



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON INVESTMENT BANKING

Publication

Date Published: 6 January 2016.

The Guide on Investment Banking as at 13 March 2014 is withdrawn and replaced by the Guide on Investment Banking revised as at 6 January 2016.

Copyright Notice

Copyright 2015 Royal Malaysian Customs Department.

All rights reserved. Subject to the Copyright Act, 1987 (Malaysia).

The Guide may be withdrawn, either wholly or in part, by publication of a new guide. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form, including on-site for commercial purposes without written permission from the Royal Malaysian Customs Department (RMCD). In reproducing or quoting the contents, acknowledgment of source is required.

Disclaimer

This information is intended to provide a general understanding of the relevant treatment under Goods and Services Tax and aims to provide a better general understanding of taxpayers' tax obligations. It is not intended to comprehensively address all possible tax issues that may arise. While RMCD has taken the initiative to ensure that all information contained in this Guide is correct, the RMCD will not be responsible for any mistakes and inaccuracies that may be contained, or any financial loss or other incurred by individuals using the information from this Guide. All information is current at the time of preparation and is subject to change when necessary.

CONTENTS

INTRODUCTION	1
General Operation of Goods and Services Tax (GST)	1
GENERAL OPERATIONS OF THE INDUSTRY	1
GST TREATMENT ON INVESTMENT BANKS (IB).....	2
GST Treatment by Supply Types	2
Corporate Finance.....	3
Debt capital markets.....	4
Equity Markets/ Stock broking	4
Derivatives and Structured Products	5
Treasury	5
Dealer or Futures Broker	6
Single entity registration	6
The reimbursement is not subject to GST.	7
Investment Banking and Designated Areas (DA)	7
Fixed Input Tax Recovery (FITR)	8
RELATED AGENCY.....	10
Bursa Malaysia.....	10
FREQUENTLY ASKED QUESTIONS	12
INQUIRY.....	23
FURTHER ASSISTANCE AND INFORMATION ON GST	23
APPENDIX 1.....	24

INTRODUCTION

1. This Industry Guide is prepared to assist you in understanding the Goods and Services Tax and its implications on banking services offered by Investment Banks (IBs).

General Operation 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 THE INDUSTRY

5. In Malaysia, an investment bank is responsible as a financial intermediary that performs a variety of services, primarily in raising capital and security underwriting, mergers and acquisitions, sales and trading for both institutions and private investors. Investment bank earns profit by charging fees and commissions for providing these services and other kinds of financial and business advice. As a result, most of the services supplied are standard rated.

GST TREATMENT ON INVESTMENT BANKS (IB)

GST Treatment by Supply Types

6. IBs normally make three types of supplies namely, exempt supply, standard rated supply and zero-rated supply.

(a) **Exempt supply**

A supply is an exempt supply if the consideration of the supply is generally in the form of an interest or a spread. In normal practices, services rendered by IBs such as accepting deposits from wholesale customers, trading of money market instruments and equity and debt capital market instruments are treated as exempt supplies.

(b) **Standard Rated Supply**

Although most of the financial services are treated as exempt supplies, fee based services such as arranging, broking, underwriting, advising or any other similar activities pertaining to the provision of the financial services are treated as standard rated supplies.

(c) **Zero-Rated Supply**

Services performed by IBs for customers outside Malaysia will be zero-rated if the services are supplied under a contract with the customer and which directly benefit the customer who is outside Malaysia at the time the services are performed. This is an export of services. Some examples of exported financial services are:

- (i) Any financial service supplied directly in connection with land and goods situated outside Malaysia; and
- (ii) Any financial service provided to a foreigner (non-resident) not directly in connection with capital market products traded or issued in Malaysia.

For further details, please refer to **Appendix 1**

Corporate Finance

7. Functions of corporate finance include:

(a) Takeover, merger, acquisitions and divestiture advisory

IBs provide advisory services on strategizing, planning and takeovers, mergers, acquisitions, management buyouts and divestments; assist public and private companies in raising fund in the capital market; and act as intermediaries in underwriting stock and bond issues. The fees charged for such services are subject to GST at a standard rate.

(b) Underwriting and other services

(i) IBs are also financial intermediaries in securities offerings. They verify financial data and business claims, facilitate pricing, and perform due diligence. Most underwritings are “firm commitment” underwritings in which investment banks purchase the securities from the issuer and distribute them to the public. Such services are standard rated supplies.

(ii) Besides the underwriting services, IBs offer other services which are subject to GST at a standard rate. Examples of these services are:

- Advising and preparing companies for flotation on the stock exchanges.
- Identifying potential merger partners and take-over targets for clients and advising on mergers and acquisitions and take-over transactions.
- Devising and executing strategies for capital raising activities through placement of securities, secondary issues of securities, special issues, convertible loans and other capital market instruments.

- Providing advice from corporate restructuring exercises to restructure a company's gearing or business operations.
- Offering independent evaluation of corporate transactions and valuation of companies/business/securities and assets.

Debt capital markets

8. IBs are also providing their corporate clients with the expertise in structuring debt financing programs via debt securities instruments, whether conventional or Islamic.

9. Examples of services which are subject to GST at a standard rate are listed below:

- (a) Advising and arranging for the issuance of debt securities;
- (b) Underwriting the issuance of debt securities;
- (c) Subscribing the issuance of debt securities;
- (d) Placement of debt securities;
- (e) Agency role throughout the tenure of the debt securities.

Equity Markets/ Stock broking

10. IBs assist companies in accessing the equity capital market for their fund raising requirements. Services offered which are subject to GST at a standard rate include:

- (a) Arranging, structuring and underwriting of an equity issuance;
- (b) Placement of shares;
- (c) Trading of shares;
- (d) Advising on investment activities;
- (e) Custody and nominee services.

Derivatives and Structured Products

11. Services offered to cater for derivatives and structured products which are subject to GST at a standard rate are:

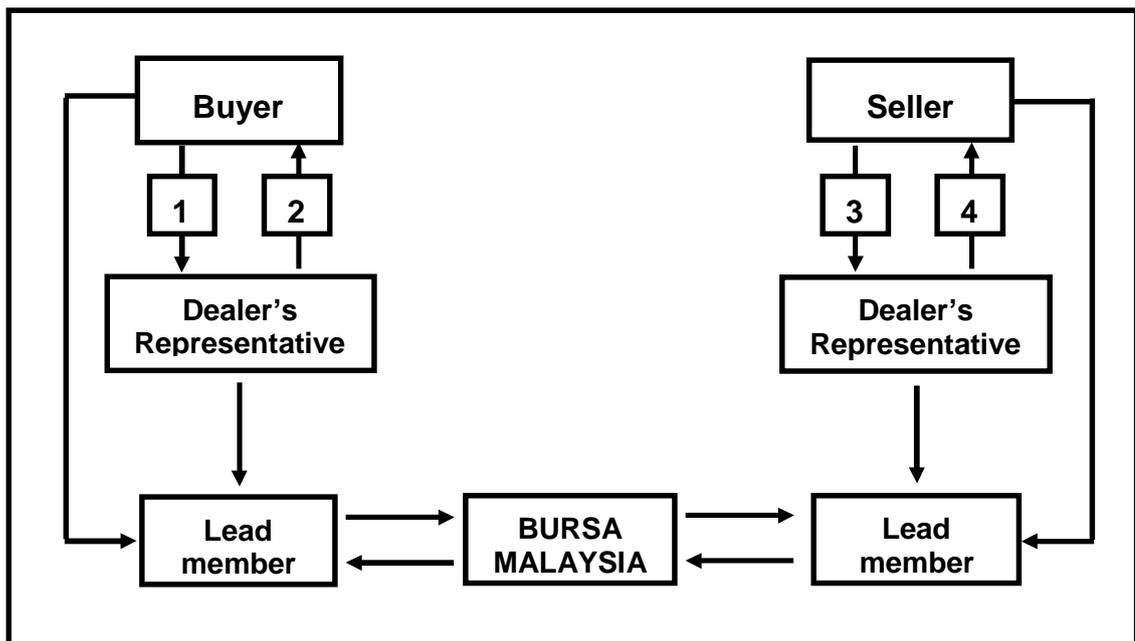
- (a) Advising, originating and issuing of products/structures; and
- (b) Designing products/structures with modified risk-return profiles.

Treasury

12. The following services offered by IBs are exempted from GST:

- (a) Accepting deposits from wholesale customers (RM500,000 and above);
- (b) Trading of money market instruments;
- (c) Trading of debt capital market instruments.

Figure 1: The process of Dealing and Trading of shares



Description:

- (a) Buyer instructs dealer's representative to buy shares – not a supply.

- (b) Dealer's representative charges commission for buying the shares - standard rated supply.
- (c) Seller instructs dealer's representative to sell shares – exempt supply.
- (d) Dealer's representative charges commission for selling the shares - standard rated supply.

Dealer or Futures Broker

13. If a dealer (a stock broking company) or futures broker supplies a dealing system which allows a user to insert bid and offer quotes for securities or commodities and charge the services supplied, the supply is subject to GST at a standard rate.

14. Some dealers, futures brokers or related third parties may supply electronic data services which provide subscribers with a message facility for an information service i.e. on share price movements or financial news supplies. The supply of electronic data/information services are taxable supplies and subject to GST at a standard rate. Besides that, a dealer or futures broker may provide investment and portfolio management services, personal equity plan management services, advisory, research and valuation services and custodial services. These services are subject to GST at a standard rate.

Single entity registration

15. All dealer's representatives are attached to some dealer while futures broker's representatives are attached to the futures broker before they are allowed to trade in Bursa Malaysia. For GST purposes, the dealer representatives and the dealer or futures broker representatives and the futures broker are treated as a single entity. This means that the dealer or futures broker must account for the GST on the brokerage commission earned by the dealer representatives or futures broker representatives even though the brokerage commission received by each dealer representative or futures broker representative is below threshold. The dealer or futures broker is required to charge and account for the GST made on taxable supplies by him, dealer's representatives or futures broker's representatives and issue a tax invoice for the taxable supply.

16. As for the input, the dealer or futures broker is entitled to claim input tax on acquisition of goods and services used for making taxable supplies. This means that the dealer or futures broker can claim GST incurred on his expenses such as office rental, computer hardware and software, dealing system rental, electricity and telecommunication services.

17. Besides that, the dealer representatives or futures broker representatives may incur GST on their expenses such as telecommunication services. The dealer representatives or futures broker representatives are required to pay the GST incurred and pass on the tax invoices issued under their name to the dealer or futures broker to claim the GST incurred as input tax credit on their behalf. Having claimed the input tax credit, the dealer or futures broker will then reimburse the amount of GST paid by the dealer representatives or futures broker representatives.

The reimbursement is not subject to GST.

18. For intra supplies between the dealer and dealer representatives or futures broker and futures broker representatives such as dealing system rental and office rental, these supplies are disregarded for GST purposes. This means that the dealer or futures broker is not required to charge GST on such supplies made to the dealer representatives or futures broker representatives.

Investment Banking and Designated Areas (DA)

19. If an investment bank in Malaysia provides services to the DA, the services are subject to GST at a standard rate. The supplies made by a branch of an investment bank in Malaysia in the DA is also subject to GST at a standard rate except for the rental of safe deposit box and the sale of merchandise.

Example 1:

EZIE Investment Bank (Labuan Branch), provides loans to residents in Labuan and charges processing fee. This fee is subject to GST at standard rate because the services are actually supplied by EZIE Investment Bank's Headquarters in Kuala Lumpur.

Example 2:

EZIE Investment Bank (Labuan) Ltd, provides loans to businesses in Labuan and charges processing fee. This fee is not subject to GST because the services are provided by EZIE Investment Bank (Labuan) Ltd which is incorporated in Labuan.

20. Supplies of services provided to Malaysia from an investment bank (incorporated in Labuan under the Labuan Financial Services Authority Act 1996) (LFSA) in the DA are local supplies. The investment bank is required to register for GST if the total taxable supplies in a twelve months period exceeds the prescribed threshold even though the business establishment is located in the DA. Thus, such services are subject to GST and output tax shall be charged in a tax invoice and accounted in the GST return.

Example 3:

EZIE Investment Bank (Labuan) Ltd, provides advisory services to a business in Kota Kinabalu, Sabah and charges a fee. This fee is subject to GST at a standard rate because the services are provided into Malaysia.

Fixed Input Tax Recovery (FITR)

21. Generally, a mixed supplier may claim input tax in the following manner:-

- (a) Claim full input tax credit if the input is wholly attributable to a taxable supply;
- (b) Cannot claim input tax credit if the input is wholly attributable to an exempt supply; or
- (c) Apportion input tax by using the turnover method if the input (residual input) cannot be wholly attributable to either taxable or exempt supplies.

22. Supplies made by financial institutions e.g. the provision of loans or financing is an exempt supply and input tax is not claimable. However, banks and other financial institutions which provide loans or financing to businesses are allowed to claim the

GST incurred on their business input. Such claim is only applicable by using Fixed Input Tax Recovery (FITR) method.

23. FITR is a method where a financial institution such as:

- (a) commercial bank;
- (b) investment bank;
- (c) Islamic bank;
- (d) development financial institutions and any other approved institutions as in the First Schedule of the GST Regulations 2014 are entitled to recover input tax based on a specific rate in percentage determined by the Minister.

24. If a financial institution is allowed to recover input tax using the FITR method, the amount of the input tax allowable is in accordance with the following formula:

$$\mathbf{A \times B}$$

where: **A** is the total input tax incurred in the taxable period excluding input tax allowed under regulation 48 and

B is the fixed rate.

25. The total input tax incurred in the taxable period includes:

- (a) input tax in relation to exempt supplies i.e. loans provided to businesses and individuals;
- (b) input tax in relation to standard rated and zero rated supplies;
- (c) input tax in relation to other exempt supplies e.g. investment activities.

Example 4:

In October 2015, a GST registered investment bank incurs GST on the following:

- (a) *input tax in relation to exempt supplies (provision of loans to businesses) – RM3,000*
- (b) *input tax in relation to standard rated supplies(fee based services) – RM7,000*
- (c) *input tax on investment activities – RM5,000*

The bank is allowed to use the fixed input tax recovery method to claim GST incurred on his business inputs at the rate of 78% in the year 2015.

Input Tax Claimable = Input Tax incurred in the taxable period x FITR rate

$$= (RM3,000 + RM7,000 + RM5,000) \times 78\%$$

$$= RM11,700$$

RELATED AGENCY

Bursa Malaysia

26. Bursa Malaysia is the market place where shares, commodities and their derivatives are freely traded. Bursa Malaysia Securities Clearing Sdn. Bhd (BMSC) is a wholly-owned subsidiary of Bursa Malaysia Berhad which is responsible to provide, operate and maintain the clearing house for the securities exchange in Malaysia. BMSC does not have direct dealing with the investors. Trading Clearing participants (TCPs) act as intermediaries between BMSC and the investors. All securities clearing activities must be performed through a TCP.

27. The TCP are stockbroking companies or financial institutions which are investment banks. BMSC charges clearing fees for its clearing and settlement services on all securities clearing transactions. Clearing fee is subject to GST at a standard rate.

28. To enhance settlement efficiency, the scrip less system or Central Depository System (CDS) is put into place so that all shares issued or traded will be recorded as

book entries into or out of the investor's account or the CDS account. The CDS fee is a taxable supply and subject to GST at a standard rate.

29. In addition, Bursa Malaysia also charges other fees such as participant's fee, trading fee, listing fee, account opening fee, deposit fee, withdrawal fee, ordinary transfer fee, requested statement fee, etc. All these supplies are subject to GST at a standard rate.

FREQUENTLY ASKED QUESTIONS

GST Registration

Q1. Am I eligible for group registration?

A1. You are not eligible to register for group registration because as an investment bank, you are making both taxable and exempt supplies. To be registered as a group, you must make wholly taxable supplies.

Q2. Can I use the bank account number that appears in the monthly bank statements as the GST registration number required on tax invoice?

A2. You are not allowed to use the bank's account number as your GST registration number on your tax invoice. You will be given a GST registration number when you register your business.

Q3. I am a dealer's representative. Am I required to be registered?

A3. You are not required to be registered. However, your stock broker will be required to be registered if his taxable sales turnover exceeds the threshold and he has to account for the GST on your brokerage commission irrespective of whether the amount of your annual brokerage commission is above or below the threshold limit.

Q4. If my dealer's representative wants to quit from my stock broking company and intends to join with another stock broking company, what must I do? What do I have to do if a new dealer's representative joins my company?

A4. If your dealer's representative wants to quit from your company, you must inform the Director General on the withdrawal of the dealer's representative. Similarly, you must inform the Director General if a new dealer's representative joins your company.

Structured Investment Product

Q5. I structure an investment product for my client. In the process, I also supply advisory service for which the charge is embedded into the price of the structured investment product. Do I have to charge GST on my supplies?

A5. Since the provision of advisory services is part of the cost in the structuring of the investment product, you are not required to apportion the advisory service. GST is not chargeable to the structured product as it is exempt.

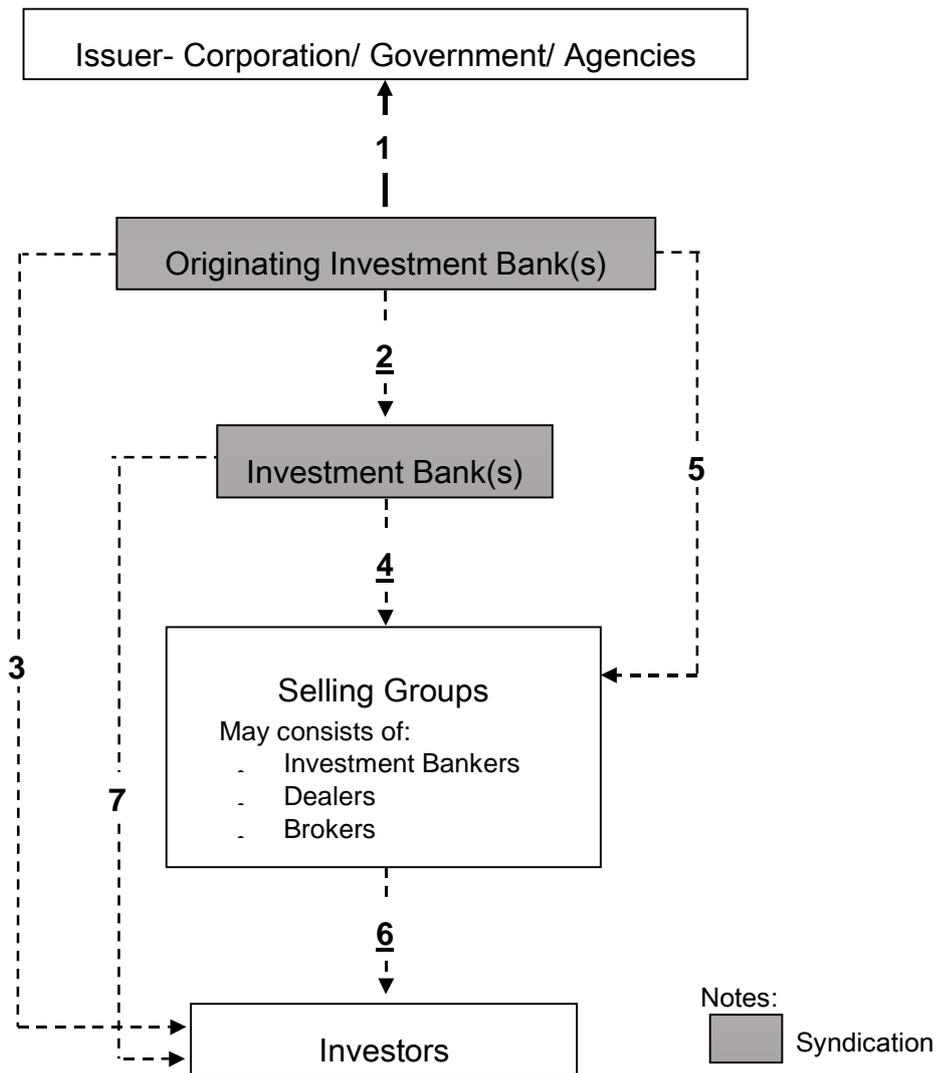
Securities Syndication

Q6. I enlist the support of other investment banks to sell securities, thus forming a security syndicate. In addition to that, each member of my syndicate have their own selling groups, consisting of other investment bankers, dealers and brokers that sell to their own investors. How should I account for the GST?

A6. As the originating bank, you are accountable for the GST on the fee based services related to the syndication. Therefore, you should charge GST at a standard rate on any fee based service which you make to your customer.

Briefly, the GST treatment can be illustrated in the following diagram:-

Figure 2: Securities Syndication



Explanation on GST treatment:

No.	Transactions	GST
1	Originating Investment Bank(s) charges arranger fee to issuer for the syndication service.	Standard Rate
2	Originating Investment Bank(s) sell securities to Investment Bank(s) and receive commission.	Sell securities - Exempt Commission – Standard Rate

3	Originating Investment Bank(s) may sell securities directly to investors and receive commission.	Sell securities – Exempt Commission – Standard Rate
4	Investment bank(s) sell securities to Selling Group (SGs); receive commission from Originating Investment Bank(s) and pays brokerage fee to (SGs).	Sell securities - Exempt Brokerage and Commission – Standard Rate
5	Originating Investment Bank(s) may sell securities directly to Selling Groups (SGs) and pay brokerage fee.	Sell securities - Exempt Brokerage – Standard Rate
6	SGs sell securities directly to investors, charges brokerage fee and receive commission.	Sell securities - Exempt Brokerage and Commission – Standard Rate
7	Investment Bank(s) may sell securities directly to investor and earn full commission from Originating Investment Bank(s)	Sell securities - Exempt Commission – Standard Rate

Loan Syndication

Q7. I am the arranger of a syndicated loan. I provide the loan of RM100 million and receive an arranger fee of RM50,000. How do I charge GST?

A7. Since the provision of a loan is a provision of credit, it is an exempt supply. However, you are required to account for the GST on RM50,000.00, since arranger fee is subject to GST at a standard rate.

Example 5: *Mixed Supply*

Loan Amount: RM100 million

Arranger Fee: RM 50,000.00

GST @ 6%: (RM50,000 x 6%)

RM 3,000.00

Q8. I am the mandated arranger as well as the administrative agent of a syndicated loan facility. The other participating banks' roles in the syndicates' composition is shown in Table 1. What is the GST treatment on the supply of these participating banks?

A8. The GST treatment is shown in the Table 1 below:-

Table 1: Example of a Syndicated Loan Structure

Participating Banks' Role	Services	Fee/Income	GST Treatment
1.Mandated Arranger (Lead manager/ Administrative agent)	1. Originate, structure and syndicate the transaction	1.Syndication fee	Standard rate
	2. Provides portion of the loan to the syndicate.	2. Loan	Exempt
	3. Receives portion of the interest on the loan from borrower.	3. Interest	Exempt
2. Joint Manager/ Co-Manager	1. Member of the syndicate receiving a portion of the syndication's fee.	1.Syndication fee	Standard rate
	2. Provides portion of the loan to the syndicate.	2. Loan	Exempt
	3. Receives interest on the loan	3. Interest	Exempt

3. Book Runner	1. Issues invitations to participate in the syndication, disseminates information to banks and informs the borrower about the progress of the syndication.	1. Book Runner fee	Standard rate
	2. Provides portion of the loan to the syndicate.	2. Loan	Exempt
	3. Receives interest on the loan.	3. Interest	Exempt
4. Participants only	1. Provides portion of the loan to the syndicate.	1. Loan	Exempt
	2. Receives interest on the loan.	2. Interest	Exempt

Q9. Sometimes an application fee on a non-syndicated loan may be termed as “acceptance fee” or “review fee” and it is charged upon approval of the loan. What is the GST treatment on this fee?

A9. Irrespective of the term you use for the fee, the application fee is subject to GST at a standard rate.

Q10. I charge a processing fee when a non-syndicated loan application is approved. Is there GST on processing fee if the loan is declined?

A10. GST is chargeable at a standard rate even though the loan is declined.

Corporate Financing

Q11. Debt assignment is the assignment of debt for a consideration. In this assignment, the debt factor will charge service fee. What is the GST treatment on the service fee?

A11. The service fee on the debt assignment is subject to GST at a standard rate.

Q12. Is there GST for late payment penalties?

A12. If you impose a penalty because your clients did not pay by the due date, the penalty is not subject to GST.

Securities Services

Q13. Many securities transactions are effected by electronic means. Is the supply through a dealing system that matches and sell deals subject to GST?

A13. The trading of securities is an exempt supply. However, the rental of the dealing system is a taxable supply and therefore is subject to GST at a standard rate.

Initial Public Offering (IPO)

Q14. What is the GST treatment on fees paid in an IPO exercise?

A14. Fee based services relating to IPO exercise is standard rated even though you may have progress billings. The GST is due when the billing is made or payment received. This may include any kind of additional costs on report preparation, administrative and maintenance on corporate governance.

Q15. My supply in an IPO exercise is basically related to the new securities of a public company in which I am also the company's underwriter. What is the GST treatment if I sell the new securities in large blocks to institutional or retail buyers?

A15. The sale of securities to institutional or retail buyer is an exempt supply since the underwriter earns a spread and therefore it is not subject to GST. GST is not chargeable even though you resell the securities to a retail purchaser. However, if there is any brokerage fee or commission, it is subject to GST at a standard rate.

Acquisition through Borrowings

Q16. A leveraged buyout is essentially a strategy involving the acquisition of another company using borrowed money through bonds or loans in order

to meet the cost of the acquisition. Often, the assets of the company being acquired will be used as collateral in addition to the assets of the acquiring company. Is collateral subject to GST?

A16. Collateral is a form of security to ensure settlement of the loans. Hence, it is not subject to GST.

Takeover

Q17. A friendly takeover occurs with the consent of the management of the target company and consists of a straight buyout of the company. In this kind of takeover, the shareholders either receive cash or an agreed-upon number of shares of the acquiring company's shares. What is the GST treatment?

A17. Cash payment and shares buyout is not subject to GST.

Stock Lending

Q18. I lend shares to another entity (borrower) for it to complete some shares transaction. The borrower will return the same number of shares to me at a later agreed date. In this transaction I charged the borrower some fees. Is the fee subject to GST?

A18. The fee you charge the borrower is subject to GST at a standard rate. However, the lending of shares is not subject to GST.

Q19. Where stocks are loaned, the borrower has the legal title of the shares and receives the dividend until these shares are returned. What is the GST treatment on the dividend received by the borrower?

A19. The dividend received is not subject to GST.

Swap

Q20. When is the tax point in an interest rate swap i.e. when the banks and other financial institutions exchange fixed interest rate on their debts?

A20. An interest rate swap is an exempt supply. Therefore, the issue of tax point does not arise.

Q21. Is the GST treatment on interest rate swap similar to currency swap?

A21. The GST treatment will be similar since currency swap is also an exempt supply.

Preparatory Services

Q22. I provide preparatory services to my nominee companies. What is the GST treatment on these preparatory services?

A22. Preparatory services such as preparing and filling of documents in a rights issue are subject to GST at a standard rate.

Stock broking

Q23. My client is a Singaporean. He trades shares on Bursa Malaysia. Do I charge GST on brokerage commission?

A23. You are required to charge GST on the brokerage commission even though your client is not a Malaysian.

Q24. I purchase 10 lots of shares from Hong Kong stock market through my stock broking company in Johor and I have been charged commission by the stock broking company. The stockbroker in Hong Kong charges commission for the stockbroking services to the stockbroker in Johor. What is the GST treatment?

A24. The stockbroker in Johor has to account for imported services in the taxable period for commission paid to the stockbroker in Hong Kong. The commission charged by the stockbroker in Johor to you is subject to GST at a standard rate.

Q25. I intend to buy 20 lots of a foreign-listed company's call warrants which are also listed at Bursa Malaysia. Do I have to pay GST on commission for such dealing?

A25. You have to pay for the GST on the commission charged.

Q26. Mars Sdn Bhd trades futures contract in Bursa Malaysia and takes delivery of the commodity. What is the GST treatment on the delivery of a commodity under a physically settled contract?

A26. The transfer of ownership of futures contract or transfer of ownership of derivatives relating to commodities is exempt and not subject to GST. However, settlement of futures contracts by way of physical delivery of commodities is subject to GST at a standard rate.

Input tax recovery

Q27. Can an IB claim input tax incurred in respect of medical and hospitalization benefits of its employees?

A27. The bank is not entitled to claim the input tax incurred since medical and hospitalization benefits for the employees is blocked input tax.

Q28. Can an IB claim the input tax incurred in relation to entertainment to existing clients?

A28. The bank may claim the input tax incurred since entertainment to existing clients is allowed.

Q29. As a dealer's representative or futures broker's representative, I incur GST on telecommunication services when I call my clients through my mobile phone. Can my lead member claim the GST incurred on my behalf?

A29. Your lead member can claim the GST incurred on telecommunication services made by you when you call your clients through your mobile telephone.

Q30. As a dealer's representative or futures broker's representative, I sometimes incur parking charges on the car which I use to meet up with my clients. Can the stockbroking company claim the GST incurred on my behalf?

A30. Your stockbroking company can claim the GST incurred provided that parking charges incurred is related to meeting your client.

Q31. As an investment bank, I sometimes provide margin financing to my clients besides charging brokerage commission. How do I claim the GST incurred on my expenses?

A31. Margin financing is an exempt supply. Since you are an investment bank you are required to use FITR for claiming input tax.

Bad Debts

Q32. After paying upfront the value of a share transaction which includes the share price, commission, stamp duty and GST on commission to my lead member eight months earlier, as a dealer's representative I still have not received any payment from my client. My lead member then proceeded to treat the unpaid dues as bad debts. Can my lead member claim the GST that I have paid on commission?

A32. Your lead member can claim GST in full provided that your lead member has satisfied all of the requirements of bad debt relief. However, when your lead member subsequently recovers the bad debt, the lead member shall pay the GST recovered to the dealer's representative.

Q33. After I have claimed the GST due to the unpaid account, one of my clients pays me. Do I have to pay GST back to the government?

A33. You have to pay back the amount of GST which your client has paid to the government as output tax.

INQUIRY

1. For any inquiries for this guide please contact:

Sector IV

GST Division

Royal Malaysian Customs Department

Level 3 – 7, Block A, Menara Tulus,

No. 22, Persiaran Perdana, Presint 3,

62100 Putrajaya.

Email: gstsector4@customs.gov.my

FURTHER ASSISTANCE AND INFORMATION ON GST

2. Further information on GST can be obtained from:

(a) GST website : www.gst.customs.gov.my

(b) Customs Call Center:

- Tel : 03-7806 7200 / 1-300-888-500
- Fax : 03-7806 7599
- Email : ccc@customs.gov.my

APPENDIX 1

Investment banking

List of supplies

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
1 STRATEGIC ADVISORY				
<i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>				
1.1 Financial Advisory Services				
1.1.1 Mobilisation Fee	X			
1.1.2 Retainer Fee	X			
1.1.3 Success Fee	X			
1.1.4 Milestone Fee	X			
1.1.5 Consultancy Fee	X			
1.1.6 Out of pocket expenses	X			
2 DEBT MARKETS				
<i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>				
2.1 Loans/Credit/Financial Guarantee Facilities				
2.1.1 Guarantee Commission / Premium	X			
2.1.2 Commitment Fee on Undrawn Loans				X
2.1.3 Extension Fee	X			
2.1.4 Upfront Fee	X			
2.1.5 Interest Received on Loans Financed			X	
2.1.6 Interest Received on Private Debt Securities Purchased			X	
2.1.7 Processing Fee	X			
2.1.8 Prepayment Penalty (Compensate for Losing Future Income)				X
2.2 Arranger/Facility Agent Services				
2.2.1 Arranger Fee	X			
2.2.2 Abortive Fee – Service Fee	X			
2.2.3 Abortive Fee – Penalty				X
2.2.4 Agency Fee	X			
2.2.5 Out of pocket expenses	X			
2.3 Underwriting Facility				
2.3.1 Underwriting Fee – Best Endeavor Underwriting	X			
2.3.2 Advisory/Custodian/Nominees Fee for Underwriting	X			
2.3.3 Full Underwriting – Include Cost of Acquisition of Securities			X	
2.3.4 Placement Fee	X			

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
2.3.5 Capital Gain on Disposal of Financial Instruments Arises from Underwriting Facilities			X	
2.3.6 Coupon Received on PDS Subscribed/Purchased			X	
2.3.7 Out of pocket expenses	X			
2.4 Placement of Bonds/Sukuk				
2.4.1 Underwriting Fee – Best Endeavor Underwriting	X			
2.4.2 Advisory/Custodian/Nominees Fee for Underwriting	X			
2.4.3 Full Underwriting – Include Cost of Acquisition of Securities			X	
2.4.4 Placement Fee	X			
2.5 Primary Subscription Income				
2.5.1 Capital Gain on Disposal of Debt Securities			X	
2.6 Shariah Advisory Services for Capital Market Instruments e.g Sukuk				
2.6.1 Shariah Advisory Fee	X			
2.6.2 Out of pocket expenses				X
3 EQUITY MARKETS <i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>				
3.1 Services in Relation to IPO/ Offer for Sale/ Divestments/ Placements/ Special Issues/ Related Issues/ Merger & Acquisitions/ Takeovers/ Restructuring/ Capital Reduction/ Share Split/ Share Consolidation/ Bonus Issues/ ESOS/ Share Grant/ other similar products				
3.1.1 Advisory Fee	X			
3.1.2 Out of pocket expenses	X			
3.1.3 Underwriting Fee – Best Endeavor Underwriting	X			
3.1.4 Advisory/Custodian/Nominees Fee for Underwriting	X			
3.1.5 Full Underwriting – Include Cost of Acquisition of Securities			X	
3.1.6 Brokerage Commission	X			
3.1.7 Introductory Fee for Introducing Clients	X			
3.1.8 Success Fee for Successful Deal	X			
3.1.9 Performance Fee for Successful Deal	X			
3.1.10 Incentive Fee – Discretionary Amount by Issuer	X			
3.1.11 Stamp Duty – Collected and Remitted Back to Tax Authorities				X
3.2 Sponsorship of ACE Markets				
3.2.1 Sponsorship Fee	X			

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
3.3 Underwriting Facility 3.3.1 Underwriting Fee – Best Endeavor Underwriting 3.3.2 Advisory/Custodian/Nominees Fee for Underwriting 3.3.3 Full Underwriting – Include Cost of Acquisition of Securities 3.3.4 Placement Fee 3.3.5 Out of pocket expenses	X X X X		X	
3.4 Equities Commodities Derivatives Group 3.4.1 Proprietary Trading - <i>Trading income</i> 3.4.2 Market making Activities - <i>Trading income</i>			X X	
3.5 Structure OTC Investment Product Linked to Equities, Commodities & Derivatives 3.5.1 Trading Income on the Underlying Shares or Commodity 3.5.2 Arrangers Fee 3.5.3 Rollover Fee 3.5.4 Upfront Fee	X X X		X	
3.6 Structure OTC (Equity or Commodity) Product 3.6.1 Interest Income 3.6.2 Trading Income 3.6.3 Early Redemption Fee			X X	X
4 TREASURY MARKETS <i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>				
4.1 Money Markets Placements 4.1.1 Interest Income - <i>Deposits and placements with financial institutions</i> - <i>Bankers acceptance</i> - <i>Treasury bills</i> - <i>Reverse repurchase agreements</i> 4.1.2 Other Interest Income - <i>Loans & financing</i> - <i>Dealing securities</i> - <i>Investment securities</i>			X	
4.2 Fixed Income Instruments/ Derivatives 4.2.1 Interest Income on Bonds/ Notes 4.2.2 Interest Income on Derivatives 4.2.3 Trading Gain on Bonds/ Notes/ Derivatives 4.2.4 Arbitrage Income (Trading Gain Derived from Sale of Bonds as a Primary Subscriber) 4.2.5 Discount on Purchase of Fixed Income Instruments			X X X X X	
4.3 Miscellaneous Income/ Fee				

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
4.3.1 Accretion of Discount (Net of Amortisation)			X	
4.3.2 Dividend from Investment				X
4.3.3 Gain on Disposal of Investment of AFS & HTM			X	
4.3.4 Gain on Trading Securities (HFT)			X	
4.3.5 Arbitraging Fee	X			
4.4 Islamic Activities				
4.4.1 Interbank Investment/ Placement: - Hibah received on Wadiah placement with BNM - Profits from Mudarabah Interbank Investments (MII) and commodity Murabahah placement			X X	
4.4.2 Holding of Islamic Securities: - Profits earned from holding of Islamic capital market instruments, i.e IMTN, Sukuk, etc - Profits earned from holding of Islamic money market instruments, i.e BNM Notes, Islamic Negotiable Instruments, etc - Ta'widh (Late payment compensation)			X X	X
4.4.3 Trading/ Selling Activities: - Trading gain on sales of Held-for-Trading (HFT) securities - Marked-to-Market gain on HFT securities - Gain on sale of Islamic securities - Capital gain on sales of Available-for-Sales (AFS) securities - Legal fees			X X X	X X X
5 INVESTMENT BANKING OPERATIONS				
<i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>				
5.1 Services in Relation to Custodian Facility				
5.1.1 Custodian Fee	X			
5.1.2 Account Opening/ Closing Fee	X			
5.1.3 Account Maintenance Fee	X			
5.1.4 Stamp Duty for Stamping of the Custodial Agreement				X
5.1.5 Reimbursement of Message and Safe Keeping Fee Charged by MyClear	X			
5.2 Services in Relation to Foreign Currency Money Market Deposit Maturity & Corporate FCY Transactions				
5.2.1 Handling Charges for Foreign Remittance	X			
6 STOCKBROKING				
<i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>				
6.1 Stockbroking Services to Institutional Clients				

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
6.1.1 Brokerage Fee	X			
6.1.2 Brokerage Fee Charged on Commodity under Islamic Share Purchase Financing				X
6.1.3 Clearing Fee	X			
6.1.4 Stamp Duty				X
6.1.5 Interest Income from Placement of Clients Trust Monies			X	
6.1.6 IPO Placement Fee	X			
6.1.7 Withdrawal Fee (Shares and Cash)	X			
6.2 Stockbroking Services to Retail Clients				
6.2.1 Brokerage fee	X			
6.2.2 Brokerage fee Charged on Commodity under Islamic Share Purchase Financing				X
6.2.3 Clearing Fee	X			
6.2.4 Stamp Duty				X
6.2.5 Contra Services Charge	X			
6.2.6 Rebate of Brokerage	X			
6.2.7 Discretionary Financing Fee	X			
6.2.8 Request Reprinting Statement Fee	X			
6.2.9 Withdrawal Fee (Shares and Cash)	X			
6.2.10 Handling Fees – Foreign Shares Depositing/ Transfer – Malaysian Client, Shares Listed outside Malaysia	X			
6.2.11 Handling Fees – Foreign Shares Depositing/ Transfer – Non-Malaysian Client, Shares Listed outside Malaysia		X		
6.2.12 Admin Charges for Cash Settlement	X			
6.2.13 Handling Fee – ESOS Financing	X			
6.2.14 Handling Fee: - Trust conversion - Stop payment - Bankers draft - Cheques processing fee	X			
6.2.15 IPO Placement Fee	X			
6.2.16 Online Access Fee	X			
6.2.17 Foreign Corporate Action Handling Charges	X			
6.2.18 Interest Income from Placement of Clients Trust Monies			X	
6.2.19 Late Interest Charges				X
6.2.20 Reimbursement of Score Fee	X			
6.2.21 Reimbursement of Levy Fee	X			
6.2.22 Reimbursement of Central Depository System (CDS) Fee: - Transfer fee - Account opening fee - Activation fee				X

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
6.2.23 - eDividend registration fee - Deposit fee Deposit of Physical Shares Fee	X			
6.2.24 Reimbursement of Live Feed Charges	X			
6.2.25 Reimbursement of Legal Fees (Debts Recovery)	X			
6.2.26 Reimbursement of Foreign Transaction Costs (Foreign Shares Trading)	X			
6.2.27 Deposit of Foreign Physical Shares Fee	X			
6.2.28 Outstanding Amount Interest				X
6.2.29 Rollover Fees	X			
6.2.30 Back-to-back Charges to Client: - Clearing fee - Levy - Trading fees - Security fees - VAT charges by other exchanges when applicable				X
6.2.31 SMS Alert Fee	X			
6.3 Brokerage Commission on Foreign Securities		X		
6.4 Short Term Financing for Retail Clients for Buying Shares				
6.4.1 Interest or Levy of 0.3% (Charged after 10 days)			X	
6.5 Nominee Handling Charges for Shares Related Services				
6.5.1 Nominee Fees: - Rights issue - General offer - DRP - Capital repayment - Dividend payment - Purchase of banker's draft for corporate exercise on behalf of clients - Replacement of subsidiary income tax certificate (SITC) for shares - Replacement of cheque for shares - Outward Foreign Share Transfer - Deposition of foreign physical scrip	X			
6.5.2 Stamp Duty – Collected and Remitted to Tax Authorities				X
6.6 Share Margin Financing				
6.6.1 Interest Income			X	
6.6.2 Rollover Fee	X			
6.6.3 Renewal Fee	X			
6.6.4 Documentation Fee for Share Margin	X			
6.6.5 Commitment Fee (Amount Unutilised)				X
6.6.6 Exit Fee				X
6.6.7 Late Payment Penalty Fee				X

ACTIVITY / NATURE OF FEE		STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
6.6.8	Handling/ Processing/ Facility Fee	X			
6.7	Futures Broking				
6.7.1	Futures Commission	X			
6.7.2	Interest Income: - Initial margin placed with banks - Margin placed with BMDC			X	
6.7.3	Clearing Fees	X			
6.7.4	Exchange Fees	X			
7 ONLINE TRADING PLATFORM <i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>					
7.1	eIPO Administration Charges	X			
7.2	Outbound Market Data Subscription	X			
7.3	eRights Subscription	X			
7.4	Financial Tools Subscription	X			
7.5	Subscription Fee for Online Trading Platform	X			
8 OTHERS <i>The Standard rated / Exempt supplies set out below can be Zero rated if it falls under ambit of items 9, 10, 11 or 13 of the Zero rated Supply Order.</i>					
8.1	Interest Income from Bank Balances in Current Accounts			X	
8.2	Management Fee (Inter-company)	X			
8.3	Car Rental Income (Inter-company)	X			
8.4	Recoveries (Debt-Principal)				X
8.5	Recoveries (Debt-Interest)			X	
8.6	Disbursement (e.g Client's Insurance)				X
8.7	Sale Proceeds on PPE	X			
8.8	Fund Management Fees	X			
8.9	Termination Fees				X
8.10	Fees and Commissions Derived from Services Rendered to Foreign Parties, provided that: - customer is outside Malaysia at the time when services are performed - not directly in connection with goods or land in Malaysia or securities or unit trusts traded in Malaysia		X		
8.11	Foreign Exchange Gain/ (Loss)				
8.11.1	Global Trading Income	X			

ACTIVITY / NATURE OF FEE	STANDARD RATED SUPPLY	ZERO RATED SUPPLY	EXEMPT SUPPLY	OUT-OF-SCOPE SUPPLY
8.11.2 Fixed Asset – Gain on Disposal				X
8.11.3 Proceed Sales Asset	X			
8.11.4 CDS Service Charges	X			
8.11.5 Sundry Income	X			
8.11.6 Trading Error – Gain/ Loss				X
8.11.7 Contract Grouping P/L	X			
8.11.8 Nominee Handling Charges	X			
8.11.9 Commitment Fee				X
8.11.10 Late Payment Penalty Charges				X
8.11.11 Reimbursement of Legal Fees				X
8.11.12 Bank Charges – Replacement of Cheque Charges	X			
8.12 Insurance Commission				
8.12.1 Realised Forex Gain/ Loss (P/ L)			X	
8.12.2 Unrealised Forex Gain/ Loss (P/ L)				X