



# **ROYAL MALAYSIAN CUSTOMS**

## **GOODS AND SERVICES TAX**

### **GUIDE ON LEGAL PRACTITIONERS**

## CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
Overview of Goods and Services Tax (GST).....	1
<b>GST TREATMENT FOR THE INDUSTRY .....</b>	<b>1</b>
Tax Invoices .....	2
Client Account.....	4
Deposit and Advance Payment.....	5
Disbursements.....	5
Input Tax Credit .....	7
Costs Awarded By Court .....	7
<b>FREQUENTLY ASKED QUESTIONS .....</b>	<b>7</b>
<b>FEEDBACK OR COMMENTS .....</b>	<b>20</b>
<b>FURTHER INFORMATION.....</b>	<b>20</b>



## **INTRODUCTION**

1. This industry guide is prepared to assist businesses in understanding matters with regards to GST treatment on Legal Practitioners.

### **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 2014 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.

### **GST TREATMENT FOR THE INDUSTRY**

5. In Malaysia, a legal practitioner in Malaysia can be an advocate or solicitor. A legal practitioner provides services as a general practitioner, or specializes in one or more areas of law. These include probate, matrimonial, employment, company, commercial, litigation and conveyance law.

6. The supply of services to an employer by a legal practitioner by virtue of being an employee is outside the scope of GST. A legal practitioner who is employed as an employee is not required to be registered under GST in respect of services supplied by him.



## Tax Invoices

7. Section 132 of Legal Profession Act 1976 states that bill of cost for taxation as between advocate and solicitor and client shall be drawn in the manner of rules of High Court, and the taxation shall be governed by the rules. In summary, the bill of cost is an itemized list of expenses a prevailing party in a lawsuit or action needs to pay for services procured from a lawyer. It can have varying level of detail, and should describe the nature of work done by the legal practitioner for the client, and any other expenses incurred. Recoverable cost may include copying fee, filing fee and court expenses fee.

8. For the purpose of GST, section 33 of Goods and Services Act 2014 requires every registered person who makes any taxable supply of goods or services in the course or furtherance of any business in Malaysia to issue a tax invoice. A tax invoice is a document containing certain information about the supply that has been made and is similar to a commercial invoice except for some additional details. This document is important as it is an essential evidence to support a customer's claim for deduction of input tax. A tax invoice must be issued within twenty one (21) days from the time of supply. The supplier must keep a copy and the original copy should be retained by the recipient. Only a GST registered person can issue tax invoices. Tax invoices can be in the following forms:

- (a) Tax invoice
  - (i) Full tax invoice
  - (ii) Simplified tax invoice
- (b) Deemed tax invoice
  - (i) Self-billed invoice
  - (ii) Invoice or statement of sales by auctioneer

9. Bill of Cost under section 132 of Legal Profession Act 1976 can only be treated as a tax invoice under section 33 of GST Act 2014 if it has certain characteristics and particulars as in paragraph 10.

*(For further information on tax invoice, please refer to the GST Guide on Tax Invoice and Records Keeping).*



### Particulars of a tax invoice

10. A tax invoice is an invoice that is issued pursuant to Section 34 of the GST Act 2014 and it has certain characteristics and particulars as follows:

- (a) GST registration number;
- (b) Invoice number;
- (c) The words "Tax Invoice" stated;
- (d) The date of issue;
- (e) Name and address of supplier;
- (f) Name and address of client/ recipient;
- (g) Particulars and description of the transaction; and
- (h) GST liability expressed inclusively or exclusively.

### Sample of tax invoice

11. A sample is as in the example below:

#### Example 1

<b>TAX INVOICE</b>				
XYZ Co.		Invoice No: 00007/1		
Address: No. 1, Kelana Jaya.		GST Registration No.: PJ9991601		
Date:				
To: ABC Sdn. Bhd., Petaling Jaya.				
No.	Particulars	Charges / Fees (RM)	GST Rate (%)	GST Amount (RM)
1	Legal services for period 1st to 30th May	10,000	6	600
2	Hotel	200	6	12
3	Transport	100	6	6
Total Charges		10,300	6	618
<b>Total Due</b>		<b>10,918</b>		



## Client Account

12. Section 78(1) and (2) of the Legal Profession Act 1976 requires the advocates and solicitors to open and keep the accounts of client's money and subsection (2) of the Act provides for the opening and keeping by every advocate and solicitor who is a sole trustee, or who is co-trustee with one or more of his partners, clerks or servants, of an account at a bank for moneys of any trust of which he is such a sole trustee or co-trustee.

13. Generally, the money paid by client will be kept in an account specifically maintained for client distinct from that of the firm. Any expenses used for the firm's purpose must be from the firm's account which is also known as the office account. Withdrawal from client's account is prohibited if it is to be channeled for the firm's purpose, except of course the legal fees which belongs exclusively to the solicitors as their remuneration.

14. Solicitors' Accounts Rules 1990 prohibits any money other than money that are allowed to be paid into a client account. Normally, below are the funds that must be deposited into the client's account:

- (a) trust money
- (b) money to replace any sums which may by mistake or accident have been drawn from the account in contravention of sub rule (2) of rule 8 of the Solicitors' Accounts Rules 1990;
- (c) such money belonging to the solicitor as may be necessary for the purpose of opening or maintaining the account; and
  - (i) Fund paid by the client to the legal practitioner to defray anticipated costs that will arise during the course of representation such as deposition cost, witness fee and filing fee.
  - (ii) payments made in the beginning of a representation against which charges for the representation are credited as accrue. Fee advances that are deposits to secure payment of fees to be earned by the legal practitioners in the future. These funds

should be held in client account until fees are earned and client is billed. However fee in criminal representation need not to be deposited into the trust account because it is normally to be earned when paid, and such fee normally be deposited into operating account.

- (d) a cheque or draft received by the solicitor which under rule 5 of Solicitors' Accounts Rules 1990, he is entitled to split but which he does not split.

### **Deposit and Advance Payment**

15. Advance payment is also known as retainer fee. It is a payment that a client makes to his or her legal practitioner before the legal practitioner begins working on the cases. It is similar to down payment and allows the legal practitioner to draw funds for various fees required as the case proceeds. Usually, the money from a retainer fee is placed in a separate account from the legal practitioner's personal fund. This ensures that the legal practitioner will not use the money for their own purposes before services are actually rendered.

16. Another common type of payment is the contingency fee, where a legal practitioner is paid by taking a percentage of the client's monetary award, after the client wins the case or obtain a settlement with the other party. The legal practitioner receives nothing if the client loses the case or fails to get a settlement. Contingency fee is the most common form of payment for plaintiff seeking representation in personal injury litigation, employment matters and even medical negligence cases where the legal practitioners are entitled to a percentage of the settlement or trial award, usually in the amount of one third. However, by virtue of section 112(1)(b) of Legal Profession Act 1976 contingency fee is not allowed in Malaysia.

### **Disbursements**

17. Section 3 of the Solicitors' Remuneration Order 2005 states that the following shall not to be included as the remuneration of the solicitor:

- (a) fees payable on the registration of documents requiring registration;

- (b) stamp duties or fees;
- (c) counsel's fees, auctioneer's or valuer's fees;
- (d) travelling or accommodation expenses;
- (e) fees paid on searches;
- (f) costs of extracts from any register or record;
- (g) other disbursements reasonably and properly paid and incurred (which shall be itemized in any bill of costs rendered by the solicitor to the client);
- (h) the cost of any extra work;
- (i) fees relating to any business of a contentious nature;
- (j) fees relating to any proceeding in any court; and
- (k) miscellaneous expenses not exceeding RM50.

18. Legal practitioners generally refer to 'disbursements' as money which they have to pay to third parties in connection with the matter they are dealing with on behalf of the client. These may include court fees, fees for medical or other expert reports or search fees in a property transaction. For GST purposes however, disbursements are defined more narrowly as further explained in the following paragraphs.

19. Legal practitioners must charge their client GST when billing if an item is not a disbursement for GST purposes even if, had the client incurred the expense directly, no GST would have been payable. The House of Lords in *Nell Gwynn House Maintenance Fund Trustees v C& E Commissioners* [1999] STC 79 confirmed that VAT law draws a clear distinction in principle between:

- “(i) expenses paid to a third party that have been incurred by you in the course of making your own supply of services to your client and which are part of the whole of the services rendered by you to your client; and*
- (ii) expenses for specific services that have been supplied by the third party to your client and you have merely acted as your client's known and authorised representative in paying the third party.*



*Only in case (ii) can the amounts of the payments to the third party qualify for treatment as disbursements for VAT purposes, and do not form part of the consideration for your own services to your client. “*

### **Input Tax Credit**

20. Generally, input tax is the GST incurred by a taxable person on business purchases or acquisition of goods and services for the purpose of making a taxable supply in the course or furtherance of business. These business purchases and acquisitions would include:-

- (a) goods or services purchased or acquired locally; and
- (b) goods or services imported.

21. Claim for input tax can be made in the return for the taxable period in which the supply or importation takes place by offsetting against the output tax. A refund will be made to the claimant if the amount of input tax is more than the amount of output tax.

22. If input tax is not claimed in the taxable period in which he is supposed to claim, then such input tax can be claimed within six (6) years after the date of the supply to or importation by the taxable person.

### **Costs Awarded By Court**

23. Court costs may be awarded to one or both parties in a lawsuit, or they may be waived. Court costs normally are the legal practitioner's fee and other disbursements of the parties that the Judge has power to make an order after judgement has been given.

## **FREQUENTLY ASKED QUESTIONS**

### **Place of Supply**

**Q1. If I provide legal services to an entity outside Malaysia and billed to the recipient in Malaysia, do I have to account for GST?**



- A1. A supply of legal services to an entity outside Malaysia but billed to a recipient in Malaysia is regarded as exported services. The supply is regarded as zero rated. There is no GST on the supply.

**Example 2**

*A legal counsel AB provided legal advice to an accused person, BC who was detained and faced prosecution overseas. This provision of legal advice is regarded as a supply of export services even though payment for the services was made in Malaysia by BC's employer.*

**Q2. If a foreign legal practitioner registered outside Malaysia, provides legal services in Malaysia, who has to account for GST?**

- A2. The supply of legal services in Malaysia by a foreign legal practitioner is regarded as a supply of imported services. Such person does not have to charge GST. However, the recipient of the services who receives the services for the business carried on by him is required to account for it by a reverse charge mechanism.

If the supply is not made for business purposes, the recipient is not liable to account GST on the supply of imported services he receives.

**Q3. What is the GST treatment on the supply of legal services provided by legal practitioner in Principal Customs Area (PCA) to a recipient in Designated Area (Langkawi, Tioman or Labuan)?**

- A3. A supply of legal services by legal practitioner registered in the Principal Customs Area to a recipient in Designated Area is a zero rated supply.

**Q4. What is the GST treatment on the supply of legal services provided by legal practitioner in the Designated Area to a recipient in the Principal Customs Area?**

- A4. Services rendered by legal practitioner in the Designated Area to a recipient in the Principal Customs Area is subjected to GST. The legal practitioner would be required to register and account for the GST subject to the GST registration threshold.

**Q5. Are legal services provided within and between Designated Area subject to GST?**



- A5. The legal services rendered within and between the Designated Areas are not subject to GST.

### **Charges, Fees and GST**

**Q6. Do I have to account for GST for all charges and fees imposed?**

- A6. All charges and fees, excluding disbursements imposed for services provided will be subject to GST. These include fees in respect of contentious or non-contentious business, preparing and completing agreements, conducting and completing transactions, preparing filing or witnessing of miscellaneous documents. It also includes charges such as miscellaneous expenses, cost of extra work, travelling or accommodation expenses, allowances for the time of the solicitor and his clerk and all usual and necessary attendances and charges for normal copying and stationary.

**Q7. Do I have to issue tax invoices for the above charges and fees?**

- A7. Yes, you have to issue a tax invoice for the charges and fees imposed that are subjected to GST. Your client who is a GST registered person can claim the GST as input tax.

**Q8. Do I have to account for GST for services provided free of charge?**

- A8. No, where services are provided free of charge, there is no consideration received and therefore there is no supply. There is no liability to account for GST.

**Q9. Is GST imposed on the interest charged on late payment?**

- A9. The interest charge on late payment is not subject to GST as it is an out of scope supply.

### **Registration**

**Q10. Who is liable to be registered?**

- A10. All legal practitioners who practice either as a sole proprietor or in partnership are required to be registered for GST if the total value of taxable supplies exceeds the GST registration threshold in the past 12 months or in the next 12 months or part thereof.



**Q11. What constitutes the value of taxable supplies for purpose of registration?**

A11. The annual turnover value of taxable supplies includes the following:

- (a) All fees;
- (b) other charges incurred by legal practitioners excluding disbursements referred to in paragraph 17-19; and
- (c) deemed supplies such as private use of business assets and disposal of business gifts.

**Q12. If my annual turnover of taxable supplies does not exceed the GST registration threshold, can I apply to be registered?**

A12. Yes, you may apply for voluntary registration.

**Q13. Is there any condition for voluntary registration?**

A13. Yes, once registered you must remain registered for a minimum of two years.

**Branch and Division**

**Q14. My establishment has two branches. How do I determine the turnover of the business?**

A14. The combined turnover of the two branches will be regarded as the turnover of the business.

***Example 3***

*A & Co has two branches in Kuala Lumpur and Johor Bahru. The branch in Kuala Lumpur has a turnover of RM250,000 while the branch in Johor Bahru has a turnover of RM150,000. The combined turnover of the company is RM400,000. A & Co is required to register if the registration threshold is RM300,000.*

**Q15. Can I register my branches separately?**

A15. You can apply to register your branches separately subject to certain conditions and requirements as referred to in General Guide.

***Example 4***



*Based on the above example A & Co may register in Kuala Lumpur and a separate branch in Johor Bahru.*

*Both branches will be given a separate GST number.*

**Q16. What are the conditions and requirements if I want to register my company separately?**

A16. This approval is subject to the following conditions and requirements;

- (a) Every separately registered branch has the same taxable period.
- (b) It is likely to cause difficulty for taxable person to submit a single return.
- (c) All branches must be registered although one branch is below threshold.
- (d) Each branch will be given a separate GST number and make their own return. However, the main branch remains accountable for all GST liability for all branches.

**Time of Supply and Accounting Period**

**Q17. When do I have to account for GST?**

A17. As a legal practitioner, if you had not performed the services, you have to account for GST on the services at the earliest of the following:

- (a) The date of receipt of payment; or
- (b) The date of issue of a tax invoice.

However, upon completion of services and you issued a tax invoice within 21 days, you account GST based on the date of invoice.

**Example 5**

*AB & Co provided legal services to a client B. The legal services were provided in February over a period of time and finally completed on 15<sup>th</sup> May. The invoice has to be issued within 21 days from the date of completion of services that is on or before 5<sup>th</sup> June. AB & Co has to account for GST based on the invoice date.*

**Q18. What is the consequence if I fail to issue a tax invoice within 21 days from the date of completion of services?**

A18. It is mandatory that a tax invoice be issued within 21 days after completion of services to ensure all GST registered clients receive it to enable them to claim the input tax credit. However, if you fail to do so within 21 days, your tax point will revert back to the date you completed performing of your services.

***Example 6***

*J & Co provided legal services to a client D. The legal service was provided over a period of time and was completed on 15th May. The invoice was issued one month after on 15th June. The tax point shifts back to 15th May. GST has to be accounted for the taxable period covering 15th May.*

**Q19. As a permanent legal practitioners, I receive regular payment on a standing retainer. When do I have to account for GST?**

A19. You account for GST on the earlier of the following:

- (a) The date of receipt of payment; or
- (b) The date of issue of a tax invoice.

**Client Account**

**Q20. As a legal practitioner, I have to maintain client's accounts. Do I have to account for GST on money deposited into the client's account?**

A20. No, you do not have to account for GST because the amount received is not payment for a supply. However, you have to account for GST when the money is transferred from the client's account to the office account for payment of services rendered to your client.

**Deposit and Advance Payment**

**Q21. Is GST chargeable on deposits received from the recipient?**

A21. If the deposit forms part payment of the total consideration payable by the recipient, GST will be chargeable at the time of payment of the deposit. On the other hand, if the deposit is used as security and will be fully refunded upon completion of services, no GST will be chargeable.



**Q22. Is advance payment subject to GST?**

A22. Yes, because it was payment for your supply. If the part of the advance payment were refunded, GST will be imposed on the part which is the payment of the services.

**Q23. When do I account for GST on advance payment?**

A23. You have to account for GST on the date of receipt of payment.

**Q24. What is the GST implication on contingency fee (if any)?**

A24. For the purposes of GST, GST will be chargeable on any percentage received by legal practitioner. The legal practitioner is liable to account for GST on the earlier of the following:

- (a) When he receives any percentage of the client's monetary award or
- (b) on the date of issue of a tax invoice

**Bad Debts**

**Q25. What will happen if my client does not pay me after I have issued tax invoice for legal services which I have provided for him?**

A25. You can claim bad debts relief on the GST output tax paid in respect of taxable supplies. The GST portion of the bad debt will be recovered subject to certain conditions:

- (a) The tax is already paid;
- (b) The whole or any part of the consideration for the supply has been written off as bad debts or provided for as doubtful debts;
- (c) The claimant has not received any payment 6 months after the supply has been made; and
- (d) The claimant has made sufficient efforts to recover the debt.

**Other Outputs**

**Q26. What is the GST treatment for non-billed income such as oath fees received by the legal firm or by individual solicitor under GST?**



A26. Non-billed income such as oath fees received in respect of oaths administered by a solicitor in sole practice or a partner in a legal firm are regarded as consideration for services supplied in the course of business, and thus is subject to GST

### **Disbursements**

#### **Q27. What are the conditional requirements of disbursements for GST purpose?**

A27. A legal practitioner 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) The legal practitioner acted for his 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 the legal practitioner 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) The legal practitioner recovers only the exact amount which he paid to the third party.
- (h) The goods and services paid for are clearly additional to the supplies which the legal practitioner makes to the client.

#### **Q28. Can general expenses qualify as disbursements?**

A28. General expenses such as telephone, telex, postage, advertising, and stationery charges are incurred in the course of providing services to the client and shall be treated as business costs. They are not to be treated as disbursements for GST purposes. However with regards to telephone calls, some firms may have a policy to charge separately for the cost of telephone





calls, e.g. for international calls or for the cost of a conference call. Even where these charges are itemized separately on the invoice, for GST purposes they are regarded as part of the cost of providing the supply of legal services to your client and these charges would attract GST. The legal practitioner should therefore account for input tax in the normal way and charge GST at the standard rate on the value of the telephone calls or conference fee charges.

**Q29. Can travel and accommodation expenses be regarded as disbursements?**

A29. As a general rule, travelling and accommodation expenses incurred by a legal practitioner in the performance of his client's instructions are not disbursements and must be included as part of the legal practitioner's overall charge. These would include the accommodation and travelling expenses such as flight, taxi and train fares, toll charges and car parking an. Such expenses are incurred in the course of providing a supply of services to a client. If these expenses are borne by the legal practitioner, they can be recovered as the consideration paid by the client will include these expenses. Such expenses cannot too be treated as reimbursements because such expenses were on the services supplied to the legal practitioner rather than to the client, and the charge made by the legal practitioner was part of the total consideration for all the services supplied to the client and could not be divided for the purposes of calculating GST.

**Q30. Are disbursements excluded from the value of the supply of services?**

A30. Yes, such 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.

**Example 7**

<b>TAX INVOICE</b>				
ABC CO.		Invoice No: 00018/1		
Address: No. 1, Ampang.		GST Registration No.: KL9991608		
Date :				
To: MCC Sdn. Bhd., Kuala Lumpur.				
No.	Particulars	Charges / Fees (RM)	GST Rate (%)	GST Amount (RM)
1	Legal services for purchase of KL Apartment	3,000	6	180
	Total Charges	3,000	6	180
	<b>Total Charges inc. GST</b>	<b>3,180</b>		
2	Disbursements :			
	a) Land Registry Fees	50		
	b) Stamp Duty	1,000		
	<b>Total Due</b>	<b>4,230</b>		

**Q31. Can payment on reports by third party be regarded as disbursement?**

A31. In the case of ordinary report by third party, if the legal practitioner acquires the report for his own use (analyses or comments on it), payment on such reports are not regarded as disbursements. They are part of the cost in providing services to the client (general expenses). However, if the legal practitioner merely passes on the report to the client, payment on such reports can be regarded as disbursements.

However, in the case of expert fees, such fees are regularly instructed in connection with court proceedings, both civil and criminal, to give or prepare expert evidence. Court procedural rules provide that experts have an overriding duty to help the court on matters within their expertise. This duty overrides any obligation to the person instructing or paying them. Experts

must not serve the exclusive interest of those who retain them. Experts can be asked by the court to produce an expert report or to give oral evidence in court as an expert witness.

Order 40 Rule 5, The Rules of Court 2012 states that the parties shall be jointly and severally liable to pay the amount fixed by the Court for the remuneration of the Court expert as part of the costs of the cause or matter. Meaning, the parties are encourage the use of joint experts in civil proceedings this would be for claimant and defendant. Whereas, in criminal proceedings this would be one expert for all co-defendants. Wherever possible, a joint report should be obtained. In such cases there will be a statement that all the instructing parties are jointly and severally liable to pay the experts' fees and accordingly, that experts' invoices should be sent simultaneously to all instructing parties or their solicitors, as appropriate. Hence, in deciding whether such expenditure on experts' services can be treated as a disbursement for GST purposes, it is necessary to consider who receives the supply of the services provided. Where an expert's report has been obtained by a legal practitioner, for example handwriting experts, printing experts as part of the evidence in support of their client's case then they can be treated as a disbursement.

**Q32. Can witness fees paid by the legal practitioner be regarded as a disbursement?**

A32. The procedural rules for both criminal and civil proceedings require witnesses (other than experts) served with a witness summons to be offered or paid a sum to cover their travelling expenses to and from the court and compensation for loss of time. Such payments are made on behalf of the client because the witnesses are giving evidence to support their cases and as such can be treated as disbursements for GST purposes. These fees will therefore not attract a GST charge when legal practitioner bill their client.

**Q33. How do I treat disbursements?**

A33. Legal practitioner have 2 options:



- (a) To exclude the disbursement when calculating GST on the main supply. In this case, you pass on the disbursement to the client. The legal practitioner and the client are not allowed to claim input tax;

**Example 8**

*ABC & Co supply legal services to MC & son for a basic fee of RM8000. In addition, ABC & Co incur RM200 expenses which he passes on to MC & son as the client, but which do not qualify for treatment as disbursements for GST purposes. ABC & Co also pay RM1200.00 on behalf of his client in circumstances where that payment can be treated as a disbursement.*

*ABC & Co as the legal practitioner must issue a tax invoice to his client, showing:*

*Legal Services; RM8000.00*

*Expenses; RM200.00*

*Value for GST; RM8200.00*

*6% GST; RM492.00*

*Disbursements; RM1200.00*

*Total Billed; RM9892.00*

or

- (b) To treat the legal practitioner as principal for the disbursement. The Legal Practitioner may reclaim the related input tax, subject to the normal rules, and must charge GST on the onward supply, if appropriate.

**Example 9**

*Using the same scenario and figures as in the example under option A, ABC & Co may claim input tax of RM72 in respect of the disbursement of RM1200.00. He charged MC & son GST on the net amount of RM 9964 which is itemised on his tax invoice. MC & son be able to claim input tax.*

*Legal Services RM8000.00*

*Expenses RM200.00*

*Value for GST RM8200.00*

*Disbursements RM1200.00*

*6% GST RM564.00*

*Total Billed RM9964.00*

### **Overseas Telecommunications**

**Q34. In supplying my legal services, I have to make calls to my overseas client. Are these calls zero rated?**

A34. The services that you provide to overseas client will be zero rated but the charges on telephone bill that you receive will be standard rated. However because the calls were made for making taxable supply, you can claim input tax credit.

**Q35. Who is entitled to recover the GST if someone else pays for my services?**

A35. Only the recipient of the service or goods is entitled to recover the GST. If your client pays for your hotel accommodation, you can claim the GST if the invoice is issued in your name.

**Q36. What is the GST treatment on costs awarded to the legal practitioners?**

A36. The costs awarded to the legal practitioners will subject to GST if the payments were consideration of the services.

### **Transitional Provisions**

**Q37. Can I claim input tax incurred on service tax for services procured before the commencement of GST?**

A37. No, you cannot claim input tax on service tax incurred before the commencement of GST because the services were performed and consumed before the commencement of GST.



**Q38. How do I account for GST on the value of legal services if the services were performed spanning GST implementation?**

A38. You must make apportion the legal service, which you perform before and after GST implementation. GST is only chargeable for legal service rendered after GST implementation. Apportionment can be by way of time spent, transactions or number of court appearances.

**Example 10**

*Apportionment by number of court appearances*

*LM & Co has been appointed as litigation lawyers for RZ to act as his lawyer in the Magistrate Court. The lawyers attended court a total of 5 times, that is 3 times before and 2 times after commencement date of GST. After completion of services, LM& Co lodged claim for his services amounting RM10,000.00.*

*Total court appearance days = 5 times*

*Court appearances after GST implementation = 2 times*

*GST liable =  $2 / 5 \times RM10,000.00 \times 6\% = RM240.00$ .*

*LM & Co has to account for GST of RM240.00.*

**Q39. Is the payment I received after commencement of GST for services performed before GST implementation subject to GST?**

A39. No, payment received after commencement of GST for services provided before GST implementation is not subject to GST.

**FEEDBACK OR COMMENTS**

24. Any feedback or comments will be greatly appreciated. Please email your feedback or comments to either Zaizah binti Zainuddin (zaizah.zainuddin@customs.gov.my), Raizam binti Mustapha (raizam.mustapha@customs.gov.my) or Haslim Eairon bin Mat (haslim.mat@customs.gov.my)

**FURTHER INFORMATION**



25. Further information can be obtained from:

- (a) GST Website: [www.gst.customs.gov.my](http://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](mailto:ccc@customs.gov.my)

