



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON UTILITY INDUSTRY (ELECTRICITY)

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INTRODUCTION

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

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.

GENERAL OPERATIONS OF UTILITY INDUSTRY (ELECTRICITY)

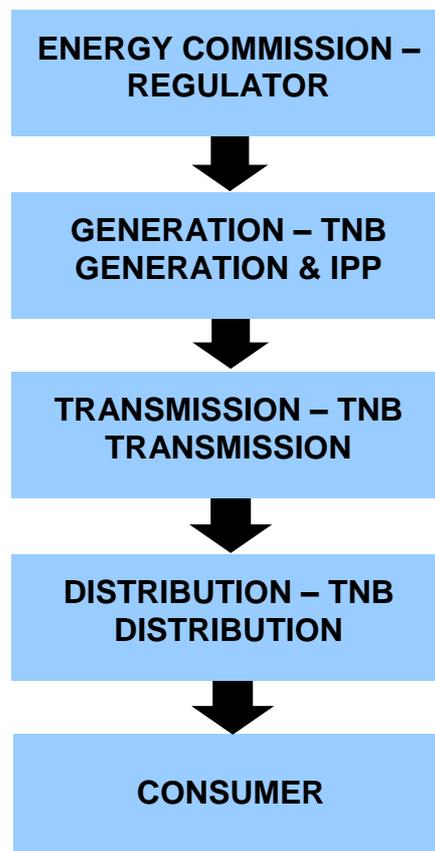
5. The supply of electricity tariffs is regulated under the Electricity Supply Act 1990 for Peninsular Malaysia by the Energy Commission of Malaysia, Sarawak Electricity Supply Ordinance 1982 for Sarawak, Electricity Supply (Successor Company) Act 1990 and Lembaga Letrik Sabah Act 1983 for Sabah.

6. The main activities in the electricity industry are **generation, transmission and distribution** of electricity. Basically, the supply chain of electricity involves the three processes before it is finally supplied to the consumers. In Peninsular Malaysia the parties involved are Tenaga Nasional Berhad (TNB) and the Independent Power Producers (IPPs).



7. The IPPs in Peninsular Malaysia are such as Genting Sanyen Power Sdn Bhd, Powertek Sdn Bhd and Port Dickson Sdn Bhd, are licensed by the Government to generate electricity. The electricity generated is subsequently supplied to Tenaga Nasional Transmission Berhad who is entrusted to maintain the National Grid System before it is being supplied to TNB Distribution who will finally distribute electricity to the domestic, commercial and industrial consumers. The supply of electricity in Sabah and Sarawak is similar to that of Peninsular Malaysia in which Sabah Electricity Sdn Bhd (SESB) and Syarikat SESCO Berhad (SESCO) respectively are the main distributors of electricity in those states.

8. The diagram below shows the supply chain of electricity in Peninsular Malaysia:



GST TREATMENT ON THE SUPPLY OF ELECTRICITY

9. The supply of electricity is under the purview of the Ministry of Energy, Green Technology and Water. For GST purposes, the supply of electricity is treated as supply of goods.

10. It is important to read the following GST guides to further understand the general treatment of GST on the supply of goods before going on specific issues regarding the supply of electricity. The guides are the General Guide, the guides on ‘Supply’, “Input Tax Credit” and “Registration.” For registration, it has been prescribed under the GST (Amount of Taxable Supply) Order 2014 that any business making taxable turnover in a period of twelve months (past or future) which exceed RM500,000.00 are mandatorily required to be registered. The GST legislation also provides for group registration where supplies between members of the group are disregarded for GST purposes.

11. Supply of electricity will involve contract between the electricity provider and the consumer. For reviewable contracts, GST will be charged on supplies made on or after the date of GST implementation.

12. For non-reviewable contracts entered into not less than two years before the effective date of GST implementation, GST will be zero rated on supplies made on or after the date of implementation up to a period of 5 years or any opportunity to review the contracts which ever is the earlier. For further details, please refer to GST Guide on Transitional Rules.

Supply spanning

13. The tax on supply of utility spanning the GST implementation date must be apportioned. GST is chargeable only on the supply for the consumption from the date of GST implementation onwards.

Example 1

An electricity bill usage of 1000 KWH @ RM0.20 per KWH by a domestic consumer for the period of 17 March to 16 April 2015, the proportion subject to GST is from 1 to 15 April 2015.

Payment made by the consumer:

Usage subject to GST = 500 KWH (15/30 x 1000KWH)

Zero rated supply = RM60 (300 x RM0.20)



<i>Standard rated supply</i>	= RM40 (200 x RM0.20)
<i>GST</i>	= RM2.40 (RM40 x 6%)
<i>Amount of usage not subject to GST</i>	= RM100 (500 x RM0.20)
<i>Amount payable</i>	= RM202.40 (RM60 + RM40 + RM2.40 + RM100)

Time of supply

14. The time of supply is the time when a supply of goods or services is treated as being made. It is important to determine the time of supply because a taxable person should charge GST at the time when the supply is made. In general, the time of supply of goods occurs when the goods are removed or if the goods are not to be removed, the time when goods are made available to the customer. The time of supply of electricity and water is different from the general time of supply which is when payment or invoice is issued whichever is the earlier. For further details, please refer to the GST Guide on Supply.

Deposits

15. Deposits taken whether or not refundable or in the form of security is not taken to be payment for the supply unless and until the deposit is applied as part of the consideration of the supply. Therefore, such deposit is not subject to GST.

Bad Debt Relief

16. A taxable person is entitled to a relief for bad debt on the whole or any part of the tax paid by him in respect of a taxable supply if:-

- (a) the person has not received any payment in respect of the taxable supply from the debtor six months from the date of supply or the debtor has become insolvent before the period of six months has elapsed; and
- (b) sufficient efforts have been made by him to recover the debt.

17. The date of supply refers to the date of invoice issued. A person is entitled to claim bad debt relief even though the bad debt is not written off from his books. It is

sufficient if he has some documentary proof to show that some efforts had been made to recover the debt. Example of such efforts includes a reminder letter or notice to the customer. Please refer to GST Guide on Tax Invoice and Record Keeping for further details. Adjustment due to bad debt relief is done in the taxable period in which the claim is made. For further details on adjustments please refer to the General Guide.

Commission on collection of payment by Pos Bhd

18. Commission on payment collection by Pos Bhd on behalf of the utility companies is subject to GST. However the tax incurred is claimable as input tax by the utility companies. For further details please refer to the Guide on Agent.

Wayleave compensation

19. Wayleave compensation paid to a landowner for the purpose of installing a supply line across the land is subject to GST at standard rate. Wayleave compensation is a right to use which is considered as supply of services. The land owner has to issue a tax invoice if he is a registered person and the utility provider company is entitled to claim the input tax incurred.

Liquidated Damages

20. GST is not chargeable if the payment for liquidated damages is punitive in nature which is due to breach of contract for non-performance/non-compliance.

Late Payment Penalty on Overdue Accounts

21. Late payment penalty relates to overdue account is not subject to GST.

Designated Areas (DA) (Langkawi, Tioman and Labuan)

22. The supply of electricity from **Malaysia to customers in DA** is zero-rated even though the electricity bills are issued from an office situated in DA. This is based on the premise that the goods (electricity) is removed from a place in Malaysia, i.e. from the GRID System in Malaysia.

23. The supply of electricity from **TNB's generator and Mini Hydro Station located in Tioman** is not subject to GST. This is based on the premise that the goods (electricity) is removed from a place in the DA.

24. The supply of services provided by the **office/station situated in the DA to customers in DA** is considered as a supply made in Malaysia since the supplier (e.g. TNB Bhd.) belongs to Malaysia and GST is chargeable on the output supply. This is based on the principle of where the supplier belong, i.e. the premise of the principal place of business, which is in Malaysia, the services (request for meter testing) even though is rendered in the DA is subject to GST. Please refer to Guide on Designated Area for further detail.

Charging GST on supply of electricity

25. Generally electricity is treated as supply of goods and it is subject to GST at standard rate throughout the supply chain. However, the intermediaries in the supply chain are allowed to claim input tax incurred to the businesses.

26. Under the GST (Zero Rated Supply) Order 2014, domestic consumers whose consumption of electricity **for the first 300 units** irrespective of minimum or non-usage for a minimum period of twenty-eight days per billing cycle is subject to GST at zero rate. The supply exceeding that first 300 units is standard-rated.

Example 2

Abu's electricity consumption of electricity for 24 April to 17 May 2015 bill is 350KWH subjects to RM0.218 tariff. What is the GST chargeable to Abu?

<i>Electricity consumed</i>	=	<i>350KWH</i>
<i>Value subject to zero rated</i>	=	<i>RM65.40 (300 x RM0.218)</i>
<i>Value subject to 6%</i>	=	<i>RM10.90 (50 x RM0.218)</i>
<i>Amount GST due</i>	=	<i>RM0.65 (RM10.90 x 6%)</i>
<i>Amount of Abu's bill</i>	=	<i>RM76.95 (RM65.40 + RM10.90 + RM0.65)</i>

FREQUENTLY ASKED QUESTIONS

Q1. TGH Power System Manufacturer Bhd. (TGH) is supplying electrical components as well as providing consultancy for construction and maintainance of a power plant to a power generating company which is an independent power provider (IPP), does TGH has to charge GST on such a supply?

A1. Yes, supply of goods and services for the purposes of construction, or maintainance of a power generating plant is subject to GST at standard rate. TGH, if it is GST registered, has to charge and account for GST for the supply of goods and services to IPP. GST on the acquisition incurred as Input tax to the IPP is claimable.

Q2. ABC Power Provider Bhd. (ABCPP) loans its electronic components to HAD Power Provider Bhd. (HPP). Does ABCPP has to charge and account GST on the loaned goods?

A2. The general rule for goods on loan are:

- (i) If the same goods will be returned to the supplier who loaned the goods, then the supply of goods is not subject to GST.
- (ii) If the borrowed goods are being used and is subsequently replaced by a similar goods for example in the process of electricity swapping by IPPs, will be subject to GST. An IPP who lends electricity must charge and account for GST to the other IPP following the time of supply rule i.e when the tax invoice (bill) is issued or payment has been made which ever is the earlier.

Q3. Pemaju Untung Sdn. Bhd. (PUS) acquires supply of electricity from Tenaga National Bhd. (TNB) as a *single tenant premise* to be supplied to 10 units of newly built residential terrace houses at Taman Untung. Is the supply to be zero rated for the first 300 units under GST (Zero Rated Supply) Order? Can it be devided by 10?

A3. The supply of electricity under the name of PUS is considered as supply made for commercial purpose. However, if PUS appllies for connection as *multi tenanted premise*, separate meters and individual bills for each resident of the



10 units terrace houses are installed, the supply for the first 300 units will be entitled for zero rating.

Q4. Is a domestic user of electricity supply who is subject to a minimum monthly charge for minimum usage or non-consumption be entitled for zero rating?

A4. Yes, a domestic consumer who is subject to a minimum monthly charge per billing cycle of a minimum period of twenty-eight days is entitled for zero rating.

Q5. Besides the prevailing tariffs, commercial customers are imposed a maximum demand charge normally for usage exceeds 6.6kv. Is the extra charge subject to GST?

A5. Yes, maximum demand charge is subject to GST at standard-rate since it is an additional charge on the supply of electricity to commercial customers.

Q6. Besides supplying electricity, a power company also performs services. Are the following services subject to GST?

New connection or connection for increase of supply:

- (a) **Disconnection and reconnection of supply.**
- (b) **Installation of new meters.**
- (c) **Installation of additional meters and related metering facilities.**
- (d) **Replacement of mechanical meters to electronic meters or reprogramming of electronic meters or repair of meters.**
- (e) **Services in connection with test carried out to meters, upon request from the customers.**
- (f) **Providing street lighting to the customer.**
- (g) **Providing neon, floodlighting, emergency or decorative lighting.**
- (h) **Providing electricity for mining works, etc.**

A6. Services as above are considered as supplies for GST purposes and will be subjected to GST at standard rate.

Q7. TNB Energy Services, a subsidiary to TNB has implemented and commissioned solar hybrid generating stations on the islands off Mersing in Johor. What is the GST treatment on supply of electricity derived from this new energy resource?

A7. For GST purposes, the supply of electricity produced from new energy resource by TNB when it is disposed to the consumers with or without consideration is a taxable supply. Input tax incurred for the acquisition of goods and services to build the generating plant is claimable. For further details, please refer to Guide on Supply.

Q8. ASEAN member countries exchange electricity to resolve problems of power shortage and enhance cooperation and development among ASEAN countries. What is the GST treatment on the exchange of electricity?

A8. Treatment of GST on electricity exchange program between ASEAN countries is considered as a supply outside the scope of the GST Act (out of scope supply).

Q9. What is the GST treatment on compensation paid to consumer in the case of major interruption of supply, such as power outage?

A9. The payment of compensation which is in the form of money is not a supply and therefore is not subject to GST.

Q10. Power factor measures is the ratio between real power (i.e. output) and apparent power (i.e. input). It provides a reading of overall electricity use efficiency. Improvement in the power factor would increase the system reliability. If the power factor in any month falls short of the minimum power factor set (currently at 0.90 for high voltage customers and 0.85 for other customers), the loss in providing the supply by TNB is very high. To compensate this loss by the customer.

Connected Load Charge “When a consumer initially requests for a supply at a high maximum demand. TNB has to install adequate electrical infrastructure to ensure that electricity can be provided to that consumer at that maximum demand. Connected Load Charge (CLC) is the penalty charged by TNB when there is a significant load burden

reduction from the original burden declared by a consumer. The charge was introduced to avoid cases of under-utilization of load burden where consumers initially requested for high maximum demand”.

Are these charges subject to GST?

A10. The surcharges are not subject to GST since they are punitive in nature, and are not considered as part of the payment.

Q11. Backbilling is done in situation where the amount billed was lesser than the actual amount consumed for a particular period. Backbilling adjustment is made through the issuance of a debit note. Does the adjustment subject to GST?

A11. Yes, the issuance of debit note for the purpose of backbilling adjustment is subject to GST at standard rate and must be added to the output tax during the taxable period in which the debit note is issued. For further details, please refer to the General Guide.

Q12. TNB and a developer share the cost of the capital asset on a 50-50 basis. The land for distribution substation is to be provided by the developer. It will be leased or purchased by TNB after completion. If TNB defaults on the agreement, and TNB was not able to provide the infrastructure, there will be a compensation paid by TNB to the developer. What is the GST treatment for such activity?

A12. When the developer pays upfront 50% of the total cost, it is not making any payment in consideration because the infrastructure belongs to TNB. TNB as a registered person needs to pay GST incurred on the acquisition of goods and services for the construction of the infrastructure.

TNB is eligible to claim input tax credit on all taxable supply of goods including capital goods acquired in the course or furtherance of business. Input tax can be claimed in full if TNB is making wholly taxable supplies.

For GST purposes, if a taxable person is a mixed supplier, he can only claim the input tax which is attributable to his taxable supplies. In this situation, Capital Goods Adjustment (CGA) must be used to make adjustments to his initial input tax claim on a capital item when the capital item is used for making

both taxable and exempt supplies. Please refer to Guide on Capital Goods Adjustment for further details.

In the case of TNB making a compensation to the developer is not a supply and therefore is not subject to GST.

Q13. What is the status of supply to religious building? Can the supply to religious building be considered as supply for domestic consumption and be entitled for the zero rating?

A13. The supply to religious building is considered as supply for commercial purpose, therefore it is subject to GST at standard rate.

Q14. Can the provision accommodation to workers with nominal payment be considered as incidental supply, thus will not put the power provider under a mixed supplier situation?

A14. The supply of accommodation to workers may be considered as for furtherance of business and input tax incurred is claimable. With nominal payment to the workers will put the power provider in a mixed supplier situation. However, if the amount is less than RM5,000 per month and the taxable accumulated amount is less than 5% of the total supply, it will be considered as “de minimis” and the power provider can claim the input tax incurred.

Q15. It is common for a power provider to receive excess payment from the customers. It will tedious to issue credit notes in order to make the necessary adjustments in the GST return. Can the excess amount be treated as deposit instead of payment?

A15. Yes, excess payment by virtue of Regulations 15, GST Regulations 2014 is not subject to GST. Tax on that supply shall be chargeable only to the extent covered by the invoice or payment.

Q16. Power provider sometimes received fund from the Government for example, shifting of road poles, building of solar hybrid system and etc. Does the fund be considered as consideration for a supply of services?

A16. Yes, the provision of fund from the Government is considered as consideration and thus the power provider must account the GST included in the fund received.

Q17. In the case damage by a third party to asset of the power provider, for example a road accident whereby a road pole was run over, power provider will seek damage compensation from the person. Is the compensation subject to GST?

A17. No, the compensation seeked is not a consideration for a supply, i.e it is out of scope, thus there is no GST implication on the compensation received.

FEEDBACK OR COMMENTS

27. Any feedback or comments will be greatly appreciated. Please email your feedback or comments to gstsector1@customs.gov.my.

FURTHER INFORMATION

28. 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