



SERVICE TAX 2018

GUIDE ON: CUSTOMS AGENT SERVICES

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The Customs Agent Services Guide at 21 August 2018 is withdrawn and replaced by the Sales Tax General Guide revised as at 05 March 2019

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INTRODUCTION

1. Service Tax is a consumption tax governed by the Service Tax Act 2018 and its subsidiary legislation. The effective date of the Service Tax Act 2018 is 1st September 2018.
2. Service tax is imposed on prescribed services called “taxable services”.
3. A person who provides taxable services exceeding a specified threshold is required to be registered under the Services Tax Act 2018 and is known as a “registered person” who is required to charge service tax on his taxable services made to his customers.
4. The Guide is prepared to assist you in understanding the service tax treatment on customs agent services.

IMPOSITION AND SCOPE OF TAX

5. Effective 1st September 2018, under Group I, Item 3, First Schedule of the Service Tax Regulations 2018, the provision of services for clearing of goods from customs control are subject to service tax.

TERMINOLOGY

6. The following words have these meanings in this guide unless the contrary intention appears:
 - (i) “**Customs agent**” means any person approved under section 90 of Customs Act 1967 to undertake any customs transactions on behalf of another person (*Section 2, Customs Act 1967*);
 - (ii) “**Designated Area**” (DA) means Labuan, Langkawi and Tioman. (*Section 47, Service Tax Act 2018*);

- (iii) “**Special Area**” (SA) means any free zone, licenced warehouse and licenced manufacturing warehouse and Joint Development Area (*Section 52, Service Tax Act 2018*).

GENERAL OPERATIONS OF THE INDUSTRY

Overview of Customs Agent Services

7. Under the provisions of Section 90 of the Customs Act 1967 customs agents may act on behalf of importers and exporters to carry out the business to relieve goods from customs control. Customs agents consist of shipping agents and forwarding agents.

8. Prescribed services under service tax for a customs agent is the provision of services for clearing of goods from customs control. Other services supplied by a customs agent are not subject to service tax.

9. There is no threshold for the purpose of registration under service tax. In accordance with Section 90, Customs Act 1967, applicant need to be a registered person under the Service Tax Act 2018.

CHARGING SERVICE TAX

10. The rate of service tax shall be charged at the rate of 6%. In the case of provision for clearing of goods from customs control by customs agent which is a prescribed service, the value of the taxable service for the charges of service tax is the actual price of services charge to his clients.

11. Service tax on the supply will be charged at the point of services rendered.

SERVICE TAX TREATMENT FOR CUSTOMS AGENT SERVICES

12. For service tax purposes, only the provision of services for clearing of goods from customs control by a custom agent registered under Section 90, Customs Act 1967 will be subjected to service tax. Services for clearing of goods includes:

- (i) Preparing or amending customs declaration;
- (ii) Presenting goods for customs declaration;
- (iii) Documentation;
- (iv) Handling / forwarding;
- (v) Examination / attendance to examination;
- (vi) Sealing;
- (vii) EDI;
- (viii) Overtime (relating to clearance of goods only).

This includes any charges charged by the customs agent which is stated in the invoice issued to his client in performing the services.

Example 1

A Customs agent charged his clients for the following services:

- (i) Services for clearing of goods from customs control; and*
- (ii) Presenting goods for customs checking.*

** Both services are subjected to service tax.*

Example 2

When a customs agent need to perform goods inspection out of normal working hours, the agent will charge an overtime fee (relating to clearance of goods only) to his customer.

The overtime fee (relating to clearance of goods only) will be subjected to service tax because it is part of the provision of services for clearing of goods from customs control.

Example 3

A customs agent may appoint a third party to represent him in performing physical goods inspection.

In doing so, the fee charged by the third party to the customs agent which is subsequently charged to the customer whether it includes a mark-up, it will be subjected to service tax.

Example 4

A customer is importing plants into Malaysia. For custom clearance purposes, a permit from The Department of Agriculture Peninsular Malaysia, Sabah and Sarawak (under Regulation 5 of the Plant Quarantine Regulations 1981) is required for plant and plant products imported into the country. A fee of RM15 will be imposed by The Department of Agriculture (government agency) for the permit.

The customer appointed a custom agent to provide services for acquiring the permit and also for the clearance of the plants from custom control. The custom agent charged documentation, handling (including other fees that the custom agent imposed in connection with acquiring the permit) and inspection fees to customer. The fees charged will be subjected to service tax excluding the statutory fee charged by The Department of Agriculture. Statutory fees (without mark-up) charged by government agency is not subject to service tax.

Example 5

A customer is importing plants into Malaysia. For custom clearance purposes, a permit from The Department of Agriculture Peninsular Malaysia, Sabah and Sarawak (under Regulation 5 of the Plant Quarantine Regulations 1981) is required for plant and plant products imported into the country. A fee of RM15 will be imposed by The Department of Agriculture (government agency) for the permit.

*The customer appoint a custom agent **only to acquire the permit** from The Department Agriculture but **not for custom clearance** purposes. The services performed and charged for acquiring the permit is not subject to service tax since it is not related to custom clearance purposes.*

13. A customs agent may also supply the following services to his customer which are not consider as taxable services under custom agent (but may be considered as taxable services under management services or consultancy services):

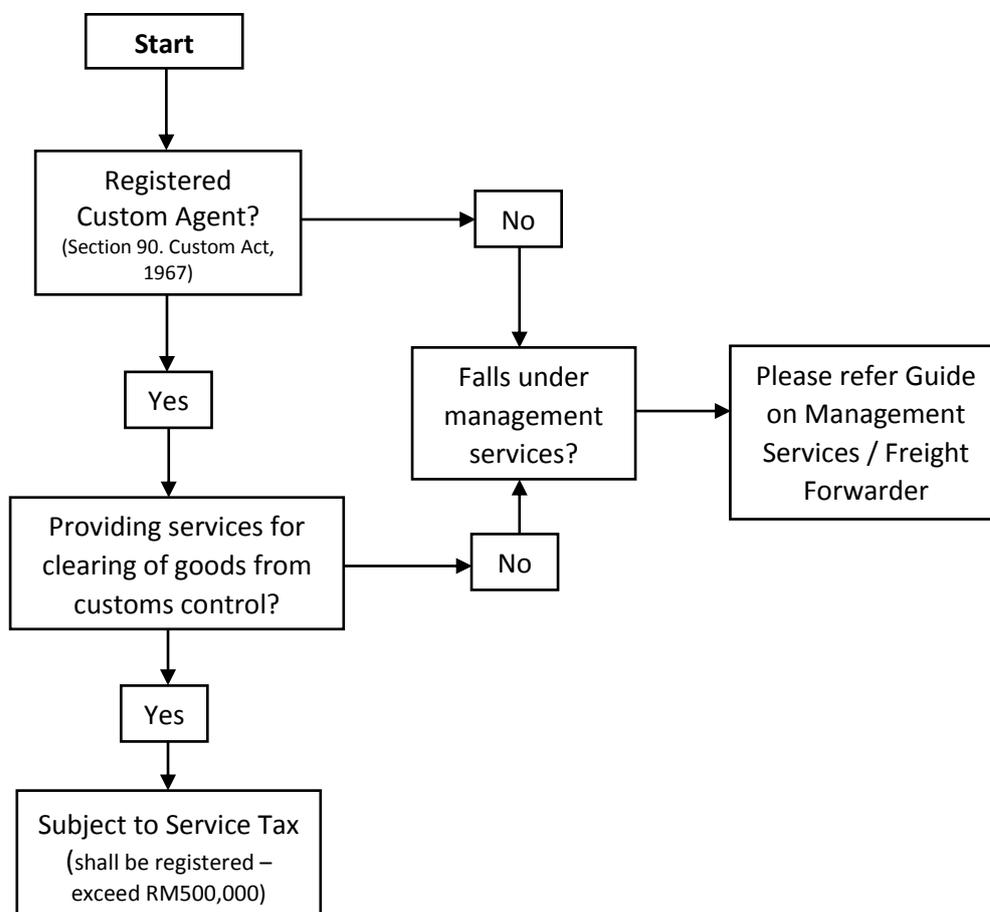
- (i) Providing transportation services for shipments of goods;
- (ii) Acting as a guarantor to ensure that commercial operations take place under the agreed conditions;
- (iii) Recommendation and advice at all costs in order to provide an alternative that is more profitable and efficient (however it may fall as prescribed services under consultancy services). This includes recommendation and advice on freight costs, port and customs expenses, consular fees, special documentation costs, insurance costs and freight management costs;
- (iv) Preparation and presentation of the documentation required for the exportation of the freight, such as the bill of lading and other proper documents for the seller, the buyer or any other third party involved in the process (however it may fall as prescribed services under management services);

- (v) Advice (however it may fall as prescribed services under consultancy services) on the most suitable mode of freight transport and on the procedures of packaging, stowage and loading of the freight;
- (vi) Reservation of the cargo space required on a ship, aircraft, train or truck, haulier in addition to handling of the storage and/or distribution of the freight, and sometimes even by using the door-to-door method (however it may fall as prescribed services under management services);

Note: The list is not exhaustive.

14. If a customs agent provides consultancy or management services and is required to be registered under Group G, First Schedule, Service Tax Regulation 2018, he is also required to charge service tax for the provision of services in relation to release of goods under customs control.

Summary of Custom Agent Services



RESPONSIBILITY OF REGISTERED PERSON

15. A service provider reaching prescribed threshold of taxable services is required to be registered. For further guidance and details on registration including an auto-registration exercise, please refer to the *Service Tax Registration Guide*.

16. A registered person is responsible to:

- (i) Charge service tax on taxable services;
- (ii) Issue an invoice and receipt to the customers in respect of any transaction relating to the provision of taxable services;
- (iii) Submit service tax return through SST-02 Form electronically and pay service tax before due date;
- (iv) Keep proper records.

For further information with regards to the responsibilities of a registered person, please refer to the *General Guide* and relevant *Specific Guides*.

FREQUENTLY ASKED QUESTION (FAQs)

1. **Q : How to be a registered person?**

A : Customs agent are not subjected to any amount of threshold. Hence, all customs agent are required to be a registered person under service tax. Application can be made via online by submitting SST-01 form to MySST system.

2. **Q : How to submit return and make payment?**

A : A registered person need to submit service tax return SST-02 and make payment via electronic (MySST) or by post to SST Processing Centre in Kelana Jaya. The payment methods are either cheque or bank draft. For more information refer to Return and Payment Guide.

3. **Q : Do registered person need to issue an invoice?**

A : Every transaction by a registered person must be issued with an invoice. However, the registered person can apply to use other documents to replace the invoice and but subjected to an approval by the Director General. For more information, please refer General Guide.

4. **Q : Is haulage services part of prescribed services by customs agent?**

A : No. Haulage services is not a prescribed services under service tax therefore it is not subjected to service tax.

5. **Q : A customs agent may supply different types of services which comprises prescribed services and non prescribed services. How to calculate the threshold for the purpose of registration?**

A : For the purpose of registration, the calculation of threshold only includes prescribed services. Other services that are not prescribed services will not be included in the calculation of threshold.

6. **Q : A customs agent was charged by a third party, in performing his services for clearing of goods from customs control. The customs agent will then recover the cost from his clients. Does reimbursement subjected to service tax?**

A : Yes. If the reimbursement relates to the services of clearing of goods from customs control, any charges related to that services is subjected to service tax. For example, the reimbursement of charges by an electronic service provider (eg. Dagang Net) is subjected to service tax because it is a part of the process in clearing goods.

7. **Q : Is the services of clearing goods from customs control by a customs agent who has a principal place of business in Malaysia but performs his prescribed services within the SA subjected to service tax?**

A : Yes, the services supplied within SA is subjected to service tax which is in accordance with Section 55, Service Tax Act.

8. **Q : Is the services of clearing of goods from customs control by a customs agent has principal place of business in Malaysia but performs his prescribed services within the DA subjected to service tax?**

A : Yes, the services supplied within the DA is subjected to service tax which is in accordance with Section 49, Service Tax Act.

9. **Q : Is the services of clearing of goods from customs control by a customs agent who has a principal place of business in in the DA and performs his prescribed services within the DA subjected to service tax??**

A : No, the services supplied within DA is not subjected to service tax which is in accordance with Section 48, Service Tax Act.

INQUIRY

For any inquiries for this guide please contact:

Internal Tax Division
Royal Malaysian Customs Department
Level 3 - 7, Block A, Menara Tulus,
No. 22, Persiaran Perdana, Presint 3,
62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on can be obtained from:

- (i) SST website : <https://mysst.customs.gov.my>
- (ii) Customs Call Centre:
 - Tel : 03-7806 7200 / 1-300-888-500
 - Fax : 03-7806 7599
 - Email: ccc@customs.gov.my

SUMMARY OF DOCUMENT CHANGE

Version 2 - 05 March 2019

Para	Changes
Para 12	Insert the words “ <i>by a custom agent registered under Section 90, Customs Act 1967</i> ” after the words “ <i>customs control</i> ”.
Para 12	Insert the following items after item (ii) <i>Presenting goods for customs declaration</i> : (iii) <i>Documentation</i> ; (iv) <i>Handling / forwarding</i> ; (v) <i>Examination / attendance to examination</i> ; (vi) <i>Sealing</i> ; (vii) <i>EDI</i> ; (viii) <i>Overtime (relating to clearance of goods only)</i> .
Example 2	Insert the words “ <i>(relating to clearance of goods only)</i> ” after the words “ <i>overtime fee</i> ”.
Example 4	Insert a new example “Example 4”
Example 5	Insert a new example “Example 5”
Para 13	By replacing the words “ <i>subjected to service tax</i> ” with the words “ <i>consider as taxable services under custom agent (but may be considered as taxable services under management services or consultancy services)</i> ”
Para 13 (iii)	By inserting the words “ <i>recommendation and advice on</i> ” after the words “ <i>This includes</i> ”.
Para 13 (iv)	By inserting the words “ <i>(however it may fall as prescribed services under management services)</i> ” after the words “ <i>in the process</i> ”.
Para 13 (vi)	By inserting the words “ <i>(however it may fall as prescribed services under management services)</i> ” after the words “ <i>door-to-door method</i> ”.
Sub-Heading	Insert new subheading “ Summary of Custom Agent Services ” after Para 14.