



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON TRANSITIONAL RULES

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INTRODUCTION

1. This guide is prepared to assist you in understanding the Goods and Services Tax (GST) and its implications during the transitional period from the sales tax and service tax system to the GST system.

OVERVIEW OF GOODS AND SERVICES TAX (GST)

2. GST is a multi-stage tax on domestic consumption. GST is charged on all taxable supplies of goods and services in Malaysia except those specifically exempted. GST is also charged on importation of goods and services into Malaysia.

3. Payment of tax is made in stages by the intermediaries in the production and distribution process. Although the tax would be paid throughout the production and distribution chain, it is ultimately passed on to the final consumer. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 200X is known as “registered person”. A registered person is required to charge GST (output tax) on his taxable supply of goods and services made to his customers. He is allowed to claim input tax credit on any GST (input tax) incurred on his purchases which are inputs to his business. Thus, this mechanism would avoid double taxation as only the value added at each stage is taxed.

GENERAL RULE

5. The general rule is that GST is payable on supplies of goods and services made on or after 1 April 2015 and that sales tax and service tax do not apply to those transactions. Likewise, input tax incurred can only be claimed on acquisitions or purchases made on or after 1 April 2015.

REPEAL OF SALES TAX ACT 1972 AND SERVICE TAX 1975

Repeal with saving provision

6. With the coming into force of the GST, the Sales Tax Act 1972 and the Service Tax Act 1975 is repealed with the saving of certain provisions for the levying, payment, assessment, remission, or recovery of sales tax or service tax which has become due and payable and also provision for refund of such taxes which were overpaid or erroneously paid. Hence, sales tax and service tax shall not be charged with effect from 1 April 2015. Sales tax and service tax licensees will cease to be registered under Sales Tax Act 1972 and Service Tax Act 1975 and those licensees whose annual turnover exceeds RM500,000.00 will be mandatorily required to be registered under the GST law while others may choose to be registered persons under the GST system. In addition, the facilities and exemptions given under Sales Tax Act 1972 and Service Tax Act 1975 will cease to be effective.

7. Examples of the implementation of a saving provisions under Sales Tax Act 1972 on or after 1 April 2015 are:

- (a) any claims of overpayment of sales tax made before 1 April 2015;
- (b) where a claimant had paid sales tax before 1 April 2015 prior to the decision to remit the taxes made on or after 1 April 2015, the claimant can claim a refund of the taxes paid;
- (c) credit notes issued on or after 1 April 2015 for the return of goods under section 31B of the Sales Tax Act 1972 and regulation 19C of the Sales Tax Regulations 1972 which were supplied before 1 April 2015; or
- (d) any sales tax due or any liability incurred (offences committed under the Act) before 1 April 2015 will be collected on or after 1 April 2015.

Sales tax become due and payable

8. If a sales tax licensee is not a registered person on 1 April 2015:

- (a) he is required to account and pay sales tax on:
 - (i) raw materials and components held on hand on 1 April 2015 that he had acquired free from sales tax (section 9 of the Sales Tax 1972)
 - (ii) raw materials and components held on hand which he had claim deduction of sales tax under the credit system (section 31A of the Sales Tax Act, 1972);
 - (iii) goods which are exempted from sales tax under section 10 of the Sales Tax Act 1972; and
 - (iv) finished and semi finished goods held on 1 April 2015.
- (b) he is required to account for sales tax on goods he had supplied before 1 April 2015 where the invoice is issued or payment is received for that supply on or after 1 April 2015; and
- (c) the amount of sales tax due and payable on those goods shall be made his sales tax return (CJP1) in his last taxable period and furnish to the Director General not later than 28 days after 1 April 2015.

9. However, if the sales tax licensees are registered for GST on 1 April 2015, there will be no liability on them to account for sales tax on such goods when the last sales tax return is submitted in his last taxable period.

Service tax becomes due and payable

10. A service tax licensee irrespective of whether he becomes a registered person or not, he is required to furnish his service tax return (CJP1) for his last taxable period and state the amount of service tax payable in his CJP1:

- (a) the amount of service tax not received from his clients (either for the whole or part of any payment) for taxable services provided preceding the last taxable period and the service tax has remain unpaid exceeding 12 months from the date of invoice
- (b) the amount of service tax not received from his clients (either for the whole or part of any payment) for taxable services provided preceding and

- succeeding the last taxable period and the service tax has remained unpaid but have not exceed 12 calendar months from the date of invoice
- (c) the amount of service tax on all taxable services provided in his last taxable period.
 - (d) the amount of service tax on all taxable services provided before 1 April 2015 where the invoice is issued or payment is received for a supply to be made on or after 1 April 2015.
11. The return (refer section 12 of the Service Tax Act 1975) for his 'last taxable period' shall be furnished to the Director General:
- (a) not later than 28 days after 1 April 2015; or
 - (b) any longer period not later than the end of a 12 month period from 1 April 2015 subject to approval by the Director General.
12. The amount of service tax stated in CJP1 for the last taxable period shall be paid in accordance with section 14 of the Service Tax Act 1975.
13. If no payment is received for the taxable service in accordance with section 14(2) of the Service Tax Act 1975, the service tax licensee is required to pay the outstanding amount of service tax payable 'Lampiran H' as attached.

Example 1:

ABC Company has the following paid and unpaid taxes up to 1 April 2015 to be declared in his last return in the last taxable period:

- (i) Service tax of RM 10,000 which was collected in the last taxable period*
- (ii) Service tax of 20,000 charged for an invoice issued on 1 April 2014 and no payment received from his customer*

(iii) Service tax of 15,000 charged for an invoice issued on 1 September 2014 and no payment received from his customer

ABC Company submits his CJP1 for his last taxable period on 15 April 2015 and states (i) – (iii) in his return and is required to pay service tax of RM30,000 (10,000 + 20,000). The balance service tax amounting to RM15,000 will become payable when he receives payment from his customers subject to the twelve months period rule under section 14(2) Service Tax Act 1975. If by 31 August 2015, he does not receive any payment from his customer, he becomes accountable for the service tax as of 1 September 2015. ABC must pay the service tax using Lampiran H.

Last taxable period

14. The *last taxable period* means either a period of two calendar months ending on 1 April 2015 or part of it ending on 1 April 2015.

Bad debt relief

15. Generally, a licensee under the Sales Tax Act 1972 or the taxable person under the Service Tax Act 1975 is eligible to claim bad debt relief under section 31C and 31D Sales Tax Act 1972 or section 21B and 21C Service Tax Act 1975 on or after 1 April 2015 provided he was eligible for the relief before 1 April 2015. This rule applies irrespective of whether he becomes a registered person or not. Subregulation 19D Sales Tax Regulation 1972 and 16A Service Tax Regulation 1975 applies.

See **TABLE 1**.

TABLE 1: Bad debt relief

Good or services supplied before AD, the supplier has ...	Supplier is not a registered person and is ...	Supplier is a registered person and is
<ul style="list-style-type: none"> • paid all the sales tax or service tax • made efforts to recover the bad debt 	<ul style="list-style-type: none"> • eligible before AD to claim bad debt relief, is allowed to claim sales tax [subregulation 19D(1)(a)] • eligible to claim from AD up to 6 years from the date sales tax has been paid • required to account for sales tax claimed if he subsequently collects the tax after a refund had been made 	
<p>Same rules applies for service tax: Provisions to claim and refund are section 21B, 21C Service tax Act 1975 and manner to claim in subregulation 16A Service Tax Regulation 1975.</p>		

Taxable goods sold before 1 April 2015 and returned on or after 1 April 2015

16. Where a sales tax licensed manufacturer sold taxable goods on which sales tax has been paid before 1 April 2015 and his customer subsequently returns the same taxable goods to him on or after 1 April 2015, he may claim the sales tax he refunds to his customer using the provisions under section 31A of the Sales Tax Act 1972 and regulation 19C of the Sales Tax Regulation 1972. The manufacturer may claim the amount of sales tax by using the form JKED 2.

17. If the customer had claimed a special refund for the taxable goods which were subsequently returned to the licensed manufacturer, he is required to account the special refund he had claimed as his output tax in the taxable period in which the taxable goods are returned.

18. Goods returned refer to goods sold in the wrong quantity, poor or defective quality, and uncontracted goods but excludes goods returned for repair or rework.

19. However, if the goods were not sold but used or disposed of by the claimant, then the claimant shall be subject to the related provisions of the Act on such matters.

Taxable service provided before 1 April 2015 and terminated on or after 1 April 2015

20. Where a customer receives taxable services under the Service Tax Act 1975 before 1 April 2015, on which service tax has been paid, terminates or cancels such services on or after 1 April 2015, the service tax licensee is eligible for a refund of the service tax provided the licensee has:

- a) fully paid the service tax
- b) issue a credit note for the terminated/cancelled taxable service;
- c) refunded the amount of service tax to his customer
- d) made a claim for a refund of service tax within 12 months from the date service tax was paid by using the customs form JKED 2.

Progressive and periodic supply spanning GST implementation

21. Where a supply of goods or services is made for a period or progressively over a period before and ends on or after 1 April 2015, the proportion of the supply which attributes to the period on and after 1 April 2015 shall be subject to GST.

22. However, the supply will not be subject to GST if the amount of:

- (a) sales tax charged on the sale of goods has been paid to the extent covered by the invoice; or
- (b) service tax charged on the supply of services had been paid to the extent covered by the payment or the invoice

Example 2:

A person checks into a hotel on 22 March 2015 and checks out on 7 April 2015. There is no GST charged on the supply of lodging made

for the period 22 March 2015 to 31 March 2015. However, there is GST chargeable on the supply of lodging for the period 1 April 2015 to 7 April 2015.

23. The GST treatment for any contract with no opportunity to review will not be treated in the same manner as in paragraph 22.

Supply of taxable goods or taxable services made before 1 April 2015 and payment is received or invoice is issued on or after 1 April 2015.

24. For any supply of taxable goods by a licensee under the Sales Tax Act 1972 and any supply of services by a taxable person under the Service Tax Act 1975 made before 1 April 2015 are subject to sales tax and service tax respectively. Hence, the invoice issued or payment received on or after 1 April 2015 for those supplies shall be inclusive of sales tax or service tax.

25. However, if the supplies are made on or after 1 April 2015, the taxable person under this Act is not required to charge GST on the supplies to the extent covered by the invoice, if he, before 1 April 2015:

- a) has issued an invoice on which sales tax is charged on the sale of any taxable goods or service tax is charged on the provision of taxable service;
or
- b) he has received payment of sales tax or service tax.

Supply of goods or services not subject to sales tax and service tax

26. Generally, the supply of non-taxable goods or services before 1 April 2015 is not subject to sales tax or service tax but such supplies if they were made on or after 1 April 2015 are subject to GST.

- a) GST liability
 - (i) If such supplies are made before 1 April 2015 where the invoice is issued or payment is received on or after 1 April 2015, the consideration for the supplies is not subject to GST.

- (ii) If such supplies are made before 1 April 2015 and ends on or after 1 April 2015 (spanning 1 April 2015) where the invoice is issued or payment is received on or after 1 April 2015, the proportion of supplies made on or after 1 April 2015 is subject to GST.
- (iii) If such supplies are made on or after 1 April 2015 where the invoice is issued or payment is made before 1 April 2015, the consideration for the supplies is deemed inclusive of GST.
- (iv) If such supplies are made before 1 April 2015 and ends on or after 1 April 2015 (spanning 1 April 2015) where the invoice is issued or payment is received before 1 April 2015, the consideration for the supplies is deemed inclusive of GST for the proportion of supplies made on or after 1 April 2015.

b) Input tax entitlement

The recipient of the goods or services is entitled to claim the input tax under (iii) and (iv) if he possesses an invoice as illustrated below. In addition, he must possess documents to show that the acquisitions were made on or after 1 April 2015.

27. An illustration of an invoice deemed inclusive of GST is shown in **TABLE 2**.

Example 3:

Sen Heap Mart purchased goods worth RM 45,000 from ABN Electrical Appliances on 29 March 2014 and delivery is made on 3 April 2015.

*The invoice in **TABLE 2** is deemed issued in ABN's first taxable period after 1 April 2015. ABN must account for GST amounting to*

RM 2,547.17 (RM45,000.00 x 6/106) and Sen Heap is entitled to claim input tax of RM 2,547,17 if this purchase is attributable to making a taxable supply by Sen Heap on or after 1 April 2015.

TABLE 2: Model of invoice issued deemed inclusive of GST

ABN Electrical Appliances 31 Jalan SS 21/7A, 46300 Petaling Jaya, Selangor		INVOICE	Invoice no: 11010 Date: 29 March 2014 GST Registration No: 1234566	
Sold to: Sen Heap Mart 14 Jalan SS 3/2 46000 Petaling Jaya, Selangor			GST Registration No: 126547	
QTY	Description	Price/Unit (RM)	Total (RM)	
10	Camera	1500	15,000	
15	Laptop	2000	30,000	
	Total		45,000	

SUPPLIES MADE BEFORE AND AFTER 1 APRIL 2015

General

28. Generally, GST is not charged on any supply made before 1 April 2015 even though whole or part payment is made on or after 1 April 2015 or a tax invoice is issued on or after 1 April 2015. However, GST is charged on any supply of goods made on or after 1 April 2015 even though the whole or part payment is made before 1 April 2015 or a tax invoice is issued before 1 April 2015. For services, GST is charged on any supply of services performed on or after 1 April 2015.

Time of Supply Goods

30. The time of supply for goods made on or after 1 April 2015 is treated as taken place at the time:

- (a) when the goods are removed; or

- (b) when the goods are made available to the person to whom the goods are supplied if the goods are not to be removed.

Example 4:

Seng Furniture sells a settee set to Mr. Lim and he pays the full consideration to Seng Furniture on 30 March 2015. Seng Furniture immediately transports it to Mr. Lim's house. The time of supply is 30 March 2015 i.e. when the settee is physically removed from the supplier's premises and therefore, the supply is not subject to GST.

Example 5:

Elegance Furniture sells a dining table set to Samaria Catering on 30 March 2015. Elegance Furniture immediately places a "sold" sticker on the dining table set. Samaria pays the full consideration of the set. Due to the festive holidays, Elegance Furniture is unable to deliver the set to Samaria's office on 30 March 2015 and delivers the set on 3 April 2015. The sale of the dining table set is not subject to GST although it is delivered on 3 April 2015 because it is already made available on 30 March 2015.

- (c) In the case of supply of goods sent, taken on approval, sale or returned, the time of supply is when it becomes certain that a taxable supply has taken place or twelve months after the removal whichever is the earlier.

Example 6:

Noodles Marketing Sdn Bhd consigns 100 cartons of instant noodles to Hiber Supermarket on 29 March 2015. Hiber sells 60 cartons on 30 March 2015 and 40 cartons on 1 April 2015. Then, Hiber issues a statement of sales to Noodle Marketing Sdn Bhd. The supply of 60 cartons is not subject to GST while the supply of 40 cartons is subject to GST.

(d) For goods imported, the time of supply is when the goods are released from customs control. Goods that are imported before 1 April 2015 and released from customs control on or after 1 April 2015 will be subject to GST. However, if the importation occurs and the goods are released from customs control before 1 April 2015, it will not be subject to GST but it will be subject to sales tax if the goods are taxable goods under the Sales Tax Act 1972.

Example 7:

Adidas imports sport shoes on 30 March 2015 and the shoes are kept in the bonded warehouse at Port Klang. They were released from customs control on 5 April 2015 and Adidas has to account for GST on the that importation.

Time of Supply for Services

31. For services, the time of supply is treated as taken place at the time when the services are performed.

Example 8:

On 10 December 2012, Rani purchases a fire policy to insure her house for the period 1 April 2015 to 30 March 2016. Rani pays the consideration in full. Since the fire protection cover begins on 1 April 2015, the supply of insurance services is subject to GST.

VALUE OF A SUPPLY

32. For the purpose of determining the value of a supply made on or after 1 April 2015 where any payment received or an amount stated in an invoice issued for that supply is made before 1 April 2015, such payment received or invoice issued shall be deemed to be tax inclusive.

33. Such supplies refer to supply of goods which are not subject to sales tax and supply of services which are not subject to service tax and may include supplies which spans 1 April 2015.

34. For such payments or invoice which is deemed to be tax inclusive, the payment is taken to have been received or the invoice is taken to have been issued during the first taxable period after 1 April 2015 for the purpose of attributing output tax or input tax.

REGISTRATION BEFORE 1 APRIL 2015

35. Businesses carrying on a taxable activity or who intends to do so may register for GST if he has reasonable grounds to believe that the total value of his taxable supplies in the month of 1 April 2015 and eleven months immediately succeeding that month will exceed the threshold of RM 500,000. However, if that amount does not exceed the threshold, it would be reasonable to examine if the value of taxable supplies in the month of April 2015 and eleven months preceding that month exceeds the threshold. If it does, a business may be required to register for GST based on 'historical' turnover.

36. Businesses carrying on a taxable activity may choose to register even if their turnover is below the prescribed threshold and may begin their registration as early as six months before 1 April 2015. The registered person will be given a GST registration number upon registration. However, with this early registration, the businesses are not allowed to charge or levy GST until 1 April 2015.

37. Businesses may make an application manually in the prescribed form or use electronic services available at www.gst.customs.gov.my and be registered with effect from 1 April 2015.

SPECIAL REFUND FOR GOODS HELD ON HAND

Eligibility

38. A person is entitled to a special refund on goods held on hand on 1 April 2015 provided that he fulfills the following conditions:-

- (a) the claimant must be a person who is required to register mandatorily under GST. If he fails to be registered by 1 April 2015, he is not eligible for the refund. A person who voluntarily registers for GST is not eligible for the special refund;
- (b) the goods held on hand on 1 April 2015 are for the purposes of making taxable supplies;
- (c) the goods are subject to sales tax and sales tax has been paid by the claimant before 1 April 2015;
- (d) the claimant must hold the relevant supplier's invoice proving that he is the recipient of the goods for which sales tax has been paid; and
- (e) for imported goods held on hand, the claimant must hold relevant documents to prove that he is the importer or consignee or owner of the goods for which sales tax had been paid.

Twenty Percent Method

39. In certain cases, the eligible claimant is unable to show proof that sales tax has been paid on the goods he holds on hand on 1 April 2015. This usually applies to claimants who purchase goods from traders. Under such circumstances, where sales tax is not stated in the invoice, the amount of special refund may be claimed using the formula below:

$$\text{Special Refund} = \text{Purchase Price} \times 20\% \times \text{Sales Tax Rate Applicable}$$

40. This method reduces the total purchase price by 80% to arrive at an estimated taxable value on which tax would have been charged to the claimant. However, the claimant must ensure that the invoiced value of the goods he holds on 1 April 2015 has been fully paid.

Example 9:

In February 2015, a GST registered plumber purchases a marble wash basin from a retail hardware store for fitting in a customer's home. This item is held on hand at the start of 1 April 2015. However, the invoice from the hardware store does not show the amount of sales tax chargeable. The plumber's purchase price is RM1,900 and the sales tax rate is 10%. The special refund claimable is:

$$\begin{aligned}\text{Special Refund} &= \text{Purchase Price} \times 20\% \times \text{Sales Tax Rate} \\ &= \text{RM } 1,900 \times 20\% \times 10\% \\ &= \text{RM}38\end{aligned}$$

Stock Count

41. A person claiming the special refund is required to perform a stock count (undertake a physical stock take of the goods held on hand) and identify the equivalent amount of sales tax paid on those goods from stock take. If the amount of special refund is:

- (a) less than RM10,000, the claimant is required to furnish an audit certificate signed by a chartered accountant certifying the amount of the special refund; or
- (b) RM10,000 or more, the claimant is required to furnish an audit certificate signed by an approved company auditor under section 8 of the Companies Act 1965 certifying the amount of the special refund.

Manner of Refund

42. The claimant must submit his claim within six months from 1 April 2015. Submission of claims are only allowed online [through the taxpayer access portal (TAP)]

at the GST Portal at www.gst.customs.gov.my. The claimant is entitled to claim once within that period and no corrections are allowed on the said claim after submission.

43. The special refund amount approved by the Director General will be used to offset against any unpaid GST, sales tax, service tax, custom duties, excise duties, penalties, surcharge and any other money payable under those related acts. The balance of special refund amount will subsequently be refunded on a quarterly basis over a period of two years irrespective of the taxable period the claimant has been assigned to e.g. monthly or quarterly taxable period. Further deductions may be made if there was found to be any further unpaid taxes, penalties, etc.

44. If the claim is false, inaccurate, misleading or misrepresented, the Director General has the right to withhold the unpaid refund and consequently, if there is any contravention of the conditions for entitlement, the claimant is taken not to have been entitled to a special refund and the Director General will recover the amount refunded and deny the claim accordingly.

45. The claimant must keep records to substantiate the claim e.g. quantity of goods held on hand at the start of 1 April 2015. Such records must be kept for seven years from the date on which the claim was made.

46. If the claimant has been refunded the special refund on goods he holds on 1 April 2015 and he subsequently returns the same goods to the supplier, he must account for the special refund in relation to such goods as his output tax in his return for the taxable period in which the goods were returned. Failing which he will be subject to the late payment penalty from the date he returns the goods. Records such as notice for return of goods by the claimant, credit note from his supplier or debit note raised by the claimant if no credit note was raised by his supplier and the related invoice of sale must be kept as written evidence.

Goods Not Entitled to Special Refund

47. The following goods held on hand are not entitled for a special refund:

- (a) goods that have been partially used or incorporated into some other goods (including work in progress) produced by a registered person;
- (i) examples of goods which have been partially used are packing materials, plastic sheets used for packing goods, labels, price tags, used display items/demo items handled by customers;
 - (ii) examples of good partially incorporated into some other goods or finished products raw materials which are directly used or incorporated into finished products such as textile and buttons used in the manufacture of garments and veneer sheets and glue used in the production of plywood.
- (b) goods held for hire, goods held for other than business and goods not for sale or exchange:
- (i) examples of goods held for hire may be used or new stocks made available for hire for a fee or temporary use for a fee or rent to any hirer e.g. a contractor hires a generator to be used at a construction site. Hired goods also includes goods hired out by the telecommunication operators e.g. telephones, decoders, etc., which will become the property of the hirer after the end of the contractual period.
 - (ii) examples of goods held other than business are goods used for personal consumption or goods purchased for hobbies such as literature books and collector's items (coins, paintings or stamps).
 - (iii) examples of goods not for sale or exchange includes:
 - consumables e.g. stationaries, cleaning rags, air conditioners, lubricants, grease, office furniture;

- goods not used directly in the manufacturing process or related in the making of finished goods of the claimant;
 - goods destroyed, consumed or expended by use in carrying on a business; and
 - goods which had been used or second-hand goods held before 1 April 2015 and were for a purpose other than for sale before 1 April 2015 e.g. used factory equipment and machinery.
- (c) capital assets of a registered person's business capitalized in accordance with generally accepted accounting practice.
- (d) goods purchased with sales tax before 1 April 2015 and subsequently exported on or after that date and a claim for drawback made under section 29 of the Sales Tax Act 1972.
- (e) goods held on hand on which the claimant is allowed to claim sales tax deduction under section 31A of the Sales Tax Act 1972 i.e. sales tax deduction under the credit system facility.

SUPPLIES MADE PURSUANT TO CONTRACT WITH NO OPPORTUNITY TO REVIEW

48. Transitional rules have been introduced to deal with contracts and agreements entered into prior to 1 April 2015. The GST impact on them will depend on whether contracts have opportunity to review or no opportunity to review on or after 1 April 2015.

Supplies made pursuant to contracts with opportunity to review

49. A "reviewable contract" is a written contract, not being a contract where there is no opportunity to review, which provides for a general review of the consideration or contemplates a change to the price or consideration of the goods and services to be supplied under the contract.

50. The review opportunity must be a 'total' review and not of a specific part or parts of the consideration payable under the agreement. Hence, that a review opportunity arises only if the whole or nearly all of the consideration for a supply is capable of review.

Example 10:

An increase in the consideration that is stipulated in the original contract, such as an increasing rent scale, a market rent review or Retail Price Index cost of living increase, is not regarded as a review opportunity.

51. The provision of goods and services under a reviewable contract entered into 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.

Example 11:

A ten year business supply contract was made on 1 January 2013 and provides for a market review to be made every five years. If the review is to be made every five years i.e. 1 January 2018, supplies made from 1 April 2015 till 31 December 2017 will be zero rated and supplies made from 1 January 2018 will be subject to GST at a rate of 6%.

Example 12:

If you sign a reviewable contract for 6 years w.e.f. 10 June 2012 with an option to review the price after 4 years, you can only zero-rate your supplies from 1 April 2015 to 9 June 2016. From 10 June 2016 onwards, you must charge GST on your supplies.

Example 13:

If you sign a reviewable contract for 10 years w.e.f. 10 June 2012 with an option to review in the 4th year where there is no review of the price or consideration of the goods and services to be supplied under the contract, you can zero-rate your supplies for 5 years effective from 1 April 2015 onwards.

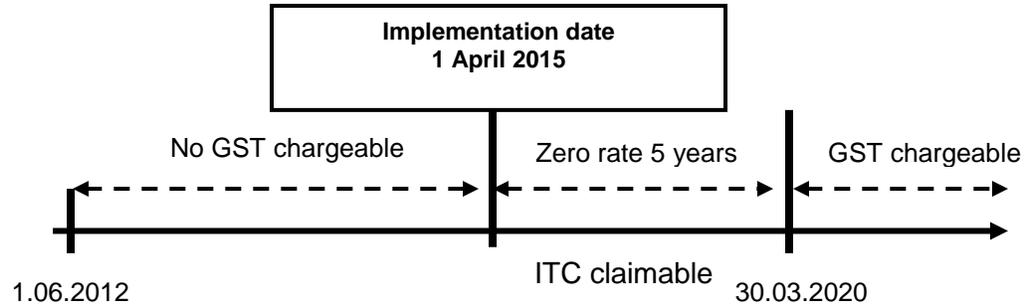
Supplies made pursuant to contracts with no opportunity to review

52. A contract with no opportunity to review is where there is no specific provision to review price or consideration of the supply. For GST purposes, business takes the liability for GST in respect of taxable supplies made on or after the introduction of GST.

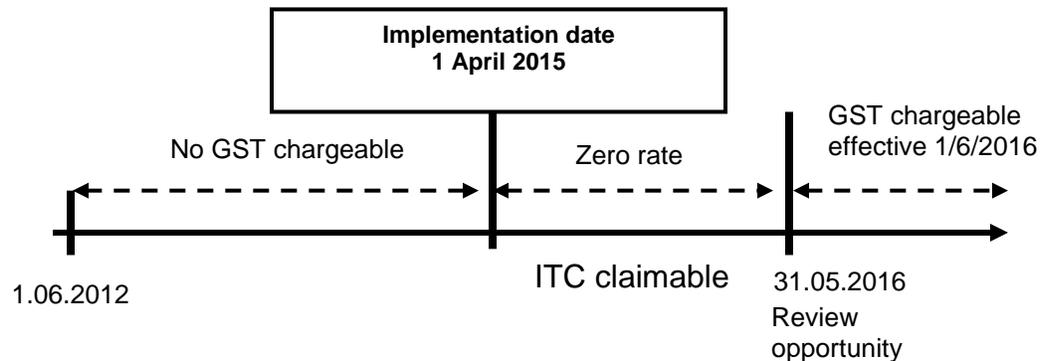
53. Taxable supplies made under such contracts are treated as zero rated supplies for a period of five years from the date of implementation of GST or when a review opportunity arises, whichever is the earlier if:-

- (a) both supplier and recipient to the contract are GST registered persons;
- (b) the contracted supply is a taxable supply; and
- (c) the contract must have been irrevocably in place and agreed by all parties to it not less than two (2) years before 1 April 2015; and
- (d) the recipient of the contracted supply is himself making wholly taxable supplies.

54. After the expiry of the five year period, the taxable supply will be subject to GST if the contracting parties still have no opportunity to review the contract.



55. If the contracting parties have an opportunity to review the contract, the supply will be subject to GST when the first review opportunity arises.



56. If the supplier decides not to renegotiate the value of the supply when the first review opportunity arises, the GST payable (6%) is the tax fraction of the value of the supply.

Example 14:

A contract with not opportunity to review for GST purposes was made on 20 May 2012. The contract is for a supply of children garments over a period of 4 years beginning from 15 June 2012 at a fixed price of RM 600,000 a month for 3 years 14 June 2015 after which the price may be renegotiated. Payment is made each month upon delivery of the garments i.e. every 15th day of the month. Supplier is on a monthly taxable period.

The supply of garments is a taxable supply at 0% from 1 April 2015 until the end of the contract.

If the prices for the month of June 2015 onwards is reviewed by the supplier and changed to RM 650,000 (inclusive of GST), the GST liability till the end of the contract is as follows:

<i>GST Return for...</i>	<i>Payment for supplies</i>	<i>GST rate</i>	<i>GST Payable</i>
<i>April 2015</i>	<i>600,000</i>	<i>0%</i>	<i>Nil</i>
<i>May 2015</i>	<i>600,000</i>	<i>0%</i>	<i>Nil</i>
<i>June 2015</i>	<i>650,000</i>	<i>6%</i>	<i>36792.45</i>
<i>July 2015 onwards</i>	<i>605,000</i>	<i>6%</i>	<i>36,792.45</i>

57. However, if there is a variation to a long-term non-reviewable contract before the expiry of the five year period that only revises the price for supplies to be made on or after such period, this review will not affect the zero rated treatment of the contract before such time.

GST chargeability on supplies made on or before the end of the expiry of the five year period

58. Since the implementation is 1 April 2015, the expiry of the 5 year zero rate period is 31 March 2020; hence the GST chargeability is as shown in the third column in the **TABLE 3.**

TABLE 3: Chargeable to GST upon expiry of zero rating

Time of supply			GST treatment
Case	On or before 1 April 2020	After 1 April 2020	After 1 April 2020
1	Supply of taxable goods removed made available and taxable services performed	Tax invoice issued or payment received	Zero rated supply
2	Tax invoice issued or payment received	Supply of taxable goods removed made available and taxable services performed	Standard rated supply

Example 15:

LG Electronics provided repair services to a client for the month of March 2020. LG issued a tax invoice to his client for the services rendered for the month of March 2019 on 5 April 2019. LG can still charge GST at 0% in respect of the repair services provided for in March 2020.

Example 16:

LG Electronics delivered goods to his customer on 5 April 2020. Before that, his customer already made an advance payment on 27 March 2020 for the goods. LG cannot zero-rate the supply as the delivery of the goods will only take place after 1 April 2020.

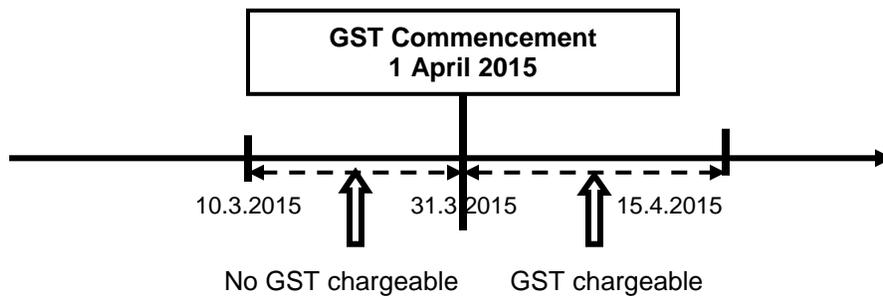
PERIODIC OR PROGRESSIVE SUPPLIES

59. If there is a continuous supply of goods or 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 supply is taken to be made on a continuous and uniform basis throughout the period.

60. If a taxable person makes a continuous supply of goods spanning 1 April 2015, he has to apportion the supply and charge GST accordingly.

Example 17:

Power Supply Sdn Bhd issues an invoice of RM200 for a supply of gas for the period from 10 March 2015 to 15 April 2015.



Assumed bill amount from 10.3.2015–15.04.2015 (37 days) is RM200.00.

Value chargeable to GST = RM200.00 / 37 days x 15 days

= **RM81.08**

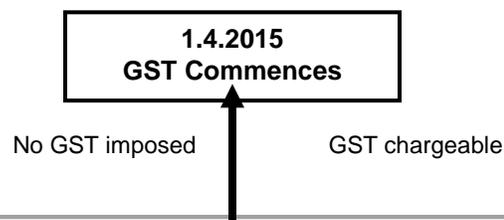
GST 6%

= **RM 4.86**

61. The same GST treatment will apply for a supply of service made on a periodic or progressive basis over a period that spans 1 April 2015.

Example 18:

Norman who is registered for GST has a twelve month contract with Putra Jaya Holdings to maintain lawns and gardens. Norman's landscaping fee is RM10,000. Norman's supply of landscaping services is subject to GST at a standard rate on the pro-rated value of the contract for the supply made on and after 1 April 2015.





Fee subject to GST: RM10,000 /12 x 2 months
= RM1,666.67
GST 6% = RM 100.00

Example 19:

After entering into a deal to build a RM 1,340,000 commercial complex, a written S&P was signed in January 2015. On 15 May 2015, the purchaser requests that the flooring on the 2nd level to be upgraded to hardwood. The amount payable for the upgrade is not included in the written agreement. The charge for the upgrade by the builder is RM 140,000. The ownership and possession will be transferred on 30 September 2015.

The upgrade activity is a separate supply from the S&P signed. The builder issues a separate invoice for the upgrade RM 140,000 on 20 May 2015 to the purchaser and he pays the amount the following day.

TABLE 4 GST liability on building of commercial complex

Payment schedule (invoicing)		Date payment due from purchaser	Modifications by purchaser	GST liability
1st	500,000	30 March 2015	NA	0
GST implementation 1 April 2015				
Additional	140,000	14 May 2015	Upgrade flooring May 2014 RM 140,000	8,400
2 nd	500,000	30 June 2015		22,314

Payment schedule (invoicing)		Date payment due from purchaser	Modifications by purchaser	GST liability
3 rd	340,000	31 August 2015	NA	20,400
TOTAL	1,480,000	Hand over in 30 September 2015		Total 51,114

Notes:

- (i) *No GST imposed on 1st payment (RM500,000)*
- (ii) *GST on 2nd payment:*

$$GST = [(90/121) \times 500,000 \times 6\%] = 371,900 \times 6\% = 22,314$$
- (iii) *GST on upgrade of flooring:*

$$GST = 140,000 \times 6\% = 8,400$$
- (iv) *GST on 3rd payment:*

$$GST = 340,000 \times 6\% = 20,400$$

RIGHTS GRANTED FOR LIFE

58. Rights granted for life means:

- (a) the service is made by a taxable person who is a club or the likes of it under an agreement to grant rights;
- (b) the rights to be granted are for the rest of the person's life or for a period of not less than 30 years; and
- (c) the rights is granted or first exercisable before 1 April 2015.

59. The club or such similar body refers to an establishment run and managed by a registered company e.g. Leisure Sun Club, Putra Golf and Country Club or Hills Clubhouse offering membership rights to facilities of the club or clubhouse such as sports and recreation, food and beverage, accommodation and special privileges to the members' guests. However, it excludes clubs with timeshare membership and the like.

60. Any payment for such rights made before 1 April 2015 will not be subject to GST. However, any payment made on or after 1 April 2015 will be subject to GST. Hence, if the rights are not paid in full before 1 April 2015 but paid in progressive payments and spans on or after 1 April 2015, the payments made on or after 1 April 2015 will be subject to GST.

Example 20:

Halim takes out a life membership at a private club for RM 6,000 and pays in full upon application before 1 April 2015. He is entitled to use the facilities of the club upon full settlement. The membership fee is not subject to GST.

Example 21:

Maniam took a life membership at Bandar Permai Golf Resort (BPGR) for RM130,000 on 1 February 2015 and granted membership from 1 February 2015. He was issued an invoice for the said sum on the same day and allowed a payment schedule as below:

Maniam pays on....	When Maniam pays the sum of RM....	BPGR accounts for GST RM....
1 February 2015	50,000	Nil
1 March 2015	70,000	Nil
1 April 2015	30,000	1,698.11

Example 22:

Using Example 21 above, if the membership term is for 20 years, the GST treatment on Halim's payments will be as follows:

Maniam pays on...	When Maniam pays the sum of RM....	BPGR accounts for GST RM....

1 February 2015	50,000	Nil
1 March 2015	70,000	6,792.45
1 April 2015	30,000	1,698.11

The value of GST is deemed inclusive in the invoice issued before 1 April 2015 as the supply spans the implementation of GST.

$$\begin{aligned} \text{Value of GST} &= 120,000 \times [6/106] \\ &= \mathbf{RM 6,792.45} \end{aligned}$$

CONSTRUCTION AGREEMENTS MADE BEFORE 1 APRIL 2015

61. GST is only payable on a supply of goods or construction services to the extent that it is made on or after 1 April 2015. Therefore, the value of work and materials permanently incorporated in or affixed on the construction site before 1 April 2015 will not be subject to GST.

62. In dividing the performance of the service into a portion that is not subject to GST and the portion that is subject to GST, 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.

63. 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.

64. If 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). 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.

Example 23:

On 30 October 2013, a building contractor signs a contract to build a shop house for RM 1,600,000. The contract has no provision for a review of the price. As a 31 December 2013, the amount of work done

and materials affixed on the site amounts to RM900,000. The job is completed on 6 March 2014 and the building is accepted by the owners on 30 March 2014, where the final payment is made.

The payment schedule is as follows:

Payment upon signing		RM 500,000
Progress payment due	28/02/15	RM 300,000
	31/03/15	RM 200,000
	30/04/15	RM 200,000
	31/05/15	RM 200,000
	30/06/15	RM 200,000
CONTRACT PRICE (inclusive GST)		RM 1,600,000

Calculation for GST payable:

Total payment up to 31/03/15	RM 1,000,000
Valuation at 31/03/15	RM 900,000
EXCESS	RM 100,000

<i>Progress payment due date</i>	<i>Progress Payments</i>	<i>GST payable</i>
1 April 2015 (deemed supplied)	100,000	5,660.37
30 April 2015	200,000	11,320.75
31 May 2015	200,000	11,320.75
30 June 2015	200,000	11,320.75
GST Payable	700,000	39,622.62

MACHINES OPERATED BY COIN AND TOKENS

65. During the transitional period, the first removal of collections within one week from 1 April 2015 will not be subject to GST. However, any subsequent removal within such time shall be deemed to be tax inclusive. After a period of one week from 1 April

2015, any removal shall be subject to GST where the amount of collected is inclusive of GST.

Example 24:

Collections removed from a beverage vending machine are as follows:

Date of removal	Collection (tax inclusive)	GST Payable
2.4.2015 (1st removal)	RM 800.00	No GST
6.4.2015 (2 nd removal)	RM 780.00	RM44.15

Example 25:

Collections removed from a beverage vending machine are as follows:

Date of removal	Collection (tax inclusive)	GST Payable
8.4.2015 (1st removal)	RM 1,040.00	RM58.86
18.4.2015 (2 nd removal)	RM 780.00	RM44.15

WARRANTY

66. A supply of warranty is not subject to GST if the supply of warranty:

- (a) begins before 1 April 2015 and ends on or after 1 April 2015; and
- (b) relates to goods or services (whether expressed, implied or required by law) where the value of the warranty is included in the price of the goods and services at the time of purchase of goods or services.

67. The above GST treatment also applies to extended warranty purchased before 1 April 2015 and the supply of warranty spans the implementation of GST. Such extended warranty may include warranty purchased at a later time after the purchase of the goods or services but the date of purchase of the extended must be before 1 April 2015.

68. However, any extended warranty purchased on or after the implementation of GST for goods and services purchased on or after the implementation of GST is subject to GST at a standard rate.

69. If there is an extra charge for the spare parts, then the charge is subject to GST at a standard rate.

RETENTION PAYMENTS

70. Retention payments refer to an amount which forms part of the full consideration held by a person pending full and satisfactory performance of a contract. Where such payments under a contract that relates to a supply of goods or services made before 1 April 2015, the retention payment is not subject to GST. However, if such payments relates to a supply made after 1 April 2015, it shall be subject to GST.

Example 26:

A contractor makes a supply of services from 1 December 2014 to 31 May 2015. A sum of RM48,000.00 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:

$$RM\ 48,000 \times 2 / 6 \times [6/106] = RM\ 905.66$$

UNREDEEMED VOUCHERS

71. Generally, any voucher for goods or services issued before 1 April 2015 will be subject to GST when redeemed on or after 1 April 2015.

Non-monetary voucher

72. In the case of a non-monetary voucher issued before 1 April 2015, the value of supply upon redemption on or after 1 April 2015 is the value of voucher. Tax shall be charged upon redemption on the supply and the supplier accounts for GST on the goods redeemed. However, no tax shall be charged on the redemption of the voucher if sales tax or service tax has been charged and paid on the voucher before 1 April 2015.

Example 27:

Amy won a non-monetary voucher during a charity annual dinner before 1 April 2015 where she can exchange it for a washing machine worth RM2,560 at an electrical shop vendor. When Amy produces the voucher for redemption after 1 April 2015, she is given a washing machine worth RM 2,560 (inclusive of GST) and the vendor is required to account for GST on the washing machine as follows:

$$RM\ 2,560 \times [6/106] = RM\ 144.90$$

Example 28:

Annie won a voucher before 1 April 2015 for a night stay in a standard room at the Hyatt Hotel worth RM 180 per night. If Amy chooses to redeem the voucher for a night stay in a suite room worth RM 450 per night, she must pay GST on the difference of the price of the room rate which is RM 270.00 since service tax has already been charged and paid on the voucher.

Monetary Voucher

73. In the case of monetary voucher, the supply of goods or services is subject to GST when the monetary voucher is redeemed. The value of supply is the actual amount paid on the supply when the voucher is redeemed on or after 1 April 2015. If the actual value of the goods sold is RM530, the supplier must account for GST amounting to:

$$RM\ 530 \times [6/106] = RM\ 30.00$$

FREQUENTLY ASKED QUESTIONS

74. Time of supply

Q1: What is the time of supply for real property (land and building affixed to the land)?

A1: 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.

Q2: 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?

A1: 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.

Q2: 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 (installments) to me after 1 April 2015, must I charge GST on the payments?

A2: No, the sale of the goods is not subject to GST as the goods were made available before 1 April 2015.

75. Special refund

Q1: 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?

A1: No, you cannot claim the refund on the passenger car as it is an item that is excluded from such refund.

Q2: I am entitled to a special refund of RM80,000 where my installments of RM 8,000 will be refunded to me over 8 quarterly taxable periods. After the 3rd installment, the balance of RM56,000 was set off against sales tax due from me for the sum of RM 20,000. What is the implication on my subsequent installments?

A2: You will continue to receive a refund of RM 8,000 for four (4) taxable periods amounting to the sum of RM 36,000 after the setting off process.

Q3: 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?

A3: You are not eligible for a special refund as the vehicle is used for hire.

Q4: In relation to a claim of 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?

A5: 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.

Q6. 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?

A6: 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.

76. Goods returned

Q1: 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?

A1: 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.

Q2: 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?

A2: A GST registered person is required to account the special refund on the returned goods as output tax.

77. Credit note

Q1: 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?

A1: 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.

Q2: What is the GST treatment if the buyer is a not a registered person?

A2: 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.

78. Debit note

Q1: 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?

A1: You have to account for sales tax based on the sales tax rate you charge your customer.

79. Supply of membership rights

Q1: 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?

A1: The subsequent sale of your membership is subject to GST at a standard rate if you are a registered person.

Q2: 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?

A2: 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.

Q3: 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?

A4: The fees or charges on such services if provided on or after 1 April 2015 is subject to GST at a standard rate.

80. Road transport

Q1: 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?

A1: 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.

81. Deposit

Q1: 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?

A1: Yes, as the pictures were only made available to you on 4 April 2015 when you made the balance of payment.

Q2: 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?

A2: 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.

82. Ticketing

Q1: 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?

A1: 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.

83. Progressive and continuous supply

Q1: 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?

A1: 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.

Q2: 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?

A2: 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.

84. Relief on second-hand goods

Q1: 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?

A1: You are making a taxable supply of goods when the cars are sold after 1 April 2015 and therefore is 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. Further details about the scheme may be obtained from the GST Guide on Relief for Second-hand goods.

85. Bad debt

Q1: Can I claim refund on bad debts incurred under the Sales tax Act 1972 and Service Tax Act 1975?

A1: 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.

FEEDBACKS OR COMMENTS

87. Any feedbacks or comments will be greatly appreciated. Please email your feedbacks or comments to either Mohd Hisham B. Mohd Nor (m_hisham.nor@customs.gov.my) or Aminul Izmeer B. Mohd Sohaimi (izmeer.msohaimi@customs.gov.my).

FURTHER INFORMATION

88. Further information can be obtained from:

- (a) GST Website : www.gst.customs.gov.my
- GST Tel : 03-88822111
- (b) Customs Call Centre :
- Tel : 03 – 7806 7200 / 1-300-888-500
- Fax : 03 – 7806 7599
- E-mail : ccc@customs.gov.my