



ROYAL MALAYSIAN CUSTOMS

MALAYSIA GOODS AND SERVICES TAX (GST) GUIDE

**AGENT
(DRAFT)**

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DRAFT

1. INTRODUCTION

This Industry Guide is prepared to assist you in understanding the Goods and Services Tax and its implications on Agent.

1.1. OVERVIEW OF GOODS AND SERVICES TAX (GST)

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.

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, it is ultimately passed on to the final consumer. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements

In Malaysia, a person who is registered under the Goods and Services Tax Act 20xx is known as a “registrant”. A registrant is required to charge output tax on his taxable supply of goods and services made to his customers. He is allowed to claim input tax credit on any GST incurred on his purchases which are inputs to his business. Thus, this mechanism would avoid double taxation and only the value added at each stage is taxed.

2. GENERAL PRINCIPLES OF AGENCY

An agent is generally an intermediary who is authorized by another party to do something on that party’s behalf (**principal**) in arranging supplies of goods or services. The supplies that he arranges are made by or to the client he represents.

Under the general principles of agency, a principal cannot avoid his liability to account for GST on his supplies or to pay GST on his purchases by using an agent. The agent only facilitates the sales in return for an agreed amount as a commission for his agency services.

Sometimes persons who carry on a business on their own account use the word “agent” and “agency” to describe their trading style. For example;

- motor vehicle agents, distributors and sole concessionaries who usually trade as principals on their own account; and
- travel agents and employment agencies are not usually agents in all their activities

To act as an agent, you must have contractual agreement with your principal ***to act on his behalf*** in relation to a particular transaction concerned. This may be a written or oral agreement, or merely inferred from the way you and your principal conduct your business affairs. Whatever form this relationship takes, the following conditions must be satisfied:-

- it must always be clearly established between you and your principal, and you must be able to show to the Royal Malaysian Customs (RMC) that you are arranging the transactions for your principal, rather than trading on your own account;
- you will not be the owner of any of the goods, or use any of the services which you buy or sell for your principal; and
- you will not alter the nature or value of any of the supplies made between your principal and third parties.

3. TYPE OF AGENT AND THEIR LIABILITIES

3.1. Agents acting on behalf of the principals

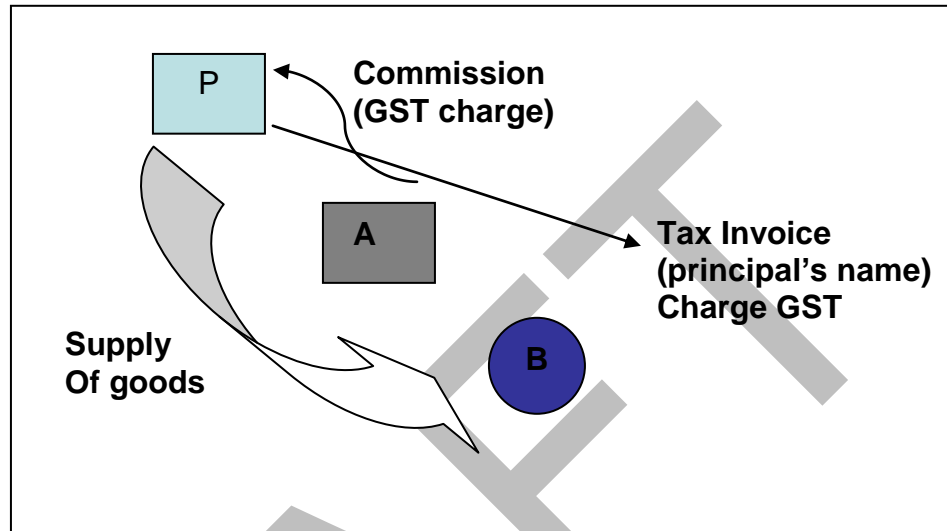
The liability on the supply of your own services to your principal will not always be the same as the liability on the supply between your principal and the third parties. If you are registered for GST, you must always charge GST on your commission irrespective of the status of your principal. If you arrange the supply or delivery on behalf of your principal, the supply actually made by the principal and not by you. Therefore, your principal is liable to account for GST and eligible to claim input tax credit.

As an agent, you may sometimes take a minor role in a transaction, and simply introduce your principal to potential customers or buyer (**third parties**).

At other times you may be more closely involved. You might:

- receive or deliver goods
- hold a stock of goods for your principal; or
- make or receive payment

However, provided that the invoicing for the supply is between the principal and the customer or you act on behalf of the principal, the only supply for GST purposes being made by you will be the provision of your services to your principal.



Awang Sdn.Bhd makes taxable sale to the customer (B) via Razali Sdn.Bhd (A) who facilitates the sale

Example 1

Awang Sdn.Bhd (principal) is a GST registered engages Razali Sdn.Bhd who is also GST registered as an agent to sell speed boat on his behalf.

Each speed boat is sold at RM100, 000.00 and Razali charges Awang a commission of 10% exclusive of GST.

Awang account for GST on RM100, 000.00 as output tax for the boat sold (RM100, 000.00 X 4% = **RM4,000.00**)

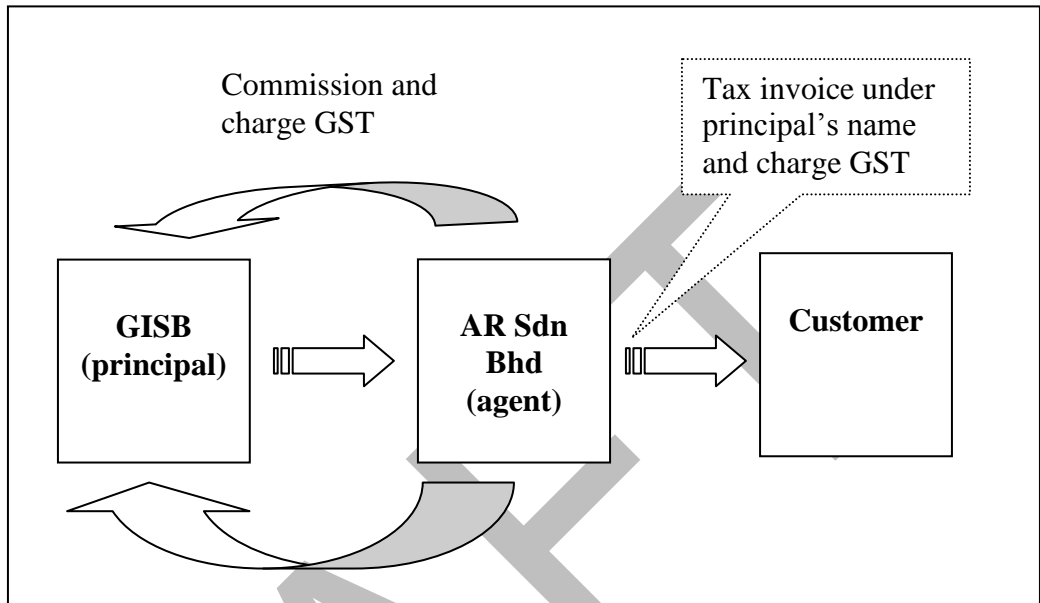
Razali on the other hand must account for GST on his commission i.e. 10% X RM100, 000 X 4% = **RM400.00.**

Example 2

Global Insurance Sdn Bhd (principal) is a GST registered Insurance Company who engages AR Sdn Bhd (agent) as an agent to sell motor vehicle and life insurance on his behalf.

Global Insurance Sdn Bhd (GISB) takes full liability of the supply made by AR Sdn Bhd to the customer. AR Sdn Bhd will issue invoice under

GISB name's and will charge GST to customer. AR will remit payment and GST received from the customer to GISB. GISB has to account GST for taxable supply made by his agent.

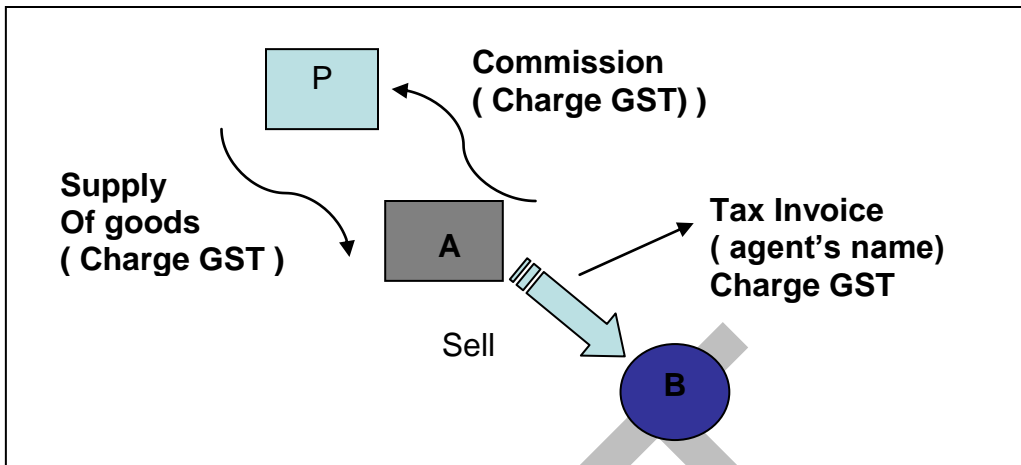


3.2 Agents who act in their own name

When an agent supplies goods and services using his own name, he will be treated as a normal taxable person. Hence, he assumes all risks and responsibilities. The agent will also issue invoice under his own name.

Sometimes agents may be authorized by their principals to enter into contracts with a third party on their behalf. In such cases, particularly if the principal wishes to remain unknown, the agents may receive and issue invoices **in their own name** for the supplies concerned.

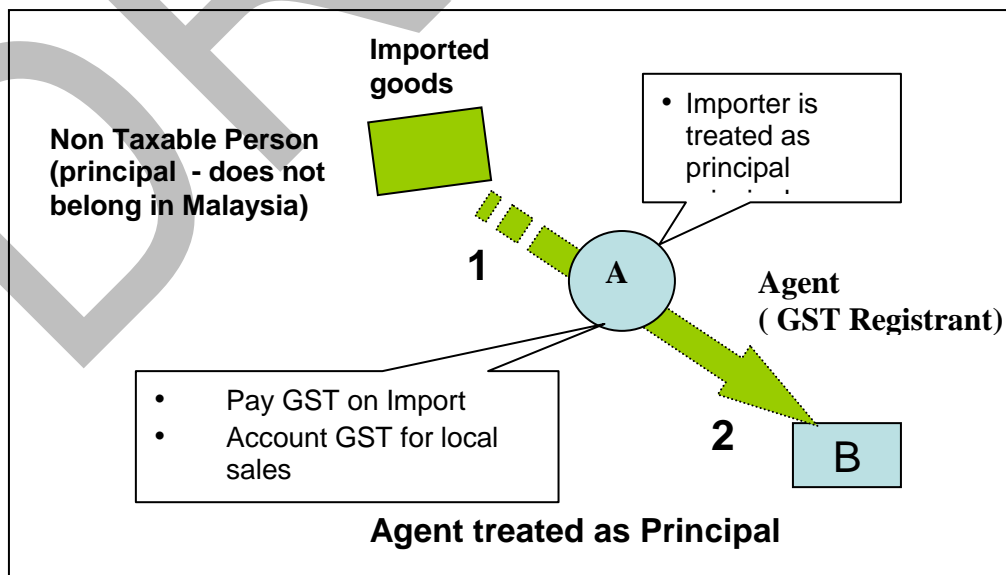
An agent who acts in such a capacity is usually referred to as an **undisclosed agent** or a **commissionaire or an independent agent**. Although sometimes in commercial reality, the transactions arranged by agents remain between the principal and the third party involved, for the GST purposes, however the liability to account for the tax remains with the agent and not the principal. The agent may treat the supply as his supply.



3.3 An agent importing goods on behalf of a non taxable person

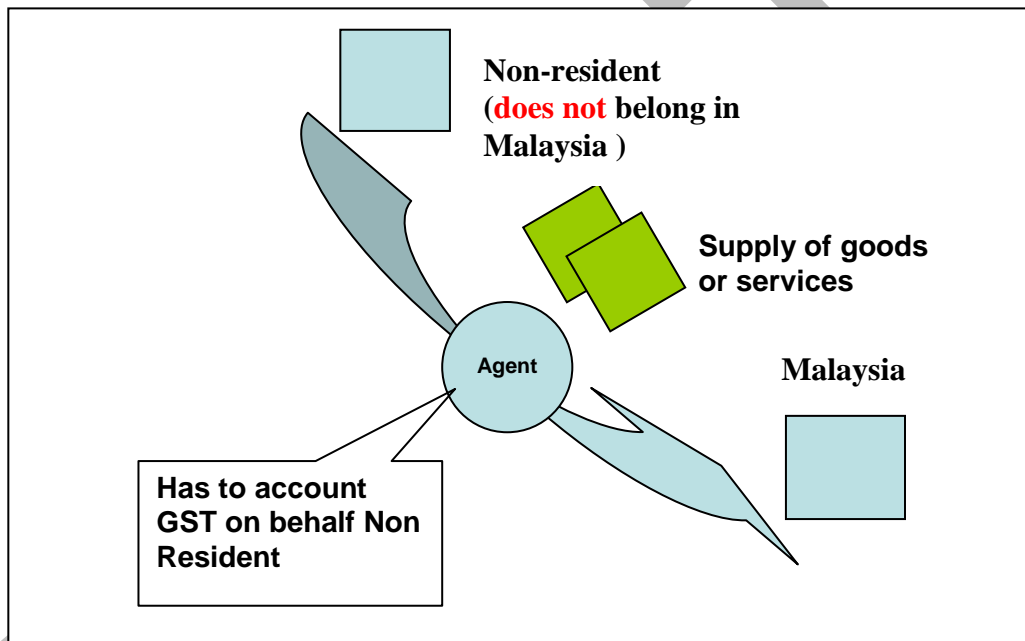
In a situation where an agent who is a GST registrant imports goods **on behalf** of a non-taxable person, who does not belong in Malaysia, the agent will be treated as the principal importing the goods irrespective of whether he is called an agent or not and ITC is claimable. However, if an agent is not a registrant, GST is imposed on the goods during importation and there is no GST chargeable on the subsequent local supply.

A person is treated as not belonging in Malaysia if he does not fulfill any of the condition as stipulated under the provision of GST law.



3.4 An agent acting on behalf of non-resident who would be a taxable person if belong in Malaysia

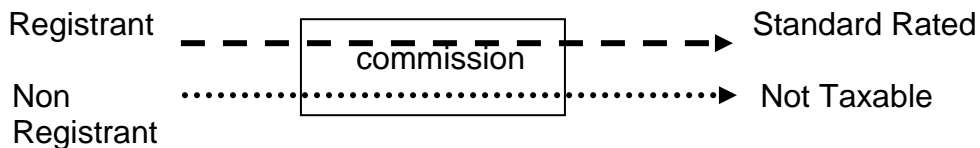
An agent acting on behalf of a non-resident who is liable for GST, may be required to account for GST on behalf of that non-resident. In other words, he will have to keep separate account for the taxable non-resident and shall be made responsible and accountable for the non resident's tax liabilities. Beside this, if the agent is taxable person, he must also account for GST on his commission to the principal. The principal on the other hand, may treat the GST charged by the agent as his input tax credit.



Example

Trade Asia is non-resident company who is accountable for tax which brings in machinery and sells it to the factory in Malaysia. Trade Asia has appointed ABC Sdn Bhd as an agent to act on their behalf. Trade Asia issue invoice to the buyer and charge GST. ABC has to keep all transaction record made by the Trade Asia and keeps separate account for the non-resident taxable person (Trade Asia) and will remit GST to Government. On the other hand, if the agent is a taxable person, he must charge GST on his commission to the non-resident taxable person.

Commission to non-resident



4. FREQUENTLY ASKED QUESTIONS

4.1 How are agents involved with GST?

As an agent, you will usually be involved in at least two separate supplies at any one time;

- The supplies made between your principal and the third party; and
- The supply of your own services to your principal, for which you will charge a fee or commission. The normal GST rules apply to your services as an agent,

4.2 As an agent, do I have to charge and account for GST?

As an agent, you are providing a supply of services to the principal and the third party. Generally, you do not own the goods you deal with. Hence, the sale of the goods is not your supplies. Your supply of services is a taxable supply, therefore if you are registered for GST, you are required to account for GST on the commission you received. However, if you are not a registrant, you cannot charge GST on the services that you make.

4.3 As an agent, how do I calculate my turnover for registration purposes?

Your turnover includes:

- The value of services to the principal (i.e. commission charges)
- The value of taxable supplies that you make in your own name.

It excludes:

- The value of supplies arranged for the principal if you do not act under your own name

4.4 Can tax invoices be issued by agents?

When an agent sells goods and services on behalf of a principal, the supplier for GST purposes is the principal and not the agent.

Therefore, if the principal is a registered person, the agent may issue tax invoices for supplies made by the principal. In such a case the tax invoice must show the principal's detail. The principal remains liable to account for the tax.

4.5 Do I have to apply to RMC if I want to act as an agent for my overseas principal who is liable under the GST Act?

Yes, you must register yourself in the name of the overseas principal. However, you will be held accountable for GST liabilities. This means that you have to file return on behalf of the overseas principal. You will also have to keep separate records for the non-resident. If you are a taxable person yourself, you must also register yourself separately.

4.6 Who is accountable for GST if I import and supply the goods locally on behalf of my overseas principal who is not a taxable person?

If you are importing and supplying the goods on behalf of an overseas principal who is not a taxable person, the goods will be treated as imported and supplied by you. You are accountable for GST and you must charge output tax on the sales if you are a GST registrant and may claim ITC on the imported goods.

5. FURTHER INFORMATION

If you require any further information regarding GST, please contact our officer at any of our GST office or call toll free line No. 1800 XX XXXX. You can also visit our website at <http://www.customs.gov.my>.