods?**

Yes, you can claim the GST in full as input tax credit because the inputs are directly attributable to the sales of unredeemed goods (standard rated supply).

3. **What about overhead expenses incurred such as electricity and office rental?**

Since electricity and office rental are residual inputs, you need to apportion these expenses by using the turnover method because as pawnbrokers, you are supplying both exempt and taxable supplies. Residual inputs are inputs which you cannot directly attribute to either taxable or exempt supplies.

4. **The pawnbroker incurs GST on auctioneer's service fee. Can the pawnbroker claim input tax credit on this service fee?**

No, the pawnbroker is not allowed to claim GST incurred on the auctioneer's service fee because the auctioneer sold the unredeemed pledge on behalf of the pawner who is the owner of the article.

Handling Charges

5. **A pawnbroker charges RM0.50 per ticket as handling fees. Is the fee subject to GST?**

Yes, it is subject to GST at a standard rate.

6. **Are the cleaning services incurred on the pledges provided by the pawner to the pledgee subject to GST?**

Yes, the supply is a standard rated supply.

Disposal on Imitation Items

- 7. Sometimes the pawnbroker without knowledge accepts an imitation item as pledge from the pawner. When the pawnbroker sells the imitation item and subsequently suffers losses, is this sale subject to GST?**

The disposal of any unredeemed article whether genuine or imitation is a taxable supply. Therefore, you must charge GST on such sales.

Loss on Disposal

- 8. Sometimes the sales proceed of the unredeemed pledge does not cover the value of the loan and interest, and subsequently the pawnbroker suffers a loss. Can the loss be exempted from GST?**

Any disposal of an unredeemed pledge is a taxable supply irrespective of whether there is profit or loss. Therefore the sale will be subjected to GST and no exemption will be given.

Disposal of Pledge through Open Tender/Auction under Ar-Rahnu

- 9. I dispose unredeemed pledge through a tender exercise. In the tender process, I sell tender forms to the public. Is the sale of the tender form subject to GST?**

Yes, the sale is subject to GST at the standard rate.

- 10. I charge a service charge of 1% on the sales price for a disposal of a pledge. Is the service charge subject to GST?**

Yes, it is subject to GST at the standard rate.

Unredeemed pledge under conventional pawnbroking

- 11. When a pledge valued at RM150.00 is not redeemed after the redemption period, the ownership of the goods is transferred to the pawnbroker. Is the transfer a supply of goods from the pawner to the pawnbroker?**

The ownership transferred is a result of a default in repayment of the loan and the goods were confiscated. Hence, no supply is made when the goods is not redeemed.

Relief for second-hand goods

- 12. Can a pawnbroker secure a reduction on the tax charged i.e. relief for second-hand goods, when he disposes an unredeemed pledge?**

No, such reduction is not allowed in your business as it only applies to disposal of motor vehicles (cars, motorcycles, buses, etc.) and real estate properties. Please refer to the *GST General Guide* for further details of the scheme.

FUND MANAGEMENT

- 1. I manage client's funds to invest in fixed income portfolios. I charge an annual management fee to my clients for the investment of securities. Should I charge GST on the annual management fees?**

Annual management fees are subjected to GST at a standard rate.

- 2. For the investment of securities with a high return as agreed in the investment management agreement with the clients, a performance fee is paid to the fund manager. Is performance fee subjected to GST?**

Performance fee is subjected to GST at a standard rate.

- 3. I did not provide custodian services for the funds managed. Instead, I outsource the custodian services. However, the outsourced custodian services are charged to the client. Do I have to charge GST on the outsourced custodian fees?**

Outsourced custodian services charged to your client is subjected to GST at a standard rate but you can claim GST incurred on the outsourced custodian fee.

- 4. For managing portfolio investments I have to pay brokerage commissions to the brokers I trade with. What is the GST treatment on brokerage commissions?**

Brokerage commissions are services supplied to your clients and are subject to GST at a standard rate. You can collect from your clients the brokerage commissions and the GST incurred as reimbursements.

- 5. Other than investment management services, I provide advisory and consultancy services to clients with regards to the formation of trust, pension, education and retirement funds. Are consultancy and advisory services subject to GST?**

Advisory and consultancy services are subject to GST at a standard rate.

- 6. I am a licensed fund manager and appoint a foreign fund manager to manage a fund's foreign investment portfolio. What is the GST treatment on foreign fund managers?**

Foreign investment portfolio performed by foreign fund managers appointed by local fund managers is an imported service to the local fund manager and therefore the local fund manager has to account for GST.

- 7. I am a fund manager working in a unit trust management company. I perform investment portfolio functions for the unit trust fund. Do I have to be registered under GST?**

Since you are a fund manager working in a unit trust management company you and the unit trust management company are considered as one entity and therefore you are not required to be registered.

However, your company is required to be registered for GST if its annual taxable turnover has exceeded RM500,000.

If the unit trust management company appoints an external fund manager, then the company and external fund manager have to be registered if their taxable turnover exceeds RM500,000.

Income Distribution

- 8. A Fund's income distribution to unit holders comprises of dividends that the fund earns from its investment holdings, interest/profit income (Islamic Funds) it receives from its money market and bond investments, and capital gains realized from the sale of its investment holdings. Capital gains are realized whenever the fund sells securities for higher prices than it had paid to them. These dividends, interest income and capital gains are distributed to unit holders as income distribution. What is the GST treatment on income distribution?**

Income distribution is not subject to GST.

- 9. REITs income distribution to unit holders comprise of dividends or distribution and capital gains generated from the rental income plus any capital appreciation that comes from holding the real estate assets over the period. Are dividends, interest income and capital gains subject to GST?**

Dividends, interest income and capital gains are not subject to GST.

- 10. In managing the funds in Malaysia I earned interest and dividend on behalf of my clients. What is the treatment of interest and dividend income for GST purposes?**

Interest and dividend income are exempt and not subject to GST.

- 11. Income distribution can be distributed in the form of unit splits and reinvestment of distribution to the unit holders. What is the GST treatment on unit splits and reinvestment of distribution?**

Unit splits and reinvestment of distribution are considered exempt supplies and therefore are not subject to GST.

- 12. Is foreign sourced income such as dividend and interest gains arising from realization of investment outside Malaysia by a foreign fund manager subject to GST?**

Foreign sourced income such as dividend and interest gains arising from realization of investment outside Malaysia are considered as out of scope supplies and is not subject to GST.

Distribution of units

- 13. Sale and purchase of units in a unit trust can be made through tied agents, institutional unit trust agents (IUTA) or brokers for Exchange Traded Funds (ETF). What is the GST implication when you sell units in the unit trust?**

GST is not chargeable when you sell units in the unit trust since it is an exempt supply.

- 14. A service or sales charge is a front-end fee charged by the manager when an investor purchases units of a fund. Is service or sales charged subject to GST?**

Service or sales charge is subject to GST at a standard rate.

Example 1:

	RM
NAV per 1,000 units at the end of the business day	838.90
Add: Service or sales charge (6% x RM838.90)	50.33
Add: GST (6% x RM50.33)	3.02
Selling price per unit	892.25

- 15. Only participating dealers are allowed to request the manager to create and/or redeem units in the ETF. Participating Dealers will incur processing and administration fees charged by the manager and/or trustee for the creation and redemption of units. What is the GST treatment on the processing and administration fees charged by the manager?**

The processing fee charged by the manager and the administration fee charged by the trustee for the creation or redemption of ETF units is subject to GST at a standard rate. Besides processing and administration fees, there are also fees charged by Bursa Depository on each account allotted with new units and each account debited with redeemed units. This fee charged by Bursa Depository is also subjected to GST at a standard rate.

Selling and Buying of Units

- 16. ETF units are traded on Bursa Malaysia and investors are charged with brokerage, stamp duty and clearing fees from trading with Bursa Securities. Are brokerage, stamp duty and clearing fees subjected to GST?**

Since ETF units are traded on Bursa Malaysia, the trading of ETF units is an exempt supply and therefore is not subject to GST. The brokerage and clearing fees are subject to GST at a standard rate but stamp duty does not attract any GST as it is a disbursement.

- 17. The spread between the selling and buying prices of unit trust is used to pay agents to market and distribute units and to defray the operating expenses of the unit trust management companies. What is the GST treatment on the spread?**

The spread is the consideration received as a result of the selling prices of unit trust which is an exempt supply. Hence, the spread is not subject to tax.

Transfer and Switching of Units

- 18. A unit holder may fully or partially transfer his units in a fund to another unit holder. A transfer fee will be charged for each transaction. What is the GST treatment on the transfer fee?**

The transfer fee charged for the transfer of units is subject to GST at a standard rate.

- 19. A unit holder may move his investments between various funds in response to changing financial goals or market conditions. A switching fee is charged to the unit holder when he switches his units between funds. What is the GST treatment on switching fee?**

Switching fee is subject to GST at a standard rate.

- 20. An exit fee which is only applicable for bond funds is a back end fee that is incurred when a unit holder redeems or switches his units on or before the specified investment period. Does the manager have to account for GST on the exit fee?**

The manager has to charge GST on the exit fee at a standard rate.

Commissions, Expenses and Charges

- 21. Pursuant to the Initial Public Offering the managing underwriter and underwriters have agreed to undertake the issued units to be issued at a commission payable by the fund. Is underwriting commission subject to GST?**

Underwriting commission payable by the fund is subject to GST at a standard rate.

- 22. What is the GST treatment on commission I received from insurance companies?**

You are required to charge GST on the commission received irrespective of whether the insurance product is general insurance or life insurance.

- 23. Listing expenses such as professional fees, regulatory fees, advertisement and printing expenses, brokerage and commissions and contingencies expenses are incurred by the fund pursuant to the retail offering. Are listing expenses borne by the REITs fund subject to GST?**

Listing expenses borne by the REITs fund are subject to GST at a standard rate.

- 24. Administrative charges such as courier or telegraphic transfer charges will be imposed by the manager for remittance of repurchase proceeds or money refunded during a cooling-off right. Is the manager liable to charge GST on the administrative charges?**

Administrative charges are taxable supplies and therefore subject to GST at a standard rate.

Input Tax Credit

- 25. If I decided to deregister from GST, am I eligible to claim for input tax on the supplies I receive before deregistration?**

Yes, you can claim for input tax on goods and services supplied to you while you were registered provided that:

- (a) you have not claimed the input tax; and
- (b) the claim is made within six years from the date of supply or importation or one year from the date of deregistration, whichever is the earlier.

You cannot claim GST paid on the supplies you have purchased after deregistration.

- 26. As a result of deregistration, I incurred expenses such as legal charges and accounting charges. Can I claim input tax on the services supplied to me?**

You can claim input tax on services supplied to you provided that the services are related to the deregistration process and subject to the time limit of claiming input tax.

- 27. As a financial planner, sometimes I entertain my customers. Can I claim GST incurred on the entertainment expenses?**

You are entitled to claim the GST incurred on the entertainment expenses to existing customers and the tax invoice is in the name of the business.

- 28. The REIT will bear property operating expenses including auditors' fees and expenses, fees for the valuation of any investment, taxation, advisers' fees and the costs incurred for the modification of the deed of the fund. These expenses are subject to GST. Can the REIT claim the GST as input tax credit?**

The REIT is entitled to claim the input tax incurred on the expenses if the expenses are incurred for making taxable supplies such as rental or sale of commercial buildings, shop lots, factories and industrial buildings.

Agents

- 29. A portion of the service or sales charge collected by the fund manager is paid out as sales commission to selling agents. What is the GST treatment?**

As service or sales charge is a taxable supply, it is subject to GST at a standard rate. However, you can claim GST incurred on the commission paid to the tied agents as input tax.

- 30. UTMC may sell stationeries and other articles (e.g. umbrella) to agents for distribution to unit holders as free gifts. What is the GST treatment of selling stationeries and other articles to agents?**

The selling of stationeries and other articles to agents for distribution to unit holders as free gifts is subject to GST at a standard rate.

- 31. All tied agents would be paid on a quarterly basis a fee at a specified rate based on net asset value of units held by the relevant unit holder out of the annual management fee. Is the fee subject to GST?**

Any fees paid to tie agents for personal servicing of unit holder is considered as commission paid to agents and is therefore subject to GST at a standard rate. You cannot claim the GST incurred on such fee as it is used for making an exempt supply.

Financial Planner

- 32. I am a Financial Planner. Am I required to be registered for GST?**

As your supplies consist mainly of taxable supplies i.e. advisory and commission, you are required to register if your annual taxable turnover have exceeded the threshold. If you have not exceeded the threshold, you may register voluntarily.

- 33. Besides financial planning service, I provide advisory and custodial services for which I charged some fee. What is the GST treatment?**

Advisory and custodial services are subject to GST at a standard rate.

- 34. Besides financial planning, I am authorized to perform collection service on the income earned by my client from his portfolio of investments. I do not charge the collection service as it is part of the contract. What is the GST treatment?**

Since you do not charge any fee on your collection service and it is an integral part of the contract, you are not required to charge GST on the collection service supplied.

- 35. I provide some financial planning service to a client who planned to invest his pension in a unit trust fund. After some discussions, my customer changes his mind and I do not charge him. What is the GST treatment?**

Since you are giving a free service, there is no GST on your supply.

36. My customer requires me to arrange for him to buy a financial product, i.e. unit trust from a unit trust company. Am I subject to GST?

If you charge a fee for arranging your customer to buy unit trust, then your fee is subject to GST at a standard rate. However, if you do not charge your customer any fee, you are not required to charge GST on the arrangement services.

Provident and Pension Funds

37. An insurance company sets up and maintains a provident fund for his employees. The fund consists of contributions from the employees as well as employer. The objective of the fund is to provide financial assistance to the employees when they encounter any form of calamity. Is this form of coverage considered as insurance or takaful business or provident fund and what is the GST treatment on this financial service?

This form of coverage does not fall within the scope of insurance or takaful business but it is actually a provident fund set up by the company for the benefit of the employees upon retirement. Managing the fund by the insurance company is not a supply if the insurance company does not charge a fee for managing the fund. Therefore, there is no GST involved. However, if the insurance company charges a fee for managing the fund, it is subject to GST at a standard rate.

38. Are the protection schemes provided by SOCSO like the employment injury insurance scheme and the invalidity pension scheme under the mandatory workmen compensation subject to GST?

Such protection schemes given are not considered as insurance or takaful business. SOCSO is regulated under the Employees' Social Security Act, 1969 and it is a statutory body managed fund. Therefore, contributions or deductions made from the employees' income for the schemes and the claims made are not subject to GST.

Free Life Insurance

39. Free Group Term Life with Total and Permanent Disability plus Group Personal Accident Insurance is provided by the manager for unit holders for a specified minimum investment in unit trust. Is the manager liable to charge GST on the free life insurance?

Life insurance is an exempt supply and is not subject to GST while total and permanent disability and group personal accident insurance is a taxable supply which is subject to GST at a standard rate. Since the insurance is given free, it is not a supply and therefore is not subject to GST. However, if the manager purchases the total and permanent disability and group personal accident insurance and incurs GST on it, he cannot claim the GST incurred as he is making an exempt supply.

Cooling-off rights

- 40. Cooling-off right is the right of a first time investor to obtain a refund of his investment in a fund provided it is exercised within the cooling off period. The refund must not be less than the sum of the Net Asset Value on the day the units were first purchased. This refund includes the GST paid on service or sales charge. Can I recover GST paid if the service or sales charge is refunded to the investor during a cooling off rights?**

You may make the necessary adjustment to recover the GST paid as input tax when you refund the service or sales charge together with the GST to the investor.

Treatment of Offshore Unit Trust Scheme

- 41. What is the GST treatment of off shore unit trust scheme?**

There is no GST on the issuance and redemption of units in offshore unit trust. Unit trust issued to investors in Malaysia but outside Labuan, Langkawi or Tioman is exempt and therefore there is no GST on it.

Self-Invoicing Provision

- 42. Normally, UTMCI will issue a statement to investors and charge GST on the sales or service charge. Commissions to agents will be paid out of the sales or service charge. My company has appointed 100 tied agents for the distribution of units in the unit trust. For each tied agent, I will issue a self-billed invoice stating the commissions to be received by each tied agent. How do I know that the agents have reached the threshold in order to charge GST on the statement?**

Before a self-billed invoice is approved, all tied agents including new tied agents must inform you about their GST status. If the tied agent is registered for GST, you are required to charge GST on the commissions received by him. If he is not registered, then there is no GST on commission. In addition, you can check whether the agents are GST registered persons through the GST portal.

Mixture of Taxable Supply and Exempt Supply

- 43. As a result of my advice, my customer purchases a life insurance product from an insurance company. What is the GST treatment?**

If your advice directly results in your customer purchasing a life insurance product and there is no separate charge for the advice given, you are not required to charge GST on the advice supplied as there is no consideration for the advice supplied. Since life insurance is an exempt supply, the purchase of life insurance is not subject to GST.

44. What is the GST treatment if I supply financial advice and life insurance product separately?

If your financial advice and life insurance product are supplied separately, the advice is subject to GST at a standard rate while the life insurance product is not subject to GST as the life insurance product is an exempt supply.

Subscription, Examination and Professional Fees.

45. Is GST imposed on professional membership subscription fees, e.g. Certified Financial Planners (CFP), MIA, CIMA, etc.?

If the cost of the supply made by the professional organization to each of its member in a year does not exceed RM100 (one hundred ringgit Malaysia), then the membership subscription fee is not subject to GST.

46. Is GST imposed on professional examination fees?

Any form of examination fee by any professional bodies is subject to GST at a standard rate.

47. I conduct professional course on Financial Planning and other related courses related to it. Like other professional courses conducted by some government or private agencies, I charge a fee for the training courses. Is professional training fee subject to GST?

Professional training fee is subject to GST at a standard rate.

Additional Charges

48. I recover from my client expenses in excess of the amount I paid the third party. Do I have to charge GST on the excess amount?

If you recover from your client an amount in excess of the amount you paid to the third party, GST should be imposed on the excess of the taxable supply only.

49. Is there GST on any additional services charges related to the original supply?

If the additional services are taxable supplies, you are required to charge GST on the additional service charge.

Additional service charge

Original service charge: RM 100.00

Additional charge for administrative service: RM 20.00

Total charges: RM 120.00

*GST @ 6%: RM 7.20

50. What is the GST treatment if the additional amount is an interest charge I paid on behalf of my client?

If the additional amount recovered is an interest charged for the loan you arrange for your client, there is no GST due because it is an exempt supply.

Example 2:

Excess on Exempt Supply

Actual Interest amount due: RM 100.00

Excess amount collected on interest: RM 50.00

Total charges: RM 150.00

SHARE ISSUING HOUSE AND SHARE REGISTRAR

Input tax credit

- 1. My company receives two types of income, i.e. issuing house fee and brokerage commissions and incurred GST on my expenses. Can I claim GST incurred on my expenses?**

You can claim GST incurred on your expenses as your input tax provided that the inputs are used for making taxable supplies.

- 2. Since I have purchased office stationeries in bulk early for the purpose of using it for the whole year from a company 'ABC', can I claim all the input tax involved immediately?**

You can claim all the input tax immediately if the tax invoice been issued immediately after the purchase.

- 3. If the tax invoice is issued by the company 'ABC' to us at a quarterly period, how do I claim the input tax credit?**

You have to claim your input tax credit according to the tax invoice received.

- 4. I could not use all the stationeries within the year of my taxable period, so I will use it for the new taxable period in a new year. What will happen to my input tax credit that I have deducted? Will I have to pay back to the government?**

You do not have to pay back. You can use the excess stationeries for the new taxable year. In the New Year, you should not make any claim as an input tax on those stationeries because you have previously accounted the claim in your GST returns.

5. **After a period of three months, I still could not receive any payment from my client, so I have to account the unpaid dues as bad debt, whereas as a registered person I have paid earlier the GST to the government according to tax invoice I issued. Can I claim my GST?**
You can claim your GST from the government in full but you have to meet several bad debt relief requirements before your claim is to be paid.
6. **After I have claimed the GST due to the unpaid account (bad debt allowance), one of my clients returns and pays all the debts plus GST? Do I have to pay GST back to the government?**
You have to account for output tax on the amount that has been claimed.

Fees and Brokerage Commission

7. **I charge my client issuing house fee for my services. What is the GST treatment on my issuing house services?**
The issuing house services will be subject to GST at a standard rate.
8. **During the interim period from opening date to balloting date, I receive IPO proceeds and deposit the proceeds in a bank account. I earn interest which I subsequently release to the issuer. What is the GST treatment on the interest earned?**
The interest earned which is released to the Issuer is not subject to GST.
9. **I receive share applications forms bearing official stamp of the brokerage houses, ESA from banks and application forms printed in the media. Upon successful balloting, I disburse brokerage commissions to the respective brokerage houses, banks and the media. What is the GST treatment on brokerage commission disbursed?**
When you disburse the brokerage commission, you are required to issue a self-billed invoice (tax invoice) to the respective brokerage houses, banks and the media. In the self-billed invoice, the brokerage commission will be charged GST at a standard rate.
10. **Some of the successful share application forms bear my official stamp for which I will receive brokerage commission from the Offeror. Is my brokerage commission subject to GST?**
Your brokerage commission is subject to GST at a standard rate.

MONEY LENDING

Registration

1. What supplies do I take into account for the purpose of GST registration?

The supplies are:

- (a) Sale of security (where borrower default instalment payment).
- (b) Documentation fees (for statement of account and document related to loans)
- (c) Other taxable supplies.

Input Tax Credit

2. To advertise my moneylending business, I incur GST on the advertisements made in the newspaper and internet. Can I recover this GST?

No, you cannot claim GST incurred on the advertisement since it is an input directly attributable to the moneylending activities which is an exempt supply.

3. Can I claim GST incurred on documentation execution fee i.e. charges for administration cost in executing legal documentation for security held for credit facilities?

No, you cannot claim GST incurred on the documentation execution fee since it is also an input directly attributable to the moneylending activities (an exempt supply).

4. A moneylender sometimes undertakes appraisal tasks performed by professionals on collateral in relation to loans. Usually, appraisal fees are charged by engineers and surveyors on these tasks. Is GST incurred on this appraisal fees claimable?

Any GST incurred by the moneylenders that are directly attributable to the moneylending activities (an exempt supply) is not claimable. However if the appraisal activity is undertaken in relation to the security (collateral), the GST incurred is claimable in full since the sales of the security is a taxable supply.

5. Can I claim GST incurred on overhead expenses such as electricity and office rental?

Since electricity and office rental are residual inputs, you are required to apportion these expenses by using the turnover method since you are supplying both exempt and taxable supplies. Residual inputs are inputs which you cannot directly attribute to either taxable or exempt supplies

- 6. The moneylender incurs GST on auctioneer's service fee. Can this service fee be claimed as input tax credit?**

Yes, you can claim GST on the auctioneer's service fee because the auctioneer's service fee is attributable to the sales of the security.

Loss on Disposal

- 7. Sometimes the sales proceed of the security does not cover the value of the loan and interest and subsequently the moneylender suffers a loss. As a result of this loss, can the sale of the security be exempted from GST?**

Any disposal of a security is a taxable supply irrespective of whether there is profit or loss. Therefore the sale will be subject to GST at a standard rate. If the moneylender is a taxable person, he accounts for GST. The auctioneer of the security charges and accounts for GST if he is a registered person.

Loan Conversion, Transfer, Renewal, Assignment

- 8. Is loan conversion prior to disbursement and loan revision subject to GST?**

Services of loan conversion where terms of loan (e.g. amount of loan) are being changed or loan revision (e.g. changing the original terms and conditions of loan) are out of scope supplies. Therefore, they are not subject to GST.

- 9. What is the GST treatment if a loan is transferred from one moneylender to another moneylender?**

The transfer of a loan from one moneylender to another moneylender is an out of scope supply. Therefore, it is not subject to GST.

- 10. What is the GST treatment on loan renewal i.e. granting of another loan after the maturity of the original loan is reached?**

The renewal of a loan is an exempt supply and therefore it is not subject to GST.

- 11. What is the GST treatment on loan/credit assignment where title to a security, rights or other interests are transferred to an assignee?**

Loan/credit assignment to another assignee is an out of scope supply and therefore it is not subject to GST.

Other Charges

- 12. Is there any GST on the stamp duties and attestation fees on attesting the money-lending agreement by the lawyers?**

The fee is not subject to GST as the service is regulatory in nature and is an out of scope supplies. However, GST should be imposed on the attestation fee by the attester if he is a registered person.

- 13. As a moneylender, I charge RM3.00 for any request of statement of account on the state of loan by the borrower or RM 5.00 for a copy of any document relating to the loan or security. These charges are being legally prescribed by the Moneylenders Act 1951. Are these charges taxable under GST?**

Yes, they are standard rated supplies and therefore they are subject to GST.

MONEY SERVICES BUSINESS

Invoicing

- 1. Regulation 5 of the Money Services Business (Duties of Licensees) Regulations 2012 requires MSB licensee to issue a receipt to his customers with prescribed particulars contained in it when conducting MSB. Can I as a registered GST MSB licensee use this receipt which I issue as a tax invoice for my taxable services to my customers?**

You are recommended to examine whether the existing receipt is able to accommodate the particulars required of a tax invoice as spelt out in the Guide on Tax Invoice and Record Keeping. If you are able to adhere to those requirements, you may use such receipts as a tax invoice. If otherwise, you may make an application to the Director General to consider for such a facility.

Input Tax Credit (ITC)

- 2. In carrying out my money services business, I incur GST on expense such as rental charges, telephone, electricity, furniture and fitting, accounting services, insurance and security services, can I claim input tax on GST paid on such expenses?**

Yes, you are entitled to claim the input taxes incurred on such expenses as you are making taxable supplies.

- 3. As a MSB licensee, I paid GST for expenses that I had made. Sometimes I suffer losses on buying and selling foreign currency because of fluctuating exchange rates. Is there any scheme under GST which allows me to recover such losses?**

No, there is no such scheme under GST which allows you to recover your losses.

Service charges

- 4. In carrying out our money services business, we charge service charge on the sale of currency to cover transportation and security costs incurred during delivery to our customer. Are the charges subject to GST?**

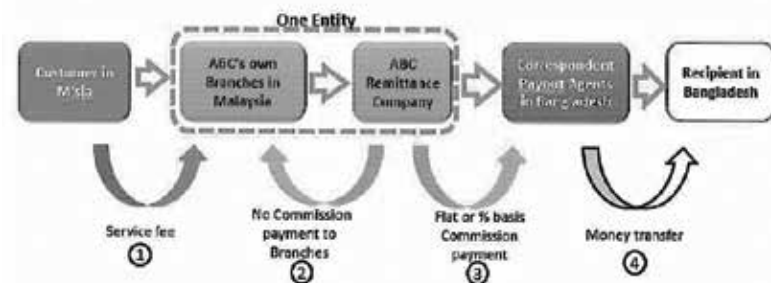
Yes, service charge is subject to GST at a standard rate.

Outward remittance services

5. What is the GST implication on the supplies made by the remittance provider in Malaysia and correspondent agents in Bangladesh based on the Diagram 1 below?

Diagram 1: Illustration of the outward remittance transactions

1. Transactions from ABC Branches



Based on Diagram 1 the GST treatment on the supplies made is as follows:

Service fee from customer in Malaysia to ABC's own branches in Malaysia is subject to GST at a standard rate.

- No supply is made between ABC Remittance Company and its branches.
 - A service by the Bangladesh Correspondent Agent to the ABC Remittance Company is treated as an imported taxable service by ABC Remittance Company subject to GST at a standard rate and the consideration for the supply is the commission payment.
 - The payout to the recipient is a supply of money.
6. If the company headquarters is situated in Kuala Lumpur while its branches are situated in the designated areas are outward remittance services provided by these branches subject to GST?
Yes, it is subject to GST at a standard rate.
7. What is the GST implication on the outward remittance services provided by the remittance provider headquarters and its branches if the company headquarters is situated in the designated area while its branches are situated in Kuala Lumpur?
Both providers are making taxable supplies at a standard rate.

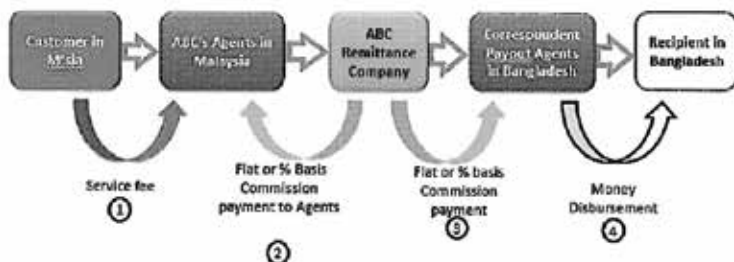
8. Is an exchange rate gain generated due to the difference between the amount collected from sender and settlement amount to disbursement agents, an out of scope supply?

No, foreign exchange gain is an exempt supply according to Item 5, Second Schedule of the Goods and Services Tax (Exempt Supply) Order 2014.

9. What is the GST implication on the supplies made by the remittance provider in Malaysia and correspondent agents in Bangladesh based on Diagram 2 below?

Diagram 2: Illustration of the outward remittance transactions

2. Transactions from ABC Agents in MALAYSIA (OUTWARD)



Based on Diagram 2 the GST treatment on the supplies made is as follows:

Service fee from customer in Malaysia to ABC's agents in Malaysia is subject to GST at a standard rate.

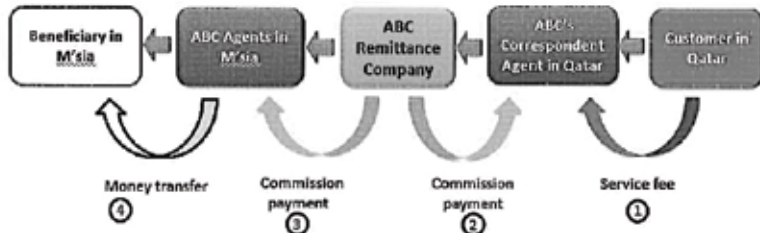
- Commission payment from ABC Remittance Company to ABC's agents in Malaysia is subject to GST at a standard rate.
 - A service by the Bangladesh Correspondent Agent to the ABC Remittance Company is treated as an imported taxable service by ABC Remittance Company subject to GST at a standard rate and the consideration for the supply is the commission payment.
 - The payout to the recipient is a supply of money.
10. For commission payment to Malaysian agents, is the gain from foreign exchange subject to GST?

No, foreign exchange gain is an exempt supply according to Item 5, Second Schedule of the Goods and Services Tax (Exempt Supply) Order 2014.

11. What is the GST implication on the supplies as shown in Diagram 3 below?

Diagram 3: Illustration of the inward remittance transactions

3. Transactions to Malaysia ABC Agents (INWARD)



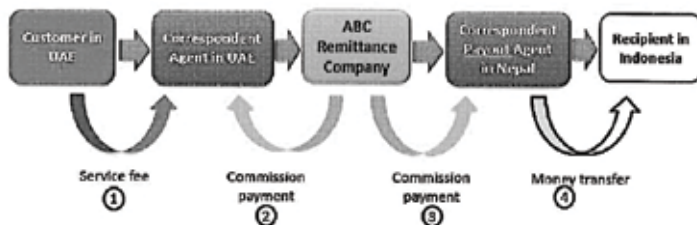
Based on Diagram 3 the GST treatment on the supplies made is as follows:
Money transfer from customer in Qatar to ABC's correspondent agent in Qatar is out of scope.

- Commission payment from ABC Remittance Company to ABC's correspondent agent in Qatar is zero rated according to item 25, of the Second Schedule of the Goods and Services Tax (Zero-Rated Supply) Order 2014.
 - Commission payment from ABC Remittance Company to ABC's agents in Malaysia is zero rated according to item 25, of the Second Schedule of the Goods and Services Tax (Zero-Rated Supply) Order 2014.
 - Money transfer from ABC's agents in Malaysia to beneficiary in Malaysia is not a supply.
12. Is the supply of services by the agent in Malaysia (a registered person) is a zero rated supply?
Yes, the supply is a zero rated supply and the commission payment to the agent in Malaysia is subject to GST at 0%.

13. What is the GST implication on the supplies as shown in Diagram 4 below?

Diagram 4: Illustration of the global hubbing services

4. International Transaction

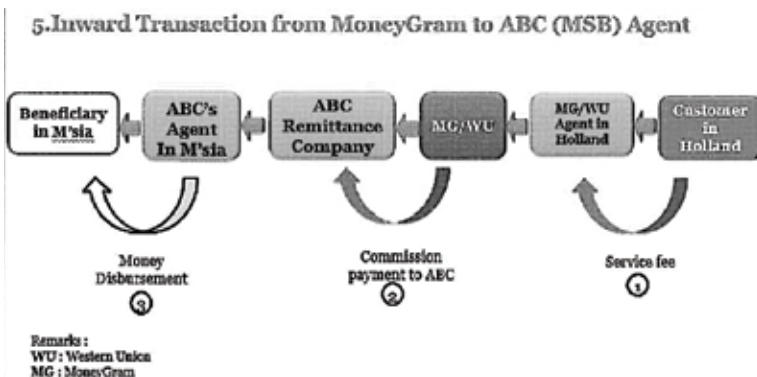


Based on Diagram 4 the GST treatment on the above transactions will be as follows:

- Service fee from customer in UAE to correspondent agents in UAE is out of scope.
- Commission payment from ABC Remittance Company to correspondent agents in UAE is zero rated according to item 26 of the Second Schedule of the Goods and Services Tax (Zero-Rated Supply) Order 2014.
- Commission payment from ABC Remittance Company to correspondent agents in Nepal is zero rated according to item 26 of the Second Schedule of the Goods and Services Tax (Zero-Rated Supply) Order 2014
- Money transfer from correspondent agents in Nepal to recipient in Indonesia is not a supply.

14. What is the GST implication on the supplies as shown in Diagram 5 below?

Diagram 5: Illustration of the inward remittance transactions



Based on Diagram 5 the GST treatment on the above transactions will be as follows:

- Service fee from customer in Holland to MG/WU agents in Holland is out of scope.
- Commission payment from MG/WU to ABC Remittance Company is zero rated according to item 26 of the Second Schedule of the Goods and Services Tax (Zero-Rated Supply) Order 2014.
- Commission payment from ABC Remittance Company to ABC's agents in Malaysia is subject to GST at a standard rate.
- Money disbursement from ABC's agents in Malaysia to beneficiary in Malaysia is not a supply.

ENTERTAINMENT

Self-employed / Freelance

1. What is the GST liability of a freelance performer / entertainer?

If you are a freelance performer / entertainer such as a dancer, singer, comedian, musician, magician and guest relation officer (GRO), you are considered as a self-employed person and liable to be registered if your turnover exceeds the prescribed threshold.

Any fee charged for services provided by you is subject to GST at a standard rate.

2. I am a self-employed musician and contracted with a symphony orchestra group. Do I have to account for GST?

If you are contracted to perform in Malaysia, you need to account for GST on the payment received for the services rendered if you are GST registered person.

3. What if the performer is an employee of the production company?

If the actual performer is the employee of a production company, then the company (employer) has to account for the GST for any payment received.

Input tax credit

4. What type of expenses can I claim if I am an artist?

As an artist you are entitled to claim input tax credit for GST incurred on purchases of goods or services in the course or furtherance of your business.

Examples are

- coaching classes;
- wardrobe and cosmetic for plays;
- props;
- technical and professional supports; and
- musical and electronic instruments.

5. Can I claim the GST for work-related clothing and accessories?

The tax incurred on the acquisition of ordinary clothing is disallowed because ordinary clothing can be worn by the entertainer privately and regarded as for private use. The input tax on clothing used solely as stage costumes claimable, for example GST paid on wig purchased by a professional musician to be worn for his show. You can claim the tax paid for hairdressing specifically to maintain a certain image. You can also claim the GST paid for stage make-up, including tax paid for cleansing materials for make-up.

Registration

6. I am providing different types of services as an entertainer, motivator, coach / instructor, choreographer and event management organizer. Do I need to register the businesses separately?

No, you do not need to register for GST separately if those services are provided under the same entity. Under GST Act, registration is based on person (entity) and not on the type of businesses. Person includes an individual, a sole proprietor, a firm, a company, a society, a body of persons, public authority, local authority, statutory body and every other juridical person or an unincorporated body or persons.

Supply by non-resident

7. What is the GST treatment on the actor / celebrity who is a non-resident who makes an appearance in Malaysia?

Any appearance by an entertainer / professional in his / her recognized profession such as an actor, artist, and sportsman will be within their scope of professionalism. It covers promotional activities, advertising and endorsement of goods or services and may include a photo shoot, TV or radio interview or other appearances. The appearance does not have to be in front of an immediate audience. It includes work of film, video, radio and live or recorded television.

Consideration for appearance may include cash or in kind. Examples of consideration are:

- appearance fees;
- achievement bonus;
- exhibition income;
- box office percentage;
- TV rights;
- broadcasting/media fees;
- tour income;
- tournament winnings;
- prize money;
- advertising income; and
- endorsement fees

All the types of consideration listed above are subject to GST at a standard rate.

- 8. I am a foreign professional singer and was invited by X Company to perform at a charity event for a charge. What is the GST treatment on the charges imposed by the singer to X Company?**

The performance is a taxable supply in Malaysia. Since the non-resident no business or fixed establishment in Malaysia, X Company has to account for GST on the charges as recipient accounting.

- 9. AZ, a foreign entertainment company, makes direct arrangements with BZ, a local resort company, to perform in Malaysia by renting a venue and facilities from BZ. AZ has also appointed a ticket agent to manage the sales of tickets. What is AZ's liability under GST?**

The GST treatment is as follows;

- a) AZ is required to appoint a local promoter as their agent to account for whatever tax liability including GST. GST will be accounted by way of reverse charge mechanism.
 - b) BZ has to account for GST on the supplies of facilities provided to AZ such as renting of rooms and halls.
 - c) Ticketing agent has to account for GST on the commission made on the sales of tickets, if he is a GST registered person.
- 10. I am inviting foreign artistes to perform at my private function where I bear all the costs that include traveling expenses, accommodation, meals and professional fees. Do I have to pay GST on these services?**
- The imported services by an individual which is not for the purpose of business, he is not required to account for tax. However, if you are the promoter / agent involved in the entertainment business then you are liable to account for GST on any payments received at a standard rate.

Royalty

- 11. Music Authors' Copyright Protection (MACP) collects royalties for the composers, lyricists and producers; Public Performance Malaysia (PPM) Collects royalties for the recording companies; Performers and Artistes Rights Malaysia (PRISM) collects royalties for the musicians and singers whether in the recording studio or in public (for example in discotheques, lounges, shopping complexes, pubs, etc.), broadcasted by TV or radio stations or communicated to the public by way of cable, internet, video or music on demand, etc. All royalty charges collected are distributed annually, (less only a deduction for all actual administration costs incurred) to its members. Are these types of royalties subject to GST?**

Payment of royalty is considered as payment for a right to use the intellectual property or trade mark. Therefore, all types of royalties are subject to GST. MACP, PPM, PRISMA as GST registered persons are required to issue a tax invoice to the recipient of royalties. The recipient of the royalties has to account for GST if he is a GST registered person.

12. Are fees paid to a foreign play originator for a show performing in Malaysia subject to GST?

Yes, the fees paid are subject to GST because the services are deemed to be imported services. This treatment is also applicable to fees paid to foreign designers or owners of fashion shows, patent rights, franchise and other creative works performed in Malaysia. The recipient must account GST by reverse charge mechanism.

13. What is the GST treatment on the royalty paid by MACP to the overseas copyright protection agency?

The royalty paid to the overseas agency is subject to GST at a standard rate. MACP, representing the interest of overseas copyright protector agency, need to account for GST by way of reverse charge mechanism. Such supply shall be treated as a supply by the recipient on imported services.

Licencing

14. Music Authors' Copyright Protection Bhd (MACP) also issues license fee to public music (entertainment outlets, concert halls, etc.) Is the license fee subject to GST?

The license fee charged by MACP is subject to GST

E-Commerce

15. My company provides 'download music/movie/game' services and plays it through multimedia equipment. Does such service attract GST?

Download music/movie/game services are taxable supplies. The company who receives the services from overseas must account the GST by reverse charge mechanism. Supplies from local providers are subject to the normal rule of GST.

For GST, all supplies of digitized products are treated as services. As with all supplies, it is the nature of what is being provided that determines the treatment for GST. Most electronically supplied services, including digitized products, and all radio and TV broadcasting services, are subject to GST where the services are effectively consumed and enjoyed.

Broadcast

16. Is payment received for a right to broadcast any live entertainment or performance subject to GST?

Yes, the right to broadcast in Malaysia is a taxable supply and therefore subject to GST. If the right to broadcast is given to overseas clients or company, then it is considered as a zero rated supply.

For further detail please refer to *GST Guide* on Telecommunication Services.

17. An event management company co-organizes reality show with a broadcaster and a telecommunication provider. What is the GST treatment and how is GST to be accounted on this arrangement?

Under the GST rule, whatever consideration received in return for a taxable supply will create a GST liability. There are a number of transactions in organizing a reality show. Each of the transaction has to be identified in determining the appropriate GST treatment. For a reality show aired on television, there will be normally media planning, hiring of the venue, advertisements, the right to broadcast, admission charges, charges by the telecommunication company on sms sent by the viewers. All these activities are subject to GST at a standard rate.

Sponsorship

18. My company is an entertainment company involved in live telecasting of reality programs (entertainment shows). I received cash sponsorship for live telecasting of an entertainment program. What is the GST treatment on this sponsorship?

Cash sponsorship is a non-supply. However, if there is a material benefit provided to the sponsor in return of the sponsorship received such as advertising during commercial break of the telecast, then the sponsorship is considered as a consideration in return of the advertising services. Therefore, you have to account GST on the sponsorship (amount) received.

19. I receive sponsorship in kind - airline ticket, hotel accommodation and ground transport etc. - for live telecasting of a reality programs. Who will account for GST and who is entitle to claim the input tax credit?

Sponsorship in kind will be subject to GST. Sponsorship given with conditions attached to it, such as advertising the name or brand of the sponsor, is a taxable supply. The sponsor need to account GST on the ticket/ rooms / clothing sponsored. On the other hand, if the receiver provides advertisement services in return for the sponsorship, the receiver must account GST for the supply of the advertisement services. Input tax credit can be claimed by the sponsor on the GST paid by him. You can also claim input tax credit on your purchases if you are GST registered person.

Admission charges

20. Admission charges for a live theatrical or musical performance are subject to Entertainment Duty. What is the liability under the GST Act?

The value for GST purpose is excluding of Entertainment Duty.

For example:

Admission ticket	:	RM 3.00
Entertainment Duty 25%	:	RM 0.75
GST (6%)	:	RM 0.18 (RM 3.00 x 6%)
Total cost	:	RM 3.93

21. What is the GST treatment for admission charges to discotheques, nightclub and public houses?

Any admission charges for entertainment to discotheques, nightclub and public houses is subject to GST at a standard rate.

Cinema

22. Who should account for GST on tickets sold at cinemas?

Price of tickets sold at cinemas should include GST. The cinema operators are acting as ticketing agents for the production house and must collect the tax on any tickets sold by them.

Agents

23. An event promoter may use agents to sell tickets on his behalf. What is the GST treatment?

Promoters and ticket agents may also use a network of distributors, such as local music stores, to ensure a broad distribution of tickets. The actual sale of a ticket by a promoter, a ticket agent or distributor is the supply to the customer of the right to admission to an event.

The agent or distributor who sells a ticket is liable to account for GST on the ticket price. Booking charges, if part payment, will become part of the ticket price. Commission charges have to be accounted separately by the receiver of the commission if he is a GST registered person.

24. What is the GST treatment on advance ticket sales?

Payments received in advance of the supply of goods or services are liable to GST at the time the payment is made. This also applies to sales of tickets for live theatrical and musical events, which are sold prior to the date of event. GST must be accounted for in the taxable period in which the sale is made and not when the event takes place.

If an event is cancelled, the promoter, ticket agent or distributor may refund the full amount of the ticket, including GST, to the purchaser. Adjustment can be made through the GST return in the taxable period in which the credit note is issued.

25. What is GST payment for advance payments by the promoter to performers?

Advance payments by promoters to performers are subject to GST at the time of payment.

26. Istana Budaya organize a musical concert which is partly sponsored by telecommunication company. In return of the sponsorship, Istana Budaya instructs the telecommunication company to sell tickets to its clients at a subsidized price as part of a marketing program. Is the sponsorship that Istana Budaya receives subject to GST?

Yes, sponsorship received is subject to GST because admission at subsidized rate is considered as benefit in return.

27. I am a promoter who hires theatre, facilities and equipment from government agencies and local authority. What is the GST treatment on the charges paid for these services?

Services provided by federal and state government agencies are out of scope and therefore are not subject to GST. However services provided by local authorities and statutory bodies are subject to GST except for their regulatory and enforcement function under their act.

Charges and advance fees, which are part payment for hiring theatre, facilities and equipments from local authorities and statutory bodies, are also subject to GST.

28. I run a private club offering entertainment services. How should I account for membership fees paid by my customers?

If you charge a membership fee for joining your club, then you must charge GST on the amount of the fees paid by club members.

Free Gifts and Samples

29. Certain entertainment outlets carry out promotional activities in their premises where some merchandise are given free of charge to their customers. What is the GST treatment on merchandise given free?

Merchandises given free for promotional purposes are not subject to GST, provided the cost of the merchandise to the business is not more than RM500.00 per person in a year.

30. A program is organized to promote a recording artist. The production house or the promoter distributes samples of CDs and VCD of the artist's album to the public free of charge. What is GST treatment on this sample?

These CDs and VCD can be regarded as free gifts and are not subject to GST, provided the cost of the merchandise to the business is not more than RM500.00 per person in a year

Gaming and Amusement Machines

31. My club operates some gaming machines besides providing family recreational and sporting activities. What is my tax liability under the GST Act?

Gaming and betting are taxable supplies and therefore subject to GST. Other supplies provided by the club such as wine, food, souvenirs, tobacco and cigarettes, etc. are subject to GST. Membership subscription and admission charges, if any, are also subject to GST. Hence, you have to account for GST on these supplies.

32. Are amusement machines subject to GST?

GST is chargeable on the supply of amusement machines whether the operator of the machine installs it on his own or another person's premises, e.g. a club. Examples of amusement machines are video games (but not video poker machines) and juke boxes.

An amusement machine is one in which there is no prize in any circumstances, or the prize is dependent purely on the player's level of skill or knowledge such as quiz machines. These 'skill with prizes' (SWP) machines, are not gaming machines because winning is not dependent on chance.

33. What is the GST liability of the supplies involved in amusement machine transactions?

There are a number of supplies involved in dealings connected with amusement machines. These are the supply of:

- **the use of the machine** - when it is made available to a player;
- **the hire of the machine** - when an owner rents a machine out, either for a fixed rental charge or, perhaps for a share of the profits; and
- **a license to trade** - when the owner of the premises allows a machine to be sited on his premises.

These supplies are subject to GST at a standard rate.

34. Who must account for GST on machine takings?

The GST registered person who supplies the use of the machine to the public must account for GST on the takings. There can only be one person who does this and it will usually be the person who exercises day-to-day control over the machine and is entitled to the takings.

The person who supplies the use of an amusement machine to the public will be either the:

- **site occupier**, if the machine is purchased, hired or rented by the occupier of the premises on which it is sited; or
- **owner of the machine** where the owner of the machine pays rent to the occupier of the premises on which the machine is sited. If the machine is operated on a profit share basis, the supplier of its use to the public will be the person who controls its operation.

Theme Park

35. Customers are required to purchase a theme park card in order to enjoy rides at the theme park. The card can be topped up as and when needed. What is the GST treatment on this card?

The sale and subsequent top-up amount are treated as monetary voucher and not subject to GST at the time of purchase or top up. GST would only be imposed when the card is used on any rides at the theme park as the fare for the rides would be GST inclusive.

36. The value of the top-up card is inclusive of a refundable deposit which will be refunded back upon returning of the top-up card. Does this refundable deposit attract GST?

Refundable and forfeited deposits are not subject to GST because it is not a consideration for a supply.

37. A theme park operator allows another person to place his amusement machine to be operated in his theme park on a profit sharing basis. How and who should account GST on the takings derived from the operation of the machine?

The operator who is licensed to operate the amusement machines has to account for GST on the takings of the amusement machine. There will be no GST implication on the profit sharing between the operator and the machine owner.

38. Do membership subscription which entitle members to free admissions into a theme park / trade fairs attract GST?

Yes, the membership subscription attract GST because it is a payment for rights to acquire taxable supplies.

Film

- 39. What is the GST treatment on filming covering more than one country?**
Only filming in Malaysia is subject to GST.

Example 1:

Production Company A from Malaysia does filming in Sabah, Indonesia and Thailand for a client. The company can apportion the costs of production and charge the client GST on the filming cost performed in Sabah only.

- 40. What is the GST treatment on the supply of services provided by actors in the filming done locally and overseas?**
The supply of services provided by actors in the film done locally are subject to the GST while a supply of services provided by actors acting overseas are zero-rated.
- 41. What is the GST implication on film supplied by a production house?**
A production house is liable to account GST on payment received for the supply of film whether through outright sale or term sales.
- 42. What is the GST implication on exported film and rights supplied to overseas?**
All films and rights exported to overseas markets are zero-rated.
- 43. Does FINAS need to account GST on the sponsorship / grant received from FILEM NEGARA to make a film?**
Sponsorship / grant received in the form of cash without any benefit to the sponsor is a non-supply therefore it is not subject to GST.

Other Matters

- 44. What is GST treatment on stocks written-off?**
You do not have to account for GST on stocks written-off.
- 45. Would any fees charged for cultural, artistic, tourism, entertainment services rendered outside of Malaysia subject to GST?**
Any fees charged for services rendered outside of Malaysia are zero-rated.
- 46. Some costs incurred by an overseas headquarters of a recording company here in promoting the sales of album, for example TV advertisement costs, will be proportionately charged to the recording company in Malaysia. Would these charges attract GST? If yes, who is to remit the GST?**
Costs incurred by such overseas headquarters in promoting sales, e.g. TV advertisement, charged to the recording company in Malaysia are not subject to GST if the services are provided outside Malaysia and are considered as zero rated supplies.

If the services are provided in Malaysia, it is subject to GST irrespective who pays for the advertisement. The services are considered as imported services and the recording company would have to charge and account for the GST on reverse charge mechanism.

- 47. PPM also appoints commission-based agents to carry out its copyright licensing activities. Would such commission paid out be subject to GST and do such agents have to issue a GST invoice to PPM?**

Commission paid to agents is subject to GST if the agent is a GST registered person. The agent should issue a tax invoice to PPM and account for GST on the commission received.

- 48. PPM contributes monthly to RIM on behalf of RIM members for funding of administrative and anti-piracy operation expenses. Would this contribution be considered as supply between members of a group and disregarded for GST purposes?**

Contribution in money for funding of administrative and anti-piracy expenses is not a supply and is not subject to GST.

- 49. Would copyright damages received by RIM members, RIM, PPM and / or RIM COP from copyright infringers pursuant to enforcement action attract GST?**

Consideration from copyright damages received are not subject to GST as it is a compensation.

EVENT MANAGEMENT

Registration

1. Which event management providers need to register?

All event management providers are required to be registered under the GST Act if they are making taxable supplies in the course or furtherance of business and have exceeded the prescribed threshold of RM500,000 in a twelve months period.

For further information on registration, please refer to *Guide on Registration*

Taxable supply

2. What types of event management activities attract GST?

All event management activities attract GST since they are taxable supplies. Below are shown some such activities:

- (a) Conceptualization of the event;
- (b) Event Production;
- (c) Management services;
- (d) Event Supervision;
- (e) Admission into events;
- (f) Event Advertising;
- (g) Facilities for hire; and
- (h) Security services.

3. Is GST payable on a supply of space for an exhibition given free of charge to regular exhibitors?

A supply of space for exhibition offered free to regular exhibitors is not subject to GST provided this service is also available to any other exhibitor free of charge.

4. A company organizes a fashion show and gives away some free admission tickets and free T shirts. How does the company account for GST on free goods or free services if these goods or services are given to selected customers?

The treatment of GST can be divided into two different treatments as follows;

- (a) Goods given free are subject to gift rules. Goods which cost the company RM500 and below per person within a year is not subject to GST.
- (b) Free services are treated as non supply and therefore not subject to GST.

There are no special GST treatment rules on the gift given to selected customers. Normal GST rules apply.

- 5. As an event organizer, I organize seminars, workshops, conferences for both the private and government sectors. Do I have to account for GST if I provide such services:**

- (a) solely to the private sector (companies);**
- (b) solely to the public sector (government agencies); or**
- (c) to both the private and public sectors?**

Irrespective of whether your clients are from the private or public sectors, you have to charge GST for providing the above services if you are a registered person.

- 6. MICE (Meeting, Incentive, Convention & Exhibition) being an event organizer, organizes a seminar on behalf of Ministry of Defence which is open to the public locally and internationally. How is GST accounted for the event?**

There are three charges subject to GST;

- (a)** Event management fees charged to Ministry Of Defence by MICE.
- (b)** Admission ticket.
- (c)** Goods sold / services performed during the exhibition.

- 7. Occasionally certain personnel from the public or private sector are invited to attend these events as guests without any charges. What is the GST treatment in these cases?**

Such free participation is not a supply and therefore is not subject to GST.

- 8. What is the GST treatment on supplies made by an event management company who organizes an exhibition in Malaysia but the participants are mainly from abroad?**

The GST treatment has to take into account 'where the supplier belongs concept'. In this case, the suppliers belong to Malaysia. Therefore the event management company has to account for GST if the event management company is a GST registered person.

- 9. An event management company on behalf of Ministry of Defence organizes Langkawi International Maritime Aerospace (LIMA) show in Langkawi. What is the GST treatment on this exhibition organized by the event management company?**

Under section 154 of the Goods and Services Tax Act 2014, Langkawi is classified as designated area and therefore no GST is payable on goods supplied in designated area and on services performed (provided the supplier of services is from Langkawi).

Admission fees and ticket

- 10. What is the GST treatment on admission fees on exhibition? Who is liable to account for GST if the admission fees are collected by a ticketing Agent?**

Admission fees are taxable supplies and subjected to GST. If the organizer is a GST registered person, he must account for output tax. If the tickets are sold by an agent appointed by the organizer (principal), the organizer must account for GST on the admission fees and the commission paid to the agent if he happens to be a GST registered person.

- 11. I am an event manager and a GST registered person. Is it necessary to indicate the GST charged on the admission tickets to an event?**

The ticket must show the total amount payable excluding tax, the rate of tax and the total tax chargeable shown as a separate amount.

- 12. What is the GST treatment on the commission received by ticketing agent?**

If ticketing agent is a GST registered person, the agent need to account for GST on the commission received.

Imported service for performance services

- 14. As an event management provider and GST registered person, I have engaged a professional entertainer from overseas to perform at a dinner and fashion show. Is the performance provided subject to GST and who should pay the tax?**

Services from overseas is regarded as imported services and are subject to GST. You should account GST for the imported services by reverse charge mechanism. *(For more information on imported services and reverse charge mechanism, please refer to the GST General Guide).*

Co-organizers of reality show

- 15. Company XYZ, an event management provider, co- organized with a broadcasting station and Telekom Malaysia to jointly produce a reality show. How is the GST accounted for in this case?**

If the reality show is co-organized by few parties, each party must be able to identify its own supply to determine the GST liability. XYZ must charge GST on the exclusive right to air the show. The broadcasting station, in return would charge GST on advertising space to Telekom Malaysia. Telekom Malaysia would charge GST on services provided to the short message system (SMS) users for sending SMS to the show.

Rental

- 16. As a GST registered person and event organizer for an exhibition, I collected RM2,500 on space rental for two days exhibition from exhibitors. Should I charge GST on the rental?**

Yes, space rental collected from exhibitors is subjected to GST. As a GST registered person you must account the tax on the rental collected by you.

- 17. What is the GST treatment on charges for a rental space for an exhibition which also provides furniture, electrical appliances and security to the exhibitors?**

Supply of rental space, whether completely furnished or unfurnished, is subject to GST. Any additional equipment facilities or services provided are taxable supplies and subject to GST. However, if it is provided as part of a package, the GST will be accounted on the charges as a single supply.

Deposits

- 18. As an exhibition organizer I also collect deposits on advanced bookings for rental space. Are these deposits subjected to GST?**

GST treatment on deposit would depend on whether it is a security deposit or forms part of a payment. GST is not chargeable if it is a security deposit. However, if the deposit is part of a payment for rental space, it is considered a taxable supply and therefore subjected to GST.

Sponsorship

- 19. An exhibition organizer receives sponsorship from a company in return for providing advertising space in the exhibition. Is the sponsorship subjected to GST?**

Sponsorships are taxable supplies if benefits are provided in return for the sponsorship. In this case, the company has received advertising space (benefit) and therefore, the sponsorship is subjected to GST.

Advertisement

- 20. Are advertisements displayed during an event (for example at the podium, publication materials, attire and promotional items) sponsored by advertising agencies subjected to GST?**

Yes, advertisements are taxable supplies; hence the event organizer has to account for GST.

Parking facilities

- 21. Parking facilities at an exhibition are provided to guests free of charge. Must the organizer account for GST on the parking services provided?**
If the parking facilities are provided free of charge, then, it is not subject to GST. However if the parking facilities are charged, then it is subjected to GST.

Coin operated machine

- 22. Is commission or shared profit paid by the vendor of coin operated machines placed in a trade show, subject to GST?**
The commission or shared profit is a consideration for the right to operate the machines. As such, it is subjected to GST.

Consultancy and advisory services

- 23. Apart from event management, we provide consultancy and advisory services to clients on seeking approvals from related government agencies. Are these services subjected to GST?**
All consultancy and advisory services are subjected to GST.

Discount

- 24. As an event organizer, we give discounts to our customers. What is the GST treatment on the discounts given?**
Discount is allowable if it is given to all and GST is charged on the discounted or reduced amount.

Tax point

- 25. When do we account GST for providing event management services?**
You have to account for GST at:
(a) the date when you received the payment; or
(b) the date when you issue a tax invoice, whichever is the earlier.

Input tax credit

- 26. As a GST registered person, am I entitled to claim any input tax credit and how do I do it?**
Being a registered person you are entitled to claim input tax that you have incurred on purchases such as capital assets, utilities, material and professional fees attributable to your taxable supplies. You can claim your input tax in the following tax returns according to your approved taxable period by offsetting from the output tax payable to the Royal Malaysian Customs (RMCD).

For further information please refer to the *GST Guide on Input Tax Credit*.

Goods for private use

- 27. Can input tax be claimed for the goods and services which were supplied for the event, but have been used by the staff for private use?**

No, input tax cannot be claimed on these supplies as they are not used in the course or furtherance of business.

ACCOMODATION PREMISES AND SIMILAR ESTABLISHMENT

Accommodation and related services

- 1. What is the GST treatment on rooms that are provided with furnished sleeping accommodation, spa, gym and laundry services to hotel guests?**

Supply of room with furnished sleeping accommodation is subject to GST. Recreational facilities such as spa, masseur services, compact gym and laundry services are taxable supplies and subject to GST at a standard rate. If services provided are not part of the room accommodation services, these services should be stated in a separate bill with the amount and GST charged indicated. If it is provided as part of the accommodation package, then these services are to be considered as a single supply for charging GST.

- 2. How is GST on telecommunication services such as facsimile, email/internet and IDD phone used by guests in their room or at the business center to be accounted for?**

All these telecommunications services and service charge, if any, by the hotel are to be standard rated.

- 3. Do we have to account for GST on parking facilities which are provided free of charge to the guests and how is GST to be accounted if discounts are given to those parking space that have a charge?**

Parking facilities provided free of charge by the hotel are not subject to GST because normally it is inclusive of the room charges or rental of facilities. However, letting of parking space charged separately is subject to GST. If discount is given to everyone, then GST is charged on the discounted amount.

4. How is GST calculated on a wedding package offered by a hotel, which includes room and ancillary facilities?

The wedding package offered may consist of wedding breakfast, buffet and meals served in a room with ancillary services provided as part of the package (including floral decorations; the service of a toast master; a room for ceremony and bridal party). This package is treated as a single taxable supply. The calculation of GST must be based on the total value of this package. The GST treatment is the same for other similar packages like conferences, seminar and gatherings with ancillary services.

Membership

5. In the promotion of new membership recruitment campaign, the hotel offers “Stay 6 Nights Get One Night Free” program to all who wish to join. Do we have to charge GST on the free night accommodation?

The free night offered as a package in a promotion campaign is treated as a discount and allowable. GST is chargeable on the actual amount paid.

6. Is the hotel club annual membership fees subject to GST?

Yes, the annual membership fees paid by members are subject to GST. It entitles the members to enjoy the hotel facilities with special treatment or discount.

7. Members of the hotel's club enjoy certain facilities such as the gym and swimming pool at discounted rates. How do I account for GST on these services?

These services are taxable supplies and subject to GST. If discount is given for using these facilities, GST shall be accounted on the discounted amount.

Free goods and services

8. Is GST payable on hotel accommodation given free to regular customers?

GST is not payable on free hotel accommodation offered to all customers.

9. Is commission charged by the promoters and hotel brokers subject to GST, and if so who should account for it?

Yes, commission paid to promoters and hotel brokers are subject to GST. The promoters and brokers are the marketing agent for the hotel. The service of the agent is a taxable supply and therefore the agent must account for GST if he is a GST registered person.

10. It is a common practice for a hotel to order bouquet of flowers or purchase gifts on behalf of customers at their request. The hotel will include this cost as separate charge in the invoice issued. Is this charge on the services of providing gifts subject to GST?

The supply of bouquet of flowers or gift is a taxable supply. If there is any charge on such services imposed by the hotel, such services are also subject to GST.

11. What is the GST treatment on complimentary rooms?

The supply of complimentary room as part of the hotel's promotional package, for example, a complimentary room given under loyalty program, or as an offer for group package such as one complimentary room for every 20 rooms booked and is open to all is not subject to GST. It is treated as a discount. However, if the complimentary room is only given to business associates or connected person, it is subject to GST based on the room rate. In both cases, input tax is claimable by the hotel.

Miscellaneous supplies

12. A hotel charges RM1.00 per night stay as an annual event during school holidays. On what value should GST be charged?

GST is to be charged on the actual amount paid.

13. Is the supply of bed and breakfast (B & B) treated as a single supply?

The B & B establishment normally will include breakfast at an inclusive price. This is treated as a single supply and subject to GST.

14. Do I have to account for GST on in-house training given to hotel employee?

The in house training (employment related skills) given free to employees to improve their working skill is regarded as a non-supply and therefore not subject to GST.

15. If my hotel provides training services to other hotel's employees, do I need to account for GST on these training services given?

Yes, you have to account for GST on the fees paid for training services to other hotel's employees.

16. Are takings from coin-operated machines located in the hotel's premise subject to GST?

Yes. The supplies of goods or services through any coin-operated machines, such as video game, vending machine or snack machines are subject to GST. The supplier of these machines must account for the total value of the coins/tokens removed from the machine, and GST is to be accounted for by applying the GST fraction, i.e.

If GST rate is 6%:-

$$\begin{aligned}\text{Output tax} &= \frac{\text{GST rate}}{\text{GST rate} + 100\%} \times \text{takings} \\ &= \frac{6\%}{(6\% + 100\%)} \times \text{takings} \\ &= \frac{6\%}{106\%} \times \text{takings}\end{aligned}$$

The time of supply is the date the coins/takings are removed from the machine.

17. What is the GST treatment on letting out hotel's sports facilities, such as golf course and golf driving range?

Sports facilities are facilities used for sport or physical recreation which are normally designed or equipped premises or land for particular sporting activities. The letting out of such facilities is subject to GST at a standard rate.

18. What is the GST treatment on the disposal of a hotel's business assets, for example disposal of used curtain and furniture?

The disposal of goods which form part of the business assets, by selling, giving them away or using them for private use, is a taxable supply. You have to account for GST on disposal of business assets based on the disposal value.

Deposit, booking fee, retention fee and cancellation charge/fees

19. Is deposit charged as a security for payment of a supply which is refundable upon settlement of the hotel bill attract GST?

Such deposit is not treated as a consideration for the supply but merely as security, therefore it is not subject to GST. One example is when you check in into a hotel, settlement of hotel bill is to be made by credit card. You are asked to pay a deposit in cash of a certain amount that is refundable upon checking out from the hotel.

20. In the course or furtherance of my business, I may invite tenders for a future supply of goods and services. The person applying the tender will have to pay a deposit. Is the deposit subject to GST?

In this case, the deposit is taken as a security and not as a payment for supply which is eventually refundable, is therefore not subject to GST.

21. What is the GST treatment on no show charge, if a hotel charge a customer on booking cancellation?

No show charge is subject to GST. It cannot be treated as penalty since the supply of room has been made to customer.

Tips

22. Are tips given by guests voluntarily subject to GST?

A tip given voluntarily by guests or customers to a hotel's staff as token of appreciation for services rendered is not part of consideration for the supply and is therefore not subject to GST. However, if the tip is included in the customer's bill as a mandatory service charge, then GST is chargeable. GST is to be calculated on the value of the supplies (customer's bill) inclusive of the service charge.

Customer will have to pay GST on the supplies and also on service charge (normally at 10%) to the customers.

Business entertainment expenses

23. As a hotel director, I usually entertain my clients by giving free lunch or drink. What is the GST treatment on this business entertainment?

Free lunch or services given to any person who is not connected to you is not subject to GST.

24. A hotel operator engaged services of professionals such as interior decorator, architect, auditor and management consultant from abroad. Are these services subject to GST and who should account the tax?

Imported taxable services received by persons who belong in Malaysia in the course or furtherance of his business are subject to GST. The supplies are treated as made by the recipient and the recipient must account the tax by way of reverse charge mechanism. In this particular case, the hotelier must account for the tax and input tax is claimable.

For further information please refer to the *GST General Guide on Imported Services*.

Compensatory payment

25. A guest was charged for breaking the hotel tea pot. Is the charge subject to GST?

The guest will have to pay for the broken tea pot inclusive of GST.

Time share accommodation

26. What is the GST treatment on the supply of holiday accommodations under a time-share scheme?

If you supply holiday accommodations under a time-share or multi ownership schemes, the supply is subject to GST.

27. Are other charges related to time-share package such as advance license fee for security, annual license fee for use of club facilities, annual maintenance fee, upgrading fee and administrative charges for transfer services subject to GST?

These charges are consideration for supplies related to time-share package. They are taxable supplies and therefore subject to GST.

28. Time share offer owners the possibility to exchange their package to stay at one of the resorts worldwide. Most time share companies charge a transfer fee or surcharge. Is GST due on this fee?

The transfer fee or surcharge is subject to GST because the fee is consideration for the transfer of services.

29. The time-share membership entitled members to stay in the participating hotels/resorts within Malaysia or abroad. What is the GST treatment if members used the time share rights to stay in the participating hotels/resorts outside Malaysia?

The time-share membership is a holiday/vacation package. It is a taxable supply and is subject to GST at the point of sale. However, purchase of room outside Malaysia by the time-share management to accomplish the request of members to use their time share right abroad is out of scope.

On the other hand, purchase of room in hotels/resort in Malaysia by affiliate time-share management abroad for their time share members is subject to GST because the service is to be consumed in Malaysia.

30. Time share membership is open/sold to a non-resident. Is the sale subject to GST?

The supply of time-share membership by a taxable person is subject to GST, even though purchased by a non-resident. A supply of service is treated as made in Malaysia if the supplier belongs in Malaysia.

31. A time-share management in Malaysia does marketing/recruitment overseas. Is the time-share membership sold during the promotion subject to GST?

Yes, the time share membership sold is subject to GST because the timeshare package and the supplier belongs in Malaysia.

- 32. Time-share owners can elect to stay at their resort during the prescribed period. They can also sell or rent out their rights (e.g. one week stay). What is the GST implication on these transactions?**

If you sell or lease your holiday accommodation (rights), your supply is standard rated. If you sell or lease the time-share rights through the timeshare management they must account for GST through. If you make your own arrangement you must account for GST if you are a GST registered person.

- 33. Does the redemption of goods and services under the time-share scheme reward point system subject to GST?**

Redeemable reward points are subject to GST upon redemption.

- 34. What is the GST treatment on refund payment due to the cancellation of the time-share membership?**

Refund for cancelled time-share membership is not subject to GST because it is not a supply, and any tax paid on the balance of membership fee is refundable. Time-share management must produce evidence of tax refunded to the member before claiming tax refund from the government.

- 35. GH group comprises of subsidiaries and associated companies on entertainment industry and resort chain. Is GH entitle for group registration and what are the benefits of group registration?**

GH group is entitle to group registration if the company fulfil the following criteria:-

Group registration under the GST Act is a facility applicable only to subsidiary companies that make wholly taxable supplies. The group has to appoint a representative member to account for GST and claiming of input tax for the group.

However, each member of the group is also required to be GST registered person before becoming a member of the group. The benefit is supply between members of the group is to be disregarded.

(For further information, please refer to the GST Guide on Registration)

Other Related Issues

- 36. What is the GST treatment for service apartments? Is it treated as commercial accommodation or similar establishments (i.e. hotel, motel etc.)**

Service apartments such as hotel, motel are commercial accommodation and is subject to GST.

- 37. Are residential apartments packaged with other services such as 24 hours security, swimming pool, landscape and other common facilities can be classified as service apartments? Are these services subject to GST?**

Residential apartment does not become service apartment by providing services as classified above. However, when management fees charged for maintenance of the services are subject to GST. Security services provided is a taxable supply and the security company will have to charge GST on the security services provided to the management company. If the management company is a GST registered person the GST paid to the security company is claimable as input tax.

- 38. Service apartments are occasionally rented out as residential apartments to individuals or companies. Is the rent received subject to GST?**

Service apartments operated by a GST registered company which collect rent on short/long stay is subject to GST. GST will be charged on the value offered by the hotel for long stay. If the apartment is sold to an individual for residential purpose, it is not subject to GST. The GST treatment on service apartments will depend on the usage of the apartments whether for commercial or residential purposes. If it is for commercial, it is subject to GST and if it is for residential, it is not subject to GST.

- 39. A company bought a turnkey residential project and converted it to service apartments. What is the GST treatment on these kind of service apartments?**

Purchase of residential property is an exempt supply with no tax liability, but changing the status of residential property to commercial apartment attracts GST. Sale of the apartment becomes a taxable supply.

TRAVEL INDUSTRY

General on Travel Industry

- 1. Are the service fees charged for the sale of airline tickets issued by IATA (International Air Transport Association) accredited agents subject to GST?**

Service fees charged for the sale of air tickets is subject to GST at a standard rate for inbound and zero rate for the outbound air tickets.

- 2. I am a travel agent who deals with supplies related to the travel industry. What is my taxable turnover?**

A travel agent who makes taxable supplies in the travel industry is required to be registered. Hence, you are required to be a registered person if your annual taxable turnover exceeds RM500,000.

Your taxable turnover would comprise of zero rated and standard rated supplies which includes:

- (a) Where you act on behalf of a principal, your taxable turnover for providing agency services for a consideration in the form of a commission that you earn
- (b) Where you act in your own name, your taxable turnover will be the commission that you earn as an agent and the value of other taxable supplies which you supply in your name.

3. What are zero rated supplies in the travel industry in Malaysia?

Zero rated supplies in the travel industry are related to services consumed or enjoyed overseas, such as:

- (a) International transportation including the arranging of International transportation of passengers and goods;
- (b) Services wholly performed overseas; and
- (c) Services supplied to a person who do not belong in Malaysia and the person is not in Malaysia when the services are performed. It must also benefit a person outside Malaysia.

Ticketing

4. Are sales of domestic or international air tickets subject to GST?

The GST implication on the sale of air tickets for domestic or international flights are as follows:

- (a) Sale of domestic air tickets are subject to GST at a standard rate;
- (b) Sale of international air tickets are subject to GST at zero rate and this will include international transportation of passengers;
 - (i) from a place outside Malaysia to another place outside Malaysia (means from any place in the other country to the first entry point in Malaysia);
 - (ii) from a place in Malaysia to a place outside Malaysia (means from the last exit point in Malaysia to any place in other country); or
 - (iii) from a place outside Malaysia to a place in Malaysia.

These GST treatments are applicable to all modes of transport (air, sea or road).

5. Can my client (tourists) claim a refund of the GST amount he has paid as he did not utilize his non-refundable ticket after purchasing it?

- (a) GST will not be refunded to the client after they have purchased a non-refundable ticket. A sale of ticket for passenger transport is the sale of a right to utilize that particular transportation, such as the right to a seat on a plane, ship etc. Where the recipient of the supply (the intending passenger) does not take up the transportation for whatever reason, his right to travel on the flight, ship, etc. has not been changed or taken away from him.
- (b) There has not been any adjustment on the event for GST purposes.

The supplier is still liable to account for GST on the supply of the ticket.

6. What is the GST treatment on purchase of domestic flight tickets from an airline that cannot supply the transportation and there is no prospect that the tickets will be honoured by the airline or any other airline?

In cases where the purchaser is an individual consumer:

- (a) Airline customers who have paid for domestic flights which are subsequently cancelled, can seek refund of the ticket price, from the relevant airline or credit card supplier. The GST is inclusive in the final price charged by the airline for the supply of flight, and if the supply is not made, it is contractual matter between the airline and the customer.
- (b) Any refund made to the customer will be inclusive of GST.

Travel Agents Commission

7. As a travel agent, is my turnover based on my total ticket sales, or my commission?

Annual turnover is based on the value of all taxable supplies you have made in relation to your business. As a travel agent selling on commission only, your taxable turnover will be based on the value of the commission received annually.

8. When an airline ticket is purchased using a credit card, the travel agent sends the credit card number to the airline. The airline then processes the credit card transaction for a payment. Can the travel agent issue a tax invoice or does the invoice need to be issued by the airline company?

If a taxable supply is made through an agent, a tax invoice can be issued by the airline (principal) or the agent. However, the airline or the agent must not both issue separate tax invoices relating to the same supply. A tax invoice stating the amount of GST can be issued by the airline company.

Outbound Tour

9. I am operating a travel agency business that markets overseas land/ground tour package on behalf of an FTA. Do I need to charge GST on the commission charged to the FTA and on the sale of the overseas land/ground tour package to the traveller?

The sale of the outbound package and the agency services are not subject to GST.

10. I have booked an outbound tour package to London through AA Travel and Tours. The package includes a pickup from my house to the airport and an onward journey to London. Is the package subject to GST?

The package is a zero rated supply but the pickup services from your house to the airport is subject to GST at a standard rate since the supply is made by a different supplier.

11. Are organized day trips by rail from Malaysia to Bangkok subject to GST?

The organized day trips are not subject to GST and any commission charged by the LTA to the railway authorities is not subject to GST.

Inbound Tour

12. If an FTA sells an inbound tour package on behalf of LTA, is GST chargeable on the tour package sold or commission charged by the FTA? The inbound tour package sold and the commission charged by the LTA is subject to GST. The LTA has to account for the GST using the reverse charge mechanism.

13. How do I calculate GST on regional packaged tours that I provide (covering Malaysia and neighbouring countries) to a tourist?

Travel products which are to be consumed or enjoyed in Malaysia are subject to GST. Outbound packaged tours are zero rated supplies as it is to be consumed or enjoyed overseas.

Example 1

Rates for the provision of a regional tour package (exclusive of GST):

Tour	Charges (RM)	GST (RM)
2 days, 1 night in Malaysia	800.00	48.00
3 days, 2 nights in Singapore	1,200.00	NIL
2 days, 1 night in Bangkok	1,500.00	NIL
	3,500.00	48.00
Total charges to tourist	3,548.00	

Time of supply

- 14. If I am a LTA or tour operator who works on commission basis. When is my time of supply to account for tax on the tour services that I render?**

Your time of supply is the earliest of the following:

- (a) Your services are fully performed
- (b) You issue a tax invoice issued to your principal or customers, or
- (c) You received payment for your services.

However, if a tax invoice is issued within 21 days after (a), then your time of supply is the date of the issuance of the tax invoice.

- 15. As a travel agent I often make supplies on behalf of my principal. Who is accountable for GST on the supplies made?**

You must account for GST if you provide your services to hotels, airline companies etc., in your own name. However, if you are making these supplies on behalf of your principal, then your principal is accountable for the GST imposed and entitled to claim input tax credit on the purchases you made on his behalf. You may seek a disbursement from your principal for the purchases you made in his name.

Tax Invoice

- 16. As a LTA, am I required to issue tax invoices to all my customers?**

Yes, you are required to do so if you are a registered person. However, if you make zero rated supplies, you may not have to issue a tax invoice subject to an approval by the Director General of Customs.

Transitional issues

- 17. What is the GST treatment on sale of air ticket or tour package before 1.4.2015 but supplied on or after 1.4.2015?**

The sale price is deemed inclusive of GST and the supplier of such services has to account for GST in his first taxable period if he is registered for GST.

- 18. What is the GST treatment on the sale of air ticket or tour package on 30 March 2015 and a cancellation is made on 5 May 2015?**

The GST registered supplier may raise a credit note for the supply and make adjustments to his output tax in his return for the taxable period the credit note was raised.

- 19. What is the GST treatment on the collections made by a vending machine operator if he removes the coins on 5 April 2015 from the machine?**

The removal of the collections is not subject to GST. However, any subsequent removal will be deemed inclusive of tax.

Miscellaneous

20. If I provide free bus transport to and from the airport to my customers, do I need not account for GST on the service provided?

If you supply free services to your customers, it is treated as if you have not made a supply for GST purposes and do not have to account for GST.

21. Do I have to charge GST on cash advances?

The provision of cash advances is an exempt supply and not subject to GST.

22. What is the GST treatment on travel package booked using frequent flyer points?

(a) The whole tour package is subject to GST.

(b) The redemption of frequent flyer point is not subject to GST.

Example 2

<i>Tour package cost</i>	<i>RM 2,000.00</i>
<i>GST @ 6%</i>	<i>RM 120.00</i>
<i>Redemption flyer point value</i>	<i>RM 1,000.00</i>
<i>Balance (inclusive of GST)</i>	

SECTOR 5

(Transportation, e-Commerce and International Services)

- Airline Industry
- E-Commerce
- Freight Transportation
- Passenger Transportation
- Postal & Courier Services
- Shipping Industries
- Webhosting

AIRLINE INDUSTRY

Supplies related to air containers

1. What is the GST treatment for the supply of air containers?

Supply of air containers are subject to GST at a standard rate.

2. What if the air containers are leased?

The lease of air containers which conforms to the standards for Aircraft Unit Load Devices is zero rated.

3. Does repair and maintenance service of air containers qualify for zero rated treatment?

No. It is subject to GST at a standard rate.

Passenger service

4. What is the GST treatment for passenger service charge?

Passenger service charge imposed by an airport operator is subject to GST at a standard rate irrespective of whether it is for domestic or international travels.

Cargo handling

5. Does cargo handling services include clearance of goods from customs control?

Yes. The forwarding agent will charge owners of the goods GST at a standard rate for services supplied in clearing the goods from customs control.

6. What if the clearance of goods from customs control is done by an airport operator?

An airport operator normally does not handle the clearance of goods. However, if the airport operator clears goods on behalf of the owner / consignee of goods, the handling service is zero rated. Fumigation is a process which is required to be done on most cargos before exportation or after importation.

7. What is the GST treatment for fumigation?

Fumigation service is subject to zero rate if the service provided by port operator or by the same supplier.

Training services

8. What is the GST treatment for aviation training services provided by entities other than DCA?

Aviation training services provided by entities other than DCA is subject to GST at a standard rate.

Excess baggage

9. What is the GST treatment for excess baggage charges by air operator?

An excess baggage charge by air operator is subject to GST at a standard rate.

10. Haneem wants to change her flight ticket. Is there any GST imposed by the air operator?

The air operator will charge administrative charges for changing of the airfare ticket and it is subject to GST at a standard rate. The difference of the domestic airfare ticket is subject to GST at a standard rate. However, it is zero rated if it is an international airfare ticket.

Penalty charges

11. What is the GST treatment for penalty charged by air operator?

If the penalty is a form of compensation and no service is provided then it is not a supply and not subject to GST. In the case that the penalty is charged as administrative fee, it is subject to GST at a standard rate. For example:

- a). Ticket reissue penalty – administrative fee
(subject to GST at a standard rate)
- b). Cancellation penalty – compensation (not subject to GST)
- c). Refund penalty – compensation (not subject to GST)
- d). No show penalty – compensation (not subject to GST)
- e). Reroute penalty – administrative fee
(subject to GST at a standard rate)

Free services

12. Air operator provides free meals to passengers due to flight delay or transiting flight more than 4 hours, is the meal subject to GST?

The free meal vouchers to the passengers is not subject to GST. However, if the restaurant is a GST registered person, the restaurant needs to charge GST at a standard rate upon redemption of the voucher.

International services

13. What is the GST treatment on services to program partner located overseas with regards to Enrich Program by Malaysia Airlines?

The service by Malaysia Airlines to program partner located overseas is zero rated.

E-COMMERCE

Accounting for GST

1. When should I charge GST and account for the output tax to the Director General for supply via Internet?

The supply is treated as taking place at the earliest of the following events:

- (i) supplies are removed or are made available.
- (ii) a tax invoice is issued for that supply.
- (iii) payment is received for that supply.

However, if you issue a tax invoice within 21 days after the event in (1), then the time of supply is the date of this tax invoice.

In the event the supply is on a sale or return terms, the time of supply is the earliest of the following events:

- (i) time when the supply is made certain.
- (ii) 12 months after removal of the goods.
- (iii) date of the tax invoice.

Based on time of supply of the supplies above, if you issue a tax invoice within 21 days after the event in (1) or (2), whichever is the earlier, then the time of supply is the date of this tax invoice.

Other GST Responsibilities

2. What are the responsibilities of a GST-registered person?

A GST-registered person is responsible to do the following:

- (i) Keep your business records for 7 years. These records include:
 - (a) business and accounting records;
 - (b) copies of serially printed receipts, tax invoices and simplified tax invoices issued by you;
 - (c) tax invoices, simplified tax invoice and receipts received by you;
 - (d) import/export declarations, if any;
 - (e) all credit and debit notes issued;
 - (f) any other documents that may be prescribed by the Director General.
- (ii) Issue a tax invoice to a taxable person for provision of taxable supply.
- (iii) Complete and submit the GST returns and pay the Director General the amount of tax no later than one month after the end of each taxable period.
- (iv) Provide all information and reasonable assistance as requested by the Director General in the event of an inspection.
- (v) Notify the Director General in writing when you cease making taxable supplies or when you transfer your business.
- (vi) If you are a voluntary registered person you must remain registered for at least two years.
- (vii) Show the price as GST inclusive when you issue a receipt.

3. Do I have to issue a hardcopy of the tax invoice to my customer if sale is made via the Internet?

Tax invoice can be issued either a physically (hardcopy) or by electronic means. However, the use of electronic invoices has to be agreed with the recipient and the authenticity of origin and the integrity of data must be guaranteed. In addition, when tax invoice is issued electronically, it must conform to the general content requirements for tax invoice.

Both the recipient and supplier of the taxable supply need to retain copies of the tax invoice. When the original tax invoice is in an electronic format, it must be kept in an electronically readable format even if it has been transferred to another medium (e.g., compact disc, microfilm etc.) for storage purposes. It is acceptable for businesses to print out and store tax invoices if they wish to do so.

Example 1

Tax invoices were generated electronically by application software. For safe keeping the data (of the invoices) were then stored in Compact Disc. The data (tax invoices) in the CD must be readable for retrieval purposes.

4. Do I have to retain hardcopies of tax invoices or business records?

A GST registered person is obliged to produce hardcopies of tax invoices and business records if requested by the Director General. The invoices and business records are required to be in an appropriate form and should comply with the criteria set out in the GST regulation. As a general rule the records must contain sufficient information to allow determination of the amount of tax to be paid or collected, or the amount to be refunded, rebated or deducted from net tax and any other acts that may be relevant for GST.

The records must be stored either in the Malay or English language. If stored electronically the data must be capable to be converted into a readable format and shall be readily accessible and convertible into writing.

Tax invoice can be issued either a physically (hardcopy) or by electronic means. However, the use of electronic invoices has to be agreed with the recipient and the authenticity of origin and the integrity of data must be guaranteed. In addition, when tax invoice is issued electronically, it must conform to the general content requirements for tax invoice.

5. What are the responsibilities in terms of displaying prices?

All registered person including online business who makes taxable supply of goods or services shall display, advertise, publish or quote the price inclusive GST. However, price displays, advertises, publishes or quotes by registered person on any taxable supply of goods or services may be exclusive of GST subject that they must state the word *'goods or services are subject to GST 6% and the price payable is exclusive of GST'* and the supply is made –

- (a) only to another registered person; or
- (b) during transitional period for only 14 days i.e. 1/4/2015 to 15/4/2015.
This facility is given for the businesses to complete the process of price labelling or tagging inclusive of GST.

Online businesses, though the price display must be inclusive of GST, they may notify customers outside Malaysia that the prices payable for goods or services brought out from Malaysia are not subject to GST

6. What documents are required as evidence for zero-rating of goods sold over the Internet?

The following documents should be maintained as evidence, if you supplied goods over Internet and then exported through your forwarder:

- (a) bill of lading - for export via sea; or air waybill - for export via air;
- (b) your invoice (not a pro-forma invoice) to the overseas customer;
- (c) purchase order from your overseas customer;
- (d) packing list or delivery note addressed to your overseas customer;
- (e) insurance documents; and
- (f) evidence of payment received from your overseas customer.

7. What documents are required as proof if I export the goods via a postal or courier company?

If the exportation of goods is done by postal services or courier company, you need to maintain these documents:

- (a) customs declaration;
- (b) parcel posting receipt/courier consignment note; and
- (c) invoice to your overseas customer.

Note: The list in Q6 and Q7 is neither intended to be exhaustive nor meant to be applicable to all types of businesses.

FREIGHT TRANSPORTATION

Manner of transportation

1. Is there special treatment for goods transported by ferry within Malaysia?

The transport of goods including unaccompanied vehicles transported by ferries is standard rated supply. However for vehicle accompanied by a fare paying passenger who drives the vehicle, the transport service is treated as passenger transportation and is also a taxable supply.

Example1:

Encik Abu owns a sundry shop in Lumut, Perak. He sends goods by ferry to Pulau Pangkor. The transport of the goods is a standard rated supply.

2. What is the GST implication on the goods sent via post?

Domestic postal services are subject to GST at a standard rate. Documents and goods sent from overseas by courier service to any place in Malaysia and vice versa is zero rated. Special stamps are used for postage overseas as the charge is zero rated.

For further information please refer to *GST Guide on Postal and Courier Services*.

Designated area

3. Is there special treatment for freight transportation provided with regards to Designated Area (DA)?

No GST will be charge on any freight transportation provided within DA. However, supplies of freight transportation between DA is subject to GST at a standard rate. Meanwhile, freight transportation between DA and any place in Malaysia or vice versa are standard rated.

Example2:

FP Sdn. Bhd. operates lorry transport in Langkawi Island. The company also provides transportation of goods by barge from Kuah jetty to Kuala Kedah jetty. It also charters a private plane to occasionally send goods to Tioman.

- FP Sdn. Bhd. will not charge GST on supply of freight transportation by lorry within Langkawi Island.
- FP Sdn. Bhd. will charge GST at a standard rate on supply of freight transportation by barge.
- The transport of goods by plane to Tioman is standard rated.

Free Zone

4. Is there special treatment for freight transportation provided with regards to Free Commercial Zone (FCZ)?

Supply of freight transportation within or between Free Commercial Zone (FCZ) is subject to GST at a standard rate.

5. What about freight transportation provided with regards to businesses operating in a Free Industrial Zone?

Freight transportation provided within or between businesses in a FIZ is standard rated. Domestic freight transportation services are also standard rated if supplied to Licensed Manufacturing Warehouses.

6. What is the GST treatment for the services of arranging freight transportation?

The services of arranging the transport of goods is standard rated whether or not the freight transportation is domestic or international.

Example:

An exporter engages a forwarding agent to arrange for his goods to be exported. The forwarding agent arranges with a shipping agent for space (freight) on a ship, loading of goods and customs clearance. The arranging for services by the forwarding agent for the exporter is standard rated.

Input tax credit

7. What about GST incurred on inputs?

Ancillary transport and related transport services would be inputs for a supplier of freight transportation and the GST incurred would be allowable for input tax credits. Valid GST invoices including receipts which are accepted as simplified GST invoices must be available before input tax credits can be claimed.

For further information, please refer to *General GST Guide and GST Guide on Input Tax Credit*.

8. What is GST treatment if I export my goods from Butterworth to Hatyai by rail?

The movement of goods from Butterworth to Padang Besar is domestic freight transportation, while from Padang Besar to Hatyai is international freight transportation. However, in this situation the whole freight transportation can be zero rated because the freight transportation is provided by the same supplier.

PASSENGER TRANSPORTATION

1. Are meals and beverages provided to passengers subject to GST?

Supply of meals and beverages on domestic passenger transportation follows the status of the supply of transport provided that meals or beverages are not sold and charged separately, i.e. the fare is inclusive of meals and beverages.

2. If I drive my car to Penang Island using the ferry service, is GST chargeable on the ferry services?

The ferry service is a means of passenger transportation which is exempted from GST. Therefore you are not required to pay GST on the fare charged by the ferry operator.

3. Is passenger service charge (airport tax) subject to GST?

Passenger service charge (PSC) for domestic and international air travel is subject to GST at a standard rate.

4. My company provides bus service to KTM passengers whenever there is any disruption to the train journey. Is my transportation service to KTM subject to GST?

You are making a supply of chartered bus service to KTM and the service is subject to GST at a standard rate.

5. An airline operator provides free return tickets to Langkawi under the Enrich travelers program. Is GST chargeable on the air fare?

Services given free are not considered as supply for GST purposes. Therefore the airline operator is not required to charge any GST on the air tickets given free of charge.

6. A tourist hires a car from ABC Hire & Drive Company to travel in Malaysia. Is ABC Hire & Drive Company supplying passenger transport service? What is GST treatment on this scenario?

ABC Rent & Drive Company is not supplying passenger transport service. The company is only supplying a means of transport for the tourist and it is subject to GST at a standard rate.

7. ABC Electronic Sdn Bhd engages DSI Transport Sdn Bhd to provide a bus for the company's employee. The employees have to pay monthly fare to DSI Transport Sdn Bhd. Is the transportation service subject to GST?

DSI Transport Sdn Bhd is providing passenger transportation for the employees which is an exempt supply and therefore GST is not chargeable.

- 8. In relation to the above question, what is treatment for the services provided by DSI Transport Sdn Bhd under a contract with ABC Electronic Sdn Bhd to supply the transportation services?**

Services provided by DSI Transport Sdn Bhd to ABC Electronic Sdn Bhd is a taxable supply and subject to GST at a standard rate.

- 9. What is the GST treatment for the air tickets issued to me for the journey from Kuantan to Brisbane, Australia via KLIA?**

The domestic flight service travel from Kuantan to KLIA qualifies for zero-rating since it forms part of the international route to London with the condition that, both the domestic and international legs of the flight services are provided by the same airline operator for a one through journey from Kuantan to Brisbane.

- 10. Cafeteria Delicious provides food and beverages on board KTM train for domestic journey. Is the supply of food and beverages subject to GST?**

Yes. The supply of food and beverages is subject to GST at a standard rate. Cafeteria Delicious is required to charge GST on the supply of food and beverages if it is a registered person.

- 11. Is food and beverages provided on board the Butterworth to Bangkok Express train subject to GST?**

The supply of food and beverages on board the train for the international route is subject to GST at a standard rate.

- 12. Konsortium Transnasional Berhad provides food and beverages services to the passengers on board in luxury coach from Kuala Lumpur to Singapore. Is the supply of food and beverages subject to GST?**

The supply of food and beverages services is zero rate supply because it is composite supply to the transportation services. The fare paid by the passenger is inclusive of the food and beverages.

- 13. Lindungan Mesra Selalu is an insurance scheme that covers all passengers with valid tickets while travelling with Plusliner buses from Kuala Lumpur to Pulau Pinang. What is GST treatment on this insurance scheme?**

The supply of insurance scheme is exempt supply because it is composite supply to the transportation services. All passenger is compulsory to be insured. The fare paid by the passenger is inclusive of this insurance scheme.

- 14. Menara Holding Sdn. Bhd. is a pre-paid taxi fare operator in KLIA. Passenger will purchase taxi coupon from Menara Holding before boarding the taxi. What is GST treatment on this scenario?**

The sale of taxi coupon to the passenger is an exempt supply. However, Menara Holding also make a supply to the taxi driver and the commission charged is subject to GST at a standard rate.

- 15. BERSIM Taxi Sdn Bhd provide taxi rental service to individual taxi driver by daily basis. The taxi rental inclusive of rental of vehicle, insurance and taxi permit.**

The taxi rental is subject to GST at a standard rate, even though it consist of different component of services. The GST treatment is based on the rental and not on the individual component.

- 16. Izzati used MyTaxi application to request for taxi services. MyTaxi will charge Izzati for it services for the arrangement of taxi. What is the GST treatment by MyTaxi.**

The arrangement services provided by MyTaxi is subject to GST at a standard rate, meanwhile the taxi fare paid by Izzati is exempt supply.

POSTAL & COURIER SERVICES

- 1. What is the GST treatment for the supply of postage stamps?**

The supply of postage stamps is a taxable supply. However, such supply is granted relief from charging GST from 1 April 2015 until 31 March 2016. With effective from 1 April 2016, the supply of postage stamps is subject to GST at a standard rate.

Example 1:

Syarikat Emran purchased 100 unit of RM 0.60 postage stamp. How much is the GST?

The postal service provider has to account for GST based on GST rate of 6% as follows:

Postage stamp	: RM 0.60 x 100 unit = RM 60
GST payable	: RM 60 X 6/106 = RM 3.40

- 2. What is the GST treatment for the sale of used postage stamps?**

The sale of used postage stamps in the course or furtherance of a business is a standard-rated supply.

Example 2:

XYZ Stamp Co. is a GST registered person and offers for sale a rare 30-cent Straits Settlement postage stamp for RM100.00. The registered person has to account for GST based on GST rate of 6% as follows:

Price of used postage stamp	: RM 100.00
GST payable	: RM 100.00 x 6% = RM 6.00

Example 3:

Abu has collected many old stamps as a hobby and decides to sell some of these stamps to a stamp collector. The sale of those stamps is not subject to GST because Abu is not in the business of selling stamps.

3. Are revenue stamps subject to GST?

Revenue stamps are not used for postage but to pay stamp duties. The sale of revenue stamps is an out of scope supply, therefore it is not subject to GST.

4. What is the GST treatment on the sale of first-day covers and other philatelic items?

The sale of first-day covers and other philatelic items such as commemorative stamps and miniature sheets is subject to GST at a standard rate. These items are sold by the post office at prices inclusive of GST which may be higher than their face value.

Example 4 :

The sale of whole set of first day cover together with 4 unit of stamps is subject to GST at the total value of the sales.

Value of first day cover envelope	= RM 0.50
Value of 4 unit of stamp @ RM 0.60 per stamp	= RM 2.40
Total Value of the Sales	= RM 2.90
Value of GST (tax exclusive) $RM\ 2.90 \times 6\%$	= RM 0.17
Total Value Payable by Customer	= RM 3.07

The perception of the buyer on the sales of the first day cover is not a supply of stamp rather a supply of article which consist of the envelop, stamp and the post mark.

5. What is the treatment of GST for postage stamps with a customer's personal picture printed on the stamps?

There is a new product by Pos Malaysia Berhad whereby any customer can get his or her personal picture printed on the stamp. This new product is called "**SetemKu**". The service of producing "SetemKu" is subject to GST at a standard rate tax exclusive.

6. The charge for postal article delivered in parcel is not paid by using postage stamp. A sender is required to fill a prescribed form and is charged accordingly. What is the GST treatment?

Parcel delivered to an addressee within Malaysia is subject to GST at a standard rate whereas parcel delivered to an addressee outside Malaysia is zero-rated.

7. **Businesses may mail their letters themselves by obtaining a franking machine from the post office or any supplier approved by Pos Malaysia Berhad. They are required to purchase the franking machine and open an account with the post office. What is the GST treatment?**
 Customer buy the franking machine from list of the vendors, the sale of a franking machine is a taxable supply and it shall be chargeable at a standard rated. The postage service through the franking machine provided by Pos Malaysia is subject to GST at a standard rate if the services is provided within Malaysia.
8. **My company use bulk mailing services to send letter to our customer by using envelop printed with "postage paid" (*Bayaran Pos Jelas*). Is this service subject to GST?**
 There are two transactions incurred in this scenario. Bulk mailing services provider is providing arrangement of postage services ("postage paid") to your company, which is subject to GST at a standard rate. Postage services from Post Malaysia to bulk mailing service provider is a taxable service, therefore it shall be subject to GST at a standard rate.
9. **Are fees/charges for services of providing a P.O. Box, Locked Bag, subject to GST?**
 These fees/charges are subject to GST at a standard rate if a P.O.Box or locked bag is located within Malaysia. However, if the P.O.Box or locked bag is located in Designated Area, no GST is chargeable.
10. **Are fees/charges for services of providing a Express Pos and Registered Pos subject to GST?**
 These fees/charges are subject to GST at a standard rate if the services is done within Malaysia, if the service is within the Designated Area, no GST chargeable.
11. **"Jemaah Haji Baggage" is a service provided for transporting baggage of haj pilgrims. Is this service standard-rated too?**
 No, this service is zero-rated since the baggage or goods are transported into Malaysia from a place outside Malaysia.
12. **Pos Restante is a service available to travellers or persons who do not have fixed home address to designate any General Post Office for their mail collection. What is the GST treatment for this service?**
 This service is a standard-rated supply as it is provided within Malaysia.
13. **What about the sale of aerogramme?**
 The sale of aerogramme is a zero-rated supply since it is meant for international delivery.

- 14. Literature for the blind posted in a specially printed envelope is delivered free of charge. Is there GST to be accounted for by the post office?**

Postal delivery which is free of charge is not treated as a supply for the purposes of GST. Therefore it is not subject to GST.

- 15. Post office offers insurance coverage for mail and parcel delivery. Is this insurance services subject to GST?**

This insurance is categorized as general insurance, and therefore, the premium charged is subject to GST at a standard rate if the mail is sent within Malaysia. On the hand, if it is for oversea delivery, it is subject to GST at zero rate.

- 16. The post office serves as a one-stop collecting agency for bills such as utility bills, rates and assessments, ASTRO, Telekom, mobile phone bills and etc. What is the GST treatment for these services?**

Services pertaining to bill payment and utility collection are subject to GST at standard-rate. However, the post office does not charge commission to the payer. The commission is charged to the issuer of the bill.

- 17. The post office is also allowed to renew road tax, driving license, car insurance and business registration license of which a service fee is charged to the person renewing the license. Is GST chargeable on these services?**

Yes, renewal services are standard-rated supplies and GST is chargeable on the amount of service fee.

Example 5:

The annual renewal fee for Abu's business registration license is RM30.00. The post office charges a service fee of RM2.00. Abu pays RM32.00 and gets his license renewed. The post office will have to account for GST on that service fee which is exclusive of GST.

Service fee	: RM2.00
GST payable	: RM2.00 x 6% = RM0.12
Total Amount Paid By Customer	: RM 2.12

- 18. The post office acts as an agent for the sale and purchase of unit trusts such as ASB, ASN, ASM and ASW2020 of which a commission is charged to Permodalan Nasional Berhad (PNB). What is the GST treatment?**

The post office is not making a supply of unit trust to the public as it is only acting as an agent. However, the commission charged to PNB is subject to GST at a standard rate of 6%.

- 19. The post office sells money / postal order of which service fee (commission) is charged. What is the GST treatment for service fee (commission) charged?**

The post office charges service fee (commission) on issuing money / postal order and on services relating to money transfers. The service fee (commission) charged for these services is subject to GST at standard-rate.

- 20. Lembaga Tabung Haji authorizes the post office to accept deposits from its account holders. Post Office charges Lembaga Tabung Haji a commission for the service rendered. Is this service subject to GST?**

Yes. The commission charged for the service rendered is subject to GST at a standard rate.

- 21. What is the GST treatment for incoming parcels from other countries?**

GST is levied on goods imported by post. Parcels from other countries are deposited in KLIA Mail and Courier Centre. Examination will be carried out by Customs to determine whether the contents of the parcels are subject to customs duty and excise duty. GST will be charged based on the value of the goods plus the amount of customs duty and excise duty (if any):

$(\text{Value of goods} + \text{customs duty} + \text{excise duty}) \times \text{GST rate}$

Example 6:

<i>Value of Goods</i>		<i>:RM 1000.00</i>
<i>Customs duty @ 10%</i>	<i>1000 x 10%</i>	<i>:RM 100.00</i>
		<i>:RM 1100.00</i>
<i>Excise duty @ 10%</i>	<i>1100 x 10%</i>	<i>:RM 110.00</i>
<i>Total Value</i>		<i>:RM 1210.00</i>
<i>GST @ 6%</i>		<i>:RM 72.60</i>
<i>TOTAL PAYABLE TO CUSTOMS</i>	<i>100 + 110 + 72.60</i>	<i>:RM 282.60</i>

- 22. The post office and courier companies provide express mail service for faster delivery with more reliable and secure features. Is there any difference in the GST treatment for this service compared to ordinary mail service?**

No, there is no difference in the GST treatment. Articles sent by a courier company or PosLaju, known internationally as Expedited Mail Service (EMS), will be standard-rated for domestic delivery.

However, the service will be zero-rated for international door-to-door delivery provided that both the international and domestic segments of the delivery are handled by the same supplier.

Example 7:

Abu uses PosLaju to send a parcel from Kota Bahru to Australia. The parcel is first transported from Pusat PosLaju Kota Bharu to KLIA Mail and Courier Centre before it is flown to Australia. Transportation charges to deliver the parcel from Kota Bharu to KLIA is subject to GST at a standard rate. The PosLaju charges to Abu is subject to GST at zero-rate.

SHIPPING INDUSTRIES

- 1. I am a tugboat operator in Kota Kinabalu Port. I bought a tugboat from a supplier in Labuan. Will I be charged GST by my supplier?**

No, your supplier will not charge you GST, however you need to pay GST for the importation of the tugboat..

- 2. I own a powerboat and it is leased to a hotel in Langkawi. The guest of the hotel will charter my boat for sightseeing around Langkawi. My business operation is in Kuala Perlis. As a GST registered person do I need to charge GST on the leasing of the powerboat to the Hotel?**

Yes. GST is chargeable for the leasing of the powerboat.

- 3. Is handling services provided to a foreign owned yacht subject to GST?**

Yes, yacht is not a qualifying ship therefore it is not entitled for zero rating.

- 4. What is the GST treatment on the repair, maintenance and installation services on offshore floating structure?**

If floating structure is located in Malaysia the supply is standard rate. On the other hand, if floating structure is outside Malaysia the supply is zero-rated.

- 5. A powerboat operator sends its boat to me for repair and maintenance services. As a GST registered person do I need to charge GST?**

Yes, you need to charge GST because powerboat is not a qualifying ship.

- 6. I have a company in Port Dickson which manages powerboats belonging to a few individuals. I charge the owners of the powerboats for the services of managing the powerboats. Can I zero rate my services?**

No. Powerboats which are used for recreational purposes do not qualify for zero rating.

- 7. My company is appointed by a Malaysian shipping company to issue classification certificate for a ship which is built in Japan. Do I need to charge GST for the classification service if I am a GST registered person?**

Although the classification service is performed in Japan, for GST purposes it is considered as a supply of service made in Malaysia and the supply is treated as zero rated.

- 8. My company is engaged to afloat a sunken boat in a river. As a GST registered person do I need to charge GST?**

Yes. Salvage services with regard to non-qualifying ships is subject to GST at a standard rate.

- 9. I own a few containers which are not registered with any standardization organization. Currently, the containers are used for transportation of cargo by land. As a GST registered person, do I have to charge GST if I sell the containers?**

Yes. The sale of the containers is subject to GST at a standard rate because the containers do not adhere to the standardization requirement.

- 10. What is the treatment on cleaning, maintenance and repairs of containers?**

The services are subject to GST at a standard rate because the services are not related to ship and the services are performed in Malaysia.

WEBHOSTING

- 1. A company has two servers located at two different countries. One server is in Malaysia whereas the other is located overseas. The server's contents are identical to each other where it stores web pages for the company's web site. Where is the place of supply of web hosting service?**

Busy web sites typically employ two or more web servers to cater traffic. If one server starts to get swamped, requests are forwarded to another server with more capacity. This method is known as load balancing technique. If the location of servers is in more than one nation, then each server is treated independently. Each server will definitely have different web host. Thus, for GST purposes, the rule of where the supplier belongs is applicable in determining the place of supply for web hosting service.

- 2. A web-host provides free hosting for its customer. What is the GST treatment?**

Provision of services without consideration is not considered as supply in the GST system. Thus, the service is not subjected to GST.

- 3. A web host charges certain amount to its client for opting out from its web hosting services before the contract expires. Does this charge subject to GST?**

Fines, penalty charges or other sum levied as a consequence for contravention of terms of contract is not classified as payment for consideration. Thus the charge is not subject to GST.

- 4. A dedicated web hosting customer uses its server to publish three different web sites for companies within the group. Are all companies subjected to GST?**

When a web hosting customers publish different web sites for companies within a group, GST is charged to the person that is billed for the dedicated web hosting service.

- 5. If a dedicated web hosting customer uses its server to host web sites, what is the GST treatment?**

This type of service normally provides by a reseller. A reseller is subject to GST registration if his supply exceeds the threshold limits.

- 6. A web hosting company also provides domain name registration services for its customer. What is the GST treatment for the registration services?**

When a web hosting company provides domain name registration services, the company is acting as an agent for a principal which is the registrar. With regards to GST treatment on agent, any supply by an agent on behalf of a principal is treated as supply by the principal. On the other hand, if the supply is provided through an agent acting in his own name, the supply is treated as a supply by the agent.

SECTOR 6

(Special Scheme, Agricultural and Petroleum)

- Forestry Industry
- Agricultural, Fisheries and Livestock Industry
- Duty Free Shop
- Petroleum Upstream
- Petroleum Downstream
- Approved Trader Scheme
- Approved Toll Manufacturer Scheme
- Warehousing Scheme
- Approved Jeweller Scheme
- Relief for Second-hand Goods
(Margin Scheme)

FORESTRY INDUSTRY

GST treatment on logging and logging related activities

- 1. I am engaged in logging activities. Is a sale of logs to my clients (sawmill operators) subject to GST?**

Sales of logs to your clients (sawmill operators) are considered as a taxable supply. Therefore, the supply is subject to GST at a standard rate and you must charge your client and account the tax according to the taxable period assigned to you. For further information on accounting for tax please refer to the General Guide on GST.

- 2. Are purchases of capital goods such as machineries and equipment used in the forestry operations subject to GST?**

Yes, if you purchase the capital goods from a GST registered person, you will be charged GST at a standard rate. If you are making wholly taxable supplies of upstream and downstream activities, the input tax incurred on the purchases in the taxable period can be recovered in full by off-setting it with your output when you submit your GST return. For further detail please refer to the Guide on Input Tax.

- 3. In forestry industry, royalty, premium, cess and other fees and charges are paid to the state government concerned where the businesses operate. Are such payments subjected to GST?**

Payments of royalty, premium, cess and other fees and charges to the state government, including federal government, are not subjected to GST.

- 4. My company borrows money from banks to finance our forestry industry. What is the GST treatment on the loan?**

Loans from banks are exempt supplies under the GST. Therefore no GST is payable.

- 5. Sometimes my company pays surcharge and fines for late payment of royalty, premium and cess to the government authority. In addition to that, my company also has to pay charge or penalty for offences such as the felling of undersized trees, high stumps, and merchantable timber trees not harvested, damage to residual stand, etc. What is the GST treatment on the fines and surcharge on the late payment imposed by the authorities?**

Fines and surcharge for late payment and/or penalty imposed by the government authorities, for example, the Forestry Department is not subject to GST.

- 6. The Forestry Department sometimes subcontracts its regulatory and enforcement functions to a private company such as grading and marking of timber. Are such services made by the private company subject to GST?**

Yes, regulatory and enforcement functions such as grading and marking of timber made by a private company subcontracted by the Forestry Department are subject to GST at a standard rate.

- 7. My company is dealing in logging operation and is contractually required to pay liquidated damages to a licensee should the stipulated minimum annual production have not been met. What is GST treatment on such payment?**

Liquidated damages is not the payment for a supply, therefore it is not subjected to GST.

Registration

- 8. My company is not a registered person under GST when we are awarded a timber concession from the state government and it will take some time for us to extract the logs from the forest as we have to do some preparatory work. For the preparatory works I have to acquire supplies subject to GST which will become cost to my supply of logs. Can I be registered under the GST even if my logging activity has not properly taken off and claim the input tax in respect of my purchases?**

Yes, you can apply for **voluntary registration** if you intent to make taxable supply i.e., supply of logs as soon as you get a written approval for the concession. Once registered you must remain as a GST registered person for a minimum of two years. This will enable you to claim input tax incurred on your purchases prior to the harvesting of the logs.

For further information on voluntary registration, please refer to the *GST Guide on Registration*.

- 9. What constitutes annual turnover for the purpose of GST registration?**

The annual turnover includes the value of all taxable supplies (standard-rated and zero-rated supplies) made in the course or furtherance of the business. It also includes the value of taxable supplies resulting from your secondary business activities, e.g. supplies of cash crops, animal husbandry, fish ponds, etc. It excludes the value of exempt supplies and sale proceeds of capital assets and other non-taxable supplies, e.g. out of scope supply. When computing the value of taxable supplies, it should take into account of supplies of goods and services (standard rate), and goods or services exported (zero rate).

10. If I export my products, do I have to charge GST to my overseas clients?

Goods exported are subject to GST at zero percent. This means that you do not collect GST on your exports but you are entitled to claim GST you have incurred on your inputs. However, you must keep the supporting documents as evidence of exports. The supporting documents include:

- (a) original purchase orders received from overseas customers;
- (b) copies of invoices issued;
- (c) copies of export declarations (Customs Form 2), bills of lading/airway bills, packing lists/delivery notes, other shipping documents and insurance documents;
- (d) proof of payments received from customers; and
- (e) any other relevant documents supporting the exports.

11. Y is a marketing agent acting on behalf of a local customer X. Y exports logs to an X's client, Z and uses its own name as the exporter. The sale price from X to Y is the same as the sales price from Y to Z. Is there a supply between X to Y and does X has to charge GST to Y on the local supply of logs from X to Y? Y is earning a "handling fee" for this job. What is the treatment on the handling fee?

There is no supply from X to Y if there is no transfer of ownership from X to Y, and there is no consideration for this transaction and X does not invoice Y. In such a transaction, X will not charge Y and there is no liability to pay GST.

On the other hand if there is a transfer of ownership and there is consideration in return for the supply of goods, and X invoices Y for the local supply of logs prior to export to Z, X is making a supply to Y, therefore, X has to charge GST in the invoice and Y is liable to pay GST. If Y is a registered person, Y may claim the tax as his input tax.

As far as the "handling fee" is concerned, if Y is a registered person under GST, Y has to charge GST on the "handling fee" to X, and X may claim the tax incurred as his input tax.

You must keep the following documents to prove that the goods are exported:

- (1) purchase orders from Z;
- (2) written instruction from X requesting Y to export the goods to Z;
- (3) copy of your invoices issued to Y if relevant;
- (4) copies of export declarations (Customs Form 2), bills of lading/airway bills, packing lists/delivery notes, other shipping documents and insurance documents;
- (5) proof of payments received from customers; and
- (6) any other relevant documents supporting the exports.

- 12. A foreign customer Y purchased logs from my company. Upon his instruction, I delivered the logs to an independent local freight forwarder X, who would consolidate them with other consignments before exporting. Do I have to charge GST to X for the delivery of logs to be exported to Y?**

On the delivery of the logs to the local freight forwarder, there will be no GST implication because you are not selling the logs to X, therefore there is no transfer of ownership. You do not have to charge GST to the freight forwarder X who acts on your behalf for supplying the logs to your overseas client, Y. Your export to Y is treated as zero rated supply.

On the hand, X will charge you GST on the service he performed for the delivery of logs to Y. If you are a registered person you may claim it as your input tax. You must hold the documents related to the exportation of logs.

The documents include:

- (1) purchase orders from Y;
- (2) written instructions you received from Y to deliver the goods to X for export;
- (3) delivery note to X;
- (4) copy of invoices issued to Y;
- (5) copies of export declarations (Customs Form 2), bills of lading/airway bills, packing lists/delivery notes, other shipping documents and insurance documents; and
- (6) any other relevant documents supporting the exports.

Grants and Funds

- 13. If a Timber Association receives financial grants from the state government and subsequently distributed to the subsidiaries to handle training to the members, research and development (R & D) of the industry and also for social welfare, what is GST treatment on the grants?**

Financial grants are a supply of money which is not a supply for GST purposes. If the state government awards the grants to the association and the association distributes the grants to its subsidiaries, such provision of grants is out of scope under the GST and not subject to GST.

- 14. My company spends significant sum of money every year for research and development (R & D) activities associated with the forest and timber industry. What is GST treatment if I engage a company to carry out R & D activities?**

If you outsource the R & D task to a private company and provide fund to such company, the fund provided to the company is considered as a consideration for the supply of R & D service provided by the company. In other words the company who is providing the R & D service will have to charge and account GST based on the fund you provide to the company. If you a registered person, you can claim the tax incurred as your input tax.

Reforestation, forest plantation

- 15. My company is dealing in forest plantation, i.e. the growing and forest husbandry of trees in a forest. We also do reforestation activities, i.e. the replanting of trees in a forest. If I outsource the general maintenance to a registered person, what is GST treatment on such activities?**

If the activities are carried on by the employees of your own company, such activities are not treated as a supply. If you outsource or sub-contract the activities, e.g. general maintenance to another registered person, then the supply of such services by the registered person is subjected to GST at a standard rate. The input tax incurred is claimable as it is your inputs in the forest plantation.

Secondary and agricultural activities at logging sites

- 16. Besides my forest plantation activities, I am also involved in secondary activities, e.g. planting of cash crops and engaging in animal husbandry in the same forest plantation areas while waiting for the trees to mature. Can I claim input tax incurred on my secondary activities?**

Yes, you can claim input tax incurred on your secondary activities provided you are a registered person at the time you provide those taxable supplies.

- 17. What is the GST treatment of livestock and poultry product?**

The zero-rated products are only limited to the list as follows:

- a) live animals– cow, buffalo, goat, sheep, and swine
- b) Fresh, chilled or frozen meat of cow, buffalo, goat, sheep, and pig
- c) Live dairy animals – cow and goat
- d) Live poultry– chicken and duck
- e) Fresh and salted eggs – chicken and duck
- f) Fresh, chilled or frozen meat of chicken and duck

- 18. What types of livestock products are standard-rated?**

All types of livestock products are standard-rated other than the products that are mention in Q19.

19. Are animal feeds, fertilizer and pesticide subject to GST?

Animal's feed, fertilizer and pesticide are subject to GST at a standard rate. You can recover the input tax incurred on your purchases if you are a GST registered person.

20. My company (logging operator) engaged individuals or small-scale subcontractors who are non-registered persons to carry out the harvesting of timber trees and transportation of logs to the designated logs points. In some cases they would purchase tools and equipment, etc. to carry out their respective activities. Such expenses (embedded with GST) would subsequently be reimbursed by my company (logging operator). What is GST treatment on the reimbursements and can I claim input tax incurred on them?

The reimbursements charges made by the subcontractor to the company are not a cost recovery by the subcontractor. It is to be treated as a consideration for a supply.

21. Our company receives advance payments (non-refundable) from our buyers as part of the final payments. Are the advance payments subject to GST?

Yes, advance payments are subjected to GST at a standard rate. GST has to be charged on the remaining value of the goods when the goods are delivered to your buyers later.

Free supplies to the community and employee's benefit

22. In the forestry industry we sometimes provide staff with remote work-site accommodation (e.g. cabins, caravans, barracks, etc.). What is GST treatment on supplies of such accommodation?

Provision of accommodation to your staff at the work-site is a supply of services. If the supply is made without consideration, the supply is treated as not a supply by you and you do not need to account for GST. The input tax incurred on any acquisition for the supply of accommodation is claimable as it is regarded as a supply of services for the course or furtherance of your business.

AGRICULTURAL, FISHERIES AND LIVESTOCK INDUSTRY

Purchases or acquisitions

- 1. If I buy seeds, plants and grains for the purpose of planting zero rated products, do I have to pay GST at a standard rate?**

Yes, because seeds, plants and grains are subject to GST at a standard rate. If you are a registered person, you can claim back whatever GST that you have paid for the purposes of making a taxable supply.

- 2. Are herb/medicinal plant subject to GST?**

Yes, it is subject to GST at a standard rate.

- 3. What is the status of agricultural land if I acquire or purchase for the purpose of planting zero rated and standard rated crops?**

If you acquire or purchase agricultural land for planting zero rated or standard rated crops, the acquisition is not subject to GST as it is an exempt supply.

- 4. If I am an importer of fresh fish from other countries, do I need to pay GST?**

No. Whether you acquire them locally or from outside Malaysia, the fresh fish is still subject to GST at a zero rate. For importation of fresh fish, you have to make an import declaration at the point of importation.

- 5. Is animal food purchased for the purposes of feeding animal also subject to GST at a zero rate?**

No. Animal food is subject to GST at a standard rate. However, you can claim back the GST incurred on your purchases of animal food if you are a GST registered person.

- 6. Are all kinds of pesticides subject to GST at a standard rate including pesticides purchased for household use?**

Yes. Supplies of all kinds of pesticides are subject to GST at a standard rate regardless of their usage.

- 7. Fertilizer is subject to GST at a standard rate. Is this treatment applicable to all forms of packaging size and usage?**

Yes. Supplies of fertilizers are subject to GST at a standard rate regardless of packaging sizes or usage.

Related industry supplies

- 8. Do I need to charge GST if I lease my agricultural land to another person?**

You are not required to charge GST because it is an exempt supply and not subject to GST.

- 9. Besides supplying zero rated products, I also supply other services to my customers such as supply of labour, hire of machinery and equipment, should I charge GST?**
You must charge GST if you are a registered person as those services are subject to GST at a standard rate.
- 10. As a tobacco manufacturing company, our products are subject to excise duty at the factory stage. How is GST imposed on these products?**
GST will be charged on the sales value including the excise duty.
- 11. Is there any relief given to the tobacco industry in terms of buying raw materials or acquiring inputs from farmers who are approved under the Flat Rate Scheme?**
No. You are entitled to claim the Flat Rate Addition (FRA) charged as your input tax.
- 12. What is the GST implication if I have a fishing pond and commercialize it as a recreational area where people can do fishing activities with fee charged based on hours?**
Supplying of recreational activity such as fishing is subject to GST at a standard rate. Thus, you have to charge GST on the fee imposed.
- 13. Do I need to charge GST for hiring fishing equipment including fishing vessel to other parties?**
Yes, the supply of hiring services is subject to GST at a standard rate.
- 14. When I supply zero rated goods to my customers, I will separately charge them for ancillary services such as tagging, grading and delivery services. What is the GST treatment on such supply of services?**
Supplies of such ancillary services are subject to GST at a standard rate.

DUTY FREE SHOP

Services Supplied to or Consumed in a Duty Free Shop

1. **Are goods consumed in Duty Free Shop (DFS) such as water and electricity subject to GST?**

Yes, goods consumed in DFS like utilities are subject to GST at a standard rate.

2. **What is the treatment of GST on freight for transporting goods to my DFS?**

Freight for the transportation of goods to DFS is subject to GST.

3. **Must I also pay GST on insurance for transportation of goods to my DFS?**

Yes, insurance on transportation is also subject to GST.

4. **Are services consumed in DFS such as security services subject to GST?**

Yes, services consumed in DFS like security services are subject to GST.

The treatment of GST on goods supplied in DFS

5. **Are goods sold in DFS located at seaport or airport subject to GST?**

DFS located at airports and seaports are allowed to sell goods to ship crew and passengers. Foreign passengers or bona fide tourists and ship crew are allowed to purchase goods at such DFS free of duty and GST.

6. **Are Malaysians normally residing in Malaysia but returning from overseas eligible to purchase goods without duty and GST from DFS?**

Only Malaysians returning from overseas after an absence from Malaysia not less than 72 hours are allowed to purchase duty free goods at DFS without duty and GST for certain quantities. The excess is subject to GST. Such eligible Malaysians must provide proof of their overseas stay.

7. **I operate a downtown “Tourist Refund Scheme (TRS)” outlet. What is the GST treatment on goods supplied by me in the outlet?**

Goods sold at TRS outlets are subject to GST at a standard rate. Any foreign tourist leaving Malaysia can claim GST paid on goods purchased at TRS outlet provided they fulfilled the conditions imposed.

For further information please refer to *Guide on TRS*.

8. **What is the GST treatment on goods sold in DFS located at borders, like Bukit Kayu Hitam, Kedah?**

All goods sold at border DFS are free of GST. However, if such goods are brought into Malaysia, GST would be imposed at the checkpoint by Royal Malaysian Customs Department.

9. What happens if goods are damaged or lost in the DFS?

Proper documentation, such as survey report describing the cause of damage and quantity involved must be furnished to the DG immediately. However, GST is chargeable on the damaged goods unless remission of tax is obtained from the DG.

PETROLEUM UPSTREAM

Production sharing contract

- 1. My company has signed a Production Sharing Contract (PSC) agreement to operate a block in the peninsular of Malaysia. We are still on exploration phase but can we register under GST in order to claim input tax credit on purchases of materials and equipment that we have bought for exploration and drilling purposes?**

Since your company has a written contract to carry on petroleum upstream activities and intend to make a taxable supply, you may apply for voluntary registration under the GST to qualify you to claim input tax credit on such purchases. Please refer to *GST Guide on Registration* for detailed explanation on voluntary registration.

- 2. Under the PSC, cost incurred by PSC contractors for the petroleum operation will be reimbursed and charged into the PSC joint account. Will such charges e.g. secondment of staff be disregarded for GST purposes?**

Yes, such charges shall be disregarded if they are incurred for the purpose of carrying on the business of the joint venture.

- 3. Will PSC contractors be able to claim Input Tax Credit (ITC) on their allocated share of expenditures based on the Joint Interest Billing (JIB) statement issued by the operator or JOC, i.e. treat JIB statement as a valid tax invoice?**

No, because JIB is just a statement of expenditures. The venture operator or JOC will bear the GST incurred on their purchases but later will be able to claim the input tax from the Customs. Each venturer (PSC contractor) however, need to account for the output tax on supplies made from his share of the joint venture.

4. Can “borrow and return” activities undertaken within the same PSC arrangement be excluded from GST i.e. treat as an “out of scope”? This “borrow and return” activities are carried out to ensure continuous running of operations and minimise business disruptions.

If “borrow and return” activity involves borrowing and returning of equipment, it is not considered as a supply of goods because the same equipment borrowed will be returned to the owner. However, it is a supply of services even though with no consideration.

- a. Apart from that, if “borrow and return” activity involves swapping or loan of raw materials, it is considered as a supply of goods and subject to GST at a standard rate because the raw materials have been used and the replacement will not be the *same* raw materials (although of a similar or same kind of raw materials) that were being swapped. Thus, this type of activity is subject to GST at a standard rate and GST is calculated based on the book (cost) value of the goods being borrowed.

5. What is GST treatment on contributions / payments made to PETRONAS as requested in the PSC such as research cess payment and abandonment cess payment?

Contributions / payments made to PETRONAS such as research cess payment and abandonment cess payment are not subject to GST.

6. Does abandonment of a PSC block (whereby all assets including the platform belong to PETRONAS and will be relinquished to PETRONAS) subject to GST?

Relinquishment of assets to PETRONAS upon expiration of a PSC is not regarded as a supply for GST purposes. If assets under a PSC are written off during the life of a PSC and have no salvage value, then the write-off would not be subject to GST. If there is any scrap value received, then GST is chargeable on such value.

Sale of consumables

7. What is GST treatment for assets or consumables written off and sold as scraps?

Assets or consumables which are written off are subject to GST at scrap value if they are sold as scraps. If they are destroyed in a manner approved by the GST office, they are not subject to GST.

However, assets or consumables which are relinquished to PETRONAS upon termination / expiration of a PSC term are not subject to GST.

Rentals

8. What is GST treatment on rental of rig from a non-resident lessor?

Importation of rig on a lease agreement is subject to GST at the point of importation based on the total value of lease agreement. However, the rental charges payable for the rig during the duration of the lease agreement are not subject to GST.

If the local recipient continues to lease the rig after the expiry of the lease agreement, the rental charges payable are subject to GST at a standard rate. The GST should be accounted using the reverse charged mechanism.

9. What is the GST treatment on renting of fishing tool which is used to collect fallen objects during drilling?

Renting of fishing tool is subject to GST at a standard rate.

Repair, maintenance services, etc.

10. My company provides repair and maintenance services for Floating Storage and Offloading (FSO) or Floating Production Storage and Offloading (FPSO) in the high seas. Do such services attract any GST?

Yes. Repair and maintenance services for FSO and FPSO are subject to GST at a standard rate.

11. My company provides installation, coating and fabrication works for petroleum upstream operators. Are those services subject to GST?

Yes. Those services are subject to GST at a standard rate. You need to charge GST on the services you provide and your clients (if GST registered person) can claim input tax credit on the GST they have paid in getting the services.

FSO and FPSO

12. Is Floating Storage and Offloading (FSO) or Floating Production Storage and Offloading (FPSO) regarded as part of petroleum upstream activity or shipping activities, and what is GST treatment on services provided by FSO and FPSO?

Both FSO and FPSO are regarded as part of petroleum upstream activity because they provide storage and offloading facilities for exporting crude oil and condensate overseas via offshore. However, services provided by FSO and FPSO are subject to GST at a standard rate.

Input tax credit

13. My company operates a block (oil field) in the east coast of Peninsular Malaysia. Some of the expenditures incurred include lease of barges and tuck boats provided by a transport company. Are those charges subject to GST and claimable as an input tax credit?

Yes. Lease charges are subject to GST at a standard rate. However, they are claimable as an input tax credit (ITC).

Loss of crude oil

- 14. During a delivery of crude oil from a depot in Malacca to a refinery in Port Dickson, a substantial loss has been detected in the shipment. What is GST treatment on loss during delivery?**

Loss of crude oil during delivery is subject to GST. However, if the loss during delivery is due to theft or spillage which is supported by the relevant documents such as audited theft or spillage verification report, it is not subject to GST provided that a police report or an insurance claim report is made.

Miscellaneous

- 15. What is the treatment of GST on government grant given for funding approved Research & Development (R & D) which are directly related to the development and well-being of the petroleum industry?**

All government grants are not subject to GST if there is no supply for the grants giving.

- 16. Seismic study involves collecting data for identifying prospective wells in the high seas. Does the service performed trigger any GST?**

Yes. Seismic study is subject to GST at a standard rate.

- 17. Company X would like to sell some of his assets to generate some fund for his drilling activities. What is GST treatment on the sale of assets?**

Sale of assets is subject to GST at a standard rate.

- 18. What is the GST treatment on leakage, oil spill and shrinkage?**

Leakage, oil spill or shrinkage may be treated as not a supply and as such is not subject to GST if such event can be supported by the audited leakage, oil spill and shrinkage verification report.

- 19. What is the GST treatment on gas or fuel consumed during operations?**

The consumption of gas or fuel during operation for purpose of business is not regarded as a supply and not subject to GST.

Transitional matters

- 20. Can my company claim special sales tax refund on any capital goods like drilling equipment and machineries that we have acquired before the implementation of GST?**

No. Your company can not claim special sales tax refund on capital goods. Special sales tax refund is also not allowable on non-trading stocks like raw materials, semi-processed goods, materials which are used indirectly in the manufacturing process (fuel, lubricating oil, detergents and chemicals) and consumables (stationeries).

21. Company Y, a GST registered person, has paid sales tax on his trading stock held on hand on the implementation date of GST. Can Company Y claim for special sales tax refund?

Yes. Since Company Y is a GST registered person and he has held the sales tax paid goods on GST implementation date, he is eligible to claim the special sales tax refund on condition that he has all the supporting documents such as invoice and customs declaration form available for claim. However, after obtaining the special refund, if Company Y later returned the goods to the supplier, he must pay back the amount of that special refund to the Customs by accounting it as his output tax in his GST return

PETROLEUM DOWNSTREAM

Group Registration

- 1. Due to the complex nature of the petroleum downstream business, there are many registered companies which are interconnected to each other in terms of operations and equity control. For example, Company 'A' is a large oil and gas conglomerate. Under its operations there are myriad of business activities inter-related to each other such as refining, storage and distribution, marketing/retailing, logistic and transportation, and Research and Development. Each of these activities is managed and administered by a registered company. To achieve cost efficiency of compliance, Company 'A' has opted to register for GST group registration. Are the companies eligible for GST group registration?**

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

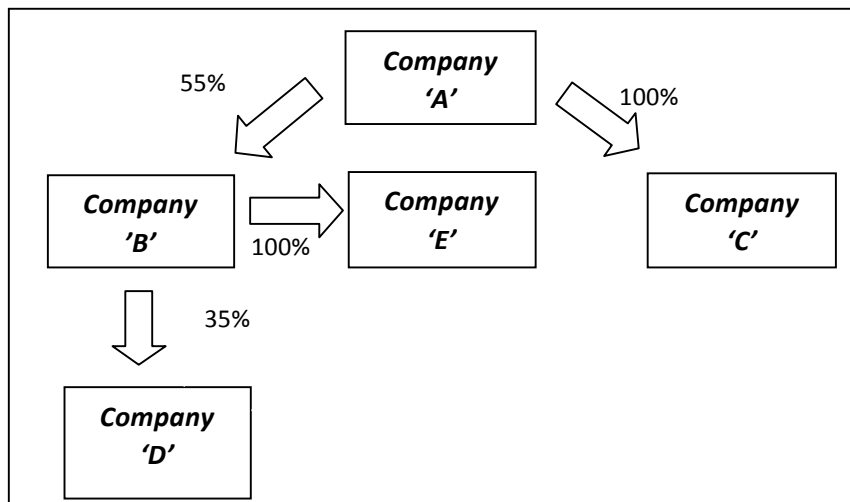
- (a) each company must be making wholly taxable supplies. However, where a company is making incidental exempt supplies, the company is also allowed to be a member of the group (Please refer to *GST General Guide* for details on incidental exempt supplies);
- (b) each company must be GST registered individually before they register as a group;
- (c) company holding more than 50% of the issued share capital is considered as having controlling power over the other companies; and
- (d) all members of the group shall be jointly and severally responsible for the payment of tax.

For the purpose of group registration, a company is considered to have control over another company either directly or indirectly through subsidiaries by holding more than 50% of the issued share capital of the other company.

For further information please refer to *GST Guide on Registration*.

An illustration of **direct** and **indirect** controls is shown below:

Figure 1: Control Test for Group Registration



Note:

Company **A** has direct control in Companies **B** and **C**. They are eligible to be members of a group because Company **A** has a 55% stake in Company **B** and a 100% stake in Company **C** respectively, i.e. more than 50% of the issued share capital.

Company **A** has an indirect control (stake) of 55% {55% x 100%} in Company **E** and thus Company **E** is also eligible to be a member of the group. Company **D** cannot be a member of the group because Company **A** has only an indirect control (stake) of 19.25% {55% x 35%} in it.

Bunker Oil

2. Domestic-registered and foreign-registered vessels berthing at the local ports to acquire the supply of bunker oil. What is the GST treatment on the bunker oil supplied to the ships?

The supplies of bunker oil to the following ships are zero rated:

- (a) ships which are involved with international voyages; and
- (b) ships that ply between ports of Peninsular Malaysia and East Malaysia but it stops in Singapore or Indonesia in between the journey. The supplies of bunker oil to the following ships are standard rated:
 - (c) fishing boats including trawlers and deep sea fishing boats;
 - (d) local movement cargo vessels;
 - (e) domestic passenger ships such as ferries;
 - (f) domestic travel ships such as cruises; and
 - (g) non cargo carrying ships like tugboats, dredgers, cable layer and submarines.

Supply of fuel to Airlines

3. What is the GST treatment for the supply of fuel to airlines?

Supply of fuel for domestic flights is subject to standard rate and zero rate for international flights.

Storage Loss

4. Storage loss is a loss of petroleum products while being stored in the bonded oil depot after taking into account the permissible loss percentage due to natural causes such as evaporation and thermal variation. During the monthly measurement, a warehouse operator realized that he has incurred losses of diesel and petrol arising from the storage in the bonded warehouse or depot. Is the operator liable to pay GST on the losses exceeding the permissible loss percentage?

Yes, the loss over and above the permissible loss percentage is subject to GST at a standard rate. However, the loss not exceeding the permissible loss percentage is not a supply and therefore not subject to GST. The permissible loss percentage is to be determined by the Director General.

Transit Loss

5. Sometimes, the oil depot received supply from the local petroleum refineries or other licensed petroleum depots. During the transmission process of the petroleum products, either by direct pipeline or by vessel, the company may incur loss which exceeded the permissible loss percentage. Is this loss liable to GST?

Yes, the loss over and above the permissible loss percentage is subject to GST at a standard rate.

Import Loss

- 6. Import loss is quite similar to that of transit loss. The only difference is that the goods or stock is imported. Is the loss subject to GST?**

Yes, it is subject to GST at a standard rate if the quantity loss exceeded the permissible loss percentage.

Continuous Supply of Feedstock

- 7. In the highly integrated petroleum complex, the finished product of one plant becomes the feedstock or raw material for the other. The supply is transferred between plants by pipelines on a continuous basis. All the firms involved in the complex are companies of the same group. What is the GST treatment for the feedstock supplied within the highly integrated petroleum complex?**

The company which supplies the feedstock has to charge GST while the company receiving the feedstock is entitled to claim the GST as input tax. The supply of petroleum product by a pipeline is treated as a continuous supply. GST has to be accounted for when payment is received or when the invoice is issued, whichever is the earlier. However, the companies involved may be eligible for group registration subject to the fulfillment of the GST group registration requirements. For group registration, supply between members of the same group is disregarded. Supply to non members of the group is subject to GST.

Operating in Foreign Country

- 8. What is the GST treatment for supplies received and made by a subsidiary company operating in a foreign country?**

If a company located in Malaysia makes a supply of goods and services to a subsidiary company operating in a foreign country, the supply is treated as zero-rated.

Any supply made by the subsidiary company is treated as out of scope and therefore not subject to GST because the supplies of goods and services made by him are outside Malaysia.

Export of Liquefied Natural Gas (LNG)

- 9. The LNG is to be delivered under free-on-board (FOB) for export. Under this delivery arrangement, the actual quantity and value are to be known at the later date at the port of destination. When do I have to account for GST on the LNG exported?**

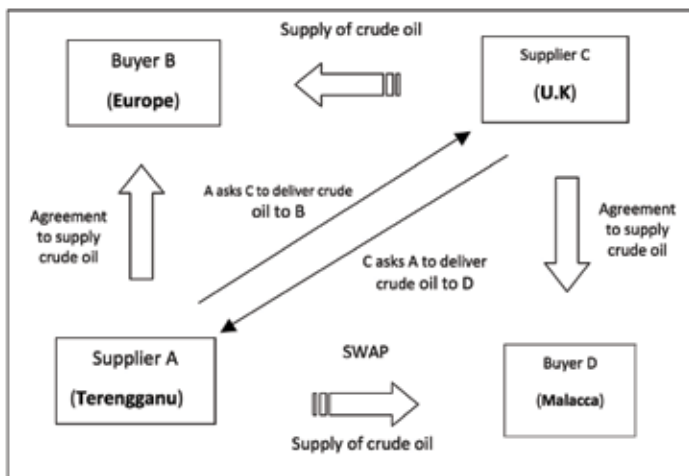
The export of LNG is zero rated and the exporter has to account for GST at 0% in the taxable period during which the export takes place based on the export invoice declared.

Swapping of Supply

10. Supplier A, a Malaysian oil company, received an order from B, an overseas company, to buy crude oil. Instead of delivering the crude oil directly to B, A asked C, another crude oil supplier, who is his business associate in Europe to deliver on his behalf. At the same time, C also has an agreement to deliver crude oil of similar quantity and quality to D, a company located in Malaysia. Both A and C agreed to swap the supply of such crude oil. What is GST treatment for the swapping of supply of crude oil which involved an out of scope supply and a local supply as shown in Figure 2 below?

The transaction between A and D is a local supply. Thus, it is a taxable supply and is subject to GST at a standard rate. A charges GST on the supply made to D but issues tax invoice to C (U.K). Assuming that C (U.K) is registered for GST, he is entitled to input tax. For the supply made to D, C (U.K) is required to charge GST on the supply in which D is entitled to claim as input tax if D is registered for GST. If C is not registered for GST, he is not entitled to input tax credit and not required to charge GST on the supply. The transaction between C and B is outside of Malaysia and is regarded as an out of scope supply. It is not subject to GST.

Figure 2: Swapping of Supply



APPROVED TRADER SCHEME

Supply of goods to the local market by ATS approved person

- 1. If I supply raw materials or finished goods to another ATS approved person, do I still have to account for GST output tax?**

Yes, a supply made to another ATS approved person, irrespective whether the buyer is an operator in a free industrial zone, IPC or RDC operator is a taxable supply. You have to account for GST output tax chargeable on the supply by issuing a tax invoice.

- 2. I am an operator in a free industrial zone under the ATS and if I loan some raw materials to another operator in the free industrial zone for his urgent use, do I have to account for GST output tax?**

Yes, because you are treated as making a supply of goods since the raw materials which the other operator in a free industrial zone replaces you later on would not be the same as the raw materials you loan to him. As such, it is a taxable supply.

- 3. If I am a member under group registration, do I need to apply for separate ATS approval for each constituent member?**

Yes, each constituent member has to apply for ATS separately and it must fulfill the required conditions.

- 4. If I supply goods to a group member, do I have to account for GST output tax on the supplies?**

No, supply made between members registered as a group under the GST is disregarded.

For further information, please refer *Guide on Registration*.

Responsibilities of an ATS approved person

- 5. When I ceased to be a GST registered person or as an ATS approved person, do I have to account for output tax on capital assets/stocks on hand?**

In both the above instances all goods imported, including capital assets and stocks, on hand at the effective date of cessation are deemed to be taxable supplies and you must account for output tax on the goods.

- 6. Can I transfer my ATS status to another person if I decide to dispose of my business to him?**

Approval granted under the ATS is not transferable in any manner. The buyer must apply for his own ATS status if he can fulfill all the conditions stipulated under the ATS.

7. What is the duration of an ATS approval and when should I renew it?

Approval for ATS status is on a two-yearly basis or for a shorter period, as the case may be, and any application for renewal must be made within six months before the last day of each approval period.

8. What would happen to goods on hand if my ATS status is revoked?

If you are still registered for GST, normal rule would apply to your goods on hand, i.e. account for output tax if supply takes place.

APPROVED TOLL MANUFACTURER SCHEME

GST on export

1. Can any export made by the local customer be taken into account for the purpose of calculating the 80% export rule?

No, for the purpose of calculating the 80% rule, only consigned goods exported by the toll manufacturer are taken into account.

Treatment on goods and services locally sourced under ATMS

2. I am a toll manufacturer under the ATMS and if I urgently need to purchase locally some raw materials and components to perform value-added activities, do I still have to pay GST on such purchases?

Yes, you have to pay GST on the locally acquired raw materials and components but you can claim such GST payment as your input tax credits.

3. If the overseas principal of the toll manufacturer bears the cost of raw materials purchased locally and consigned the goods to the toll manufacturer for value-added activities, is there any element of GST on the goods received by local manufacturer?

Local acquisitions of raw materials and components by overseas principal are zero-rated under the GST (Zero Rate Supplies) Order 2014 provided they are delivered to the approved toll manufacturer. Under the ATMS, the local supplier will zero rate the acquisition made by the overseas principal.

4. Is there any GST implication if services acquired by approved toll manufacturer is contracted to and paid by the overseas principal?

If the toll manufacturer has paid the services rendered by the local supplier, he can then claim the GST incurred as his input tax credit. If the overseas principal bear the cost of the services rendered, the supplies made to the overseas principal under the ATMS will be subjected to GST standard-rated. Supplies contracted to overseas principal which can be zero-rated only cover raw materials and components.

Treatment on goods imported under ATMS

- 5. Are all goods imported under the ATMS including components and raw materials allowed to be suspended from payment of GST on importation?**

Yes, GST on all goods imported by ATMS approved person can be suspended if the participant has ATS approval.

- 6. I am a toll manufacturer approved under the ATMS. If my overseas principal delivers to me some machinery for temporary use, do I have to pay GST on such delivery?**

It depends on whether the machinery is brought in as temporary import or normal import. If they are brought in as temporary import, GST is exempted under the GST Relief Order 2014, subject to conditions imposed.

On the other hand, if it is declared as a normal import, GST is payable on the machinery at the time of import, unless GST is suspended under ATS.

- 7. My overseas principal consigns to me raw materials and ownership of the raw materials remains with him. How do I as the toll manufacturer declare to the RMCD the value on such raw materials?**

You or your agent must declare the goods imported in the prescribed declaration form (Customs No.1). You must obtain the information (value) from your overseas principal to make such declaration. However, the Customs assessment officer has the power to reassess the value of the goods for customs purposes.

Delivery of value-added goods to overseas principal

- 8. Are treated or processed goods subject to GST on export?**

Since the goods belong to the overseas principal there is no supply made by the toll manufacturer.

- 9. Can my overseas principal instruct his freight-forwarder in Malaysia to export goods on his (overseas principal) behalf?**

Yes, your overseas principal can appoint his freight forwarder to export goods on his behalf but the prescribed form (Customs No. 2) must indicate you as the exporter. You can also appoint a registered forwarding agent to declare on your behalf in the prescribed form but you remain liable and accountable as the principal.

- 10. As a toll manufacturer under the ATMS, what is the GST treatment on finished goods delivered to free ports such as Labuan and Langkawi?**

Under the GST Act, free ports are classified as Designated Area (DA). Goods supplied to DA from Malaysia will be zero-rated. Hence, a toll manufacturer under the ATMS can zero-rate the finished goods supplied to DA.

Supply of value-added goods to the local customer of overseas principal under the ATMS

11. I am a toll manufacturer under the ATMS. Do I have to account GST on the finished goods delivered to a local customer of my overseas principal?

If the local customer is registered together with you under the ATMS, you need not impose GST on such deliveries. The local customer will account the GST payable as his output tax and at the same time claim that amount as his input tax credit if he is a registered person. However, if he is not a registered person, he has to pay GST on the deemed supply made by him.

12. Who would be held liable if the local customer of my overseas principal failed to account for output tax on goods delivered to him (the local customer)?

Once the goods are received by the local customer, it is the responsibility of the local customer to account for any output tax due. If the local customer failed to account for any output tax due, the local customer would be liable for any such overdue GST.

13. I am a local customer with ATMS status. What is the GST implication on finished goods that I received from the toll manufacturer and subsequently supplied to both the local and export markets?

If the goods are locally supplied, you have to account for output tax and issue tax invoice to your buyers on such local supplies. On the other hand, you can zero-rate the supplies if you export the goods.

14. What would happen to goods on hand if I ceased to be an approved toll manufacturer under ATMS?

If you are no longer a registered person under GST, you have to account for output tax on all capital assets or goods held on hands.

WAREHOUSING SCHEME

Movements of goods into a licensed warehouse

1. If I am an importer in a principal customs area and I would like to buy goods from Labuan, can I keep the goods that I purchased in a warehouse? What is the GST implication on the movement of such goods?

Goods purchased from Labuan are deemed to be imported under the GST law. Hence, you are allowed to store your goods purchased from Labuan in a warehouse with GST suspended.

- 2. If I want to transport my goods from a warehouse to another warehouse for value-added activities, will the GST on goods be suspended?**

GST on goods that are to be removed from a warehouse to another warehouse is still suspended since the goods remain under customs control. Such movement is to be covered under Customs Form No.8.

Movements of goods from a licensed warehouse

- 3. If I am a trader and I have consolidated goods consisting of locally acquired and imported goods in a bonded warehouse which I would like to sell them to duty free shops (DFS) or to an operator in a free port, what is the treatment of GST on such goods?**

Payment of GST is suspended for any movement of goods between a warehouses to a duty free shop since duty free shop is also a warehouse. However, the consolidated goods can be zero rated when such goods are removed from the bonded warehouse to a free port.

- 4. If I am a participant under an Approved Trader Scheme (ATS), can I use the scheme to suspend GST on goods purchased from a warehouse?**

GST can be suspended when you buy imported goods from a warehouse, if you are a participant under ATS.

For further information, please refer to *Guide on ATS*.

- 5. Are incidental services such as transportation and other charges provided by a transport company and forwarding agent attract GST when goods are removed from or to a warehouse?**

Generally, services in relation to removal of goods from or to a warehouse such as transportation and other charges would attract GST if the service provider is a GST registered person.

Supply of goods and services within a warehouse

- 6. I outsource my labeling and repacking activities within a bonded warehouse. What is the GST implication on the outsourced services?**

The outsourced services are subject to GST if provided by a GST registered person even though the activities are carried out within the warehouse.

- 7. I am a trader. If I would like to buy goods owned by Mr. X which are currently stored in a public bonded warehouse and then consolidate them in the warehouse with goods locally purchased before exporting them, do I have to pay GST on my local purchase?**

You have to pay GST on your local purchase. However, no tax is imposed on your purchase from Mr. X as the goods were supplied within the warehousing scheme. You can zero rate your consolidated goods when you export them. If you are a GST registered person, you can claim the tax charged on your local purchase as your input tax credit.

- 8. If I, as a trader, purchase warehoused goods from Mr. X and Mr. Y, repack those goods and then sell them to Mr. Z in the same warehouse, is there any GST chargeable on the purchase and sale of the goods within the warehouse?**

No GST is imposed on the sales of the goods since supplies that take place within a warehouse and before the duty point are disregarded.

Liabilities and responsibilities of a warehouse operator

- 9. If I am a warehouse operator and at the same time I am also an Inland Clearance Depot (ICD) operator, using the same company name, do I have to register both businesses separately?**

A company which carries out different type of businesses is still regarded as one entity. Hence, both businesses would be treated as operated by a single taxable person. However, the different business units may be registered separately according to the nature of the business under divisional or branch registration.

For further information, please refer to the *GST Registration Guide*.

- 10. I operate a few warehouses which are located throughout Malaysia. If my turnover for each warehouse falls below the threshold level do I still have to register?**

If the aggregate turnover exceeds the prescribed threshold, you have to register your business under the GST law even though the turnover for each warehouse is below the threshold.

- 11. How long must I keep the records for my warehoused goods?**

You must keep the records, accounts or documents related to the warehoused goods in your possession for at least seven years. Failure to do so is an offence and will be subjected to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

- 12. Do I have to keep the records in my warehouse?**

You must keep all your warehouse records and documents in your premise, unless allowed otherwise by the DG.

13. What must I do if there are discrepancies between the actual stock and the recorded stock?

If any discrepancies between the actual stock and the recorded stock are discovered at any time, you must submit a report without delay, containing:

- (a) actions taken to investigate the discrepancies and their outcome;
- (b) amount of customs duty and/or GST payable, if applicable;
- (c) date of payment of customs duty and/or GST.

If goods are found to be deficient in your warehouse, you are liable to pay the GST due on such goods as you are responsible for the security and proper control of the warehoused goods. In such a case, GST has to be paid by you and you have to declare it as your output tax as such discrepancies are deemed to be a supply made by you.

However, if you can prove to the satisfaction of the Director General that the deficiency has been caused as a result of unavoidable accidents, such as a fire or break-in at the warehouse with supporting documents such as insurance claims, police report, or a survey report, then the Director General may remit the tax chargeable.

14. What happens if goods are damaged in a warehouse?

Proper documentation such as the survey report describing the cause of the damage and the quantity involved must be furnished to the Director General immediately.

However, GST is chargeable on the damaged goods unless remission of the tax is obtained from the Director General.

15. What are the treatments of GST on goods and services consumed in a warehouse?

Supply of goods and services consumed in a warehouse are subject to GST. This means that services provided by you such as handling of goods and storage charges are standard rated. You must declare the GST levied in your GST return as your output tax.

The person who acquired your services such as importer or owner of warehoused goods can claim GST incurred on the services charged by you, as his input tax if he is a GST registered person.

16. As a warehouse operator, can I claim GST charged on my utilities and warehouse equipment such as forklifts?

You can claim all GST incurred on your acquisition in the course of furtherance of your business if you are a registered person. This includes acquisition such as capital assets and all overheads related to your business.

APPROVED JEWELLER SCHEME

GST on importation

1. **I am an approved jeweller and if I import precious metals, do I have to pay GST upfront on the importations?**

As an approved jeweller, you are automatically eligible to apply for the Approved Trader Scheme (ATS). Under ATS, the payment of GST on importation of goods is suspended. However, the suspended GST needs to be declared in the GST return for the taxable period in which the suspension relates. If you do not have an ATS approval, you have to pay GST upfront at the point of importation but the GST paid is claimable as your input tax credit.

2. **I operate a gold bullion house and import precious metals from overseas. Can I apply for ATS status to suspend the payment of GST on such importations?**

The ATS is meant for major re-exporter. If you fulfill all the criteria imposed under the ATS, you can apply to be in the scheme. If you are not in the ATS, your importation of precious metals will be subject to GST.

3. **I operate a gold bullion house and supply prescribed precious metals to local jewellery manufacturers. Do I need to charge GST if a buyer is not an approved jeweller?**

Any local supplies of prescribed precious metals to a person who is not an approved jeweller is subject to GST.

4. **How do I distinguish whether a buyer is an approved jeweller?**

An approved jeweller would possess a valid AJS approval issued by the Royal Malaysian Customs. The approved jeweller would have to show proof when purchasing prescribed precious metals to qualify for exemption of GST on the purchase. If you have any doubt, you can always check with our website or contact our department to verify the authenticity of the approval.

5. **As a banker, how should I issue a tax invoice to an approved jeweller and non-approved jeweller?**

For a non-approved jeweller, a tax invoice issued must show particulars as stated in Regulation 22 of the GST Regulations 2014. Tax must be charged and shown separately. Similarly for a banker or bullion house, a tax invoice issued to an approved jeweller must show particulars stated in the GST regulations. However, the tax invoice issued to an approved jeweller must also contain the following statement, **“The buyer as stated in this invoice shall account for the output tax on the supply to the Director General in accordance with section 73 of the Goods and Services Tax Act 2014”**.

- 6. I am an approved jeweller. Must I show proof on my AJS status each time I purchase gold bars from the bank?**

Yes, otherwise the bank will charge you GST on the supply of precious metals and you have to pay the GST to the bank.

- 7. As an approved jeweller, am I also allowed to purchase without payment of GST on acquisition of materials other than prescribed precious metals, like chemicals and casting powder?**

No, the AJS status would allow you to purchase without payment of GST on the acquisition of prescribed precious metals only but not on any other materials.

- 8. As an approved jeweller, am I allowed to purchase without payment of GST on acquisition of gemstones which are also of high value?**

No, acquisition of gemstones does not come under the AJS. As such you are not allowed to purchase without the payment of GST on acquisition of gemstones.

- 9. I am a jeweller and sometimes I purchase trade-in jewellery from my retail customers. Do I have to pay GST on such purchases?**

If your retail customers are GST registered persons, they will charge you GST on your purchases. If they are not registered, then the acquisition is not subject to GST.

- 10. I am a jewellery retailer and I sometimes acquire trade-in second-hand jewellery from walk-in customers. If I resell this jewellery without re-manufacturing it, do I have to account for GST on such sales?**

Such sales are still considered as taxable supplies, even though the jewellery is second-hand jewellery, and you have to account for output tax.

GST implication on toll manufacturing activities for overseas principals.

- 11. I am a toll manufacturer with AJS status. Do I have to pay GST on gold bars which I received from my overseas principal?**

You can suspend the payment of GST at the time of importation if you have acquired an ATS status. Otherwise, you will have to pay GST upfront on such importation of gold bars.

- 12. If I import gold bars on behalf of my overseas principal, who should declare these gold bars?**

You should declare the importation of these gold bars under your name and be accountable for the importation. However, you can still suspend the payment of GST on such imports under the ATS.

- 13. If I acquire precious metals locally to manufacture jewellery for my overseas principal, should I pay GST on the prescribed precious metals?**

If you have AJS status, you have to account the amount of GST on such acquisitions but you are not required to make payment. When you export the finished goods (jewellery) to your overseas principal, you can zero-rate the export.

- 14. When I deliver the finished goods (jewellery) to my overseas principal, do I have to charge him any output tax on the value-added activities which I performed?**

If you have ATMS status, any value-added activities, including workmanship, carried out by you for your overseas principal are to be disregarded. However, you have to charge GST on such supply if you are a registered person but with no ATMS.

- 15. Who would be liable if the local customer of my overseas principal failed to do “recipient self-accounting” under ATMS on deliveries made to him or account for output tax on local supplies he made?**

If the goods are already received by the local customer, the liability to account for tax on such goods lies with him. If he failed to do “recipient self-accounting” or account output tax on any supply made by him, the local customer would be held liable and accountable for any tax that are payable or due.

- 16. I am a local customer for an overseas supplier. When do I have to do “recipient self-accounting” on the finished goods that I received from the toll manufacturer?**

You have to do “recipient self-accounting” when you make payment to your supplier or when you received a tax invoice from your supplier for the consigned goods, whichever is the earlier.

Record keeping

- 17. What are the records that need to be maintained?**

All original documents and records related to the supplies, receipts and acquisitions of raw materials and finished goods supplied under the AJS.

- 18. What does a “good accounting system” mean under the AJS?**

A good accounting system means maintaining of proper accounts and inventory records for tracking and accounting of raw materials that were acquired under the AJS. It also includes proper accounting on work-in-progress, stocks on hand and finished goods disposed off to both the local and overseas markets.

All accounting records must be supported by related original documents and must be kept in accordance with the Principles of Standard Accounting Practices adopted in Malaysia. A good accounting system required of the approved person will be spelt out in the conditions upon approval and must adhere to at all time.

19. When I ceased to be a GST registered person or as an approved jeweller, do I have to account for output tax on prescribed precious metals on hand?

If you are no longer a registered person under GST, you have to account for output tax on all capital assets and goods on hands.

20. What would happen to goods on hand if my AJS status is revoked?

As an approved person under AJS, you still have to account for tax charged on the acquisition of prescribed precious metals by the supplier which you have not accounted for. Any purchase of prescribed precious metals after the date of revocation will be subject to GST and you, as a registered person, are allowed to claim the GST incurred as your input tax credit. You may be penalized for any failure to comply with the conditions or the requirement of the law.

21. When I transfer my business as a going concern can I also transfer my AJS status to the buyer?

Approval granted under the AJS is not transferable. Transferee who is eligible for AJS status and wish to enjoy AJS treatment should apply for AJS status before the transfer is made.

22. Do I still have to account for GST on prescribed precious metals that are lost or found missing?

For any prescribed precious metals supplied under AJS that cannot be reconciled with the quantity supplied and the balance at hand, you have to account for output tax on such discrepancies.

23. What is the duration of an AJS approval and when should I renew it?

Approval for AJS status is on a two-yearly renewal basis or for a shorter period, as the case may be, and any application for renewal must be made within six months before the expiry of each approval period.

RELIEF FOR SECOND-HAND GOODS (MARGIN SCHEME)

Charging Output Tax

- 1. Do I have to account for GST if I sell used motor vehicles at a loss?**

No, GST need not be charged if the sale is at a loss.

- 2. What are the implications under the margin scheme?**

The seller only accounts for GST on the margin (GST-inclusive) but he cannot claim the GST embedded in the purchase price.

Claiming Input Tax

- 3. How does the Margin Scheme affect GST on my overheads?**

You can claim GST on all your business overheads such as office rental and utilities. But you must not add any of these costs to the purchase price of the goods you sell using the scheme.

- 4. My supplier charged me GST on parts that I replaced on used motor vehicles purchased under Margin Scheme. Can I claim the GST incurred as my input tax?**

Yes, you can claim the input tax incurred.

FURTHER ASSISTANCE AND INFORMATION :

GST Website

www.gst.customs.gov.my

Customs Call Centre

1300-88-8500

Email

gst@customs.gov.my

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