



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON MONEYLENDERS

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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.

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to Goods and Services Tax (GST) treatment on money lending operation.

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.

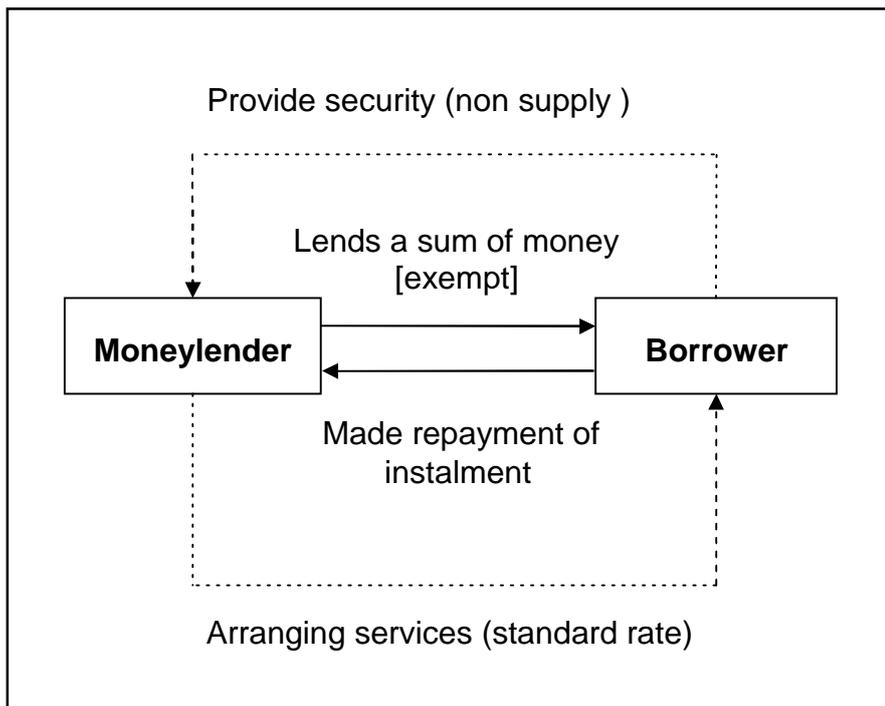
GST TREATMENT ON MONEYLENDER

Provision of Loan

5. The loan provided to the borrower by the moneylender is an exempt supply. As a consideration for the supply of the loan, the borrower is required to make instalment payments of the principal amount plus the interest to the lender. This interest payment is exempt and not subject to GST. Loans or advances given can be secured or unsecured. The provision of a security for such debt (if any) is not a supply.

An illustration of a money lending business is as shown in **Figure 1** below:

Figure 1: Money Lending Business



Disposal of Security to Recover Loan

6. In addition to the above recovery action and in the case of secured loan, the lender can dispose of the security to recover the balance in the following manner:

(a) The security is an immovable property:

The moneylender may apply to the High Court to get an Order to forfeit the immovable property to recover the loan amount. Subsequently, the sale of the immovable property is subject to GST at a standard rate if the moneylender is a taxable person.

(b) The security is a movable property:

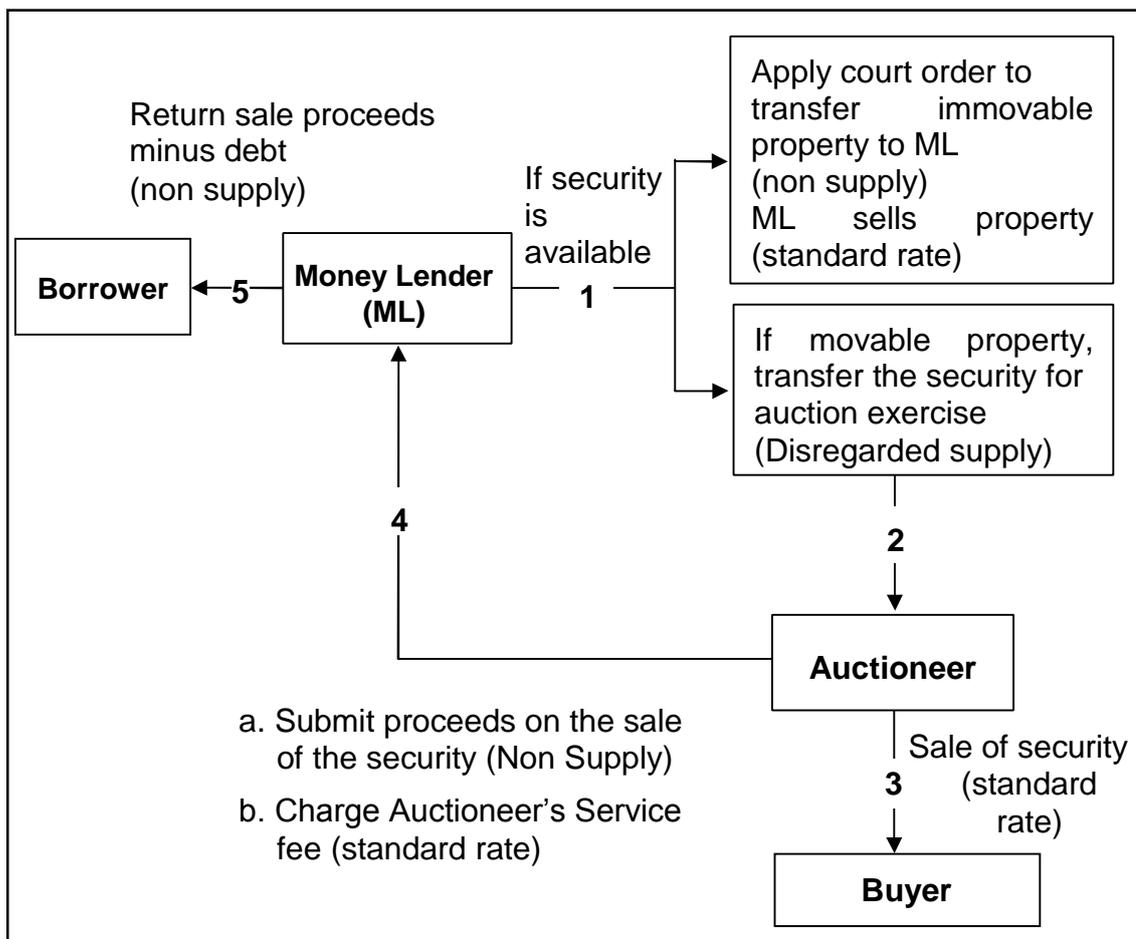
(i) The moneylender shall transfer the security to the auctioneer who will auction the security. The transfer of the security to the auctioneer is a disregarded supply by the moneylender. Hence the moneylender does not need to account for GST.

(ii) On the other hand, the auctioneer should charge GST on the sale of the security if the moneylender is a taxable person and the auctioneer passes the sales proceeds to the moneylender.

- (iii) However, if the auctioneer is a registered person, the auctioneer then charges GST on his services to the moneylender. Then he accounts the GST on the sale of the security and auctioneer services. The moneylender does not need to account GST on the proceed he receives.
- (iv) If the proceed is more than the outstanding debt, the moneylender shall return the difference to the borrower. The borrower does not have to account for GST on the difference he receives.

The illustration for the recovery of the loan to the moneylender is as shown in **Figure 2**.

Figure 2: Loan Recovery from Moneylender



INPUT TAX CREDIT (ITC)

7. Since a moneylender is making both taxable supply and exempt supply, he is entitled to claim input tax incurred on inputs that are directly attributable to taxable supply. For the residual inputs such as electricity and insurance premium, he can claim input tax based on the apportionment rules. Please refer to the Guide on Input Tax Credit.

FREQUENTLY ASKED QUESTIONS

Registration

Q1. What supplies do I take into account for the purpose of GST registration?

A1. The supplies are:

- (a) Sale of security (where borrower default instalment payment);
- (b) Documentation fees (for statement of account and document related to loans); and
- (c) Other taxable supplies.

Input Tax Credit

Q2. To advertise my moneylending business, I incur GST on the advertisements made in the newspaper and internet. Can I recover this GST?

A2. No, you cannot claim GST incurred on the advertisement since it is an input directly attributable to the moneylending activities which is an exempt supply.

Q3. Can I claim GST incurred on documentation execution fee i.e. charges for administration cost in executing legal documentation for security held for credit facilities?

A3. No, you cannot claim GST incurred on the documentation execution fee since it is also an input directly attributable to the moneylending activities (an exempt supply).

Q4. A moneylender sometimes undertakes appraisal tasks performed by professionals on collateral in relation to loans. Usually, appraisal fees are charged by engineers and surveyors on these tasks. Is GST incurred on this appraisal fees claimable?

A4. Any GST incurred by the moneylenders that are directly attributable to the moneylending activities (an exempt supply) is not claimable. However if the appraisal activity is undertaken in relation to the security (collateral), the GST incurred is claimable in full since the sale of the security is a taxable supply.

Q5. Can I claim GST incurred on overhead expenses such as electricity and office rental?

A5. Since electricity and office rental are residual inputs, you are required to apportion these expenses by using the turnover method since you are supplying both exempt and taxable supplies. Residual inputs are inputs which you cannot directly attribute to either taxable or exempt supplies.

Q6. The moneylender incurs GST on auctioneer's service fee. Can this service fee be claimed as input tax credit?

A6. Yes, you can claim GST on the auctioneer's service fee because the auctioneer's service fee is attributable to the sale of the security.

Loss on Disposal

Q7. Sometimes the sales proceed of the security does not cover the value of the loan and interest and subsequently the moneylender suffers a loss.

As a result of this loss, can the sale of the security be exempted from GST?

A7. Any disposal of a security is a taxable supply irrespective of whether there is profit or loss. Therefore the sale will be subject to GST at a standard rate. If the moneylender is a taxable person, he accounts for GST. The auctioneer of the security charges and accounts for GST if he is a registered person.

Loan Conversion, Transfer, Renewal, Assignment

Q8. Is loan conversion prior to disbursement and loan revision subject to GST?

A8. Services of loan conversion where terms of loan (e.g. amount of loan) are being changed or loan revision (e.g. changing the original terms and conditions of loan) are out of scope supplies. Therefore, they are not subject to GST.

Q9. What is the GST treatment if a loan is transferred from one moneylender to another moneylender?

A9. The transfer of a loan from one moneylender to another moneylender is an out of scope supply. Therefore, it is not subject to GST.

Q10. What is the GST treatment on loan renewal i.e. granting of another loan after the maturity of the original loan is reached?

A10. The renewal of a loan is an exempt supply and therefore it is not subject to GST.

Q11. What is the GST treatment on loan/credit assignment where title to a security, rights or other interests are transferred to an assignee?

A11. Loan/credit assignment to another assignee is an out of scope supply and therefore it is not subject to GST.

Other Charges

Q12. Is there any GST on the stamp duties and attestation fees on attesting the money-lending agreement by the lawyers?

A12. The fee is not subject to GST as the service is regulatory in nature and is an out of scope supplies. However, GST should be imposed on the attestation fee by the attestor if he is a registered person.

Q13. As a moneylender, I charge RM3.00 for any request of statement of account on the state of loan by the borrower or RM 5.00 for a copy of any document relating to the loan or security. These charges are being legally prescribed by the Moneylenders Act 1951. Are these charges taxable under GST?

A13. Yes, they are standard rated supplies and therefore subject to GST at a standard rate.

INQUIRY

1. For any inquiries for this guide please contact:

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GST Division

Royal Malaysian Customs Department

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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
- E-mail : ccc@customs.gov.my