

Summary of updates on GST General Guide dated 25 January 2017 and 13 February 2017

Value of the Supply of Imported Services

Para 101 of the General Guide was reworded as follows:

“101. *Prior to the amendment to subsection 13(4) of GSTA which takes effect from 1 January 2017*, if the recipient is not a taxable person, he is still required to account the GST as output tax and declare the tax in a prescribed form (Form GST-04). The tax has to be paid not later than the last day of the subsequent month from the month in which the payment of supply is made. *However, effective 1 January 2017, GST has to be paid not later than the last day of the subsequent month from the month at the earlier of payment made for the supply of imported services or the date of the invoice received from the supplier who does not belong in Malaysia.*”

Mechanism to Claim Input Tax

Para 188 was revised as follows:

“188. If input tax is not claimed in the taxable period in which the taxable person holds the tax invoice, the Director General may allow such person to make a claim **within six (6) years from the date of supply to or importation by him. A taxable is considered to hold a tax invoice** on the earlier of:-

- (a) the date of time of posting the tax invoice into the company Accounts Payable; or
- (b) one year from the date he holds the tax invoice.”

Blocked Input Tax

Para 192 was revised as follows:

“192. A *passenger motor car* means a **motor car** vehicle which is **legally licensed and constructed, modified or adapted for the purpose to carry carrying or capable to transport and commonly available or used on public roads in Malaysia. The specification and features of a passenger motor car is to have seats of** not more than nine passengers including the driver and the unladen weight **of which** does not exceed three thousand kilograms but does not include:

- (a) hire and drive car which is licensed under Land Public Transport Act 2010 and Tourism Vehicle Licensing Act 1999;
- [(b) to (e) no change.].”

Incidental Exempt Financial Supplies

Para 198 was revised as follows:

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

- (a) bank, investment bank, or any other financial institution licensed under the Financial Services Act 2013 Islamic Financial Services Act 2013, Labuan Financial Services and Securities Act 2010 and Labuan Islamic Financial Services and Securities Act 2010;

[(b) to (g) no change.].....

- (h) person who supplies goods and provides finance under agreement which expressly stipulates that the property will pass at some time in the future;**

~~(h)~~ (h) any company that issues credit card, charge card or debit card or other payment instruments under the Financial Services Act 2013 Islamic Financial Services Act 2013;
or

~~(i)~~ (i) any company that provides any scheme's assets under the collective investment scheme in accordance with Capital Markets and Services Act 2007 including unit trust but excluding real estate investment trust.", or

(j) *any investment holding company. An investment holding company refers to a company whose principal activity is the making of investments. It owns investments such as properties, shares of other companies and holds assets in an investment portfolio such as securities for the purpose of maximizing income and capital appreciation.*

Refund of Input Tax

Para 199 was revised as follows:

"199. The refund of input tax will be made within fourteen (14) working days ~~for online submission and twenty eight (28) working days for manual submission~~ *or within the time practicable* from the date the return is received."

Input Tax in Relation to Registration

Para 202 was revised as follows:

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

(a) Before GST era

Before April 2015, there is no input tax incurred on ~~any~~ acquisitions by ~~any~~ taxable person. Hence, upon registration for GST, he is not entitled to any input tax claims. However, any acquisitions where the supply takes place on or after 1 April 2015 where any payment is ~~received~~ *made* or any invoice has been issued for such supply before 1 April 2015, the taxable person is entitled to an input tax claim for such acquisition.

(c) Pre-Incorporation

.....(No change.)

(d) Pre-Registration

(i) Services incurred before registration (both voluntary and mandatory registration including late registration) are not eligible for input tax credit.

(ii) However, in the case of goods *including capital goods*, the ~~taxable person is entitled~~ *registered person may be allowed* to claim input tax on the goods he holds at the time of registration *based on the approved amount by the Director General*. ~~For goods which have been consumed, the GST paid on such goods is not eligible to be claimed as input tax. Consumed goods include goods which has been used partially and incorporated into some other goods.~~ *The registered person must obtain an approval from the Director General before a claim for input tax can be made under Regulation 46 of GST Regulations 2014.*

(iii) ~~In the case of capital goods (land and building) held on hand, the taxable person can claim the input tax based on the book value or open market value whichever is the lower irrespective of when he acquires the capital goods within 6 years from the date of registration. In the case of capital goods (other than land and building), the taxable person can claim the input tax based on the book value.~~

The capital goods and any services related to capital goods are not claimable under Regulation 46 of GST Regulations 2014 unless it can be capitalised according to the standard accounting principle in Malaysia, before registration date.

- (iv) Input tax incurred cannot be claimed on goods or services that have been consumed. *Consumed goods include goods which has been used partially and incorporated into some other goods.*

(e) Late Registration

Where a person registers on a date later than the date he should have been registered, he is entitled to claim input tax incurred on:-

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

Any input tax attributable to the making of taxable supplies made during the period in which a taxable person should have been registered (up to a maximum period of six years) can be claimed by him. For further details on the manner to claim the input tax, please refer to the Guide on Input Tax Credit.

If a taxable person fails to claim input tax at the time he is registered, he is entitled to claim input tax six (6) years from the date he should have been registered.

- (f) Deregistration
.....(No change.).....
- (g) Post Deregistration
.....(No change.).....

Input Tax in Relation to Special Transactions and Special Schemes

Para 203(a) was revised as follows:

“**203.** Input tax claim in relation to special transaction and special schemes are as follows:

(a) Transfer of Going Concern

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

---There is no change in (b) to (d).---

Partial Exemption

Para 212 was revised as follows:

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

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

Where:

f	is the recoverable percentage of residual input tax, rounded off to the nearest 2 decimal places
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t	is the total value (exclusive of GST) of taxable supplies (including supplies made outside Malaysia which would be taxable if made in Malaysia, made in the taxable period.
s	is the total value (exclusive of GST) of taxable supplies (including supplies made outside Malaysia which would be taxable if made in Malaysia and exempt supplies, made in the taxable period.

Example 19:

ABC Insurance collects premium for general insurance policy amounting to RM250,000 and life insurance policy RM150,000 for August 2015. During the taxable period, ABC Insurance pays GST on commission to agents for both general and life policy for RM17,000 and incurs GST on operating expenses i.e. office rental for RM3,000.

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

$$\begin{aligned}
 \text{Input Tax} &= \frac{\text{RM250,000}}{\text{Rm250,000} + \text{RM150,000}} \times \text{RM20,000} \\
 &= \text{RM12,500}
 \end{aligned}$$

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

Methods of Apportionment

Para 213 and 214 were revised as follows:

“213. Under the standard method of apportionment, the percentage of claimable residual input tax for a taxable period is calculated by *using* the above formula. However, certain supplies such as value of supply of capital goods, imported services incidental exempt supplies, exempt supply of land for general use, supply made by a recipient in accordance with the Approved Toll Manufacturer Scheme are excluded from the standard method.”

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

Non applicability of the adjustment

Para 222 was revised as follows:

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

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

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