



INLAND REVENUE BOARD OF MALAYSIA

**INCOME TAX TREATMENT OF
GOODS AND SERVICES TAX
PART I – EXPENSES**

PUBLIC RULING NO. 1/2017

Translation from the original Bahasa Malaysia text.

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GOODS AND SERVICES TAX
PART I – EXPENSES**

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Inland Revenue Board of Malaysia

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

1. Objective

The objective of this Public Ruling (PR) is to explain the tax treatment accorded to a person in respect of goods and services tax (GST) paid or to be paid as –

- (a) input tax on the purchase or acquisition of goods and services other than capital assets by a person if he is registered or liable to be registered under the Goods and Services Tax Act 2014 (GSTA); and
- (b) output tax on the sale of goods and services which is borne by a person if he is registered or liable to be registered under the GSTA.

2. Relevant Provisions of the Law

- 2.1 This PR takes into account laws which are in force as at the date this PR is published.
- 2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are section 2, subsections 33(1), 39(1) and 91(6).
- 2.3 The GSTA and relevant subsidiary legislations.

3. Interpretation

The words used in this PR have the following meaning:

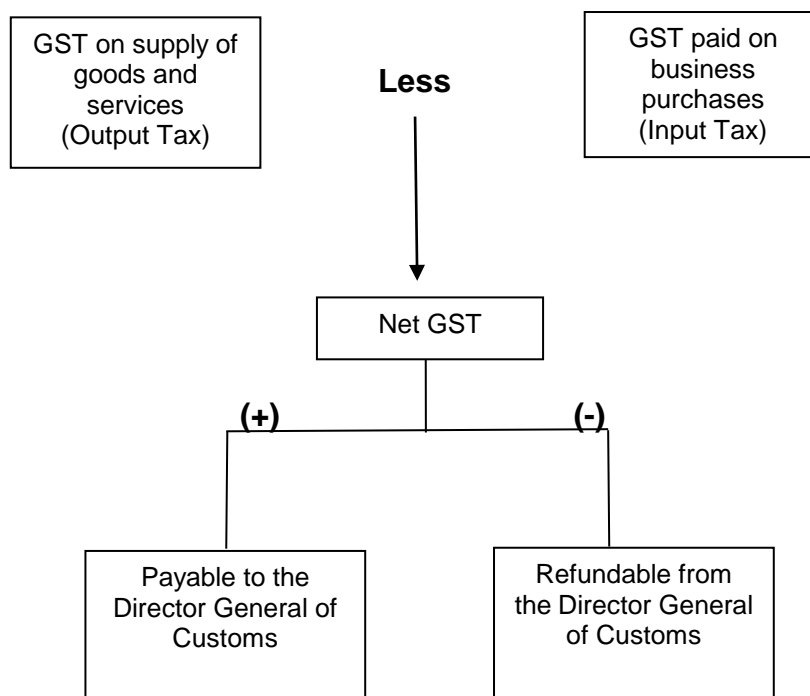
- 3.1 “Input tax” has the same meaning assigned to it in the GSTA. In simple terms, input tax refers to GST payable on business purchases and importation.
- 3.2 “Output tax” has the same meaning assigned to it in the GSTA. In simple terms, output tax is the GST charged on sales (inventory, capital assets, etc.), deemed supplies and imported services.
- 3.3 “Person” includes a company, a body of persons, a limited liability partnership and a corporation sole.

4. Introduction

- 4.1 GST was introduced with effect from 1.4.2015 under the GSTA. GST is an indirect tax on domestic consumption of goods and services rendered in Malaysia and importation of goods and services. GST is a multi stage tax and payment is made in stages by the intermediaries in the production and distribution process. All supply of goods and services in the course or furtherance of business in Malaysia are subject to GST unless they are exempted by law.

- 4.2 A person who is registered under the GSTA is referred to as a registered person (GST-registered person). A GST-registered person is required to charge GST (output tax) on the sales of goods and services to his customers. GST is collected by a GST-registered person on behalf of the Government and accounted to the RMCD. A GST-registered person is allowed to claim back any GST (input tax) paid or to be paid on goods and services purchased from other GST-registered persons as well as GST incurred on imported goods and services if the acquisition of the goods and services are used to make taxable supplies or deemed supplies. If the output tax exceeds the input tax, the difference is paid to the Government. On the other hand, if the input tax exceeds the output tax, a refund is due from the RMCD.

Summary of how GST works



5. Basic Concepts of Goods and Services Tax

- 5.1 Imposition and scope of GST – Charging GST on sales of goods and services

5.1.1 A person who is registered under the Malaysian GSTA is required to impose GST on any supply of goods and services if it is:

- (a) a **taxable supply** (standard-rated or zero-rated);

- (b) in the course or furtherance of any **business**;
- (c) made by a **taxable person** (GST-registered person); and
- (d) made in **Malaysia**.

5.1.2 GST is also charged and levied on all:

- (a) **imported goods** except goods given relief or deposited into licensed warehouse, designated areas or free commercial zones, or under Approved Trader Scheme; and
- (b) **imported services** acquired for the purpose of business except exempt supply of services.

5.2 Supply of goods and services

5.2.1 Supply means:

- (a) supply means all forms of supply of goods and services including supply of imported services done for a consideration. Consideration received can be in the form of monetary or non-monetary terms;
- (b) supply of goods involves the transfer of ownership of the goods (moveable and immovable) from a person to another person; or
- (c) Supply of services i.e the provision of services including the granting, assignment or surrender of any right or the making available of any facility or benefit. Examples are lending of goods, renting of goods, provision of telecommunication services and professional services.

5.2.2 Types of supply

- (a) Taxable supply

Taxable supply refers to the supply of goods and services other than an exempt supply and out-of-scope supply. A taxable supply is either:

- (i) standard-rated (current tax rate is 6%). Examples of such supplies are local supply of goods and services such as sale of commercial properties and furniture; or
- (ii) zero-rated (tax rate is 0%). The supplier does not collect any GST on the sales of goods and services but is

regarded as making a taxable supply and is eligible to claim GST paid or to be paid on goods and services acquired or imported by him (input tax). Examples of such supplies are agriculture produce and supply of the first 300 units of electricity per month for domestic users.

(b) Exempt supply

An exempt supply is a supply where no GST is imposed. The supplier cannot collect GST on the sales of its exempt supply and cannot claim input tax credit on purchases acquired. Examples of exempt supply of services are domestic transportation of passengers for mass public transport ie. rail, bus, taxi and highway toll.

(c) Out-of-scope supply

Out-of-scope supply is a supply which is outside the scope of the GST legislation and GST is not applicable on such supply. Examples of such supplies are supply of goods not made in Malaysia, non-business supply and supply of services made by a person who does not belong in Malaysia other than the supply of imported services. The GSTA stipulates that no tax shall be charged on any taxable supply of goods or services within or between the designated areas unless the Minister otherwise directs in an order.

(d) Disregarded supply

Disregarded supply is a taxable supply which would be disregarded for GST purposes. Examples of such supplies are any supply between companies that are registered for GST as a group and supply of services by an approved toll manufacturer to its overseas principal. Any GST incurred on purchases used to make the disregarded supplies can be claimed as input tax credit.

5.2.3 Deemed supply

Goods and services may be supplied for no consideration. Such transactions may be deemed as a supply. Examples are disposal of business assets without consideration, gifts which cost more than five hundred ringgit (RM500), private use of business assets, imported services and goods sold in satisfaction of a debt. A tax invoice is not mandatory to be issued for a deemed supply

5.3 In the course or furtherance of any business

In the course or furtherance of any business refers to activities carried out in connection to the business either directly (eg. sales or trading of stocks or provision of services) or incidentally (e.g. recovery of expenses from a related company).

5.4 GST Registration

5.4.1 A person who carries on a business of making taxable supplies and has an annual taxable supply of more than RM500,000 is required to register under the GSTA. The determination of the annual taxable supply is subject to the provision of the GSTA.

5.4.2 A person carrying on a business of making taxable supplies can apply for voluntary registration even though the value of his taxable supplies does not exceed the prescribed threshold. The GST registration is subject to the approval by the Director General of Customs. A person who voluntarily registers for GST is eligible to credit the GST paid or to be paid on his purchases as input tax credit and charges GST on his supplies as output tax.

5.5 Taxable person

5.5.1 A taxable person is a person who is registered under the GSTA or is required to be registered for GST under the GSTA. A taxable person is a person who –

- (a) makes taxable supplies in Malaysia; and
- (b) for a twelve-month period, achieves above the prescribed taxable turnover (taxable value of supplies excluding the amount of GST) threshold of RM500,000.

However, where a person has not achieved the annual prescribed taxable turnover threshold but registers voluntarily for GST, he is also a taxable person.

5.5.2 A person who makes wholly zero-rated taxable supplies must be registered for GST if the value of the annual taxable turnover exceeds the prescribed threshold.

5.5.3 A request from a person to be exempted from registration may be approved by the Director General of Customs. The rationale for such an exemption is to provide a relief to such a person as his compliance costs may outweigh the benefits of claiming input tax

credit. A person who has been exempted from registration is not eligible to claim input tax credit from the RMCD on any GST incurred on purchases.

5.6 Made in Malaysia

GST is to be charged on all taxable supplies of goods or services where the supply is made in Malaysia. Supplies not made in Malaysia are considered to be outside the scope of GST. Services are treated as supplied in Malaysia if the provider of the services (supplier) belongs in Malaysia. The supplier belongs in Malaysia if:

- (a) he has in Malaysia a business establishment or fixed establishment and no such establishment elsewhere;
- (b) he has no business establishment or fixed establishment in any country but his usual place of residence is in Malaysia; or
- (c) he has business establishments or fixed establishments both in Malaysia and elsewhere and his establishments which is most directly connected with the supply is in Malaysia.

5.7 Imported Goods and Services

5.7.1 Imported goods

- (a) Generally, all goods imported into Malaysia are subject to GST. However, certain goods imported by a person or class of persons are given relief from payment of GST upon importation.
- (b) An importer who is a taxable person would be eligible to recover GST paid on imports subject to the normal rules. The recovery of GST incurred on imports is made by crediting the amount allowable against his output tax chargeable on his taxable supplies.

5.7.2 Imported services

According to the GSTA, imported services means services that are made by a supplier from a country other than Malaysia or who carries on a business outside Malaysia to a recipient in Malaysia and such services are consumed in Malaysia. Imported services includes intangible and intellectual properties such as trademarks, rights, patents, licence, goodwill etc.

5.8 Taxable period

A taxable person must file GST returns in accordance with the requirements of the GSTA. Every taxable person is assigned a taxable period (monthly or quarterly) for which he is required to account for input and output taxes in his returns.

5.9 Mechanics of GST

Although GST would be paid throughout the production and distribution process chain, it is ultimately passed to the final consumer. GST itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

Mechanics of Standard-Rated Supply

	Purchase Price RM	Sales Price RM	GST Payable To RMCD RM
Manufacturer	1,000	2,000	
- GST paid @ 6%	60		
- GST collected @ 6%		120	60 (120 – 60)
Wholesaler	2,000	4,000	
- GST paid @ 6%	120		
- GST collected @ 6%		240	120 (240 – 120)
Retailer	4,000	8,000	
- GST paid @ 6%	240		
- GST collected @ 6%		480	240 (480 – 240)
Cost to the consumer		8,480	

Mechanics of Zero-Rated Supply

	Purchase Price RM	Sales Price RM	GST Claimable from RMCD RM
Manufacturer	1,000	2,000	
- GST paid @ 6%	60		60
- GST collected @ 0%		0	
Wholesaler	2,000	4,000	
- GST paid @ 6%	0		
- GST collected @ 0%		0	0
Retailer	4,000	6,000	
- GST paid @ 6%	0		
- GST collected @ 0%		0	0
Cost to the consumer		6,000	

Mechanics of Exempt Supply

	Purchase Price RM	Sales Price RM	GST Claimable from RMCD
Supplier	1,000	2,000	
- GST paid @ 6%	60		0
- GST (exempt)		0	0
Private Hospital	2,000	4,000	
- GST (exempt)	0		
- GST (exempt)		0	0
Cost to the consumer		4,000	

5.10 Input Tax

5.10.1 Input tax credit and eligibility to claim

- (a) Input tax is the GST paid or to be paid on any purchase or acquisition of goods or services by a taxable person for the purpose of making a taxable supply in any business carried on or to be carried on by the taxable person. Input tax is allowed as a credit to be deducted from the output tax that is due to be paid to the RMCD.
- (b) However, in the case of a zero-rated taxable supply where no output tax is due to the RMCD at the end of a taxable period, the input tax is refunded by the RMCD to the taxable person. Input tax is claimable as follows:

Types of Supply	Output Tax	Input Tax
Standard-Rated	6%	Claimable
Zero-Rated	0%	Claimable
Exempt	No GST charged	Non-Claimable
Relief supply ¹	Nil	Claimable
Out-of-scope	Not applicable	Non-Claimable except as permitted by provisions of the GSTA and GST regulations

¹Relief supply

The Minister of Finance is empowered to relieve any person or class of persons from the payment of the whole or any part of the tax that may be charged and levied on any taxable supply of goods and services or any importation of goods or class of goods (but not importation of services).

5.10.2 Business and non-business use

GST incurred can be claimed if the goods and services are used or are to be used for the purposes of any business carried on or to be carried on by the taxable person. No claim can be made for GST if the goods and services are for non-business use.

5.10.3 Flat rate scheme

- (a) A flat rate scheme is a scheme that allows a farmer or fishermen who is not liable to be registered and is carrying on a business involving prescribed activities such as crop production, livestock and fishery to recover the embedded GST on his purchases. A person approved to use this scheme (an approved person) may include a flat rate addition in the consideration for any taxable supply made to a GST-registered person. The flat rate addition can be charged on the taxable supply including zero-rated supply that is made to a GST-registered person. The GST-registered person (recipient of the supply) may claim the flat rate addition as his input tax.
- (b) Under the Flat Rate Scheme, an approved person is not required to remit the the flat rate addition collected to the RMCD and does not have to submit a GST return form. He is not allowed to claim input tax incurred on his purchases. When the approved person's turnover exceeds the prescribed threshold limit, the flat rate scheme is no longer applicable to him.

5.11 Blocked input tax

It is GST incurred by a taxable person in respect of the supply of certain goods and services that have been excluded from any credit under GST as prescribed by the Director General of Customs. Please refer to the relevant regulations for further details.

6. Income Tax Provisions Related to the Goods and Services Tax

6.1 Input tax and output tax

- 6.1.1 Generally, under subsection 33(1) of the ITA, if a person who purchases or acquires goods or services for the purpose of his business, the expense incurred wholly and exclusively in the production of gross income from a source would be deductible against the gross income from that source. **However, the deductible expense under subsection 33(1) of the ITA is subject to specific prohibitions under subsection 39(1) of the ITA.**

6.1.2 Effective year of assessment 2015, paragraphs 39(1)(o) and 39(1)(p) of the ITA was introduced to address the treatment of GST in relation to the acquisition of goods and services for the purpose of making supplies under the GSTA.

6.1.3 The tax treatment for input and output tax in relation to the acquisition of goods and services for the purpose of making taxable supplies are as follows:

(a) GST paid or to be paid as input tax by a person who is –

(i) registered under the GSTA and eligible to claim the input tax credit; or

(ii) liable to be registered under the GSTA but fails to do so,
the input tax is not deductible by virtue of paragraph 39(1)(o) of the ITA.

(b) GST paid or to be paid as output tax which is borne by a person who is registered or liable to be registered under the GSTA is not deductible by virtue of paragraph 39(1)(p) of the ITA.

6.2 Adjustments to input tax by the RMCD

6.2.1 If an audit is conducted by the RMCD on a GST-registered person and if it is discovered that there was a mistake made in claiming the input tax credit, and the following adjustments are made by the RMCD:

(a) the input tax credit claimed is not claimable from the RMCD; or

(b) the input tax credit that was initially not claimed from the RMCD is actually claimable from the RMCD.

6.2.2 The above adjustments would affect the deductibility of the GST incurred under the ITA.

6.2.3 Pursuant to subsection 91(6) of the ITA, where in a basis period for a year of assessment, an adjustment is made in respect of GST paid or to be paid as input tax under the GSTA, the Director General of Inland Revenue (DGIR) **may at any time**, where necessary give effect to such adjustment by:

- (a) making an assessment or a reduced assessment for the year of assessment to which the adjustment relates; or
- (b) if the year to which the adjustment relates cannot be ascertained, the DGIR will give effect to the adjustment in the year of assessment in which the DGIR discovers the adjustment.

6.3 Adjustments to output tax by the RMCD

6.3.1 The following adjustments may be made by RMCD in the course of its audit:

- (a) output tax is assessed by RMCD as the output tax declared is understated (such as failure to account for output tax on deemed supplies where gift of goods given to staff or customers cost more than RM500 or reverse charge was not performed for importation of services by both GST-registered and non- GST-registered persons);
- (b) output tax is assessed by RMCD for incorrectly applying zero-rating or exemption for standard-rated supplies; or
- (c) output tax is assessed by RMCD on output tax attributable to underdeclared sales.

6.3.2 The adjustments in respect of 6.3.1 (a) and (b) would not have any impact on income tax by virtue of paragraph 39(1)(p) of the ITA. However, the adjustment in respect of 6.3.1 (c) would give rise to an assessment or additional assessment on the understated business income under section 91 of the ITA and penalty may be imposed under section 113 or section 114 of the ITA.

7. **Income Tax Treatment on the Expenditure for Goods and Services Tax Incurred on the Acquisition of Goods and Services**

7.1 Basically, the tax treatment of GST paid or to be paid as input tax on an acquisition of goods or services by a person would depend on whether–

- (a) the supply of goods or services made by the person, to which the acquisition is attributable is a taxable supply or an exempt supply; and
- (b) a person is registered under the GSTA or liable to be registered under the GSTA but fails to do so or is not liable to register for GST.

-
- 7.2 A GST-registered person who incurs GST on purchases or acquisitions of goods and services for the purpose of making taxable supplies is eligible to claim the GST from the RMCD. The person is eligible to credit the GST as input tax credit. This input tax credit, if exceeds output tax for the taxable period, is claimable as a refund from the RMCD under the GSTA. As the GST-registered person is eligible to make a claim from the RMCD, this GST (input tax) is not part of the cost of the business and is not a deductible expense by virtue of paragraph 39(1)(o) of the ITA.
- 7.3 Exempt supply is a supply of goods and services not subject to GST (output tax). In the case of a person carrying on a business of making exempt supplies, the GST paid or to be paid as input tax on the purchase or acquisition of goods and services cannot be claimed from the RMCD under the GSTA. This input tax is absorbed as a cost of the business. **Generally, the input tax incurred in making exempt supplies would be deductible under subsection 33(1) of the ITA but subject to any specific prohibitions under subsection 39(1) of the ITA.** The same principle is applicable to blocked input tax which is not claimable under the GSTA.
- 7.4 In other words, the GST incurred on a taxable supply used to make an exempt supply is **not automatically deductible** under subsection 33(1) of the ITA. The cost of the purchase or acquisition for business purposes to which the GST incurred is attributable has to be examined to determine if the said cost is specifically prohibited as a deduction under subsection 39(1) of the ITA. If there are no restrictions under subsection 39(1) of the ITA, then the cost of the purchase or acquisition used for making the exempt supply is deductible. If the cost of the purchase or acquisition is an allowable expense under subsection 33(1) of the ITA but prohibited under subsection 39(1) of the ITA such as domestic or private expenses, or capital expenditure, restriction of rental payment in respect of private motor vehicle, entertainment expense and others, the GST (input tax) attributable to the said cost is not deductible or only partially deductible under subsection 33(1) of the ITA.
- 7.5 Likewise, the same principle mentioned above applies to the blocked input tax that is not claimable under the GSTA.

Summary of Income Tax Deduction for Input Tax

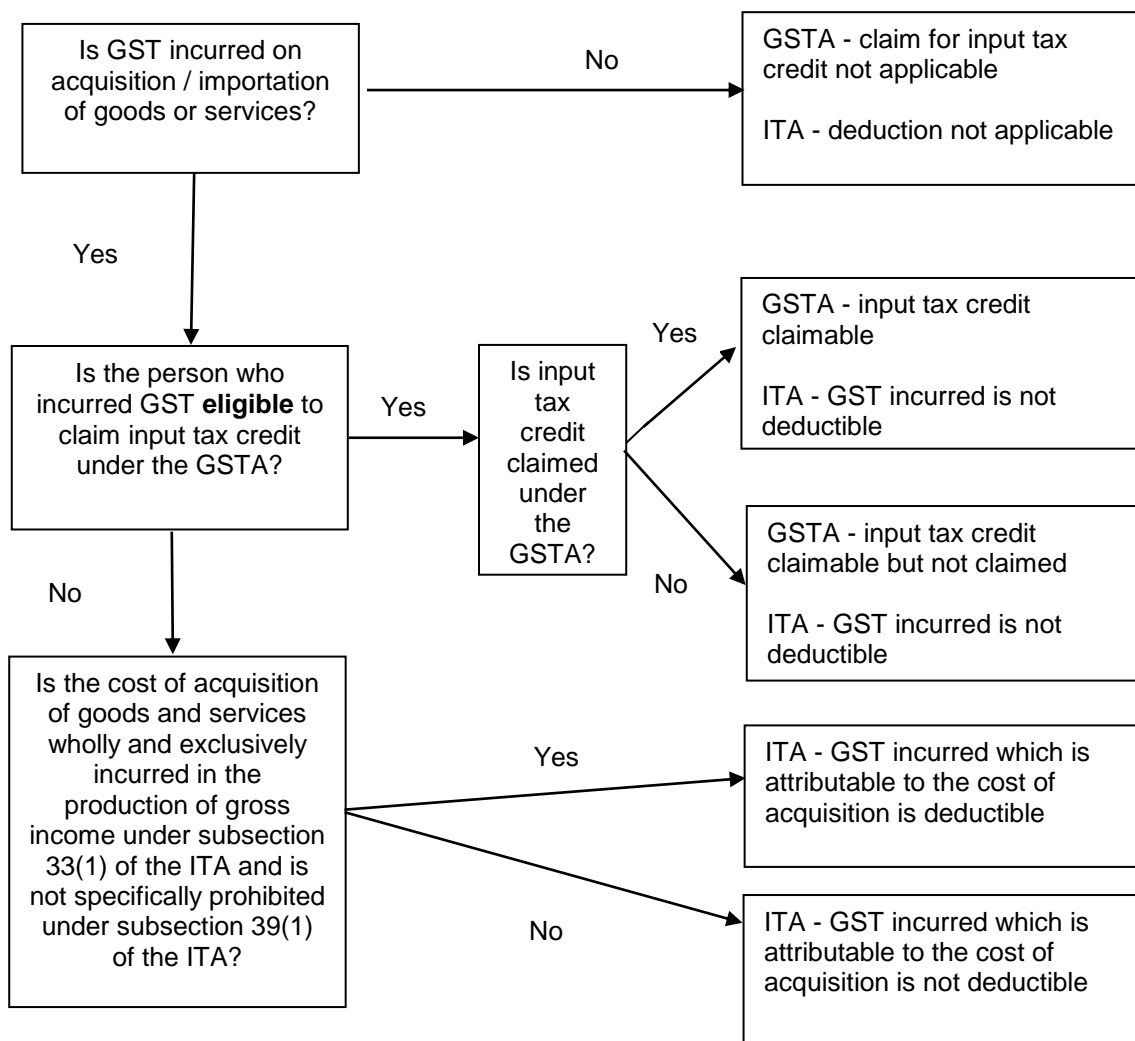


Illustration of GST Treatment and Income Tax Treatment

		GST Treatment		
		Scenario 1	Scenario 2	Scenario 3
As per P & L		Standard Rated Supply	Zero Rated Supply	Exempt Supply
RM		Output tax (6%)	Output tax (0%)	Output tax
Sales	800,000	48,000	0	Not applicable
Less: expenses		Input tax (6%)	Input tax (6%)	Input tax (6%)
Purchases ²	20,000	1,200	1,200	1,200
Utilities	5,000	300	300	300
Office rental	30,000	1,800	1,800	1,800
Salary	60,000	-	-	-
Total input tax		3,300	3,300	3,300
Net GST (output tax – input tax)		44,700³	(3,300)⁴	(3,300)⁵
		Payable to RMCD	Refund from RMCD	Non-claimable from RMCD
Income Tax Treatment				
		GST incurred of RM3,300 is not deductible – paragraph 39(1)(o) of the ITA	GST incurred of RM3,300 is not deductible – paragraph 39(1)(o) of the ITA	GST incurred of RM3,300 is deductible under subsection 33(1) of the ITA if not specifically prohibited under subsection 39(1) of the ITA

Please refer to Appendix 1 for a summary of GST credits and income tax treatment.

Note:

²It is assumed that there are no unsold stock or brought forward stock.

³Amount will be reflected in the Balance Sheet under Amount due to Customs.

⁴Amount will be reflected in the Balance Sheet under Amount due from Customs.

⁵Amount will be reflected in the Profit and Loss account.

7.6 GST credits and income tax treatment for GST-registered persons making taxable supplies

Example 1 - A GST-registered person makes standard-rated taxable supplies

D'one Sdn Bhd registered with the RMCD on 1.4.2015. The company purchased RM64,000 worth of stock for the purpose of making taxable supplies (standard-rated) and was charged GST of RM3,840. The company made a payment of RM67,840 inclusive of GST to the supplier.

Law	Tax Treatment
GSTA	D'one Sdn Bhd is entitled to credit the GST paid amounting to RM3,840 as input tax credit. The input tax credit is claimable from the RMCD.
ITA	The GST incurred is an expense which is not deductible by virtue of paragraph 39(1)(o) of the ITA.

Example 2 - A GST-registered person makes zero-rated taxable supplies

A GST-registered rice mill incurred GST of RM600 on the purchase of plastic packaging materials, sealing machine, printing machine and printing ink.

Law	Tax Treatment
GSTA	The rice mill making zero-rated supplies is entitled to credit the amount of GST paid of RM600 as input tax credit. The input tax credit is claimable from the RMCD.
ITA	The GST incurred is an expense which is not deductible by virtue of paragraph 39(1)(o) of the ITA.

7.7 A GST-registered person fails to claim input tax credit

A GST-registered person who has incurred GST may fail or choose not to claim any input tax credit under the GSTA for various reasons. Among them are administrative reasons where the GST incurred is negligible or the company does not have a valid tax invoice or misplaces a valid tax invoice. If the person who is entitled to credit the GST paid or to be paid as input tax credit but fails to make a claim from the RMCD, the GST incurred is not a deductible expense by virtue of paragraph 39(1)(o) of the ITA.

Example 3 - A GST-registered person fails to claim input tax

Same facts as in Example 1 and D'one Sdn Bhd fails to claim the GST paid as input tax from the RMCD although the company is eligible to claim the input tax credit.

Law	Tax Treatment
GSTA	D'one Sdn Bhd is entitled to credit the GST paid amounting to RM3,840 as input tax credit but failed to claim the input tax credit from the RMCD.
ITA	The GST incurred is an expense which is not deductible under paragraph 39(1)(o) of the ITA.

7.8 GST credits and income tax treatment for a person after he is liable to register

7.8.1 A person making taxable supplies that does not exceed the prescribed threshold is not required to register for GST under the GSTA. The person would not be eligible to credit the GST paid or to be paid on his purchases as input tax credit and charge output tax on his supplies. The person may claim the GST incurred as a deduction under subsection 33(1) of the ITA if not subject to any specific prohibition under subsection 39(1) of the ITA.

7.8.2 When a person's total value of taxable supplies (excluding the amount of GST paid as output tax) exceeds the prescribed threshold for a period of twelve (12) months, that person is liable to register for GST.

Example 4 - GST credits after a person is liable to register for GST

On 1.4.2015, LOL Enterprise, a company making standard-rated supplies was not registered with RMCD as its turnover did not achieve the threshold of RM500,000 for a 12-month period. The company purchased stock with GST charged and the company was not eligible to claim input tax credit from the RMCD.

On 1.6.2015, the company registered with the RMCD upon achieving the prescribed threshold. For unsold stock as at 1.6.2015, the company was eligible to claim input tax credit from the RMCD.

Law	Tax Treatment
<p>GSTA</p>	<p>1.4.2015 to 31.5.2015</p> <p>LOL Enterprise is not entitled to credit the GST paid or to be paid as input tax credit for the period as it was not liable to be GST-registered.</p> <p>On 1.6.2015</p> <p>When LOL Enterprise registered under the GSTA, it was eligible to claim input tax credit from the RMCD on purchased stock that was still unsold as at 1.6.2015.</p>
<p>ITA</p>	<p>1.4.2015 to 31.5.2015</p> <p>Since LOL Enterprise was not liable to be GST-registered and not entitled to credit the GST paid or to be paid as input tax credit for the said period, the GST incurred on the purchased stock that was sold is a deductible expense under subsection 33(1) of the ITA.</p> <p>On 1.6.2015</p> <p>The input tax credit that is claimable in respect of unsold stock under the GSTA is an expense which is not deductible by virtue of paragraph 39(1)(o) of the ITA.</p>

- 7.9 GST credits and income tax treatment for a person who is liable to register but fails to do so

Example 5 - Acquisition of goods by a person liable to register for GST but fails to do so

The facts are the same as in Example 4 except that LOL Enterprise did not register with RMCD on 1.6.2015 even though it was liable to register.

Law	Tax Treatment
<p>GSTA</p>	<p>1.4.2015 to 31.5.2015</p> <p>LOL Enterprise was not entitled to credit the GST paid or to be paid as input tax credit for the period as it was not liable to be GST-registered.</p> <p>On 1.6.2015</p> <p>Even though not registered with RMCD, LOL Enterprise is a taxable person effective 1.6.2015 under the GSTA. The company is eligible to claim input tax credit on taxable goods acquired on or after 1.6.2015 if the company had registered.</p>
<p>ITA</p>	<p>1.4.2015 to 31.5.2015</p> <p>Since LOL Enterprise was not liable to be GST-registered and not entitled to credit the GST paid or to be paid as input tax credit for the said period, the GST incurred on the stock sold is a deductible expense under subsection 33(1) of the ITA.</p> <p>On 1.6.2015</p> <p>LOL Enterprise is eligible to claim the input tax credit under the GSTA if it had registered as a taxable person. As such, any GST incurred on or after such date is an expense which is not deductible by virtue of paragraph 39(1)(o) of the ITA.</p>

- 7.10 GST credits and income tax treatment for a person who voluntarily registers for GST

Example 6 - Voluntary GST registration

Afiq, a burger operator is not liable to register for GST as his sales has not achieved the prescribed threshold. He made an application for voluntary registration and it was approved. Afiq is now required to charge output tax on his sale of burgers and he is eligible to claim input tax credit on his purchases under the GSTA. He purchased 50 packets of burger patties for his burger stall from a GST-registered company at the cost of RM530 inclusive of RM30 GST.

Law	Tax Treatment
GSTA	As Afiq is a GST-registered person, he is eligible to claim the input tax credit of RM30 on purchases from the RMCD.
ITA	The GST incurred of RM30 is an expense which is not deductible by virtue of paragraph 39(1)(o) of the ITA.

- 7.11 GST credits and income tax treatment for a person making both taxable and exempt supplies

7.11.1 A person who makes both taxable and exempt supplies is known as a mixed supplier (examples are property developer, insurance companies, highway providers, public and private education institutions, private healthcare providers, commercial banks). A mixed supplier would have incurred residual input tax (eg. general overheads such as utilities charges, professional fees, rental, stationery, computer, maintenance services) in the course or furtherance of its business. Residual input tax is incurred when goods and services are used for both taxable and exempt supplies. Only the proportion of residual input tax that is attributable to taxable supplies can be claimed under the GSTA. The method of apportionment is by using the standard apportionment method (based on turnover) or any alternative method (with prior approval from the Director General of Customs).

7.11.2 A mixed supplier can claim the full amount of the residual input tax incurred, as well as any GST (input tax) attributable to exempt supply, if the amount of exempt supply fulfils the *de minimis* rule.

De minimis rule means that where in a taxable period (monthly or quarterly), the total value of exempt supplies excluding incidental exempt financial supply does not exceed:

- (a) an average of RM5,000 per month; and
- (b) an amount of 5% of the total value of all taxable and exempt supplies

the GST (input tax) incurred on exempt supplies shall be treated as attributable to taxable supplies.

Example 7 - A GST-registered person makes mixed supplies and the *de minimis* rule for exempt supply is fulfilled

Sun Sdn Bhd, a GST-registered company makes the following supplies in January 2016:

Taxable period	-	Monthly
Value of taxable supplies	-	RM100,000
Input tax attributable to taxable supply	-	RM3,000
Value of exempt supplies	-	RM4,000
Input tax attributable to exempt supply	-	RM200
Residual input tax (utilities, rental etc)	-	RM1,000

The proportion of exempt supplies to total supplies is computed as follows:

$$\frac{4,000 \text{ (Exempt supplies)}}{104,000 \text{ (Exempt and taxable supplies)}} \times 100\% = 3.85\%$$

The *de minimis* rule is fulfilled.

Law	Tax Treatment
GSTA	Sun Sdn Bhd is eligible to claim input tax credit for its taxable and exempt supplies as the <i>de minimis</i> rule is fulfilled. Total input tax credit claimable from the RMCD is RM4,200 (3,000 + 200 + 1,000).

ITA	The GST (input tax) incurred is an expense which is not deductible by virtue of paragraph 39(1)(o) of the ITA.
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7.11.3 Where residual input tax is incurred, a claim for a full amount is not possible (unless the *de minimis* rule applies). The claim for residual input tax in a taxable period is provisional. At the end of a tax year or longer period, an annual adjustment is necessary based on the same formula used for each taxable period during the tax year but the figures used are for the whole year. The adjustment is necessary to determine -

- (a) an over-deduction of input tax due to fluctuations in proportion of supplies from one period to another and this is treated as output tax for the second taxable period in the following tax year; or
- (b) an under-deduction of input tax and this is treated as input tax credit for the second taxable period in the following tax year.

Generally a tax year consists of 12 calendar months and corresponds with a taxable person's financial year.

Example 8 - A GST-registered person makes mixed supplies and the *de minimis* rule for exempt supply is not fulfilled

Echo Sdn Bhd, a GST-registered company makes the following supplies in the first quarter:

Taxable period	-	Quarterly
Taxable supplies	-	RM400,000
Input tax attributable to taxable supplies	-	RM6,000
Exempt supplies	-	RM16,000
Input tax attributable to exempt supply	-	RM300
Residual input tax (utilities, rental etc)	-	RM1,000

The proportion of exempt supplies to total supplies is computed as follows:

$$\frac{16,000 \text{ (Exempt supplies)}}{416,000 \text{ (Exempt and taxable supplies)}} \times 100\% = 3.85\%$$

Though the exempt supplies does not exceed 5% of the total value of taxable and exempt supplies, it exceeds an average of RM5,000 per month. Thus the *de minimis* rule is not fulfilled.

Residual input tax claimable from the RMCD -

$$\frac{400,000}{416,000} \times 100\% \times \text{RM1,000} = \text{RM961.50}$$

Law	Tax Treatment
GSTA	Echo Sdn Bhd is not eligible to claim input tax credit for exempt supplies as the <i>de minimis</i> rule is not fulfilled. The amount of input tax credit claimable from the RMCD is RM6,961.50 (6,000 + 961.50) on its taxable supplies.
ITA	The GST incurred of RM338.50 [input tax attributable to exempt supply of RM300 and residual input tax attributable to exempt supply of RM38.50 (RM1,000 – 961.50)] for the purpose of making the exempt supply is a deductible expense under subsection 33(1) of the ITA if the cost of the exempt supplies to which the GST (input tax) is attributable is not specifically prohibited under subsection 39(1) of the ITA, subject to the effect of annual adjustment when the actual amount of input tax credit not claimable from RMCD is known.

7.12 GST credits and income tax treatment for blocked input tax

7.12.1 Credit in respect of GST on input tax on certain acquisitions of goods and services are specifically prohibited. Generally, businesses would incur GST when acquiring such goods and services but no credit is available for the input tax i.e not claimable from the RMCD. Such irrecoverable input tax is referred to as blocked input tax.

7.12.2 The prescribed goods and services for blocked input tax is stipulated in the relevant GST regulations. No credit is available for input tax incurred in respect of the following:

- (a) the supply or importation of a passenger motor car;
- (b) the supply of goods and services relating to repair, maintenance and refurbishment of a passenger motor car;
- (c) the hiring of a passenger motor car;
- (d) club subscription fee;
- (e) any payment or contribution towards any medical and personal accident insurances;
- (f) medical expenses;
- (g) family benefits; and
- (h) entertainment expenses to a person other than employees or existing customers except entertainment expenses incurred by a person who is in the business of providing entertainment.

Please refer to Appendix 2 for a summary of the GST credits and income tax treatment.

Example 9 - GST incurred by a GST-registered person on passenger cars hired for business purposes falls under blocked input tax

A GST-registered company rents 2 passenger cars for the use of its director and employees.

Law	Tax Treatment
GSTA	The GST-registered company is not entitled to credit the amount of GST paid or to be paid as input tax credit as it falls under the blocked input tax.
ITA	As both the leased passenger cars are used for business purposes, the GST incurred is a deductible expense under subsection 33(1) of the ITA. However, the cumulative amount of lease rental payment and input tax are restricted under paragraph 39(1)(k) of the ITA.

Example 10 - GST incurred on club membership subscriptions by a GST-registered person falls under blocked input tax

A GST-registered company incurred GST on corporate membership in a golf club for its directors, general manager and senior executives. The membership is registered in the name of the company.

Law	Tax Treatment
GSTA	The company is not entitled to credit the GST paid or to be paid on blocked input tax.
ITA	The GST incurred on golf membership is deductible as an expense under subsection 33(1) of the ITA.

Example 11 - GST incurred on entertainment provided to a potential customer by a GST-registered person falls under blocked input tax

A marketing executive of a GST-registered trading company entertained a potential customer in a hotel for lunch in order to promote the company's new product.

Law	Tax Treatment
GSTA	The company is not entitled to credit the GST paid or to be paid on blocked input tax.
ITA	The expense incurred on lunch is an entertainment expense. However, entertainment provided to a potential customer is not wholly and exclusively incurred in the production of gross income under subsection 33(1) of the ITA. No deduction is allowed for the entertainment expense and the GST incurred on the lunch. Please refer to the PR No. 4/2015 for more information.

Example 12 - GST incurred on entertainment provided to existing clients by a GST-registered person does not fall under blocked input tax

Same facts as in Example 11 and the marketing executive of a GST-registered trading company entertained existing clients of the company in a hotel for lunch in order to promote the company's new product.

Law	Tax Treatment
GSTA	The company is entitled to credit the GST paid or to be paid as input tax credit on the lunch to promote the company's new product to existing clients.
ITA	The GST incurred is not a deductible expense by virtue of paragraph 39(1)(o) of the ITA.

Example 13 - GST incurred by a GST-registered person on cars that form part of the stock in trade does not fall under blocked input tax

A GST-registered auto car dealer imports and also purchases motor cars from local manufacturers. Motor cars are part of the stock in trade of a car manufacturer or a car dealer.

Law	Tax Treatment
GSTA	As an exception to the general rule, the auto car dealer is entitled to credit the GST paid or to be paid as input tax credit on the acquisition of cars as stock in trade.
ITA	The GST incurred is not a deductible expense by virtue of paragraph 39(1)(o) of the ITA.

- 7.13 GST credits and income tax treatment for adjustments made to input tax credit under the GSTA

Example 14 - Mistake in claiming input tax credit under the GSTA

A GST-registered company closes its accounts on 31 December annually. In the year of assessment 2015, the company paid for its managing director's hotel lodging which was incurred for business purposes.

In its tax computation for the year of assessment 2015, the company only claimed the hotel payment without taking into account the GST as a tax deduction under the ITA. The company claimed input tax credit from the RMCD.

In 2016, the RMCD conducted an audit and did not allow the company's input tax credit claim because the tax invoice was not in the name of the company but in the name of the managing director. A penalty was imposed by the RMCD.

This GST (input tax) is not a deductible expense under subsection 33(1) of the ITA for the year of assessment 2015 as the company is eligible to the input tax credit under the GSTA if the tax invoice in respect of the managing director's hotel lodging had been in the name of the company.

The company could have requested the hotel to issue a tax invoice in the company's name.

The penalty imposed by RMCD on the taxpayer's mistake is also not a deductible expense under subsection 33(1) of the ITA as it was not incurred wholly and exclusively in the production of the company's gross income.

- 7.14 Simplified tax invoice and income tax treatment

7.14.1 Every GST-registered person who makes a taxable supply of goods and services is required to issue a tax invoice. A tax invoice is a document containing certain information about the supply that has been made and is an essential evidence to support a claim for deduction of input tax.

7.14.2 Under certain circumstances, a GST-registered person may apply to the Director General of Customs for approval to issue simplified tax invoice in his business transactions. A simplified tax invoice can be used to claim input tax credit. However, if this invoice does not have the name and the address of the recipient, the maximum

amount of input tax credit that can be claimed must not exceed RM30. If the GST amount in the simplified tax invoice is more than RM30 and the recipient wants to claim the full amount, he has to request for his name and address to be inserted in the tax invoice.

Example 15 - Simplified tax invoice

A GST-registered person is a proprietor of a restaurant. He acquired supplies for the restaurant from a hypermarket, for which he was given a simplified tax invoice with GST amounting to RM50.

Law	Tax Treatment
GSTA	The proprietor is eligible to claim input tax credit of RM30 from the RMCD if the simplified tax invoice is produced. He would be eligible to claim the whole amount of RM50 as input tax credit if he were to request the hypermarket to insert his name and address in the tax invoice.
ITA	The full amount of GST incurred amounting to RM50 is not a deductible expense by virtue of paragraph 39(1)(o) of the ITA. Note: In the tax computation, normally RM20 is to be added back as the RM30 would not be expensed to the Profit and Loss Account.

8. Output Tax

Tax Treatment of GST Borne by a Person on deemed supplies

Output tax is the GST charged on the sales to a consumer which is collected by the supplier on behalf of the RMCD. If the output tax paid or to be paid is borne by a GST-registered person or a person liable to be registered under the GSTA on deemed supplies (goods and services supplied for no consideration), this output tax is not a deductible expense by virtue of paragraph 39(1)(p) of the ITA.

Example 16 - GST (output tax) on free gifts to customers borne by a GST-registered person

A GST-registered company sells imported cars. In July 2016, the company launched a sales promotion on hybrid cars. During the promotion, the first 100 customers who placed a booking for a car is eligible for a lucky draw. Among the lucky draw prizes is a mini ipad.

GST (output tax) on the car sales transactions would be charged as follows:

	Cost RM	Output Tax RM
Hybrid car	120,000	7,200
Mini ipad (lucky draw prize)	1,700	102
Total	121,700	7,302

The mini ipad, a lucky draw gift is considered a deemed supply under the GSTA. The recipient of the gift is not charged GST (output tax) on the lucky draw gift as it was given for free. The company has to account for GST of RM102 on this deemed supply, which is borne by the company. The car buyer who received the mini ipad from the lucky draw is charged GST of RM7,200 for the car. The company remits the total GST of RM7,302 (RM7,200 + 102) as output tax to the RMCD.

The GST of RM7,200 is not an expense of the company as it is collected from the customer. The GST of RM102 for the mini ipad which is borne by the company is not a deductible expense by virtue of paragraph 39(1)(p) of the ITA.

Example 17

A GST-registered company sells electrical products. In October 2016, the company had a sales promotion and advertised that GST (output tax) was to be borne by the company as part of its marketing strategy. A customer bought a turbo steam iron and was issued a tax invoice for RM1,000 inclusive of GST. The company computes the GST as follows:

Price x tax fraction

RM1,000 x 6/106 = RM56.60

The output tax of RM56.60 is remitted to the RMCD.

The GST of RM56.60, which is borne by the company is not deductible by virtue of paragraph 39(1)(p) of the ITA.

9. Reverse Charge Mechanism for Imported Services

9.1 Reverse charge mechanism

9.1.1 Generally, when a GST-registered local supplier provides services, GST (output tax) is chargeable on taxable supply rendered to a recipient (customer). However, in the case where the same services are imported for the purpose of any business, the recipient of the supply is required to account for GST on the supply made to him, that is the GST liability shifts from the supplier to the recipient. This is known as the reverse charge mechanism.

9.1.2 If the recipient is a GST-registered person, he is entitled to claim input tax credit on the services if the imported services are used for making taxable supplies.

9.1.3 If the imported services are used for making exempt supplies, the GST-registered recipient is not entitled to claim the GST as his input tax credit.

9.1.4 If the imported services are used for making both taxable and exempt supplies, then the GST-registered recipient has to apportion GST incurred and claim the proportion of GST on imported services used for making taxable supplies.

9.1.5 If the recipient is not a GST-registered person and the imported services are consumed for the purpose of his business, he has to account for output tax and is not entitled to claim input tax.

9.1.6 If the supply is not made for business purposes, the recipient is not liable to account for GST on the supply of imported services he receives. For example, an individual receives architectural design supplied by a foreign architect to design a residential house to be built for private purposes in Malaysia.

9.2 GST credits and income tax treatment for GST-registered persons importing services for business purposes

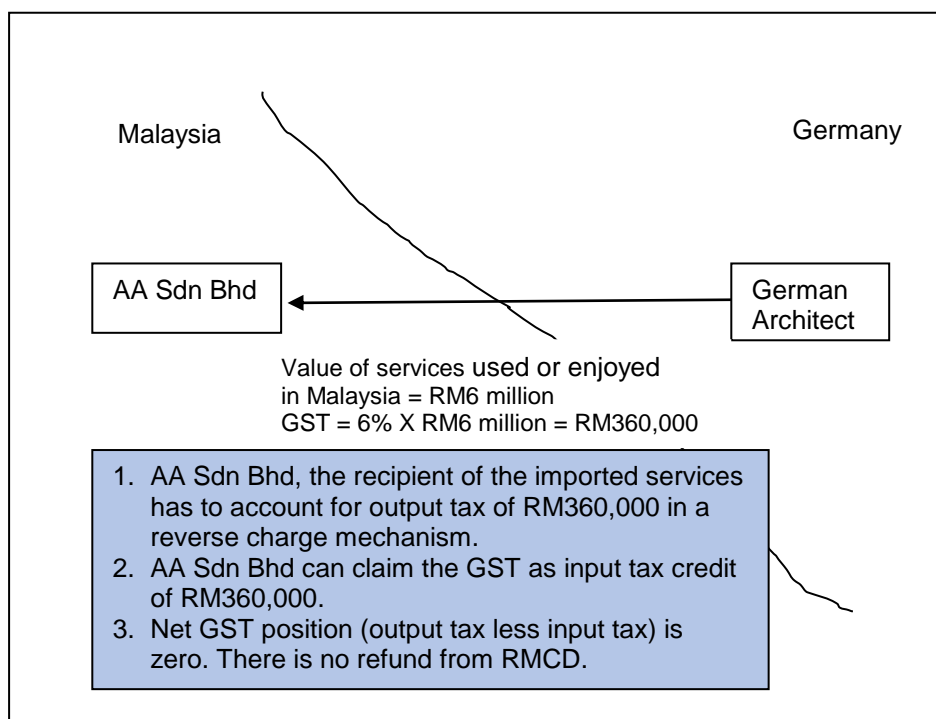
Example 18 - A GST-registered person acquires imported services for making taxable supplies

AA Sdn Bhd, a developer and a GST-registered person has projects in Malaysia and Indonesia. The commercial buildings for the projects in both

countries were designed by an architect from Germany for a fee of RM10 million. From the accounting records kept by the company, it was established that out of the RM10 million, RM6 million was in respect of the imported services consumed in Malaysia.

AA Sdn Bhd, the recipient of the imported services is treated as making the supply of services in Malaysia for the purpose of its business and it is a taxable supply. As AA Sdn Bhd is treated as a recipient making a taxable supply of services in a reverse charge mechanism, it is required to account for GST (output tax), amounting to RM360,000 (RM6 million x 6%) and at the same time it is eligible to claim the said amount as input tax credit from the RMCD.

The above scenario is summarised in the following diagram:



Law	Tax Treatment
GSTA	AA Sdn Bhd is entitled to credit the amount of RM360,000 as input tax credit and set-off from the output tax accounted for by the company. As the net position is nil, there is no refund from RMCD or any amount payable to RMCD.
ITA	As the GST (output tax) accounted for can be credited as input tax credit and claimed from the

	RMCD, it is an expense that is not deductible by virtue of paragraph 39(1)(p) of the ITA.
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9.3 GST credits and income tax treatment for non-GST registered persons importing services for business purposes

A non-GST registered recipient (not liable to register) who uses these imported services for the purpose of his business has to account for GST as prescribed and make the payment to the RMCD.

Example 19 - A non-GST-registered person acquires imported services for making mixed supplies

Same facts as in Example 18 except that AA Sdn Bhd is not GST-registered as the company is not liable to register for GST and the company is in the business of making mixed supplies. The company is required to account for GST (output tax) and make the payment to the RMCD.

Law	Tax Treatment
GSTA	AA Sdn Bhd is not entitled to credit the amount of RM360,000 as input tax credit to be set-off from the GST accounted for.
ITA	As AA Sdn Bhd is not GST-registered, the GST that is accounted for under the reverse charge mechanism is an expense deductible under subsection 33(1) of the ITA.

10. Other Issues Related to GST

Bad debt relief

When a GST-registered person charges GST (output tax) on the sales of his goods and services, any amount of GST unpaid and cannot be recovered after all reasonable efforts to collect it have been done becomes a bad debt. When the person cannot recover the debt in respect of GST, he may claim a bad debt relief for the return of the output tax previously accounted for and paid to the RMCD, subject to the requirements and conditions stipulated under the GSTA.

In accordance with the GST guidelines, bad debt relief in respect of GST (output tax) can be claimed if the supply is made by a GST-registered person to another GST-registered person. Where the supply is made by a GST-registered person to

a non-GST-registered person, bad debt relief is not available under the GST legislation.

The GST (output tax) that cannot be recovered is **not** deductible under subsection 34(2) of the ITA as the debt was not included as part of the gross income for the relevant year of assessment.

11. Documentation Required

A person making a claim for income tax deduction on the input tax incurred but non-claimable under the GSTA must ensure that the necessary supporting documents and records are kept (where applicable) to substantiate the claims. Among the documents that should be kept are:

- (a) GST return form (GST-03, GST-04);
- (b) relevant tax invoices;
- (c) adjustments on input tax made by the RMCD;
- (d) report on tax codes adopted in the accounting system;
- (e) reconciliation between GST-03 and financial statements;
- (f) GST audit file; and
- (g) other relevant documents.

12. Acknowledgement

Some of the contents in this PR relating to GST has been sourced from the guides issued by the RMCD. These guides are available on the RMCD website at www.gst.customs.gov.my.

13. Disclaimer

The GST treatment stated in the examples in this PR are merely illustrations intended as a reference for the purpose of explaining the income tax treatment on GST. It is the prerogative of the RMCD to determine the GST treatment under the GSTA.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

Appendix 1

GST Credits and Income Tax Treatment

	Details	GSTA		ITA	
		Input Tax Credit Claimable	Input Tax Credit Non-Claimable	GST (Input Tax) Incurred Deductible [*]	GST (Input Tax) Incurred Not Deductible
1.	GST-registered Person				
	(a) Wholly taxable supplier				
	(i) Standard-rated	✓			✓
	(ii) Zero-rated	✓			✓
	(b) Mixed supplier				
	(i) Taxable supply	✓			✓
	(ii) Exempt supply		✓	✓	
2.	Person not liable to register under GSTA and is not registered				
	(a) Wholly taxable supplier				
	(i) Standard-rated		✓	✓	
	(ii) Zero-rated		✓	✓	
	(b) Mixed supplier				
	(i) Taxable supply		✓	✓	
	(ii) Exempt supply		✓	✓	

	Details	GSTA		ITA	
		Input Tax Credit Claimable	Input Tax Credit Non-Claimable	GST (Input Tax) Incurred Deductible *	GST (Input Tax) Incurred Not Deductible
3.	Person liable to register under GSTA but fails to do so				
	(a) Wholly taxable supplier				
	(i) Standard-rated		✓		✓
	(ii) Zero-rated		✓		✓
	(b) Mixed supplier				
	(i) Taxable supply		✓		✓
	(ii) Exempt supply		✓		✓
4.	Person liable to register under GSTA but registers late				
	(a) Wholly taxable supplier				
	(i) Standard-rated	✓ (once registered – from the date liable to register)	✓ (before being liable to register)		✓
	(ii) Zero-rated	✓ (once registered – from the date liable to register)	✓ (before being liable to register)		✓
	(b) Mixed supplier				
	(i) Taxable supply	✓ (once registered – from the date liable to register)	✓ (before being liable to register)		✓
	(ii) Exempt supply		✓	✓ (after registration)	

Appendix 2

Blocked Input Tax and Income Tax Treatment

	Details	GSTA		ITA	
		Input Tax Credit Claimable	Input Tax Credit Non-Claimable	GST (Input Tax) Incurred Deductible*	GST (Input Tax) Incurred Not Deductible
1.	GST-registered Person				
	(a) Wholly taxable supplier				
	(i) Standard-rated		✓	✓ (portion attributable for business use)	
	(ii) Zero-rated		✓	✓ (portion attributable for business use)	
	(b) Mixed supplier				
	(i) Standard-rated / Zero-rated		✓	✓ (portion attributable for business use)	
	(ii) Exempt supply		✓	✓ (portion attributable for business use)	
2.	Person not liable to register under GSTA and is not registered				
	(a) Wholly taxable supplier				
	(i) Standard-rated		✓	✓ (portion attributable for business use)	
	(ii) Zero-rated		✓	✓ (portion attributable for business use)	

	Details	GSTA		ITA	
		Input Tax Credit Claimable	Input Tax Credit Non-Claimable	GST (Input Tax) Incurred Deductible *	GST (Input Tax) Incurred Not Deductible
	(b) Mixed supplier				
	(i) Standard-rated / Zero-rated		✓	✓ (portion attributable for business use)	
	(ii) Exempt supply		✓	✓ (portion attributable for business use)	
3.	Person liable to register under GSTA but fails to do so				
	(a) Wholly taxable supplier				
	(i) Standard-rated		✓		✓
	(ii) Zero-rated		✓		✓
	(b) Mixed supplier				
	(i) Standard-rated / Zero-rated		✓		✓
	(ii) Exempt supply		✓		✓

	Details	GSTA		ITA	
		Input Tax Credit Claimable	Input Tax Credit Non-Claimable	GST (Input Tax) Incurred Deductible *	GST (Input Tax) Incurred Not Deductible
4.	Person liable to register under GSTA but registers late				
	(a) Wholly taxable supplier				
	(i) Standard-rated		✓	✓ (after registration – portion attributable for business use)	✓ (during the period liable to be registered but not registered)
	(ii) Zero-rated		✓	✓ (after registration – portion attributable for business use)	✓ (during the period liable to be registered but not registered)
	(b) Mixed supplier				
	(i) Standard-rated / Zero-rated		✓	✓ (after registration – portion attributable for business use)	✓ (during the period liable to be registered but not registered)
	(ii) Exempt supply		✓	✓ (after registration – portion attributable for business use)	✓ (during the period liable to be registered but not registered)

Note:

*The GST incurred would be deductible under subsection 33(1) of the ITA if the cost of the acquisition to which GST (input tax) is attributable is wholly and exclusively incurred in the production of gross income and is not prohibited by any provision under subsection 39(1) of the ITA.