

COMMENTS ON GOODS AND SERVICES TAX (GST) GUIDE

APPROVED TRADER SCHEME (ATS)

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TECHNICAL COMMITTEE -- INDIRECT TAX (TC-IT)

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GOODS AND SERVICES TAX (GST) GUIDE
APPROVED TRADERS SCHEME (ATS)**

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PREAMBLE

The Technical Committee-Indirect Tax (TC-IT) of the Chartered Tax Institute of Malaysia (CTIM) would like to commend the Royal Malaysian Customs (RMC) for engaging the Institute to provide feedback on the draft Goods and Services Tax (GST) Guide – Approved Trader Scheme (ATS).

GENERAL COMMENTS

1. Reference to the GST Act, relevant Gazette Orders, and GST Guides

CTIM is of the view that wherever relevant, the guide should indicate the statutory reference, i.e. provisions of the GST Act and the relevant GST Gazette Orders and Regulations. This will allow readers, including taxable persons, agents, tax advisers, academicians, etc. to understand the framework of GST clearly and facilitate compliance.

SPECIFIC COMMENTS

The following are the views and comments of CTIM for the consideration by the authorities.

Paragraph 3: Parties Qualifying for ATS Consideration

CTIM's Comment: Paragraph 3 states 7 categories of taxable person who are eligible to apply for ATS. However, we would like to seek clarification whether all 7 categories need to fulfil the requirements of turnover above RM25 million and more than 80% of supplies made are zero-rated.

Paragraph 7.3: Can I suspend GST on goods acquired from a public warehouse or a company located in a Free Commercial Zone (FCZ)?

CTIM's Comment: Paragraph 7.2 indicates that a purchase made from another ATS participant, for example, company operating in Free Industrial Zone (FIZ) is a local purchase and there is no suspension of the GST.

In the answer to question in paragraph 7.3, it is stated that an ATS participant is allowed to suspend GST on acquisition from a public warehouse or from a company located in Free Commercial Zone.

CTIM would like to seek clarification on the difference in treatment.

Paragraph 8.3: If I am a group registered person, do I need to apply for separate ATS approval for each constituent member?

CTIM's Comment: Paragraph 8.3 provides that each constituent member has to apply for ATS separately and must fulfil the required conditions.

CTIM would like to seek clarification whether under the following scenarios, where each constituent member could not fulfil the required conditions but will satisfy the condition as a group, is the group eligible for ATS.

Scenario A

Entity A and B having both fulfilled the RM25 millions threshold but, can only fulfil the “more than 80% of supplies made are zero-rated” requirement if both are combined. Entity A’s sales is 100% to Entity B. Entity B is doing the export.

Scenario B

Entity A and B having both fulfilled the “more than 80% of supplies made are zero-rated” requirement but can only fulfil the RM25 millions threshold if combined. Both Entity A and B are doing export.

Scenario C

Entity A and B having both not fulfilled any of the said requirements but can achieve the RM25 millions threshold and “more than 80% of supplies made are zero-rate” requirement if combined.

Paragraph 9: Acting as an agent for overseas principal

CTIM's Comment: This caption is listed in the content page of the ATS guide but there is no discussion on this subject in the guide itself. Please confirm this is an oversight.

Paragraph 10(b): During the validity period of the ATS approval

CTIM's Comment: Item (iv) mentions that an ATS participant must produce statements of account, reports and “any other related documents” upon request from RMC.

For the purpose of clarity and transparency, please provide brief description on the scope / types of “other related documents”. CTIM is of view that the type of information required must be made known to taxable person and tax agent to enhance compliance and provide the information needed for audit purposes.

Paragraph 11.5 **What are the other responsibilities expected of me under the ATS?**

CTIM's Comment: CTIM would like to request the Customs to list down the types of offences and the penalties structures of each offence in this section.

Paragraph 13: **How to apply**

CTIM's Comment: CTIM is of view that for the purposes of transparency and monitoring, it will be helpful if an estimated timeframe could be provided for processing of ATS applications.

Where an ATS application is not successful, can the applicant appeal or re-apply for it again? If yes, what are the procedures?

Other comments: **Can a company that fulfil the RM25 millions threshold and exports 80% of its services qualify for the ATS under the following scenarios?**

Scenario A

Entity A import goods and utilise the same goods in its provision of services which is more than 80% of the services are exported.

Scenario B

Entity A imports goods and exports more than 80% of its services. The goods are not used in the export of services business.