

# GST Customs Malaysia

# **GST Malaysia**

## Goods and Services Tax

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# Business Guide to GST in Malaysia Part 4: Special Rules

## Special Rules

### Group registration

- Group registration is a facility that allows several companies to group and centralize their administration for the GST accounting purpose.
- Each company must be registered individually before they can be grouped as a single registered person and each company must be making wholly taxable supply.
- Companies are eligible for group registration if one company controls another company. One company is taken to control another company if the first mentioned company holds directly, indirectly through subsidiaries or together directly or indirectly through subsidiaries more than 50% of the issued share capital of the second mentioned company.
- One of the members has to be nominated by the group as the representative member of the group.
- Any taxable supply made by or to a member of the group shall be treated as a supply by or to the representative member.
- Supplies between group members would be disregarded as a supply.

### Transfer of business as a going concern (TOGC)

- TOGC is a facility provided to both the transferor and transferee involved in the transfer or sale of business as a going concern.
- TOGC may involve the transfer of a whole or part of a business as a going concern from a taxable person to another taxable person and carry on the same business.
- If only part of the business is transferred, that part of the business must be able to operate on its own.
- When a supply of business assets is made as TOGC, such supply of assets by a taxable person (transferor) to another taxable person (transferee) is treated as neither a supply of goods nor a supply of services.
- The transferee need not have to pay output tax on the transferred assets and the transferor does not have to account for output tax on the transferred assets.

### Capital Goods

- Capital goods shall include all goods that can be capitalized under generally accepted accounting principles as their business asset and used by a person in the course or furtherance of a business.
- If the capital goods are used wholly to make a taxable supply, the amount of ITC can be claimed in full except on blocked input. However, if the capital goods are used to make a mixed supply, the amount of ITC has to be apportioned accordingly based on the percentage value attributable to the taxable supply.
- Adjustment to the input tax that has already been claimed should be repaid if the taxable use decreases over a period. On the other hand, if taxable use increases, a further amount of input tax can be claimed.
- The period of adjustment shall consist of
  - 10 years for land and building
  - 5 years for any capital item other than land and building

### Second-Hand Goods Scheme

- A special GST treatment to allow businesses to charge and account GST on the positive price margin from the sales of the second-hand goods.
- This scheme which is called "Margin Scheme" to be applied only for goods (motor vehicle and commercial

- property only) purchased from non-registered person and resold.
- By imposing GST on the margin, this scheme avoids the second-hand goods from being taxed twice (double taxation) as the GST already embedded in the second-hand goods will be ignored.
- This scheme is not applicable for second-hand goods purchased from a taxable person unless he is participant of Margin Scheme.
- Example of calculation:

<b>Acquisition Price</b>	=	RM 300,000	
<b>Selling Price</b>	=	RM 450,000	
<b>GST Rate</b>	=	4%	
<b>Tax Fraction</b>	=	$\frac{4}{100 + 4}$	= $\frac{1}{26}$
<b>GST Payable</b>	=	$\frac{1}{26} \times (\text{RM } 450,000 - \text{RM } 300,000)$	
	=	$\frac{1}{26} \times \text{RM } 150,000$	
	=	RM 5,769.23	

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## Vouchers / Stamps / Tokens

- Vouchers, stamps and tokens can be categorized either as monetary vouchers or non-monetary vouchers.
- Monetary vouchers (face-value) are treated as a medium of exchange, and therefore the supply of monetary vouchers is disregarded as a taxable supply. However, if the voucher is sold for more than the face value, the taxable person must account for GST on the excess amount. When the monetary vouchers are redeemed, the taxable person supplying the goods or service must account for GST.
- The sale or issuance of non-monetary vouchers (non-face value and include discount vouchers) are regarded as a taxable supply and GST should be accounted for at the time the vouchers are sold or issued. When non-monetary vouchers are redeemed they are disregarded as a supply.

## Employee Benefits

- If goods and services acquired are given as a benefit to employees, it is considered as used for business purposes. Therefore, the employer needs to account for GST on the supply. However the businesses can claim any relevant input tax incurred. In the case where services are given free to the employees (e.g. free laundry services) no GST is due because free service is not regarded as a supply. Value of the fringe benefit given is based on the open market value.
- In the case of fringe benefit where the input tax is blocked or not claimable, no GST is due when it is given as a fringe benefit to the employees.

## Agents

- Supply made by or to an agent acting on behalf of a principal shall be deemed to be made by the principal. The principal will have to account for GST on the supplies, whilst the agent needs to account for GST on his agent's fees or commission.
- Supply made through an agent acting in his own name, the supply shall be treated as a supply made by the agent himself and need to account for GST on the supplies.
- If an agent acts on behalf of an overseas principal (non-resident), the supply shall be deemed to be made by the agent. The agent is required to register an account for GST separately in the name of non-resident.
- When goods are imported and supplied by a GST registered agent on behalf of a non-taxable person, the goods shall be deemed to be imported and supplied by the agent.

## Auctioneers

- The supply made by a principal to the auctioneer shall be disregarded as a supply.
- Subsequent supply by the auctioneer shall be treated as a supply made by the principal and the auctioneer shall be liable to account and pay GST on the supply.
- Auctioneers' fees or commissions charged to the principal are subject to GST if he is a taxable person.

## Repossessed Goods

- Where goods are repossessed from a taxable person and subsequently sold by the reposessor for the purpose of recovering any debt due, the goods shall be deemed to be supplied by the taxable person and shall be disregarded for GST purposes.
- The reposessor whether or not is registered should account for the output tax on the sale of the repossessed goods.
- The reposessor is only eligible to claim input tax credit incurred in the act of repossession (such as storage, transport, advertisement and etc).

## Designated Area (DA)

Designated area refers to the free ports of Langkawi, Labuan and Tioman. GST treatment on the supply of goods and services in the DA:

- Supplies within DA and between DA are disregarded for GST purposes.
- Goods supplied from DA to Malaysia are subject to GST (treated as import). However, goods supplied from Malaysia to DA is to be zero rated except otherwise prescribed by the Minister.
- Taxable supply of services from DA to Malaysia or Malaysia to DA is to be standard rated.
- No tax is chargeable on the importation of goods or supply of imported services into the DA except otherwise prescribed by the Minister.

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