



SERVICE TAX 2018

**GUIDE ON :
EMPLOYMENT SERVICES**

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This information is intended to provide a general understanding of the relevant treatment under Service Tax Legislations and aims to provide a better general understanding of taxpayers' tax obligations. It is not intended to comprehensively address all possible tax issues that may arise. While RMCD has taken the initiative to ensure that all information contained in this Guide is correct, the RMCD will not be responsible for any mistakes and inaccuracies that may be contained, or any financial loss or other incurred by individuals using the information from this Guide. All information is current at the time of preparation and is subject to change when necessary.

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INTRODUCTION

1. Service Tax is a consumption tax governed by the Service Tax Act 2018 and its subsidiary legislations. 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 Service Tax Act 2018 and is known as a “registered person” who is required to charge service tax on his taxable services made to his clients.
4. This guide is prepared to assist businesses in understanding matters with regards to service tax treatment on employment services.

IMPOSITION AND SCOPE OF TAX

5. Effective 1 September 2018, under Item 9, Group G, First Schedule, Service Tax Regulations 2018, the provision of employment services under prescribed circumstances is subject to service tax.

GENERAL OPERATIONS OF THE INDUSTRY

Scope of Employment Services

6. Employment services provided by any person may be subjected to service tax. Employment services cover a variety of human resources services to clients. These services includes providing workers, providing employment-seeking services, assisting employers to identify suitable employees and providing human resources services.
7. In general, there are four categories of employment service providers;
 - (i) Employment placement agencies identify employment vacancies, interview jobseekers, match their qualifications and skills to those being

sought by employers for specific jobs and the placing for permanent employees.

- (ii) Temporary staffing agencies provide employees on a contract basis and for a limited time, to clients in need of workers to supplement their labour force.
- (iii) Executive search agencies provide headhunting services which are searching, recruiting and placement services for clients with specific executive and senior management needs.
- (iv) Professional employer organizations provide human resources and human resources management services to their clients.

SERVICE TAX TREATMENT ON EMPLOYMENT SERVICES

Taxable Employment Services

8. Taxable employment services include :
- (i) Any services of providing regular employment services to employers
 - (ii) Providing crew by a transport company to another transport company that sails in Malaysian waters
 - (iii) Provide job services for customers outside Malaysia for jobs in Malaysia
 - (iv) Provide employment services to complete the contract of employment with another company

The above list is by no means an exhaustive list of all the taxable services provided by a registered person to his clients.

Non-Taxable Employment Services

9. For the purpose of service tax, the following services are excluded from the scope of employment services :

- (i) Secondment of staff within group of companies.
 - (a) Secondment of staff is the assignment of an employee of one company to another company within the same group of companies for a certain period of time with no additional charges on emolument. On expiry of the secondment term, the employee (the secondee) will return to the original employer.
- (ii) Provide employment services for jobs outside Malaysia.

ACCOUNTING FOR SERVICE TAX ON EMPLOYMENT SERVICES

10. Service tax is only chargeable on employment services excluding of recovery expenses (disbursement).

11. The following charges are allowed as disbursement and are not subjected to service tax :

- (i) Emolument
- (ii) Levi fees
- (iii) Fare to Malaysia
- (iv) Work permit
- (v) Insurance fees
- (vi) Documentation fees
- (vii) Mandatory medical screening for foreign workers

12. If the above charges are itemized and recovered with a margin, such margin will be regarded as taxable employment services and subjected to service tax.

13. If employment services and recovery of expenses charges are not shown separately in the invoice issued to a client, then service tax is chargeable on the whole amount. On the other hand, if the charges are shown separately in the same invoice

or multiple invoices, service tax is only chargeable on taxable employment services.

14. Service tax is required to be accounted at the earlier of:
- (i) At the time when the payment is received; or
 - (ii) On the day following the period of 12 months from the date of the invoice for the employment services provided, when any whole or part of the payment is not received.

REGISTRATION AND RESPONSIBILITY OF A REGISTERED PERSON

15. An employment service provider whose total turnover for the period of 12 months exceeds the prescribed threshold of taxable services is required to be registered under the Service Tax Act 2018.

For further guidance and details on registration including an auto-registration, please refer to the *Guide on Service Tax Registration*.

16. A registered person is responsible to :
- (i) Charge service tax on his taxable services;
 - (ii) Issue invoices and receipts to his customers in respect of any transaction relating to the provision of taxable services;
 - (iii) Submit service tax return SST-02 via electronic and pay service tax before due date; and
 - (iv) Keep proper records with regards to his business.

17. For further information with regards to responsibility of a registered person, please refer to the *General Guide on Service Tax* and relevant Specific Guide.

FREQUENTLY ASKED QUESTIONS (FAQs)

1. Q : **As a company providing employment services, how do I calculate my turnover for registration purposes?**

A : The calculation of your turnover will be on:

- (i) Service fee, including arranging fee
- (ii) Commission or any type of consideration
- (iii) Additional charges or mark up

2. Q : **Does the service tax treatment on employment services will only be applicable to the employment agency?**

A : No, any taxable person who provides employment services as explained in this guide is applicable to Service Tax Act 2018, notwithstanding the type of business entity.

3. Q : **Does secondment of staff subject to service tax?**

A : Yes, secondment of staff is subjected to service tax if it is made between companies not within the same group of companies and there are fees, commission or mark-up charged to the client.

4. Q : **If secondment of staff is made between companies within the same group, does the commission received trigger service tax?**

A : Yes, any fees, commission or mark-up charged will trigger service tax.

5. Q : **Does secondment of staff need to have contract or agreement?**

A : To qualify as a secondment of staff, the service provider (seconded) is required to keep proper records of the secondment such as contract, agreement or any relevant supporting document.

6. Q : **As a holding company, should I account for service tax if I provide free employment services to my subsidiary?**

A : No, if there is no charge on the services rendered. However, service tax is applicable if you recover it from a subsidiary as a management fee.

7. Q : **If I issue an invoice in detail (itemised), is service tax charged on the mark-up value or on the value of invoice?**

A : Service tax will be charged on the fees, mark-up or commission only. However, if you do not itemised your services on the invoice issued to your client, service tax will be imposed on the total amount of the invoice.

8. Q : **If I am providing employment services for job outside Malaysia, do I have to account for service tax?**

A : Employment services provided for job outside Malaysia is not subjected to service tax.

9. Q : **If I am providing employment services partly for job in Malaysia and partly for job outside Malaysia, how do I account for service tax?**

A : Service tax is only applicable on employment services made in Malaysia. You may use a reasonable method in determining the value of taxable employment services.

10. Q : **Zul Cari Kerja Sdn Bhd (ZCK), a provider of employment services provides staff to be based at the client's premise. ZCK pays its staff a monthly salary of RM5,000 and charged the client RM15,000 [RM5,000 (advance first month staff salary) plus RM10,000 (employment service fee)]**

Miscellaneous expenses incurred by ZCK are as follows:

FOMEMA medical examination	RM 150
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Work Permit

RM 50

From the situation given, how does ZCK account for service tax?

- A : (i) If ZCK itemised all of the charges on the same invoice, only the fee on employment services is subjected to service tax, while the allowable disbursements are not subjected to service tax.

INVOICE		
ZUL CARI KERJA SDN BHD No.69, Jalan Raja, 10250 Butterworth Penang Tel: 04 - 6228 9000 Faks: 04 – 6228 8000		
INTAN CONSTRUCTION SDN BHD No 19, Jalan Tun Husin 62100 Putrajaya		Invoice No: T090909 Date: 18 November 2018
No.	Description	Amount (RM)
1.	<i>Employment Service Fee</i>	10,000.00
2.	<i>Staff Salary (advance 1 month)</i>	5,000.00
4.	<i>FOMEMA Medical Examination</i>	150.00
5.	<i>Work Permit</i>	50.00
Total Amount Before Tax		15,200.00
Service Tax (6%)		600.00
Total Amount After Tax		15,800.00

- (ii) However, if ZCK issued the invoice without itemizing the fee and charges on the same or separate invoice, all of the charges are subjected to service tax.

INVOICE

ZUL CARI KERJA SDN BHD
No.69, Jalan Raja, 10250 Butterworth
Penang
Tel: 04 - 6228 9000
Faks: 04 – 6228 8000

INTAN CONSTRUCTION SDN BHD
No 19, Jalan Tun Husin
62100 Putrajaya

Invoice No: T090909
Date: 18 November 2018

No.	Description	Amount (RM)
1.	<i>Employment Service Fee & other charges</i>	15,200.00
	Total Amount Before Tax	15,200.00
	Service Tax (6%)	912.00
	Total Amount After Tax	16,112.00

INQUIRY

For any inquiries relating to 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

Further information on service tax can be obtained from:

- (i) MySST 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