



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON PROFESSIONAL SERVICES

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to GST treatment on the professional services in Malaysia which include the provision of the employment services, engineering, architectural and surveying services. Except for the provider of the employment services, other provider of the professional services are merely incidental to the construction of residential and commercial (non-residential) dwelling.

Overview of Goods and Services Tax

2. Goods and Services Tax (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, only the value added at each stage is taxed thus avoiding double taxation.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 201X is known as a “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 back any GST incurred on his purchases (input tax) which are inputs to his business. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

PROFESSIONAL SERVICES

5. As the provider for employment services, a private employment agency is in the business of providing services for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them. It applies to a wide range of agencies, from the familiar recruitment agency, through

specialist agencies to entertainment, the executive selection functions of management consultants and executive search consultant.

6. Professional engineering services include engineering services and advice in connection with any feasibility study, planning, survey, design, construction, commissioning, operation, maintenance and management of engineering works or projects and any other services performed by the engineers. These also include the design and construction of residential, commercial and industrial development, petroleum, petrochemical plant and process, mining plant and process, electronic and electrical equipment, industrial machinery design, microelectronic, transportation, transportation equipment, power, telecommunication, broadcasting, utility, industrial waste, construction, project management, research and development, environmental consulting, engineering advisory, etc.

7. Professional architects provide architectural consultancy services and advisory services. Normally the architectural services provide basic services such as schematic design work, design development, contract documentation, contract implementation and management. It also includes supplementary services like survey and investigating, planning and development and supplementary design.

8. The surveying services can be divided into various disciplines like land survey, building survey, quantity surveying, and property consultancy valuation surveying. They are also involved in pre-construction or development planning.

FREQUENTLY ASKED QUESTIONS

Q1: How does GST work?

A1: 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 is engineering plans charges and your inputs are utilities bills.

Output : Engineering plans = RM 2,000

Input : Utilities bills = RM 1,000

Output tax : RM 2,000 x 6% = RM 120

Input tax : RM 1,000 x 6% = RM 60

The difference (output tax minus input tax) to be remitted to

RMCD is RM 60 (RM 120 – RM 60)

*** Throughout this guide, we assume that the prices illustrated are GST exclusive.**

Q2: Who is a taxable person?

A2: 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 individual, sole proprietor, a partnership, corporate body, etc.

Q3: Who is required to be registered?

A3: 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.

Q4: What constitutes my taxable turnover?

A4: 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 supply such as personal use and business gifts.

Q5: Will GST be levied on all professional services?

A5: Yes. All professional services are subject to GST because the provisions of such 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 are standard rated irrespective whether such works are to be carried out on properties which are taxable or exempt under GST.

Q6: Is GST imposed if a project is put on hold or cancelled but where the services have been performed?

A6: 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, on 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, on hold or cancelled work.

Q7: As a registered professional service provider, do I have to charge and account for GST?

A7: 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 the 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 have to account for GST on any charges and fees imposed on the date of completion of the services performed. However, if you receive payment or

issue a tax invoice before the date of completion of services, you have to account for GST whichever is the earlier. You are required to issue a tax invoice within 21 days from the date of completion of services.

Example 2:

JB & Co provided employment services to a client B. The services were provided in April 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 before or on 5th June. JB & Co has to account for GST based on the invoice date.

Q8: Do I have to issue tax invoices for the above charges and fees?

A8: 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 the GST as input tax.

Q9: Acting in the capacity of a principal, JL Cari Kerja, as a provider of 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 to GST?

A9: JL Cari Kerja should charge the GST based on the full charge that is based on RM6,000.

Q10: 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?

A10: In this particular case, JL Cari Kerja is only required to account for GST on the commission charged to the client.

Q11: Are the fees imposed by statutory authority such as Board of Engineers Malaysia, Board of architects Malaysia or Royal Institution of Surveyors subject to GST?

A11: Yes. The fees are imposed for purpose of accreditation. It is a standard rated supply.

Q12: If I am engaged by local firm to undertake an engineering project in Indonesia, do I have to account for GST?

A12: No. Services supplied in connection with land and improvements outside Malaysia are zero rated. Part of 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 supply of services to be performed outside Malaysia is zero rated supply and there is no GST on the charge.

Q13: 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?

A13: Yes. These reimbursements are incurred in course of providing services to your client. When you incur such disbursements 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 disbursements are subject to GST.

Q14: What can I claim as disbursements which are not subject to GST?

A14: Disbursement are not subject to GST and it does 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 the discretion to alter the nature or value of supplies made between his customer and the third party supplier but is authorized by his customer to make payment to the supplier on his behalf. At 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 knows 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 recover 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 conditions 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.
- (c) statutory fees such as seeking and obtaining statutory approvals from proper authorities.

Q15: 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?

A15: 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. The agency then charge these expenses to the client who can claim the input tax credit.

Q16: 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?

A16: These expenses are not treated as disbursements.

Q17: Can general expenses qualify as disbursements?

A17: 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.

Q18: Are disbursements excluded from the value of the supply of services?

A18: 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.

Employment fees	:	RM3,000.00
GST (6 %)	:	RM 180.00
Total charges (includes GST)	:	RM3,180.00
Disbursement:		
Lodging allowance to prospective candidate	:	RM 100.00
Grand Total	:	RM3,280.00

Q19: As the provider of the employment services, JL Cari Kerja helps 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?

A19: 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.

Q20: As the provider of the employment services, my client asked me to act on its behalf in paying travelling, insurance, accommodation and subsistence expenses of his officers on secondment. What is the GST treatment of these expenses?

A20: These expenses can be regarded as disbursements.

Q21: 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?

A21: This payment by you can be regarded as taxable disbursement as it fulfills the conditions as in A14.

Q22: Are sub-consultants who provide professional engineering services to prime consultants subject to GST?

A22: Yes. Sub-consultants who are GST registered who provide professional engineering services to prime consultants are required to collect GST as output tax.

Q23: Is GST chargeable on deposit received from the client?

A23: Before commencing of work, if you received deposit and progressive payments for 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.

Q24: As a professional architect what can I claim as input tax?

A24: 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.

Q25: Do I have to account for GST if I no longer become a registered person?

A25: 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.

Q26: How does GST apply when I discount my billing or reduce it in anticipation of bad debt?

A26: GST is charged on the discounted or reduced amount.

Q27: 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 the clients are in Malaysia. What is the GST implication of such a practice?

A27: The business establishment most directly concerned with the supply of service is your head office in London. If the services were rendered by the London office, GST would not be charged on the inspection 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.

Q28: What will happen if my customer does not pay me after I have issued the tax invoice after completion of work?

A28: 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.

Q29: Do I have to make a formal claim to recover GST due to bad debts?

A29: 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.

Q30: What happen if my customer pays me back the bad debts after I have claimed bad debts relief?

A30: You have to make an adjustment by increasing your output tax.

Q31: Are local consulting companies who engage foreign consultant surveyors required to pay GST on these imported services?

A31: Imported services will be subject to GST by way of a reverse charge mechanism. Under this mechanism, the recipient of the imported services is 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 makes wholly taxable supplies, he need not account for any imported services when he engages the foreign consultant.

Q32: Are professional consultancy works performed spanning the transitional period (pre and post GST commencement) subject to GST?

A32: 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.

Q33: I brought goods such as measuring instruments that were subject to sales tax. Can I claim input tax?

A33: If you are registered under GST, you can claim input tax if these goods are your trading goods and are reflected in your balance sheet and if you have documentation such as invoices and custom documentation to show that sales tax have been paid. As measuring instruments are not your trading stocks, you cannot claim input tax credit.

Q34: As a surveyor I pay for some tools for my relative to help him set up in business on a small scale. As I paid for them can I deduct the GST paid for the tool?

A34: 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.

Q35: Besides making taxable supply I also make exempt supply like the giving of loans. How is GST treated?

A35: As you are making taxable supply as well as exempt supply e.g. loan you may not deduct all GST on acquisitions as your input tax. However, if the input tax on all the purchases and other expenses that you incur in making these

exempt supplies is below the de minimis limit, you can still deduct your input tax as though you are making only taxable supplies.

FEEDBACK OR COMMENTS

9. Any feedback or comments will be greatly appreciated. Please email your feedback 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

10. Further information can be obtained from:

- (a) GST Website: www.gst.customs.gov.my
- (b) GST Hotline: 03-88822111
- (c) Customs Call Centre:
 - Tel : 03-78067200/ 1-300-888-500
 - Fax : 03- 78067599
 - E-mail : ccc@customs.gov.my