ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE

ON

PARTIAL EXEMPTION

Publication

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INTRODUCTION

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

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.

OVERVIEW ON PARTIAL EXEMPTION

5. This guide explains how Partial Exemption, Apportionment and Annual Adjustment are made in respect of residual input tax which is attributable to both taxable and exempt supplies.

6. Residual input tax means an input tax which is neither directly attributable to taxable supplies nor exempt supplies, but is related to the both supplies. The rules on Partial Exemption, Apportionment and Annual Adjustment are provided under Part VI of Goods and Services Tax (GST) Regulations 2014.

CLAIMING OF INPUT TAX AND PARTIAL EXEMPTION

7. A person who makes both taxable and exempt supplies is known as mixed supplier. The term “partial exemption” is used to describe the situation of a mixed supplier who has to apportion the amount of residual input tax claim in respect of making taxable and exempt supplies using an approved partial exemption method. The input tax claimed is provisional and has to be adjusted annually or at the end of a longer period. This is to give a fairer and more reasonable apportionment as the amount deducted in some periods may be unfairly affected due to various reasons, e.g. due to festive season sales.

8. A taxable person is eligible to claim the full amount of input tax as his input tax credit if the input tax incurred by him is exclusively attributable to taxable supplies made by him, except for those which the input tax credit are disallowed under the GST Act 2014. Input tax which can be recovered by a taxable person is referred to as “taxable input” while taxable supplies means supplies on which GST is charged at standard rate or zero-rate.

9. On the other hand, a person is not entitled to claim input tax incurred on his acquisitions if the input tax is exclusively attributable to his exempt supplies. Input tax which is attributable to exempt supply and not recoverable as tax credit is referred to as “exempt input tax”. Exempt supplies are those supplies listed under the GST (Exempt Supply) Order 2014.

10. The process of identifying the input tax used exclusively in making taxable and exempt supplies is known as direct attribution and is provided under Part VI of GST Regulations 2014.

11. In the case of a mixed supplier, he would have incurred residual input tax in the course or furtherance of his business. Some examples of residual input tax are general overheads such as utilities charges, professional fees, rental and etc. Only the proportion of residual input that is attributable to taxable supplies is recoverable by a mixed supplier. The standard method for the residual input tax claim is the turnover method. This method is provided under Part VI of GST Regulations 2014. Before a mixed supplier applies the rule of partial exemption, he needs to exclude the amount

of GST incurred for non-business use. For further information on input tax claim, please refer to the GST Guide on Input Tax Credit.

APPORTIONMENT

12. When a mixed supplier incurs residual input tax, he cannot claim the full amount of the residual input tax that he has incurred, unless his amount of exempt supply is within the limit which is specified under the *de minimis* rule (regulation 37 of GST Regulations 2014). He must apportion the residual input tax incurred in the course or furtherance of his business based on the standard method or alternative methods of apportionment.

Standard method of apportionment

13. This is the default method applicable to all mixed suppliers unless the Director General of Customs specifically directs or allows otherwise. Under this method, the percentage of recoverable residual input tax for a taxable period is basically obtained by dividing the value of taxable supply (including supplies outside Malaysia which would be taxable supplies if made in Malaysia) with the total value of all supplies (including supplies outside Malaysia which would be taxable supplies if made in Malaysia) made in the taxable period which is expressed in the following formula:

where:-

$$\boxed{\mathbf{r = (t / s) \times 100\%}}$$

r	is the recoverable percentage of residual input tax,
t	is the total value (exclusive of GST) of taxable supplies (including supplies made outside Malaysia which would be taxable if made in Malaysia, deemed taxable and disregarded supplies) made in the taxable period
s	is the total value (exclusive of GST) of taxable (including supplies made outside Malaysia which would be taxable if made in Malaysia,

	deemed taxable and disregarded supplies) and exempt supplies made in the taxable period.

14. However, it must be noted that certain value of business supplies is excluded from the standard method so as not to significantly distort the result of the calculation. Values of supplies that are excluded from the standard method are:

(a) the value of any supply of capital assets used by the taxable person for the purposes of his business. If an asset or part of an asset is disposed of as Transfer of Going Concern (TOGC), such value also should be excluded from the standard method.

(b) the value of any supply made by a recipient in accordance with the Approved Toll Manufacturer Scheme under section 72 of the Act;

(c) the value of any supply referred as incidental exempt supplies in Part VI of GST Regulations that are made by him where such supply is incidental to one or more of his business activities.

(d) the value of any exempt supply of land for general use (i.e. burial ground, playground or religious building) made by a taxable person to any public body where that supply of goods by the taxable person is made in compliance with the requirement enforced by any public body.

(e) value of any supply of imported services.

15. To exclude the above values from the standard method, the formula for calculating the amount of recoverable percentage of residual input tax shown above has to be adjusted is as follows:

where:-

$$\mathbf{r = [(t - o) / (s - o)] \times 100\%}$$

r	is the recoverable percentage of residual input tax,
t	is the total value (exclusive of GST) of taxable supplies (including supplies made outside Malaysia which would be taxable if made in

	Malaysia, deemed taxable and disregarded supplies) made in the taxable period
o	is the total value (exclusive of GST) of all excluded supplies
s	is the total value (exclusive of GST) of taxable (including supplies made outside Malaysia which would be taxable if made in Malaysia, deemed taxable and disregarded supplies) and exempt supplies made in the taxable period.

16. The ratio of claimable input tax is expressed in percentage and rounded off to the nearest 2 decimal places. The amount of residual input tax that can be claimed in a taxable period is then calculated by multiplying the recoverable percentage of residual input tax with the residual input tax incurred for that particular taxable period.

Example 1

Mixed Co. Sdn. Bhd., whose current tax year ends on 31 December 2016, has in his taxable period of May 2016, made some mixed supplies and at the same time incurred residual input tax as follows:

		RM
t	*Value of all taxable supplies, exclusive of tax*	*200,000.00*
e	*Value all of exempt supplies*	*40,000.00*
o	*Value of a capital goods disposed off (exclusive of tax)*	*50,000.00*
o	*Value of incidental exempt supplies*	*20,000.00*
	Residual input tax incurred	*10,000.00*

(a) Mixed Co. Sdn. Bhd. residual input tax recovery percentage for the taxable period of May 2016 is calculated as follows:

$$\frac{(RM200{,}000 - RM50{,}000)}{(RM240{,}000 - (RM50{,}000 + RM20{,}000))} \quad X\ 100\%$$

= 88.24%

(b) The amount of residual input tax that Mixed Co. Sdn. Bhd. can claim for the period is,

Residual input tax recovery % X Residual input tax

or 88.24 % X RM10,000.00 = RM8,824.00

(c) Mixed Co. Sdn. Bhd. can only claim RM8,824.00 out of the RM10,000.00 of residual input tax incurred by him in that taxable period.

Alternative methods of apportionment

17. In certain cases, the Director General of Customs may direct a taxable person to use a specific method of apportionment if he is satisfied that the standard method of apportionment does not provide the taxable person a fair and equitable recovery of residual input tax. Alternatively, a taxable person may apply to the Director General to use an alternative method if he considers that the standard method does not provide a fair and reasonable result. Other methods of apportionment may include the following:

(a) the number taxable transactions made;

(b) quantities of output;

(c) floor space occupied by staff involved exclusively in taxable activity;

(d) time spent exclusively on taxable activity;

(e) input cost;

(f) taxable input tax divided by total input tax.

18. Any proposal to use an alternative method by the taxable person must first be approved by the Director General of Customs in writing before the taxable person can use it on his business. In certain cases, the Director General may suggest for amendments or modifications to be made to the proposal submitted by a taxable person.

19. Any other alternative method of apportionment approved or directed shall also exclude the value of any supplies, as stated in standard method of apportionment above, when calculating the proportion of input attributable to the taxable supplies.

Application for an approval of alternative method

20. A taxable person is required to make a written application to any GST office and submit a detailed proposal on the alternative method he wishes to adopt. The taxable person must be able to justify the Director General of Customs that the alternative method he proposes is fairer and more equitable for his business as compared to the standard method of apportionment. He must provide in his proposal the details, such as the type of business and supplies he is making or is going to make and indicate the date he requires the proposed method to take effect. The taxable person should also illustrate how his proposed method will work in practice using his actual business data.

Effective date of an approval or direction to use apportionment method

21. An approval for or direction to change the method of apportionment shall take effect from the date specified by the Director General of Customs in his letter of approval or direction. Generally, the effective date of the new apportionment method cannot be backdated. It would normally start on the taxable period commencing on or after the date specified in the notice. This is to ensure fairness to a taxable person and allows him sufficient time to make preparations to change his method.

Effect of an approval or direction to use an alternative method

22. When an approval or direction is given to a taxable person to use an alternative method, he must continue to use the method as approved or directed. The taxable person is not allowed to revert to his previous method of apportionment unless he is given approval or direction by the Director General of Customs to make a reversal.

When input tax is claimable

23. Input tax, whether directly or indirectly, attributable to inputs that are used, or to be used, for making taxable supplies can be recovered by a taxable person as a credit in the tax return for the taxable period in which the tax was charged to him.

ANNUAL ADJUSTMENT

24. A recovery of residual input tax in a taxable period, whether based on the standard method or any alternative method as explained above, is only provisional. The proportion of residual input tax recovered in a taxable period may not be reflective or fairly attributed to the taxable supplies made by a taxable person. This could be due to significant fluctuations or high volatility in supplies or tax incurred from a taxable period to another taxable period. Besides that, the short time frame within a taxable period, which in some cases is only one calendar month, may not be able to produce a fair attribution. To overcome this shortcoming, a mixed supplier is required to make an annual adjustment, which is also refer to as "longer period adjustment", on all the provisional residual input tax that he has recovered during the tax year or longer period in question by re-evaluating the extent of taxable use of his business input.

25. The purpose of working out of an annual adjustment is to ascertain whether there is an overall over-deduction or under-deduction of residual input tax provisionally deducted over the whole tax year or longer period. The annual adjustment is carried out in the second taxable period immediately after end of each tax year or a longer period, as the case may be.

Tax year

26. Tax year refers to the period in which a registered person remains registered under the GST Act 2014 and is used in relation to the adjustment of residual input tax. A tax year in its ordinary meaning would constitute 12 calendar months and correspond with the financial year. However, for the purposes of working out adjustments by a mixed supplier, the tax year is also the longer period applicable to a mixed supplier. However, the GST provisions also provide for the first and final tax years to be a period consisting other than 12 calendar months under certain circumstances as further explained below.

First Tax Year

27. The first tax year would begin from the first day a person became a registered person and shall end on the day before his next tax year commences. For the convenience of registered persons, in terms of preparing financial statements, JKDM

allows for a registered person's tax year to correspond with his financial year. For example, if a person becomes a registered person on 1 May 2016 and his financial year ends on 30 April each year, his first tax year would be from 1 May 2016 to 30 April 2017. However, the GST legislation also provides the Director General with the power to approve or to direct the first tax year of a registered person to be other than 12 months. Hence, the first tax year of a new registered person may vary from 6 months to a maximum of 18 months.

Example 2

(i) Tax year consisting of 12 months.

ABC Sdn. Bhd., whose financial year ends on 31 December 2016, becomes a registered person on 1 January 2016. The first tax year for ABC Sdn. Bhd. would commence from 1 January 2016 and ends on 31 December 2016, which is for a period of 12 months.

(ii) Tax year less than 12 months.

Continuing from the above example, if ABC Sdn. Bhd. becomes a registered person on 1 April 2016, the first tax year for ABC Sdn. Bhd. would only commence from 1 April 2016 and would end on 31 December 2016, which is for a period of 9 months.

(iii) Tax year exceeding 12 months.

On the other hand, if ABC Sdn. Bhd. becomes a registered person on 2 July 2016, which is less than 6 months away from the last day of his corresponding financial year, then its first tax year would commence from 2 July 2016 and would only end on 31 December 2017, stretching into its next financial year and covering a period of almost 18 months.

Subsequent Tax Year

28. The tax year following the first tax year is referred to as the subsequent tax year and would commence on the day immediately after the last day of the first tax year for normally a period of 12 calendar months and end on the last day of the 12th calendar month (also the last day of the registered person's financial year). Each following

subsequent tax year would similarly consist of 12 calendar months and correspond with the registered person’s respective financial year.

Example 3

If the first tax year for ABC Sdn. Bhd. ends on 31 December 2016, then its first subsequent tax year would be from 1 January 2017 to 31 December 2017. ABC Sdn. Bhd. next subsequent tax year would begin on 1 January 2018 and end on 31 December 2018.

Final Tax Year

29. Final tax year refers to the tax year in which a person ceases to be a registered person, either because he ceases to make taxable supplies or his GST registration is cancelled or revoked by the Director General. The final tax year would end on the day in which the cessation, cancellation or revocation takes effect and it may only covers a period of less than 12 calendar months.

Example 4

Continuing from Example 3 and assuming ABC Sdn. Bhd. ceased to be a registered person on 10 May 2017, the final tax year for ABC Sdn. Bhd. would be from 1 January 2017 to 10 May 2017. In this instance, ABC Sdn. Bhd. final tax year covers only a period of less than 5 months.

Longer period

30. Normally, a longer period is also the tax year applicable to a mixed supplier for the purpose of calculating adjustment. Sometimes, the longer period is also referred to as the “partial exemption year or period”. Any taxable person who incurs exempt input tax during any tax year shall have applied to him a longer period which shall correspond with that tax year. If he does not incur exempt input tax immediately before his current tax year, the first longer period should start from the first day of a taxable period in which the taxable person incurs exempt input tax and ends on the last day of that tax year. However, if the first partial exemption period falls on the last taxable period of the tax year, a longer period is not applicable. Hence, registered person is not required to work out adjustment for that tax year.

31. In some cases, the first longer period of a mixed supplier may not necessary consist a period of 12 calendar months. For an existing registered person, his first longer period may be less than a year. In the case of a new registered person who is also a mixed supplier, his first longer period may be less or even more than a period of 12 months depending on the length of his first tax year. Examples of first longer period are illustrated in Example 5 below:-

Example 5

(i) Monthly taxable period

Assuming a taxable person's tax year runs from 1 January 2016 to 31 December 2016 and he is subject to monthly taxable period. He starts to incur exempt input tax on 15 August 2016, his first longer period would run from 1 August to 31 December 2016.

(ii) Quarterly taxable period

Assuming a taxable person's tax year runs from 1 January 2016 to 31 December 2016 and subject to quarterly taxable period. He starts to incur exempt input tax on 15 August 2016, his first longer period would run from 1 July to 31 December 2016.

(iii) Partial exemption period falls on the final taxable period

Assuming a taxable person's tax year runs from 1 January 2016 to 31 December 2016 and he is allotted quarterly taxable period. He starts to incur exempt input tax on 3 November 2016. His first partial exemption period would run from 1 October to 31 December 2016 and since his first partial exemption period consist only one taxable period, the longer period is not applicable to him. Therefore, for second period taxable in the following year (April – June 2017), he is not required to declare or make any annual adjustment for the year 2016.

Late registration

32. There are also other instances where a longer period (or tax year) applicable to a mixed supplier does not consist of 12 calendar months. For instance, in the case of a late registration where a taxable person is registered retrospectively, his first longer

period may be more than 12 months. Therefore, he is required to divide the longer period into first and subsequent tax years for the purpose of making adjustments and recovery of residual input tax.

Example 6

Partly Exempt Sdn. Bhd., whose financial year ends on 31 December, registers as a GST registered person on 1 January 2018. The date on which he should have been registered is on 1 June 2016 and he is subject to monthly taxable period.

The tax years applicable to Partly Exempt Sdn. Bhd. are as follows:

Tax Year / Longer Period	Period Cover	Duration
1st	1/6/2016 – 31/12/2016	7 months
2nd	1/1/2017 – 31/12/2017	12 months
3rd	1/1/2018 – 31/12/2018	12 months

If the date on which Partly Exempt Sdn. Bhd. should have been registered is on 1 August 2016, the tax year applicable to Partly Exempt Sdn. Bhd. is as follows:

Tax Year / Longer Period	Period Cover	Duration
1st	1/8/2016 – 31/12/2017	17 months
2nd	1/1/2018 – 31/12/2018	12 months
3rd	1/1/2019 – 31/12/2019	12 months

Deregistration of a mixed supplier

33. The final adjustment period or longer period of a deregistered mixed supplier starts from the first day of his last tax year and ends on the effective date of his deregistration.

MAKING ADJUSTMENTS

34. An annual adjustment is carried out by re-attributing the provisional input tax claimed in each taxable period using the overall value of supplies of the relevant tax year or longer period under review, either based on the standard or alternative methods. Basically, the formula for deriving the annual residual input tax recovery rate is the same for calculating provisional residual input tax recovery rate for a taxable period. The only difference is, the value of supplies used for calculating the annual residual input tax recovery rate is based on the total value of the whole tax year or longer period instead of a taxable period. See Example 7 below.

Example 7

Mixed Co. Sdn. Bhd.'s tax year ends on 31 December 2016 and value of supplies for the year 2016 is as follows:

Table 1

(a)	***(b)***	***(c)***	***(d)***	***(e)***	***(f)***	***(g)***
Taxable period	***Value of taxable supplies – (T)***	***Value of exempt supplies - (E)***	***Value of excluded supplies - (O)***	***Residual Input tax incurred***	***Residual Input tax recovery rate - (R)***	***Residual Input tax recovered***
Jan	*250,000.00*	*50,000.00*	*-*	*15,000.00*	*83.33%*	*12,500.00*
Feb	*220,000.00*	*45,000.00*	*30,000.00*	*12,500.00*	*80.85%*	*10,106.38*
Mar	*150,000.00*	*95,000.00*		*12,500.00*	*61.22%*	*7,653.06*
Apr	*210,000.00*	*40,000.00*		*16,000.00*	*84.00%*	*13,440.00*
May	*200,000.00*	*40,000.00*	*70,000.00*	*10,000.00*	*76.47%*	*7,647.06*
Jun	*230,000.00*	*60,000.00*		*15,000.00*	*79.31%*	*11,896.55*
Jul	*250,000.00*	*70,000.00*		*17,500.00*	*78.13%*	*13,671.88*
Aug	*300,000.00*	*75,000.00*	*20,000.00*	*12,000.00*	*78.87%*	*9,464.79*
Sep	*280,000.00*	*75,000.00*		*14,500.00*	*78.87%*	*11,436.62*
Oct	*280,000.00*	*20,000.00*		*14,000.00*	*93.33%*	*13,066.67*
Nov	*320,000.00*	*80,000.00*	*10,000.00*	*14,000.00*	*79.49%*	*11,128.21*

Dec	*330,000.00*	*80,000.00*		*13,000.00*	*80.49%*	*10,463.41*
Total	***3,020,000.00***	***730,000.00***	***130,000.00***	***166,000.00***		***132,474.63***

(a) Column (d) are excluded supplies as mentioned in standard method of apportionment above (assuming for this example the excluded supplies do not comprise of exempt supplies).

(b) The annual residual input tax recovery rate for Mixed Co. Sdn. Bhd. is calculated as follows:-

$$\frac{\text{RM3,020,000} - \text{RM130,000}}{\text{RM3,020,000} - \text{RM130,000} + \text{RM730,000}} \text{ X } 100\%$$

= 79.83%

(c) The annual amount of residual input tax claimable by Mixed Co. Sdn. Bhd. is, 79.83% X RM166,000.00 = RM132,524.86.

(d) Since Mixed Co. Sdn. Bhd. has only provisionally claimed RM132,474.63 of residual input tax during the whole tax year of 2016 (as shown at the last column in Table 1 above), whereas its annual amount of residual input tax claimable is RM132,524.86, there is a net difference of RM50.23, the company can claim the difference of RM50.23 as additional input tax credit for the whole year.

(e) If the annual amount of residual input tax claimable is less than the total provisional input tax claimed, the company would have to pay the difference to JKDM as an output tax.

Example 8

Assuming a taxable person's tax year runs from 1 January 2016 to 31 December 2016 and subject to monthly taxable period. If he starts to incur exempt input tax on 15 August 2016, his first longer period would run from 1 August to 31 December 2016 and its trading figures for the year 2016 is as same as in the Table 1 shown above. Longer period adjustment for the year 2016 would be:

(assuming value of excluded supplies does not comprise the value of exempt supplies)

Table 2

Taxable period	Value of taxable supplies - (T)	Value of exempt supplies - (E)	Value of excluded supplies - (O)	Residual Input tax incurred	Residual Input tax recovery rate - '(R)'	Residual Input tax recovered
Aug	300,000.00	75,000.00	20,000.00	12,000.00	78.87%	9,464.79
Sep	280,000.00	75,000.00		14,500.00	78.87%	11,436.62
Oct	280,000.00	20,000.00		14,000.00	93.33%	13,066.67
Nov	320,000.00	80,000.00	10,000.00	14,000.00	79.49%	11,128.21
Dec	330,000.00	80,000.00		13,000.00	80.49%	10,463.41
Total	**1,510,000.00**	**330,000.00**	**30,000.00**	**67,500.00**		**55,559.69**

(a) The annual residual input tax recovery rate for Mixed Co. Sdn. Bhd. is calculated as follows:-

$$\frac{\text{RM1,510,000} - \text{RM30,000}}{\text{RM1,510,000} - \text{RM30,000} + \text{RM330,000}} \text{ X } 100\%$$

= 81.77%

(b) The annual amount of residual input tax claimable by Mixed Co. Sdn. Bhd. is:

81.77% X RM67,500.00 = RM55,193.37

(c) Since Mixed Co. Sdn. Bhd. has provisionally claimed RM55,559.69 of residual input tax during the longer period of 2016 (as shown at the last column in Table 2 above), whereas its annual amount of residual input tax claimable is RM55,193.37, there is a net difference of RM366.32. Therefore, the company would have to pay the difference of RM366.32 as an additional output tax credit for the year of 2016.

Adjustment on late registration

Example 9

Partly Exempt Sdn. Bhd., whose financial year ends on 31 December, became a registered person on 1 January 2017. He is liable to be registered is on 1 June 2015 and subject to monthly taxable period. The details of his supplies are as follows:

Period	***Taxable supply (RM)***	***Exempt supply (RM)***	***Residual Input Tax (RM)***	***Total residual input tax claimed (RM)***
1/6/15 - 31/12/15	*420,000*	*120,000*	*80,000*	*65,500*
1/1/16 - 31/12/16	*650,000*	*350,000*	*120,000*	*76,300*

The working out of adjustment for late registration is shown below:

Tax Year / Longer Period	***Period Cover***	***Annual IRR (r)***	***Eligible Residual Input Tax (RM)***
1st tax year	*1/6/2015 – 31/12/2015*	*77.78%*	*62,222.22*
2nd tax year	*1/1/2016 – 31/12/2016*	*65.00%*	*78,000.00*
Total			*140,222.22*

For the 1st tax year, Partly Exempt Sdn. Bhd. has to pay additional RM3,277.78 (RM62,222.22 – RM65,500) as his output tax. Whereas, in the 2nd tax year, he can claimed additional RM1,700 (RM78,000 – RM76,300) as his input tax.

Change of apportionment method

35. When a taxable person is given approval or direction to change his method of apportionment during a tax year or longer period, he is required to take into account

$$\frac{(\boldsymbol{a} \times r^{a}) + (\boldsymbol{b} \times r^{b})}{y}$$

both methods adopted by him during the year or period when he makes his annual adjustment. The computation of the annual residual input tax recovery rate involving a change in method of apportionment is similar to that illustrated in Example 7 above and is illustrated as in Example 10 below. The annual residual input tax recovery rate can be worked out using the following formula:-

where,

a	is the total number of days in the interval applicable to the method of apportionment before the change in method takes place;
$\mathbf{r^a}$	is the percentage (%) of attributable taxable use applicable to a;
b	is the total number of days in the interval applicable to the alternative method of apportionment;
$\mathbf{r^b}$	is the percentage (%) of attributable taxable use applicable to b;
y	is the total number of days in the interval a and interval b

Example 10

Company Mixed Sdn. Bhd., who is on a quarterly taxable period, was allowed to change its apportionment method from the standard method to transaction-based method with effect from the second quarter its tax year (2016). Assuming the company attributed percentage of taxable supplies for the tax year is as follows:-

Taxable period	*1st quarter (a)*	*2nd quarter to 4th quarter (b)*
Method used	*Standard method*	*Transaction method*
% of taxable supplies	*50%*	*70%*

Computation of the annual residual input tax recovery rate:

Taxable use from 1/1/16 to 31/3/16 (91 days) - 50%

Taxable use from 1/4/16 to 31/12/16 (275 days) - 70%

Annual residual input tax recovery rate:

$$\frac{(91 \text{ days} \times 50\%) + (275 \text{ days} \times 70\%)}{366 \text{ days}}$$

= 65.03%

Input tax on goods and services apportioned in a tax year but used in subsequent tax years or longer periods

36. Input tax apportioned on goods and services acquired in a tax year may not fairly represent its taxable use in a subsequent tax year or longer period. When this arises, the taxable person has to recalculate the extent of the taxable use of his goods and services in the subsequent tax year or longer period and account for the tax over-deducted (the difference between the attributions made).

Adjustment on Change of Intention to Use

37. As explained earlier, a taxable person can deduct his claimable input tax in the taxable period where the tax is charged to him and the portion claimed is based on the use or intended use of the input. However, there are instances where an intention formed by a taxable person at the time of making a provisional apportionment was later changed. A change of intention could be due to various reasons such as change in business pattern, market conditions or speculative nature of a supply. Such a change of intention, if it happens within six years from the first day of the taxable period where the attribution was made or determined, is subject to adjustment for “over-deduction” or “short claimed”.

38. When a taxable person has attributed goods or services;

(a) for making wholly taxable supplies, but instead used the goods or services for making both taxable and exempt supplies;

(b) for making both taxable and exempt supplies, but used the goods or services for making wholly exempt supplies; or

(c) for making both taxable and exempt supplies, but reduced the proportion of making taxable supplies to exempt supplies;

The “over-deduction” provision would apply to him where he is required to calculate the difference in tax claimed triggered by the change of use, with the same apportionment method where the original attribution was made, and account the amount of tax that was over-deducted by him in the tax return for the taxable period in which the change of use occurs.

39. On the other hand, where a taxable person has attributed goods or services,

(a) for making wholly exempt supplies, but later used the goods or services for making wholly taxable supply or both taxable and exempt supplies;

(b) for making both taxable and exempt supplies, but used the goods or services for making wholly taxable supplies; or

(c) for making both taxable and exempt supplies, but reduced the proportion of making exempt supplies to taxable supplies;

The “short claimed” provision would apply where he can calculate the difference in tax claimed caused by the change of use, with the same apportionment method where the original attribution was made, and recover as tax credit the amount of tax that was under-deducted or short claimed by him in the tax return for the taxable period in which the change of use occurs.

40. These two adjustments (as explained in para 37 and 38) are also subject to annual or longer period adjustment when involving residual input tax.

Adjustment on Transfer of Going Concern

41. In the case of a transfer of a business as a going concern, if the transferee reduces the proportion of taxable supply of the business transferred within a period of six years from the first day of the taxable period where the attribution was made or determined by the transferor, the transferee is liable to account for tax attributable to the reduction and pays back the tax to JKDM.

Accounting and Declaring Of Adjustment

42. After an annual adjustment is made due to the apportionment of residual input tax in which the intention is formed, a taxable person is required to declare any over-deduction or under-deduction of residual input tax in a tax return in which the use occurs. He also needs to make an annual adjustment which relates to over-deduction

or under-deduction and declare in the second taxable period next following the longer period or tax year under review, whichever is applicable.

43. Any over-deduction of input tax would be payable by the taxable person to the JKDM while any short-claim can be recovered by him as input tax credit. The Director General may, in certain cases, allow another document to be used for declaring any over-deduction or short-claim of input tax.

DE MINIMIS RULE

44. Certain taxable persons may be making negligible exempt supply or incidental exempt supply and it would be inconvenient and impractical for such persons to apportion their input tax. The *de minimis* rule is introduced to alleviate such problem by allowing a taxable person to treat his exempt input tax as taxable input tax if the total value of his exempt supplies do not exceed,

(a) an average of RM5,000 per month; and

(b) an amount equal to 5% of the total value of all taxable and exempt supplies made in that period.

45. To qualify for the *de minimis* rule, both the above conditions must be met. See Example 11 below.

Example 11

The supplies made by Minor Exempt Sdn. Bhd. in a month are as follows:-

Taxable supplies - RM50,000

Exempt supplies - RM4,500

Percentage of exempt supplies for the month:-

$$\frac{RM4{,}500}{RM50{,}000 + RM4{,}500} \times 100\% = 8.26\%$$

The company has only satisfied the first condition but not the second condition as its total exempt supplies for the period has exceeded 5%. Thus, the company cannot treat the input tax incurred on the RM4,500 exempt supply as taxable input.

Application of incidental exempt supplies to the *de minimis* rule

46. While a taxable person can treat all incidental exempt supplies as taxable supplies, a mixed supplier when applying the *de minimis* rule to ascertain whether his exempt supply is below the *de minimis* limit must exclude all incidental exempt supplies as his exempt supplies. Such incidental exempt supplies include the following:

(a) the deposit of money;

(b) the exchange of currency, whether effected by the exchange of currency, bank notes or coin, by crediting or debiting accounts or otherwise;

(c) the holding of bonds, debentures, notes or other similar instruments representing or evidencing indebtedness, whether secured or otherwise;

(d) the transfer of ownership of securities or derivatives relating to securities;

(e) the provision by a taxable person of any loan, advance, credit or other similar facility whether secured or otherwise to his employee or between connected persons;

(f) the assignment of or the provision of credit for any trade receivable;

(g) the holding or redemption of any unit or other similar instruments under a trust fund; or

(h) the hedging of any interest rate risk, currency risk, freight price risk or commodity price risk.

For further details, please refer to the GST General Guide on Input Tax.

Applying the *de minimis* rule in a taxable period

47. When a taxable person accounts his output tax for a taxable period, he shall apply the *de minimis* rule for each taxable period based on monthly average to determine whether his exempt supply exceeds the prescribed limits.

Applying the *de minimis* rule in a tax year or longer period

48. When a taxable person makes an annual adjustment, he has to review the application of the *de minimis* rule over the tax year or longer period. As the *de minimis* rule qualifications is based on monthly average, the taxable person has to include all exempt supplies made in the tax year or longer period to work out the monthly average. If he is below the *de minimis* limits, he can treat all his exempt inputs for the tax year or longer period as taxable inputs even though in certain taxable periods he may not have qualified.

49. On the other hand, if he fails the *de minimis* limits for the tax year or longer period, he has to account and pay all his exempt input taxes for the tax year or longer period, including those which have been qualified as taxable inputs in certain taxable periods.

APPLICATION OF PARTIAL EXEMPTION TO CAPITAL GOODS ADJUSTMENT

50. An annual adjustment made at the end of a tax year or longer period also provides the same percentage of taxable use to a capital item for the interval which corresponds with the tax year or longer period. For further details, please refer to Guide on Capital Goods Adjustment.

KEEPING OF RECORDS

51. A taxable person is required to preserve all the records pertaining to the apportionments and adjustments that he has made for a period of 7 years from the last date to which such apportionment and adjustment relates, in line with the requirement under section 36 of the GST Act 2014.

FREQUENTLY ASKED QUESTIONS

Apportionment Method

Q1. Can a taxable person who has submitted a proposal for an alternative method of apportionment refuses to accept the counter proposal made by the Director General of Customs?

A1. Yes, but when the taxable person refuses the counter proposal, then he must continue to use his existing method of apportionment. However, he may appeal to the Director General of Customs for consideration.

Q2. Does a taxable person who is using an alternative method need to apply when he wishes to revert to the standard method of apportionment for his business?

A2. Yes, he must obtain prior written approval before he can revert to the standard method even though the standard method is the specified default method for a new mixed supplier.

Q3. What are the contents that must be included in a proposal to use an alternative method?

A3. Generally, a proposal for an alternative method must be reflective and specifically relevant to the taxable person's business. It must also be practical, easy to verify and able to clearly determine the attribution of input tax to the supplies made by the taxable person. The apportionment to be made based on the proposed method must be fair and equitable.

Annual Adjustment

Q4. When a change in law effects a change in the intended use of an input, do the "over-deduction" or "short claimed" provisions apply?

A4. No, for the purpose of apportionment, the nature of any supply at the time the input tax was first attributed would be not be affected by a change in law later on. Consequently, the liability of the taxable person would not be affected.

Thus, the “over-deduction” or “short claimed” provisions would not be applicable.

Q5. When a taxable person has made an apportionment, but the input was not put to use as supplies could not be made due to unforeseen circumstances, should the taxable person pay back the input tax that he has recovered?

A5. As long as the input is not put to use, no pay back is required. However, if there is a change in its subsequent use, then the provision of “over-deduction” or “under claimed” would be applied to it, as the case may be. But, if the change takes place before the end of a tax year or longer period, the annual adjustment would take care of the change.

Q6. In the case of transfer of a business as a going concern made by a mixed supplier, is the apportionment and adjustment provision applicable?

A6. Any input tax incurred on expenses that relates to the transfer of a mixed supplier’s business is treated as residual input tax and has to be apportioned accordingly by both the transferor and transferee respectively.

INQUIRY

1. For any inquiries for this guide please contact :

Sector VII
GST Division
Royal Malaysian Customs Department
Level 3 – 7, Block A, Menara Tulus,
No. 22, Persiaran Perdana, Presint 3,
62100 Putrajaya.

Email : gstsector7@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