ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE
ON
LEASING

Publication

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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 leasing.

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 LEASING

5. A lease is a supply that is made on a progressive or periodic basis for the period of the lease.

Leasing of Immovable and Movable Property

(a) Movable property

Leasing of movable property refers to goods such as machinery, equipment, vehicles and etc.

(b) Immovable property

Leasing of immovable property refers to leasing of land or building, e.g. lease an oil palm plantation for duration of up to 43 years or a long term lease of an unfurnished office.

Lease of Movable Property

6. There are two types of lease for movable properties:

(a) where the possession of goods is not transferred, e.g. under a rental agreement.

(b) where the possession of goods is transferred under an agreement which expressly stipulates that the goods will pass at sometime in the future.

Lease of Immovable Property

(a) Lease of land or building

The general GST treatment where real properties are leased is as follows:

(i) the lease of private residence, e.g. an apartment is an exempt supply

(ii) the lease of commercial property, e.g. shop is a taxable supply

(iii) the lease of long term commercial residence, e.g. on site van is an exempt supply

(b) Lease of Government or State Owned Land

The lease of government or state owned land is an out of scope supply. However, the lease of other than a government or state owned land is a taxable supply of services at standard rate.

(c) Assignment of right

The assignment of the right to rental income under a real property lease is an exempt financial supply and is not subject to GST.

Non-compliance to Malaysian Accounting Standard Board

7. The Malaysian Accounting Standard Board (MASB) Standard 10 (FRS 117) with respect to articles 9 and 10 state the conditions that a lease can be classified as a financial lease. However, under the GST Act, the leasing activity is not restricted to the MASB Standard 10. This means that leasing of goods where the title will pass sometime in the future, may not comply with the criteria in the MASB 10 such as based on concept of economic life, the transfer is substantial or the leased goods was for a specific use.

Islamic Lease Structures (Ijarah) in Malaysia

8. There are three types of Islamic lease *(Ijarah)* structures;

(a) *Ijarah*

Ijarah is a leasing contract whereby a bank or any other financial institutions purchases equipment on behalf of a client and arranges for leasing facilities directly with the lessee (borrower). The lessor has the rights to the asset and the lessee will pay periodic lease rentals to the lessor. The lessor and lessee will agree to a calculation method on the rental rate.

(b) *Ijarah Thumma al-Bai* (leasing and subsequently purchase).

This product refers to two contracts undertaken separately and consequentially. Under the first contract which is an *ijarah* contract, the hirer leases the assets from the owner at an agreed rental value over a specific period. Upon expiry of the leasing period, the hirer enters into a second contract which is the *bai* contract to purchase the assets from the owner at an agreed price.

(c) *Ijarah Muntahiyah Bit Tamlik*

A contract also known as *Ijarah Wa Iqtina.* This is the lease agreement for asset rental together with an undertaking from the hirer to repurchase the asset at the end of the contract. The rental and the purchase price are fixed so that the financier gets back its principle sum along with some predetermined profit.

Sale and Leaseback

9. Both of the sale of an asset and the subsequent lease back of the same atttract GST at a rate of 6% i.e. a standard rated supply.

Example 1:

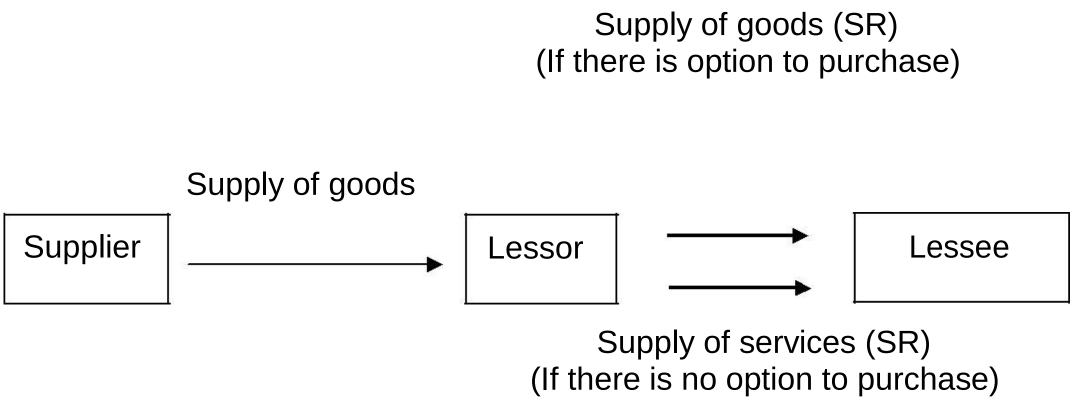
A local long haul carrier takes delivery (purchase) of 2 aircrafts and subsequently sells to and leaseback the aircrafts to and from a financial institution (FI).

No	***Supply of goods/services***	***GST Implication***
1.	*Foreign supplier sells/delivers aircraft to local carrier*	*Standard-rate*
2.	*Carrier sells to FI*	*Out of scope*
3.	*FI leaseback aircraft to carrier*	*Exempt*

General Rule on Transfer of Ownership

10. It is important to look at the substance of the lease agreement to determine the GST implication. If the lease agreement contains clauses which will transfer the title of the asset to the lessee at the end of the leasing period, it is a supply of goods. If there is no transfer of title at any time of the leasing period, then it is a supply of services.

Diagram 1:



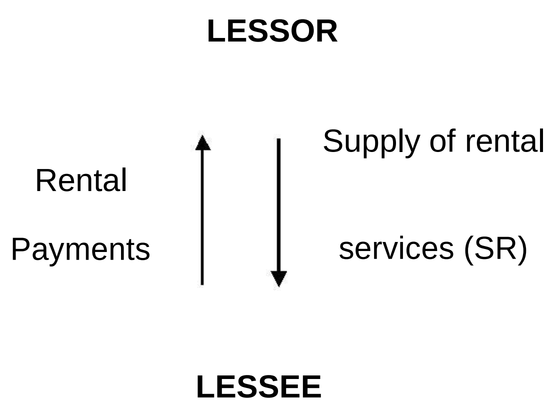
Operating Lease

11. Generally, operating lease agreements are subject to GST and imposed on each successive lease payment under a lease agreement that extends over a number of taxable periods. Each payment is treated as though the lessee is making a separate purchase for each taxable period.

(a) Accounting for output tax on supply of operating lease

Since an operating lease is a form of rental service in the same manner as an asset is being rented out to a third party, it is a supply of services. Unlike a financial lease, it is the provision of two (2) supplies, i.e. a supply of goods and a supply of services. Each lease payment is treated as though the lessor is making a separate supply of services even though each payment is for the same asset under the same lease agreement.

Example 2:



(b) Claim input tax incurred on operating lease agreements

Businesses are able to claim input tax for any GST included in the lease charges. Depending on accounting basis, businesses are entitled to claim input taxes as follows;

(i) If a registered person accounts for GST on an invoice basis, he is entitled to a GST credit of 6/106 of the lease instalments for each taxable period when he make any part of the lease payment due in that period or receives an invoice from the supplier.

(ii) If he accounts for GST on a payment basis, he can claim a GST credit of 6/106 of the lease instalment amounts paid in each taxable period.

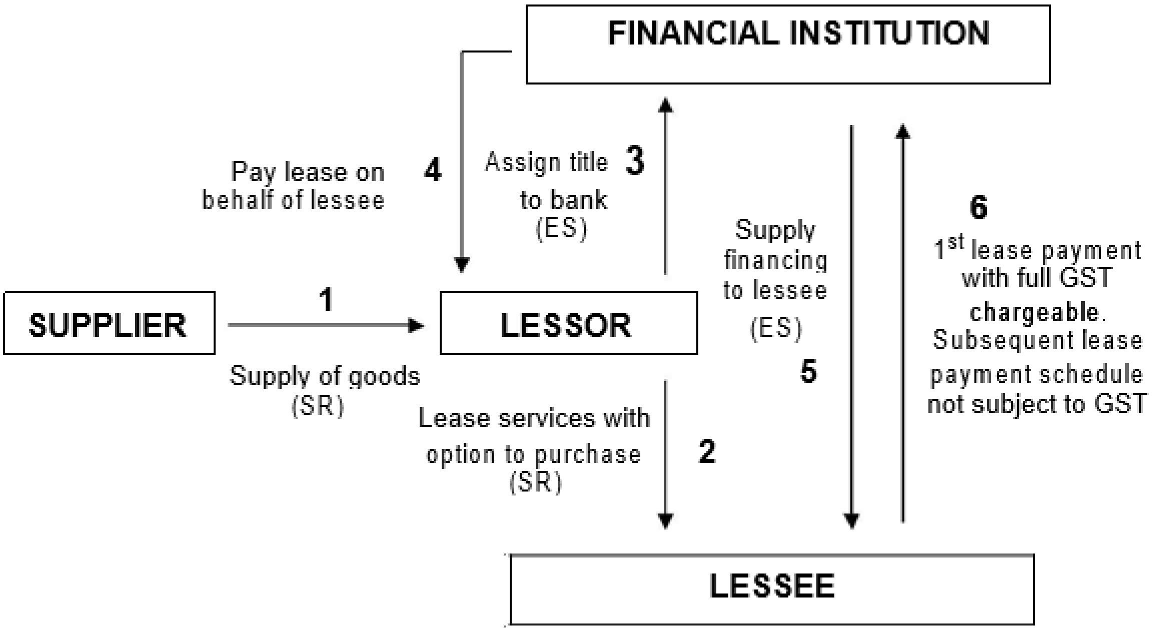
Possession of Goods Transferred Sometime in the Future

12. On the other hand, where the possession of goods is transferred under an agreement which expressly stipulates that the property will pass at some time in the future, it is a supply of goods by the lessor since the title of the asset is transferred to the lessee, albeit the title is transferred at the end of the leasing period.

13. When the goods are leased to the lessee, the ownership of the goods are still with the lessor. The supply of financing to the lessee is an exempt supply. Since there is a financing facility given to the lessee, the lessor assigns the title of the goods to the financier as a guarantee of future payments by the lessee.

14. When the lessee is accorded a payment schedule for the lease payments by the financier, GST is imposed at the first lease payment and charged on the value of the asset excluding the interest charge.

Diagram 2:



15. Where the lessor is registered for GST, he must charge GST on the leased asset supplied by him. If the lessee is also a registrant, he is entitled to claim input tax credit on the GST incurred on the leased asset provided that the leased asset is used in making taxable supplies.

GST Implication on *Ijarah*

16. There are *Ijarah* contracts made through sale and leaseback or lease of third party held acquired assets with purchase option obligations (ownership of goods are transferred sometime in the future).

Repossession of Leased Assets

17. In the case where a lessee has stop the payment of monthly instalments occasioned by some event and the item leased is repossessed by the lessor, the repossession charges, storage charges and custody charges charged by the lessor to the lessee is subject to tax at a standard rate.

Bad Debt

18. Unpaid lease payments by a lessee who had been charged and GST accounted for by the lessor that remains unpaid for 6 months from the date of invoice, the lessor may make a claim for a relief of bad debt on the unpaid taxes.

> ***Example 3:***
>
> *Axel Sdn Bhd, a lessee, leased a generator from Enlist Leasing Sdn Bhd and it is financed by CIMB Bank. The lease contract is for 7 years which began before the GST implementation date. Axel failed to make payments for 4 months beginning January – April 2015 where GST amounts to RM 2,000 (RM 500/month)*
>
> *With the implementation date for GST on 1/4/2015, Enlist can made a claim for the bad debts relief of RM500 (April 2015) in the month of October 2015. However, if the unpaid monthly payments are subsequently collected by Enlist, he will have to account the RM 500 as output tax.*

Input Tax Credit (ITC)

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

Leasing and Designated Area (DA)

(a) Operating lease

   (i) Services within and between Designated Areas is not subject to GST.

   (ii) Services from the DA to the Principal Customs Area (PCA) is treated as importation of goods into the PCA and subject to GST. However, the lease payments are not subject to GST.

   (iii) The value of importation of goods is determined by the rule of valuation as prescribed under the Customs Regulations (Rules of

Valuation) 1999. Under the flexible method of valuation, the importation value for the leased goods is calculated according to the following formula:

$$P + \frac{P}{(100\% + x\%)} + \frac{P}{(100\% + x\%)^2} + \frac{P}{(100\% + x\%)^n}$$

where P = leasing payment per year;
n = number of years; and
x% = prevailing interest rate.

(iv) GST due and payable shall be made in DA in respect of goods supplied or to be supplied from the DA to PCA.

(v) Services from the PCA to the DA is treated as goods exported from the PCA to the DA which is zero rated and the leasing services performed in the DA is a taxable supply.

(b) Finance lease

(i) Supply of goods and services within and between Designated Areas (DA) is not subject to GST.

(ii) Services from the DA to the Principal Customs Area (PCA) is treated as importation of goods into the PCA and subject to GST. However, the lease payments (financing) are not subject to GST.

(iii) The value of importation of goods is determined by the rule of valuation as prescribed under the Customs Regulations (Rules of Valuation) 1999. Under the flexible method of valuation, the importation value for the leased goods is calculated according to the following formula:

$$P + \frac{P}{(100\% + x\%)} + \frac{P}{(100\% + x\%)^2} + \frac{P}{(100\% + x\%)^n}$$

where P = leasing payment per year;
n = number of years; and
x% = prevailing interest rate.

(iv) GST due and payable shall be made in DA in respect of goods supplied or to be supplied from the DA to PCA.

(v) Services from the PCA to the DA is treated as goods exported from the PCA to the DA which is a zero rated and the leasing services (financing) performed in the DA is an exempt supply.

Cross Border Leasing

(a) Lessee leasing asset abroad

When a lessee (registered person) belonging in Malaysia leases a land outside Malaysia from a lessor outside Malaysia, the leasing service is consider as goods used outside of Malaysia. It is not considered as a supply of imported services and the lessee does not have to account for GST on the lease rentals paid to the overseas lessor.

Example 4:

The lease of overseas real property where businesses lease farmland abroad as an agricultural investment to secure food production or for export.

(b) Lessor lease asset in Malaysia to a foreign lessee

When a lessor (registered person) leases an asset in Malaysia to a lessee who does not belong in Malaysia, the lessor is making a taxable supply to the lessee, as the services are consumed in Malaysia.

(c) A lessee leases asset from a foreign lessor located overseas to be used in Malaysia (own use or onward leasing services)

(i) If a person leases goods from a foreigner for his own use and subsequently brings in the goods into Malaysia, such lease is not regarded as imported services but is regarded as an importation of goods into Malaysia. He has to make an import declaration and pays GST on importation of the goods. If the goods is further leased by him to another lessee (onward supply) in Malaysia, he has to charge GST for the onward supply.

(d) Operating lease (inward and outward)

(i) When a lessee who is a registered person leases goods from an overseas lessor to be used in Malaysia, the goods are treated as imported into Malaysia and subject to GST. However, the lease payment to the overseas supplier is not subject to GST.

(ii) When a lessor who is a registered person in Malaysia leases goods to an overseas lessee, such supply of leasing services, it is considered as a zero rate supply.

(iii) If the lessor who is a registered person in Malaysia leases goods to an overseas lessee and it is used by the lessee partly in Malaysia and partly outside Malaysia, the GST treatment on the supply is:

- leasing services is a zero rate supply if the services are performed outside Malaysia; or

- when the goods are reimported into Malaysia for use in Malaysia by the lessee, the goods will be subject to GST at a standard rate upon importation into Malaysia

(iv) If the goods are leased from an overseas lessor and used by the lessee who is a registered person partly in Malaysia and partly outside Malaysia, the GST treatment on the supply is:

- leasing services are a zero rated supply if the services are performed outside Malaysia; or
- when the goods are imported into Malaysia for use in Malaysia by the lessee, the goods will be subject to GST at a standard rate upon importation

Termination of Lease

(a) In the event the asset is returned to the leasing company, the GST treatment is as follows;

(i) goods which are returned by the lessee to the lessor is not a supply as the goods are returned to its owner (lessor).

(ii) for any rebate of rental given by the lessor, he must raise a credit note to the lessee and the lessee must make an adjustment in his GST return for the taxable period. The credit note is raised to him by reducing his input tax claim.

(b) In the event where the lessee purchases the old leased asset (set rebate rental against cost of the asset), the sale is a taxable supply at standard rate.

(c) In the event where the lessee trades in the old asset for a new leased asset by using the rebate of rentals as an up-front payment for the new leased asset, such upfront payment, it is subject to GST. The lease of the new leased asset is a taxable supply at a standard rate.

Residual Value of Asset Leased

20. Some leases contain residual value clauses. Residual value is the expected market value of the leased asset which the lessee must return at the end of the leasing period. This is the lessor's prediction of what the asset will be worth at the end of the

lease. The residual value is important because it affects the monthly payment, i.e. the higher the residual value, the lower is the monthly payment. The GST treatment on the leased asset which is returned to the lessor at the end of the leased period is as follows:

(a) If the selling price of the leased asset is the same as the residual value, no GST adjustment is required.

(b) If the selling price is more than the residual value, then the lessor must;

   (i) account GST on the selling price as his output tax; and

   (ii) makes an input adjustment for GST on the difference between the selling price and the residual value

(c) If the selling price is less than the residual value, then the lessor must;

   (i) accounts GST on the selling price as his output tax; and

   (ii) makes an output adjustment for GST on the difference between the selling price and the residual value;

(d) The lessee makes the necessary adjustments to his accounts.

Example 5:

XYZ Leasing Co. (lessor) leases a bus to ABC Transport Co. (lessee), both are GST registrants. The cash price of the bus is RM 200,000 excluding GST. The lease is for 5 years with 60 equal monthly leased payments to be made. The residual value of the bus is RM 30,000. With the GST rate at 6% and assuming an interest charge of 3%:

Cash Price	*RM200,000*
Residual Value	*RM30,000*
Amount to finance	*RM170,000*
GST (6% x RM170,000.00)	*RM10,200*

*The lessor has to account **RM 10,200** as his output tax in the relevant* *taxable period in which he makes his first supply. GST will not be charged on the subsequent lease payment.*

Case 1:

At the end of the lease period, the lessee returns the bus to the lessor. The lessor sells the bus for RM 40,000, i.e. more than the residual value. The lease requires the lessor to pay to the lessee the difference between the net sales proceeds and the residual value. The GST treatment is as follows:

- The lessee does not have to make any further payments to the lessor.
- The lessor issues a tax invoice on the sale and accounts GST as his output tax:

Selling price	RM40,000
GST @ 6%	RM2,400

- The lessor issues a credit note to the lessee indicating that the correct amount of GST to pay on the lease is RM 9,600 [RM 10,200 – (6% x RM 10,000)].
- The lessee accounts RM600 as his output tax.
- The lessor claims an input tax credit of RM 600.

Therefore the lessee accounts RM 600 as his output tax. The lessor accounts an output tax of RM 2,400 and claims input tax credit of RM 600. The net result is an additional remittance of output tax, i.e. RM 2,400.

Case 2:

The lessee returns the bus to the lessor at the end of the lease period. The lessor sells the bus for RM 25,000, i.e. less than the residual value. The lessee has to pay a shortfall between the residual value and the net sales proceeds to the lessor. The GST treatment is as follows:

- The lessor issues a tax invoice on the sale and accounts GST as his output tax:

Selling price	RM25,000
GST @ 6%	RM1,500

- The lessor issues a debit note to the lessee indicating that the correct amount of GST still to pay on the lease is RM 300 (6% x RM 5,000).
- The lessee pays to the lessor RM 5,000 (the shortfall between the residual value and the net of sale proceeds)
- The lessee claims a RM 300 input tax credit.
- The lessor accounts RM 300 as his output tax.

Therefore, the lessee claims an input tax credit of RM 300. The lessor accounts an output tax of RM 1,800. The net result is an additional remittance of output tax, i.e. RM 1,500.

Case 3:

The lessee decides to keep the bus at the end of the lease. The lease requires the lessee to pay the full residual value to the lessor. The GST treatment is as follows:

- The lessee pays a further RM 30,000 to the lessor.
- The lessee claims an input tax credit of RM 1,800
- The lessor accounts output tax of RM 1,800.

Therefore, the lessee claims a further RM 1,800 input tax and the lessor accounts for a further output tax of RM 1,800.

Transitional Issues

(a) In a lease agreement where the title is not expected to pass on to the lessee by the end of the lease term and the lessee does not receive substantially all the risks and rewards of the asset, the monthly lease payments made before the implementation of the GST is not chargeable to tax. However, where any lease payments are made on or after the implementation of GST, the payments will be chargeable to tax.

(b) In a lease agreement, where the title is expected to pass on to the lessee by the end of the lease term and the lessee receives substantially all the risks and rewards of the asset, the supply of goods and lease payments made before the implementation of GST is not chargeable to tax. It follows that the subsequent payments made on and after implementation of GST will also not be subject to GST.

FREQUENTLY ASKED QUESTIONS

Registration

Q1. If I am a lessor who leases assets to various lessees, am I required to be registered for GST?

A1. Since both financial and operating lease are taxable supplies, you must be registered if your annual taxable turnover exceeds the prescribed threshold. In calculating this turnover, you must include the value of the financial lease, operating lease and other relevant taxable supplies and exclude your exempt supplies and disposal of assets.

How to Charge GST

Q2. As a result of a finance lease transaction, I charge my customer a lump sum charges which includes the cash price of the asset and the interest charge. How do I calculate the GST for this transaction?

A2. Since the interest charge is not shown separately, GST will be chargeable on the whole amount (cash price and interest).

Example 6:

Assuming the asset is supplied by a GST registrant. The cash price of the asset is RM 100,000. The rate of GST is 6%, and the interest rate is 3%. Period of lease is 12 months. The GST treatment is as shown below:

Cash price + Interest charge (one lump sum as shown in the tax invoice)	*RM103,000*
GST @ 6%	*RM6,180*
Amount payable in instalment	*RM109,180*

*The lessor has to account **RM 6,180** as his output tax in the relevant taxable period in which he makes his first supply. The GST will not be charged on the subsequent lease payment.*

Q3. What if I charge the cash price of the asset and the interest charge is shown separately in a finance lease?

A3. Since the interest charge is shown separately from the cash price of the asset, GST will only be charged on the cash price of the asset.

Example 7:

Using the same facts as in Example 6, the GST will be charged as follows:

Cash price	*RM 100,000*
GST @ 6%	*RM 6,000*
Cash price + GST	*RM 106,000*
Interest charge (RM 100,000.00 x 3%)	*RM 3,000*
Amount payable in instalment	*RM 109,000*

The lessor has to account ***RM 6,000*** *as his output tax in the relevant taxable period in which he makes his first supply. GST will not be charged on the subsequent lease payment.*

Q4. How do I charge GST in an operating lease if the interest charge is not shown separately?

A4. Since the interest charge is not separated, GST will have to be charged on the whole amount and at each lease payment. In this example, the amount of lease payments is the same throughout the period of the lease. (The amount of lease payments may also reflect the actual transacted value for each lease payment due).

Example 8:

Using the same fact as in Example 6, the GST charge will be as follows:

Cash price + interest charge	*RM 104,000.00*
Monthly instalment amount (RM 104,000.00/12)	*RM 8,666.67*
GST @ 6%	*RM 520.00*
Monthly instalment amount + GST	*RM 9,186.67*

*The lessor has to account **RM 520** as his output tax in the relevant taxable period for each lease payment.*

Q5. How do I charge GST if the interest charge is separately shown in an operating lease?

A5. Where the interest charge is separately shown, the GST will be only charged on the cash price of the asset, as shown in the example below.

Example 9:

Using the same facts as in Example 6, the GST charge will be as follows:

Cash price	*RM 100,000.00*
Monthly payment amount on asset (RM 100,000.00/12)	*RM 8,333.33*
GST @ 6%	*RM 500.00*
Interest Charge (RM 8,333.33 x 3%)	*RM 249.99*
Monthly payment amount + GST	*RM 9,083.32*

*The lessor has to account **RM 500** as his output tax in the relevant taxable period for each lease payment.*

Input Tax Credit (ITC)

Q6. I am a lessor leasing assets purchased from abroad and locally for which I am charging interest on the lease. How much input tax credit can I claim on

my leased asset?

A6. If you purchase assets from outside Malaysia, you have to pay GST upon importation and claim the input tax credit on the GST incurred. Similarly, if the asset is purchased locally from a registrant, the local supplier will charge you GST and you can claim the input tax credit upon receipt of the supplier's tax invoice or when the payment is made by you to the supplier, in whichever is the earlier.

Example 10:

The lessor purchases an asset at a cash price of RM 100,000 and then leases the asset for a year. The GST rate is 6% and assuming the interest rate is 3%.

Local supplier's tax invoice:

Cash price	*RM 100,000*
GST @ 6%	*RM 6,000 (lessor's input tax)*
Total	*RM 106,000.00*

Therefore, the lessor is entitled for an input tax credit of RM 6,000

Lessor's tax invoice:

Cash price	*RM 100,000*
GST@ 6%	*RM 6,000.00*
Interest Charges@ 3%	*RM 3,000*
Total	*RM 109,000*

Q7. As a lessee, I use the leased asset for the furtherance of my business. How much input tax credit can I claim?

A7. If the asset can be attributed wholly to the making of taxable supply, then you can claim the input tax credit in full. If you make both exempt supply and taxable supply, then you can only claim the input tax credit that is attributable to taxable supplies.

Example 11:

*ABC Sdn. Bhd. is a GST registered person who makes **wholly taxable supplies** (commercial/industrial buildings). For the relevant taxable period, taxable supplies amounts are RM 1,500,000. Under a financial lease agreement, ABC Sdn Bhd incurs GST amounting to **RM 25,000** on the leased asset (crane). The crane is used wholly for the building of a commercial/ industrial complex. Therefore, ABC Sdn Bhd is entitled to an input tax credit of **RM 25,000**.*

Example 12:

*XYZ Sdn. Bhd. is a GST registered person who makes both **taxable** (commercial/industrial buildings) **and exempt supplies** (residential houses). For the relevant taxable period, the exempt supplies amounts are RM2 million and taxable supplies amounts are RM3.5 million. Under a financial lease agreement, XYZ Sdn Bhd incurs GST amounting to **RM 25,000** on the leased asset (crane). The crane is used to build both commercial/ industrial complex and residential houses. Therefore, XYZ Sdn Bhd is entitled to an input tax credit of **RM 15,909.09***

<u>Turnover method to claim input tax credit of</u>**:**

Diagram 3:

$$\text{RM } 25{,}000 \ \text{X} \left\{ \text{RM } 3.5 \text{ mil} \right\} \mathbf{= RM\ 15{,}909.09}$$

$$(\text{RM } 3.5\text{mil} + \text{RM } 2.0\text{mil})$$

Tax Invoice

Q8. In a financial lease, do I need to issue a tax invoice for each lease payment since GST is charged on the first lease payment?

A8. Since the full GST liability is charged on the first transaction, you have to issue your tax invoice only once on the first payment for the lease contract. For subsequent payments, no tax invoice is required to be issued.

Example 13:

Using the same facts as in Example 6

<u>Lessor tax invoice:</u> (on the first lease payment)

Cash Price	*RM 100,000*
GST @ 6%	***RM 6,000***
Interest Charge @ 3%	*RM 3,000*
Total	*RM 109,000*
<u>Subsequent lease payments:</u>	
Principal	*RM 8,333.33*
Interest	*RM 249.99*
Total instalment	*RM 8,583.32*

No GST is charged on subsequent payments.

Q9. Do I have to issue a tax invoice for each lease payment made to my customer in an operating lease?

A9. Yes, a tax invoice is required to be issued on each and every successive payment.

Example 14:

Using the same facts as in Example 6

<u>Leased asset:</u>

Cash Price	*RM 100,000*
GST @ 6%	*RM 6,000*

Interest charge (@3%)	*RM 3,000*
Lease Period	*1 year (12 payments)*
<u>Lessor's tax invoice issued for monthly rental:</u>	
Principal	*RM 8,333.33*
GST (RM 6,000 /12)	***RM 500.00***
Interest charge	*RM 249.99*
Total monthly rental	*RM 9,083.32*

The lessor accounts for GST of RM 500 on each leased payment received.

Q10. In a lease agreement, a lessee is normally given a payment schedule on the onset of the leasing period and the lessor will not issue any invoice for each successive payment. However, a receipt is issued for the payments. Can the receipts be treated as a tax invoice?

A10. The receipts can be treated as a tax invoice provided it contains the particulars of a tax invoice as provided in Regulation 22 of the GST Regulations 2014.

Lease and Purchase

Q11. What happens if at the end of the operating lease, the lessee takes the ownership of the goods?

A11. At the end of the lease, the lessee may have to pay GST on residual payments under lease agreements. These are payments the lessee makes to take ownership of the goods, which is treated as a separate transaction to the lease agreement. If the lessee purchases the goods at the end of the lease agreement to continue using it for his business, the lessee may be eligible to recover the input taxes he paid on the price of the purchase.

Leasing an Asset to a Foreigner

Q12. What is the treatment of GST on the leased asset if the lessee is a foreigner?

A12. If the lessee is a foreigner and the leased asset will be located and used outside Malaysia, the supply of leasing services by the lessor is a zero rated supply. The lessor exports the goods to the foreigner, by declaring it in the Custom Form No. 2 at the point of export and the asset will not be subject to GST. The lease payments received from the lessee will not be subject to GST too. However, if the asset is located and used in Malaysia, the supply becomes a taxable supply and will be subject to GST at a standard rate. The lessor is also entitled to claim input tax credit in full if he makes taxable supplies.

Leasing from a Foreign Lessor

Q13. If a foreign lessor leases an asset to a local company, is the lease subject to GST?

A13. Yes, it is subject to GST. Where the leased asset is imported under the lessee's name, the lessee has to pay GST upon importation. If the leased asset is used wholly in making taxable supplies, the lessee can claim input tax credit in full. If the leased asset is used partially to make taxable and exempt supplies, the lessee is entitled to claim input tax credit proportionately.

Leasing to a Lessee Located In Designated Area

Q14. What is GST treatment on the operating lease contract made with a customer located in Langkawi?

A14. If the leased asset is to be used in Langkawi, the supply of services by the lessor is a taxable supply. Hence, the monthly lease payments are subject to GST at a standard rate.

Other Charges Relating to a Lease Contract

Q15. In an operating lease, it is the lessor's responsibility to maintain and insure the leased asset. These charges are included in the leased payment and there is no separate charges made. How do I charge GST?

A15. The supply of maintenance services and general insurance coverage are taxable supplies and the charges are subject to GST at a standard rate whether there is a separate charge or a single charge. If these charges are included in the lease payment, GST will be charged on the whole amount.

Q16. What is the GST treatment on other lease charges such as administration fee, documentation or acceptance fee and transfer of title fee?

A16. Administration fee, documentation or acceptance fee and the transfer of title fee are all standard rated supplies and the lessor must charge GST on these fees.

Q17. Is the introducer fee (dealer's commission) paid to agents or dealers subject to GST?

A17. The agent or dealer providing introducer services to the lessor is a standard rated supply. Hence, they must charge GST on the introducer fee or commission earned by them. The lessor is entitled to claim input tax credit.

The Lessee Defaults in Payment

Q18. What happens if the lessee defaults in the lease payment in an operating lease?

A18. When the lessee defaults in the lease payment, the lessor must account and pay GST on the leased asset at the time when the supply is made. However, the lessor is entitled to bad debt relief six months after he had accounted for and paid GST, provided all other conditions of a bad debt relief are satisfied. For further details, please refer to the GST General Guide.

Early Lease Termination

Q19. Should the lease be terminated prematurely, the lessee will be required to pay the whole outstanding amount to fulfil the lease agreement. Will GST be chargeable on the outstanding amount received even there is no supply made?

A19. Yes, the GST will be chargeable on the outstanding amount even there is no supply being made.

Secondary Lease

Q20. Secondary lease allows the lessee to continue the lease at a lower rate upon expiry of the first lease. Will GST be imposed on the secondary lease?

A20. Yes, the secondary lease will be subject to GST at a standard rate.

Sub-lease

Q21. What is the GST treatment when the leased asset is subleased?

A21. The first lessor will charge GST on the leased asset. Subsequently, the second lessor will charge GST when he subleases the leased asset and claims input tax credit in full.

Lease Rebate

Q22. The lessor usually gives a rebate to a lessee who has excellent payment record at the end of the leasing period. Is there a need to make a GST adjustment on the rebate given?

A22. Yes, GST adjustment is needed. The effect is the same as issuing a credit note.

Repossession of Leased Assets

Q23. What is the GST treatment on the repossession of assets?

A23. If the goods is supplied under a financial lease agreement, the GST is paid in full on the first supply. If the goods is subsequently repossessed and the lessor sells the repossessed assets, he charges GST on the sale and accounts GST as his output tax. If repossession services are used by the lessor and the repossessing agent is a GST registered person, he will charge GST on his repossession services. However, the lessor can claim input tax credit for this.

***Shariah* Advisory Services**

Q24. Is *shariah* advisory services under *Ijarah* financing subject to GST?

A24. Generally, any advisory service is subject to GST at standard rate (6%). Under Islamic financing, it is a mandatory requirement to engage a *shariah* advisor to ensure the adherence to the Islamic principles. A *shariah* advisory service is subject to GST at a standard rate.

Transitional Issues

Q25. Is the lessor allowed to claim sales tax that he had paid on the purchase of an asset before the implementation of GST in which he intends to lease after implementation of GST?

A25. No, the lessor cannot claim sales tax paid on the leased asset.

Q26. My finance lease agreement is a non-reviewable agreement and it spans over the GST implementation date. Do I need to account for GST on the instalment payments for the period on and after GST is implemented?

A26. No, you do not have to charge GST on the instalment payments on and after the GST implementation date.

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.

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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