



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON FREE COMMERCIAL ZONE

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to GST treatment on Free Commercial Zone (FCZ).

Overview of Goods and Services Tax (GST)

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 20XX 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.

GENERAL OPERATIONS OF THE INDUSTRY

Free commercial zone

5. A Free Zone is an area gazetted by the Minister of Finance under the section 3(1) Free Zone Act, 1990 where commercial activities are carried out with minimal customs control. Free Zone Authority is appointed by the Minister under Section 3(2) of the Free Zone Act 1990 to administer, maintain and operate the zone.

GST TREATMENT FOR THE INDUSTRY

IMPLICATION OF GST ON FCZ

6. Under the GST Act 20XX, FCZ is regarded as a place outside the Principal Customs Area (PCA). The zones are located at ports and airports as well as outside ports and airports. The free commercial zones which are located outside ports/airports are those located at Stulang Laut, Johor Bahru, Bukit Kayu Hitam, Kedah, Pengkalan Kubor and Rantau Panjang, Kelantan. Commercial activities such as trading (excluding retail trade), break-bulking, grading, relabelling, repacking and other value-added activities are allowed to be carried out in FCZ.

GOODS OR SERVICES SUPPLIED WITHIN FCZ

7. Any supply of goods made within a FCZ located outside ports/airports is not subject to GST. Goods will be subject to GST when they are taken out from the zone.

8. For a FCZ located at ports/airports, any goods imported into the FCZ which are used or consumed within the zone, other than goods for the purpose of commercial and retail trade activities, is subject to GST.

9. GST is chargeable on the supply of services made within the zone irrespective of whether the zone is located at ports/airports or outside ports/airports. Generally the services are standard rated except for some services supplied in the zone located at ports/airports which are listed under the Zero Rate (Supplies) Order 20XX. Such supply of services are zero rated.

GOODS OR SERVICES SUPPLIED BETWEEN FCZ

10. GST on any supply of goods between free commercial zones are suspended irrespective of whether the zones are located at ports/airports or outside ports/airports. However, any supply of services made between the zones are subject to GST.

GOODS OR SERVICES IMPORTED OR SUPPLIED INTO FCZ

11. For the purpose of GST, GST on goods imported into a free commercial zone, whether the zone is located at ports/airports or outside ports/airports, is not subject to GST provided they are for commercial or retail trade activities. However, GST on movement of goods which are subject to a warehousing scheme into the zone is suspended. This means that GST on movement of goods from a bonded warehouse, inland clearance depot or duty free shop into the zone is suspended. Similar treatment applies to goods transported from a designated area to the zone. Supply of imported services into the zone is standard rated. GST is also chargeable on any supply of goods or services made from a principal customs area (PCA) to a person operating in a free commercial zone. However, goods used or consumed in the zone other than goods for the purpose of commercial and retail trade activities will be subject to GST

12. When goods are transported from a PCA to a FCZ for outright export to a foreign country, declaration of the goods must be made in Customs No.2 form at the exit point of the PCA. GST on such supply is zero rated. However, declaration of goods transported from a bonded warehouse, duty free shop or inland clearance depot (ICD) must be made in Customs No.8 form.

13. When goods are supplied from a PCA to a FCZ to be deposited first in the FCZ before being exported to a foreign country (not an outright export), GST is applicable.

GOODS OR SERVICES SUPPLIED FROM FCZ

14. Generally, goods supplied from FCZ to PCA are subject to GST on importation. Thus, GST shall be payable together with customs duty, if any, upon all goods released for home consumption. However, if a registered person in PCA has an approval under Approved Trader Scheme (ATS), GST on such supply of goods is suspended. Supply of goods from a FCZ to a designated area is also suspended.

15. Declaration of dutiable goods must be made in Customs No.1 form in FCZ. Import duty, if any, and GST must be paid at the checkpoint in the FCZ. Declaration

of goods released from a FCZ to bonded warehouse or ICD must be made in Customs No.8 form.

16. Supplies of services provided to PCA from a service provider in FCZ are local supplies. Thus, the services are subject to GST and output tax has to be accounted for in a tax invoice if the service provider is a registered person.

KEEPING RECORDS

17. Every FCZ operator has to keep full and true up-to-date records regarding all transactions which affect or may affect his liability to tax.

18. Records and documents that must be kept in the National language or English are as follows:

- (a) all records of all goods and services supplied by or to that taxable person including tax invoices, invoices, receipts, debit and credit notes and export declaration forms;
- (b) all records on importation of goods;
- (c) any other records may be required by the proper customs officer.
- (d) other businesses and accounting records to be kept if maintained by a taxable person:
 - (e) ledgers, cash books and journals and all other books of account;
 - (f) financial statements;
 - (g) documentary proof to support zero rate supply (including export documentation);
 - (h) particulars of any agents acting on your behalf and transactions concluded through agents;
 - (i) bank deposits slips and bank statements;
 - (j) data in electronic form, including computer printouts;
 - (k) accounting charts, access codes, program documentation and system instruction manuals;
 - (l) contracts/sales agreements.

19. Records must be properly filed and kept at the approved premise and made available at any time to be audited by any Customs officers.
20. Any records kept in pursuance of this section shall be preserved for a period of 7 years from the latest date to which such records relate.
21. The proper officer of customs may approve the preservation of records or information referred to the above records by any such means and the copy of any such record or information shall be admissible as evidence in any proceedings to the same extent as the records of information itself.

DISPOSAL OF RAW MATERIALS, COMPONENTS, WASTAGE AND FINISHED GOODS

22. Disposal of raw materials, components, wastage and finished goods must be supervised by the officer from the Zone Authority (ZA) and ZA will issue a certificate signed by the ZA officer and the owner of the goods.
23. Wastage and scrap which have commercial value are subject to GST when it is supplied to PCA by a taxable person in FCZ.
24. Disposal of raw materials, components, wastage and finished goods done outside the Zone, should obtain approval from the ZA and the DG and supervised by the senior officer of Customs and witnessed by the owner.

MACHINES FOR REPAIR

25. Machines from FCZ sent to overseas for repair must get approval from the ZA using ZB form. If the movement of machine for repair overseas is through PCA, transit procedure will apply. If the repair is done in PCA, a bank guarantee shall be furnished as required by the DG and conditions under the related item of the GST Relief Order 20XX shall be complied with.

FREQUENTLY ASKED QUESTIONS

Goods or services supplied within FCZ

Q1: AB Sdn Bhd is a retailer registered under GST. The company is operating in Stulang Laut free commercial zone. Does he have to charge GST on his sale?

A1: He does not have to charge GST on his sale. The goods purchased by his customer will trigger GST when the customer takes out the goods from the zone.

Q2: CD Hotel (registered person) is operating in Stulang Laut free commercial zone. The hotel acquires goods from AB Sdn Bhd (registered retailer in the zone) for provision of food and beverages by his restaurant located in the hotel. What is the treatment of GST on the provision of food and beverages by the hotel?

A2: CD Hotel must charge GST on the provision of food and beverages because such provision is a supply of services and this supply is standard rated when it is supplied in a commercial zone located outside ports/airports.

Q3: XX Sdn Bhd is a registered person under GST. This company is operating in a free commercial zone at Kuala Lumpur International Airport. The company has supplied his products to YY Mould Trader who is also operating in the zone. Is there any GST implication on the supply that XX Sdn Bhd made to YY Mould Trader?

A3: The supply of goods is standard rated if YY Mould Trader acquired it for his own consumption in the zone.

Q4: GG Sdn Bhd is a company who provides space for rental in a free commercial zone located at Kuala Lumpur International Airport. If GG Sdn Bhd is a registered person under GST, does he have to charge GST on the rental of spaces?

A4: GG Sdn Bhd has to charge GST on the rental of spaces provide by him because it is a supply of services which is standard rated under GST.

Q5: Some of the services provided by an operator in FCZ located at ports/airports are contracted out (outsource) to another operator in the zone. What is the treatment of GST on such services?

A5: Services provided within FCZ located at ports/airports are standard rated. Thus, GST needs be chargeable on such services.

Goods or services supplied between FCZ

Q6: Is transportation of goods from a FCZ to another FCZ subject to GST?

A6: Transportation of goods from a FCZ to another FCZ is standard- rated. Thus, GST is chargeable on the supply of services.

Q7: Further to question in Q6, what document shall I produce for the movement of goods from FCZ to another FCZ?

A7: Movement of goods between FCZ without passing through PCA must be covered by ZB form. ZB form must also be used when the goods has reached the destination but Customs No.8 form must be used when the goods are passing through PCA

Goods or services imported or supplied into FCZ

Q8: I am an operator in a free commercial zone at Tanjung Pelepas, Johor Bahru. What is treatment of GST on goods that I import from overseas into the zone?

A8: Goods imported into a FCZ Tanjung Pelepas for commercial activities are not subject to GST.

Q9: What is the treatment of GST on services imported by a registered person operating in FCZ located at Rantau Panjang?

A9: GST is chargeable at standard rate on imported services into a FCZ not only located at any port or airport but also located outside port or airport.

Q10: As an operator in a FCZ outside ports/airports and registered under GST, what is the GST treatment on goods that I purchased from a registered person in PCA?

A10: If you purchase goods from a registered person in a PCA, the goods are subject to GST. Thus, GST is chargeable on such supply. However, if the goods are subject to a warehousing scheme, that is the goods are removed from a bonded warehouse, duty free shop or inland clearance depot, then GST is suspended.

Q11: What happens if I am an operator in a FCZ located at Port Klang and I purchase goods from a person in PCA for export?

A11: If you are operating in a FCZ at a port, your purchase of goods will be zero rated for outright export, i.e. the consignee of the goods is an overseas person.

Q12: I am an operator in a FCZ at Johor Port, Pasir Gudang, Johor. My customer sent his goods for further processing to me. Is there any GST liability when the goods are sent back to my customer?

A12: Goods sent to any person operating in a FCZ for further processing are not subject to GST as there is no transfer of ownership. Similarly for goods that are sent back from the zone after further processing. However, GST needs to be charged on the workmanship (services performed) if you are GST registered person.

Q13: What is the treatment of GST on services rendered from PCA into a FCZ located at ports/airports and outside port//airport?

A13: Services rendered from PCA into a free commercial zone are standard rated regardless of whether the zone is located at port, airport or outside ports/airports.

Goods or services supplied from FCZ

Q14: I am an operator in a FCZ in Port Klang. What is the treatment of GST on supplies of goods from my company to a person in PCA?

A14: All supplies of goods made by a person operating in a FCZ at ports/airports to a person in PCA are deemed to be imported into the PCA and hence subject to GST. Payment of GST must be made in Customs No.1 form at the customs check point of the zone. However, if your customer has an approval under ATS, GST can be suspended at the point of importation. Similar treatment applies to any supply of goods made by a person operating in a FCZ outside ports/airports to a person operating in PCA where GST is chargeable at standard rate.

Q15: How about supply of goods made from a FCZ to a free industrial zone (FIZ)? What is the implication of GST on such supply?

A15: Any supply of goods made from a FCZ to FIZ are treated as ordinary local sales and it is subject to GST. However, the person operating in a FIZ is eligible to apply for ATS. In such a case, GST on supply of goods is suspended if the person has an approval under ATS.

Q16: What is the GST treatment on products samples from FCZ?

A16: Industrial and trade samples are given GST relief under item XX of Goods and Services Tax (Relief) Order 20XX. Hence no GST is chargeable.

Q17: What is the GST treatment on the goods exported from a FCZ?

A17: Goods that are exported from a FCZ whether the zone is located at ports/airports or outside ports/airports are zero rated.

Q18: How about services provided from a person operating in a FCZ to overseas?

A18: Any services provided by a person operating in a FCZ located at ports/airports or outside ports/airports to overseas is zero rated.

Responsibilities of the free zone operator

Q19: As a GST registered person who carries out a business in a FCZ, do I need to know more about other aspects of GST?

A19: The following guides may be of interest to you:

- (a) GST Registration
- (b) Guide On Import
- (c) Guide on Export
- (d) Free Industrial Zone

FEEDBACK AND COMMENTS

26. Any feedback 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 ASSISTANCE AND INFORMATION

27. 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