

TECHNICAL

Indirect Taxation

GOODS AND SERVICES TAX (AMENDMENT) REGULATIONS 2016 [P.U.(A) 368-2016]

These Regulations were gazetted on 27 December 2016 and will come into operation on 1 January 2017. This is the 3rd amendments to the principal order, [Goods and Services Tax Regulations 2014 \[P.U.\(A\) 190/2014\]](#), after the [Goods and Services Tax \(Amendment\) Regulations 2015 \[P.U.\(A\) 56/2015\]](#) and [Goods and Services Tax \(Amendment\) \(No.2\) Regulations 2015 \[P.U.\(A\) 293/2015\]](#). The current amendments mainly relates to claim of input tax. The details are as follows:

Reg.	Amendment
39	<p><u>Attribution of Input Tax to Taxable Supplies</u></p> <p>(1) Subject to regulation 43, the amount of input tax which a taxable person shall be entitled to deduct provisionally shall be that amount which is attributable to taxable supplies in accordance with this regulation.</p> <p>(2) In respect of each taxable period—</p> <p>(a);</p> <p>(b);</p> <p>(c); and</p> <p>(d) there shall be attributed to taxable supplies and supplies made outside Malaysia which would be taxable supplies if made in Malaysia such proportion of the input tax as determine in accordance with the formula under subregulation (4) on the goods or services which are used or to be used by the taxable person in making taxable supplies, supplies made outside Malaysia which would be taxable supplies if made in Malaysia and exempt supplies.</p> <p>(3) In calculating the proportion under paragraph (2)(d), there shall be excluded—</p> <p>(a) the value of supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied;</p> <p>(b) the value of any supply made by a recipient in accordance with the Approved Toll Manufacturer Scheme under section 72 of the Act;</p> <p>(c) the value of any supply referred to in regulations 40 and 42; or</p> <p>(d) the value of any supply of imported services.</p> <p>(4) The amount of input tax which a taxable person shall be entitled under paragraph (2)(d) subregulation (1) shall be an amount determined in accordance with the following formula:</p> $a = \frac{T - O}{S - O} \times 100$ <p>Where a is the recoverable percentage of residual input tax</p> <p>T is the total value (exclusive of GST) of taxable supplies made in the taxable period</p>

	<p>O is the total value of any supply within subregulation (3), and</p> <p>S is the total value of taxable and exempt supplies made in the taxable period</p>
40(2)	<p><u>Treatment of Input Tax Attributable to Exempt Financial Supplies As Being Attributable to Taxable Supplies</u></p> <p>(2) Subject to regulation 41, there shall be treated as input tax attributable to taxable supplies any input tax attributable to exempt supplies of any of the following descriptions made by a taxable person:</p> <p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p> <p>(e) the provision by a taxable person of any loan, advance, credit or other similar financing facility whether secured or otherwise to his employees or between connected persons;</p> <p>(f)</p> <p>(g); or</p> <p>(h)</p>
42	<p><u>Treatment of input tax attributable to exempt supply of land for general use as being attributable to taxable supplies</u></p> <p>(1) This regulation shall apply to any exempt supply of land for general use.</p> <p>(2) Any input tax attributable to exempt supplies specified in subregulation (1) made by a taxable person to any public body where the supply of goods by the taxable person is made in compliance with the requirement enforced by any public body shall be treated as input tax attributable to taxable supplies.</p> <p>(3) For the purpose of this regulation—</p> <p>"public body" means the Federal Government, State Government, local authority and statutory body;</p> <p>"general use" means the use of land for the purpose of burial ground, playground or religious building.</p>
<p><u>Transitional Provision</u></p> <p>15(1) Any input tax incurred by any registered person before or after the effective date of these Regulations in relation the supply of land for general use is claimable provided that --</p> <p>(a) the planning permission has been granted by the relevant local authority before the effective date of these Regulations;</p> <p>(b) a certificate signed by any authorized person under any written law certifying that the value of development works have been completed not less than ten percent within twelve months from the date of the planning permission been granted is obtained; and</p> <p>(c) the amount of input tax claimable under sections 38 and 39 of the Act is incurred within thirty-six months from the date of the planning permission is granted.</p> <p>(2) For the purposes of this regulation, "general use" means the use of land for the purpose of burial ground, playground or religious building.</p>	
46	<p><u>Exceptional claims for input tax</u></p> <p>(1) Subject to subregulation (2), the Director General may authorize a taxable person to treat as if it were input tax, any tax paid on the supply of goods to the taxable person before the date with effect from which he was, or was required to be registered, or paid by him on imported goods before that date, for the purpose of a business which was carried on or was to be carried on by him</p>

	<p>at the time of such supply or payment.</p> <p>(2) No tax may be treated as if it were input tax in respect of—</p> <ul style="list-style-type: none"> (a) goods which had been supplied or consumed; (b) goods which have been used partially or incorporated into some other goods; or (c) goods held for other than business use, <p>by the person referred to in subregulation (1) before the date with effect from which such person he was, or was required to be, registered.</p> <p>(3)</p>
47(3)	<p><u>Deemed Input Tax Relating to Insurance or Takaful Cash Payments</u></p> <p>(3) Subregulation (2) shall apply where the contract of insurance or takaful certificate is taken out by a person who, at the time the insurance or takaful cover commences under that contract or certificate—</p> <ul style="list-style-type: none"> (a) is not registered under Part IV of the Act, or (b) is a sole proprietor who is registered under Part IV of the Act and who purchased the insurance or takaful cover for any purpose other than a purpose in the course or furtherance of his business. ;-or (c) where the contract is for medical and personal accident insurance or takaful, is registered under Part IV of the Act and is disallowed under regulation 36 from claiming any credit under section 38 of the Act on any input tax incurred on the premium or contribution paid on that contract or certificate.
59	<p><u>Method of Adjustment</u></p> <p>(1) Where in a subsequent interval applicable to a capital asset, the extent to which it is used in making taxable supplies increases from the extent to which it was so used or to be used at the time that the original entitlement to deduction of the input tax was determined, the owner may claim input tax for that subsequent interval an amount calculated in accordance with the following formula:</p> $\frac{\text{the total input tax on the capital asset}}{i} \times \text{the adjustment percentage}$ <p>Where i equals to number of successive intervals applicable to capital asset as determined in paragraphs 58(2)(a) and (b)</p> <p>(8) For the purpose of this regulation—</p> <p>“original entitlement to deduction” means the entitlement to deduction determined in accordance with Part VI regulations 37,39 and 43 of this regulation;</p> <p>“total input tax on the capital asset” means—</p> <ul style="list-style-type: none"> (a) in relation to a capital asset imported by or supplied to the owner, the tax charged on the importation or supply of the capital asset; and (b) in relation to a capital asset manufactured, assembled, produced or constructed by the owner, the tax charged on the supplies of the capital asset, as the case may require, <p>and shall include, in relation to any capital asset,—</p> <ul style="list-style-type: none"> (i) any tax on alteration, extension, refurbishment or fitting; and (ii) any tax treated as input tax under regulation 46 which relates to the capital asset, <p>and for the purpose of this subregulation references to the owner shall be construed as references to the person who incurred the total input tax on the capital asset;</p> <p>“adjustment percentage” means the difference, if any, expressed as a percentage, between the extent to which the capital asset was used or to be used for making of taxable supplies at the time the original entitlement to deduction of the input tax was determined, and the extent to which it is so used or is treated under subregulation (3) as being so used in the subsequent</p>

	interval in question.
60	<p><u>Ascertainment of Use of a Capital Asset in Making Taxable Supplies</u></p> <p>(1) Subject to subregulation 59(3) and subregulation (2), for the purpose of this Part, an attribution of the total input tax on the capital asset shall be determined for each subsequent interval applicable to it in accordance with the method used under Part VI regulations 37,39 and 43 for that interval and the proportion of the input tax determined to be attributable to taxable supplies shall be treated as being the extent to which the capital asset is used in making taxable supplies in that subsequent interval.</p>
62(3)	<p><u>Manner of Making a Declaration</u></p> <p>New subregulation (3) was inserted as follows:</p> <p>(3) This regulation shall not apply to the person referred to in paragraph 72(1)(b)</p> <p>Note : Paragraph 72(1)(b) stipulates the manner of making repayment by a person who has ceased to be a taxable person,</p>
82	<p><u>Approved Outlet</u></p> <p>A taxable person may operate an approved outlet for the purpose of the TRS subject to the following conditions:</p> <ul style="list-style-type: none"> (a) he shall be registered under section 20 of the Act; (b) he shall be appointed by an approved refund agent; (c) he does not wholly sell liquor, tobacco, tobacco products, precious metal or gem stones; (d) he shall account for tax on a monthly taxable period; and (e) he is a registered user of the electronic service under regulation 106.
84.	<p><u>Goods Not Eligible For Refund</u></p> <p>The following goods shall not be eligible for refund under TRS:</p> <ul style="list-style-type: none"> (a) wine, spirit, beer and malt liquor; (b) tobacco and tobacco products; (c) precious metal and gem stones; (d) goods which are wholly or partially consumed in Malaysia; (e) goods which are absolutely prohibited from export under any written law; and (f) goods which are not taken out as accompanied or unaccompanied luggage.
51	<p><u>Eligibility for input tax allowable</u></p> <p>Except as the Director General may otherwise direct, there shall be an amount of input tax allowable on supplies made by a taxable person if he is—</p> <ul style="list-style-type: none"> (a) a bank licensed under the Financial Services Act 2013; (b) an Islamic bank licensed under the Islamic Financial Services Act 2013; (c) a development financial institution as prescribed under the Development Financial Institutions Act 2002; or (d) any approved institution specified in the First Schedule. <p>New addition to the list of Approved Institutions in the First Schedule</p> <p>(k) Malaysian Industrial Development Finance Berhad</p>
81.	<p><u>Manner of claiming tax refund</u></p> <p>A tourist claiming for refund of tax under section 61 of the Act shall satisfy the following requirements:</p> <ul style="list-style-type: none"> (a) the claim is made in a refund application form as the Director General may determine; (b) the goods are presented to the officer of customs for verification at the Malaysian airports as in the Second Schedule together with the refund application form, tax invoice, passport and air

	<p>ticket or boarding pass before departing Malaysia;</p> <p>(c) after the application form has been endorsed by the officer of customs, the tourist shall not part with the possession of the goods or give it to another person except to the counter staff for checking in;</p> <p>(d) the goods shall not be brought out of the premises of the Malaysian airports as in the Second Schedule after the refund application form has been endorsed by the officer of customs unless otherwise approved by the senior officer of customs as defined under the Customs Act 1967;</p> <p>(e) the application that has been endorsed by the officer of customs shall be submitted to the approved refund agent either personally at the departure hall of the Malaysian airports as in the Second Schedule or by post within two months from the date of endorsement; and</p> <p>(f) the refund may be made—</p> <p>(i) by cash if the amount of refund does not exceed three hundred ringgit;</p> <p>(ii) by cheque; or</p> <p>(iii) through bank or credit card account.</p> <p>New addition to the list of Malaysian Airports Under The Tourist Refund Scheme in the Second Schedule</p> <p>(i) Langkawi International Airport, Kedah</p>						
112	<p><u>GST Offices in Malaysia</u></p> <p>The locations of Goods and Services Tax Offices for the purposes of goods and services tax are as specified in the Fourth Schedule.</p> <p>For the following GST Offices listed in the Fourth Schedule, by inserting the new Districts served:</p> <table> <thead> <tr> <th><u>GST Offices</u></th><th><u>Districts Served</u></th></tr> </thead> <tbody> <tr> <td>Teluk Intan</td><td>Muallim</td></tr> <tr> <td>Kuala Trengganu</td><td>Kuala Nerus</td></tr> </tbody> </table>	<u>GST Offices</u>	<u>Districts Served</u>	Teluk Intan	Muallim	Kuala Trengganu	Kuala Nerus
<u>GST Offices</u>	<u>Districts Served</u>						
Teluk Intan	Muallim						
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