



## **ROYAL MALAYSIAN CUSTOMS**

### **MALAYSIA GOODS AND SERVICES TAX (GST) GUIDE**

### **GST GUIDE ON IMPORT (DRAFT)**

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DRAFT

## **1.0 Introduction**

The guide on Import is prepared to assist all importers in understanding the Goods and Services Tax (GST) and its implications on importation of goods.

### **1.1 Overview**

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 “registered person”. A registered person 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.

## **2.0 Importation of goods and services**

### **2.1 Importation of goods**

Generally, all imported goods into Malaysia are subject to GST. However, certain goods imported by any person or class of persons are given relief from payment of GST upon importation under the Goods and Services Tax (Relief) Order 20XX.

If goods are imported under the Approved Traders Scheme (ATS), GST is suspended at the time of importation but the approved person needs to declare the suspended GST and the value of import in the return for the taxable period where the importation took place.

If goods are imported and subject to warehousing scheme, GST is not chargeable until the goods are released for home consumption from the warehouse.

GST is not chargeable on goods imported from a place outside Malaysia to Labuan, Langkawi or Tioman (known as designated area)

unless the goods are prescribed to be chargeable to GST by the Minister. However, goods supply from a designated area to Malaysia is subject to GST as if the supply were importation of goods into Malaysia.

An importer who is a taxable person would be eligible to recover the 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.

## **2.2 Importation of services**

Under the GST Act, “imported services” means services that are made by a supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia to a recipient who belongs to Malaysia and such services are consumed in Malaysia. When services are imported from outside Malaysia and supplied to a recipient in Malaysia, being taxable supplies if made in Malaysia, the recipient of the supply shall account and pay GST if such imported services are for the business purposes and consumed in Malaysia.

Generally, the GST legislation provides for the supplier to charge GST on taxable supplies he makes to the recipient. However, in the case of imported services, the GST liability shifts from the supplier to the recipient if the recipient’s fixed or business establishment or his usual place of residence is in Malaysia. Hence, the recipient is liable to account GST on the supply made for the purpose of any business carried on by him. For further information, please refer to ‘Guide On Imported Services’.

## **3.0 Terminology**

It is important to understand the meaning of some of the terms used in this guide. The following terms are defined under section 2 of Customs Act 1967:

- 3.1 “Import”** with its grammatical variations and cognate expressions means to bring or cause to be brought into Malaysia by land, sea or air: Provided that goods bona fide in transit, including goods for transshipment, shall not, for the purpose of levy of customs duties, be deemed to be imported unless they are or become uncustomed goods.
- 3.2 “importer”** includes and applies to any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof until such goods are duly removed from customs control.
- 3.3 “owner”** in respect of goods includes any person (other than an officer of customs acting in his official capacity) being or holding

himself out to be the owner, importer, exporter, consignee, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the goods.

#### **4.0 Place and Time of Importation**

An importation of goods shall be made at the legal landing place or at the place permitted by the proper officer of customs irrespective of whether it is imported to Malaysia by sea, air or land.

Upon arrival in Malaysia, all goods need to be declared within one month from the date of import by the owner or his agent in the prescribed form. Imported goods can only be released from customs control after the duty and/or tax paid in full except as otherwise allowed by the Director General. In the case of goods imported by road, such declaration shall be made on arrival of such goods at the place of import.

If the importation is done by post, the addressee or his agent shall make the declaration of the goods imported on demand by the proper officer of customs in the prescribed form.

GST on imported goods will be collected together with other customs duties, if any, at the point of entry. The tax and duties, if any, shall be paid to Customs within 14 days of such declaration before the goods are released from customs control.

#### **5.0 Liability of GST on Imported Goods**

Importer or owner of the imported goods as defined under the Customs Act 1967 is liable to pay GST and customs duty, if any, at the time of importation or at the time when the goods are released for home consumption. However, if the importer or owner of the imported goods appoints an agent who is a taxable person to act on his behalf, and the owner is not a taxable person, then the goods is deemed to be imported by the agent. In such a case, the agent is liable for GST on the imported goods.

#### **6.0 Valuation**

##### **6.1 Valuation of Imported Goods**

Generally, all imported goods are subject to GST unless certain goods imported by any person or class of persons are given relief from payment of GST upon importation under the Goods and Services Tax (Relief) Order 20XX. This includes goods which are exempted and zero-rated.

The value of imported goods is determined under the Customs (Rules of Valuation) Regulations 1999. For GST purpose, the value for imported goods will be aggregate of the following:-

6.1.1 Value determined for customs purposes;

Value of the goods or transaction value, which is generally shown on the invoice, plus adjustments such as freight, insurance, packing, commission and brokerage, assist, royalty, proceeds and other charges and expenses associated with the transportation of goods until the goods have arrived in the country of importation but not costs incurred after importation.

6.1.2 Customs duty paid or to be paid, if any; and

6.1.3 Excise duty paid or to be paid, if any.

GST will be imposed on the aggregate value of 6.1.1, 6.1.2 and 6.1.3.

## **6.2 Value of supply for goods under the Warehousing Scheme**

If there is more than one supply (for imported goods) within a warehouse, then only the last supply is subject to GST. The intermediate supplies within the warehouse are disregarded for GST purposes. The last supply is subject to GST because it triggers the duty point.

The value of the supply is treated as including any duties (whether customs duty or excise duty or both, if any). The tax on the supply must be paid at the duty point, together with the duty (if any). For further information, please refer to "GST Guide on Warehousing Scheme".

## **7.0 Temporary Import**

Generally, goods imported temporarily are subject to GST. However, a relief may be given under Goods and Services Tax (Relief) Order 20XX on certain goods imported temporarily for certain purposes such as exhibition, propaganda, repairs etc.

Goods that qualify as temporary imports may also be brought into under A.T.A. Carnet issued by the Chamber of Commerce of the respective country or the competent authority. Under this facility, GST and customs duties will not be collected.

Goods approved for temporary imports need to be exported within 3 months. If the goods are not exported within the time limit, or sold in the domestic market, transferred or disposed off locally, GST and customs duty will be collected in full as the goods will no longer entitle for the relief.

## **8.0 Frequently Asked Questions**

### **8.1 Are all goods subject to GST upon importation?**

Yes, all goods are subject to GST. However, you do not have to pay GST on your imported goods if a relief is given under Goods and Services Tax (Relief) Order 20XX. GST is suspended if you enjoy facilities under Approved Trader Scheme (ATS) or under a Warehousing Scheme. No GST will be levied on supply of goods which are exempted and zero-rated.

### **8.2 How and when do I pay the GST on import?**

GST on imported goods needs to be declared in a specific customs declaration form and the tax must be paid at the point of entry. GST is generally payable before the goods are released from customs control.

### **8.3 Can an importer suspend the payment of GST on imported goods?**

Yes, an importer who is a taxable person may be able to suspend the payment of GST on imported goods by participating in the suspension schemes. The schemes are Approved Trader Scheme (ATS) and Warehousing Scheme. For further details please refer to ATS and Warehousing Scheme Guides.

### **8.4 My clerk unintentionally made a mistake during importation and later realized he overpaid the GST. Can I claim GST overpaid even though I am not a GST registered person?**

GST Act 20XX allows any person who overpaid or erroneously paid any GST to make a claim within six years from the date of overpayment by filling up the prescribed form and submit it together with sufficient evidence such as invoice, K1 or K9, Customs Official Receipt (COR), bill of lading and other related documents to the relevant customs office.

### **8.5 My auditor informs me that I had short paid GST on certain importations made by me. How do I do the correction?**

You have to notify in writing to the proper officer of customs at the point of import on the short payment. You can make the payment once you have received the notice of short payment. Then, you can claim the payment as your input tax credit if you are a registered person.

### **8.6 If my company does not belong in Malaysia, can my company appoint an agent in Malaysia to import and supply goods on my behalf?**

Yes, as a company that does not belong in Malaysia you can appoint an agent in Malaysia, to import and supply goods on your behalf. If the goods are supplied by the agent on your behalf and the value of total supply exceeds the prescribed threshold, the supply shall be deemed to be made by your agent. Therefore, your agent is liable to account for GST on the importation of goods as well as on the supplies that he made on your behalf. The deemed supply that your agent made must not include any supply that he made in his own name.

**8.7 As an agent who acts for an overseas principal whose total value of turnover does not exceed the prescribed threshold, do I have to declare importation of goods on behalf of my overseas principal under my own name?**

Yes, because such importation is deemed to be your own importation. Furthermore, any importation is subject to GST whether you have reached the prescribed threshold or not.

**8.8 ABC Sdn. Bhd. has imported 1000 sets of telephone with a value of RM50,000. The storekeeper realized that there is a shortage of 200 sets of the telephone while depositing the goods into a licensed warehouse. Is there any implication of GST on the goods lost?**

Yes, the goods lost while under customs control is subject to GST. However, ABC Sdn. Bhd may apply for remission on GST paid together with any custom duty, if any, to the Director General. If the goods lost after removal from customs control no abatement of GST and customs duties shall be allowed on goods on account of damage, theft or loss.

Calculation of GST and customs duty payable on goods lost under customs control is as follows:

Assumption: Import duty is 10% and GST at 4%.

Particular	Amount (RM)
Total value of goods based on invoice and Bill of Lading	50,000.00
Total value of goods lost (certified by custom officer)	10,000.00
Import duty at 10% for 200 sets of telephone	1,000.00
GST payable at 4% on RM11,000.00	<b>440.00</b>
Total amount GST and duty payable	<b>RM1,440.00</b>

ABC Sdn. Bhd has to pay RM1,440 for the lost goods.

**8.9. DEF Sdn Bhd has imported 2,000 units of LED TV from Korea with a price of RM2,000,000. The consignment arrived at Port Klang on**

**1 October 2010. The description and quantity of the goods specified in the Bill of Lading and invoice are the same as those imported. Before the goods are released from customs control 500 units of LED TV valued at RM500,000 were found short landed. Notice of short landed was issued to the supplier and followed by short landed certificate from the shipper. The balance of the goods will be shipped within a period of one month. How does DEF Sdn Bhd pay the GST and customs duties for the short landed goods?**

GST and customs duties, if any, is chargeable on the value of the whole goods (including the short landed goods) as stated in the invoice and Bill of Lading upon arrival in Malaysia. Thus, GST and customs duties, if any, will not be charged when the short landed goods arrived later. DEF Sdn Bhd is required to produce the supporting documents and evidence such as K1, invoice, Bill of Lading, Short Landed Certificate, letter from supplier and other documents as requested by the proper officer of customs at the point of import.

**8.10 What is the treatment for goods temporarily exported for repair and subsequently re-imported?**

Goods exported temporarily for repair and subsequently re-imported is given relief under item XX of the Goods and Services Tax (Relief) Order 20XX. However, any replacement of parts and components added are subject to GST at the time of importation.

**8.11 A local company would like to lease a machinery from an overseas company for a few years. Is there any GST implication on leased goods?**

Importation value is determined by the rule of valuation as prescribed under the Customs (Rules of Valuation) Regulations 1999. The value is the transaction value of the goods, that is, the price paid or payable for the goods when sold for export to Malaysia, adjusted in accordance with regulation 5 of the same Regulations. In this case, the imported goods are leased from overseas. Thus, there is no transfer of ownership and no sale has taken place. Therefore, transaction value does not apply in the case of leased goods.

The importation value must then be determined by the order of application of rule of valuation as stated in regulation 3 of the same Regulations which are as follows:

- (a) the transaction value of identical goods under regulation 6;
- (b) the transaction value of similar goods under regulation 7;
- (c) the deductive value of the imported goods under regulation 8; and
- (d) the computed value of the imported goods under regulation 9.

If none of the above values can be used as a basis of valuation for such goods, the valuation may be done under regulation 10, using any other method of valuation above but flexibly interpreted and reasonably adjusted to the extent necessary to arrive at a customs value.

Under the flexible method of valuation, the importation or customs value of leased goods is based on the total rent or lease payable, excluding the maintenance cost in Malaysia, which is payable to the foreign firm. GST on the leased goods will be imposed on the aggregate of the importation value and customs duties, if any.

For instance, the importation value is may be calculated according to the following formula:

$$P + \frac{P}{(100\% + x\%)} + \frac{P}{(100\% + x\%)^2} + \dots + \frac{P}{(100\% + x\%)^{n-1}}$$

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

**8.12 ABC Sdn. Bhd. has decided to lease second-hand machinery from an overseas company, i.e. XYZ Pte. Ltd. for a duration of 3 years. According to the terms of contract, maintenance costs incurred by Company A are RM100,000 per annum and are claimable from XYZ Pte. Ltd. The machinery is leased at a value of RM2,000,000 per year exclusive of maintenance costs. What is the importation value and GST on the leased machinery?**

The importation value of the machinery cannot be determined by the transaction value because there is no transfer of ownership of the machinery. The importation value must then be determined by the order of application of rule of valuation as stated in regulation 3 of the Customs (Rules of Valuation) Regulations 1999. Assuming that such rule of valuation cannot be used, the flexible method of valuation can be used for determining the customs value (CV).

Under the flexible method of valuation, the importation value for the leased machinery is calculated according to the following formula:

$$P + \frac{P}{1.05} + \frac{P}{(1.05)^2} + \dots + \frac{P}{(1.05)^{n-1}}$$

where P = leasing payment per year;  
= RM2,000,000  
N = number of years;  
= 3  
5% = prevailing interest rate.

Assuming import duty is 25% and GST is 4%,

$$\begin{aligned} \text{CV} &= 2,000,000.00 + 2,000,000.00/1.05 + 2,000,000.00/(1.05)^2 \\ &= 2,000,000.00 + 1,904,761.90 + 1,818,181.82 \\ &= 5,722,943.72 \end{aligned}$$

$$\begin{aligned} \text{Import Duty} &= 5,722,943.72 \times 25\% \\ &= \mathbf{RM\ 1,430,735.93} \end{aligned}$$

$$\begin{aligned} \text{GST} &= [5,722,943.72 + 1,430,735.93] \times 4\% \\ &= \mathbf{RM\ 286,147.19} \end{aligned}$$

$$\begin{aligned} \text{Total GST and customs duty payable is} & \\ &= \text{RM}1,430,735.93 + \text{RM}286,147.19 \\ &= \mathbf{RM\ 1,716,883.12} \end{aligned}$$

**8.13 Is there any GST implication on motor vehicle driven by a Singaporean entering Malaysia through Causeway Johor Baru for a one-month stay in Malaysia?**

The car is exempted from custom duty under item 21 of Customs Duties (Exemption) Order 1988 if it has been registered or licensed in any foreign country. Similarly, a relief for GST is given under item xx of the Goods and Services Tax (Relief) Order 20XX subject to any other conditions that the Director General may deem fit to impose.

**8.14 What is the GST treatment on imported trade samples?**

Trade samples are given relief under item XX of the Goods and Services Tax (Relief) Order 20XX at the point of importation. However, the trade samples are not to be sold, consumed, put to normal use, hire or reward while in Malaysia.

**8.15 What are the types of documents that should be kept for imported goods?**

All documents related to importation must be kept for a period of seven years. Any failure to do so is an offence under GST Act 20XX.

Documents that have to be kept are as follows:

- Import declaration (K1)
- Commercial invoice
- Bill of lading

- Shipping note
- Insurance note
- Payment document, such as documentary credit, debit advice, bank statement, etc.
- Sale invoices
- Debit and Credit note
- Shortage/short- landed certificate
- Other documents
- Tally sheet from Port Authority
- Other related documents

## **9.0 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. 1300 XX XXXX. You can also visit our website at <http://www.gst.customs.gov.my>.