



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON SUPPLY

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INTRODUCTION

1. This specific guide is prepared to assist businesses in understanding matters with regards to Goods and Services Tax (GST) treatment on supply of goods or services.

Overview of Goods and Services Tax (GST)

2. 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.

3. 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.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 20XX is known as a “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 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.

OVERVIEW OF SUPPLY

Scope of Tax

5. GST is to be charged and levied on:
- (a) any supply of goods or services made in Malaysia, including supply of imported services and anything treated as a supply under the Act; and
 - (b) any importation of goods into Malaysia.

6. GST is charged on any supply of goods and services if the following conditions are satisfied:

- (a) it is made in Malaysia;
- (b) it is a taxable supply of goods or services;
- (c) it is made by a taxable person; and
- (d) it is made in the course or furtherance of any business carried on by that taxable person.

7. Any supply will be outside the scope of GST if it does not comply with all the above conditions. Examples of such supply are:

- supply made by a non-taxable person;
- supply made outside Malaysia;
- supply made not in the course or furtherance of business e.g. hobbies.

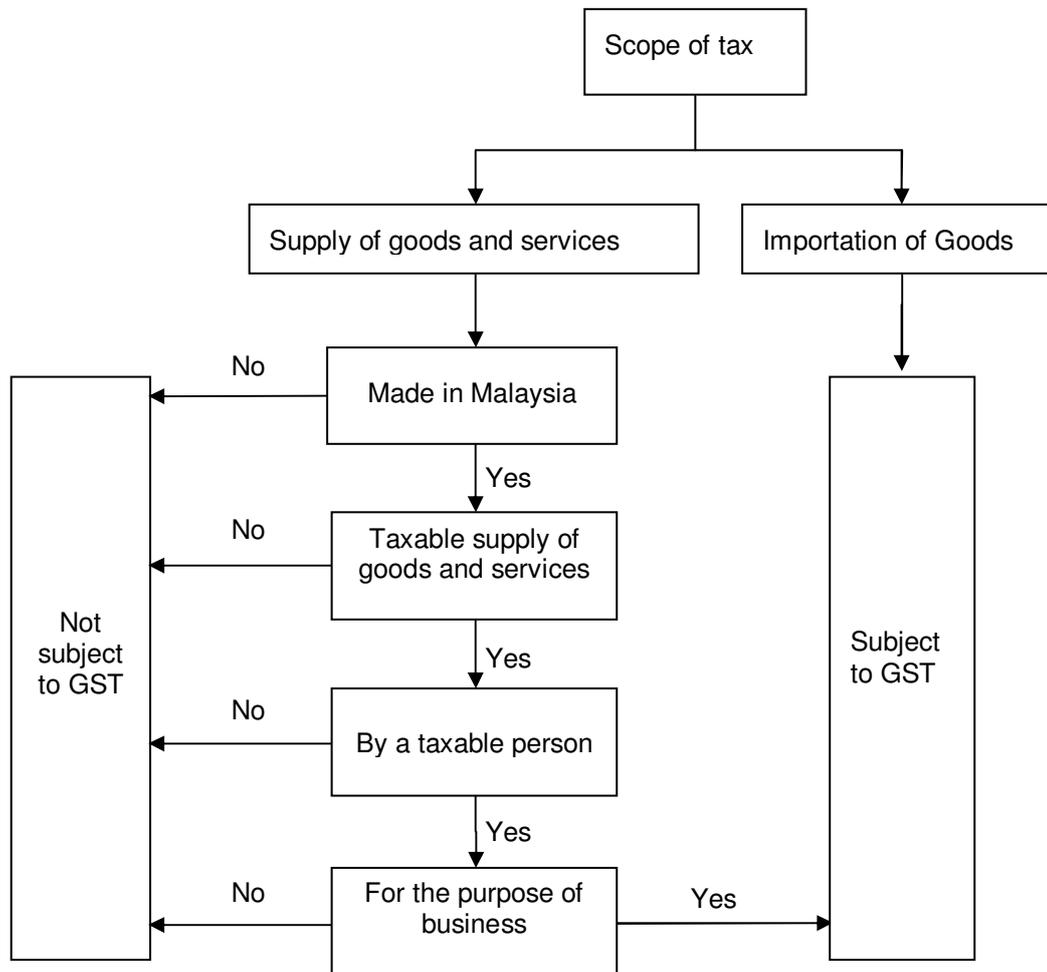
8. The provisions of the GST Act 20XX are not applicable to the following types of supply:

- supply made by Government except otherwise prescribed by the Minister;
- supply by statutory bodies and local authorities with regards to regulatory and enforcement functions.

9. Supply of goods or services within or between designated areas (Labuan, Tioman, Langkawi), except for selected prescribed goods and services, is not subject to GST.

10. Figure 1 below illustrates the scope of tax under GST:-

Figure 1: Scope of Tax



Scope of Supply

11. In general, the definition of supply for GST purposes covers all forms of supply where goods and services are supplied in return for a consideration. Any supply of goods and services without consideration is not a supply unless it is deemed to be a supply. Examples of supply include sale, barter, exchange, license, rental, lease and right to use. Consideration received can be in monetary form or in kind or both.

12. A supply of goods involves the transfer of ownership of the goods from one person to another person. “Goods” mean any kind of movable and immovable property such as machinery, motor vehicle and house. For example, a person is making a supply of goods if he transfers the title of the goods to another person

under a sale arrangement. A supply of goods also includes any activity or transaction treated as a supply of goods under hire purchase or finance lease agreement.

13. Any activity that is not a supply of goods is a supply of services and it includes a supply of imported services. "Services" mean anything done or to be done including the granting, assignment or surrender of any right or the making available of any facility or advantage. It may include a transfer of possession of goods without transferring the ownership.

14. A supply of imported services occurs when a supplier who does not belong in Malaysia renders services to a customer in Malaysia who consumes the services in Malaysia for purpose of business. A supply of imported services shall be treated as a supply to or by the recipient who must account and pay the tax.

15. A supply of money is not a supply of goods or services except:

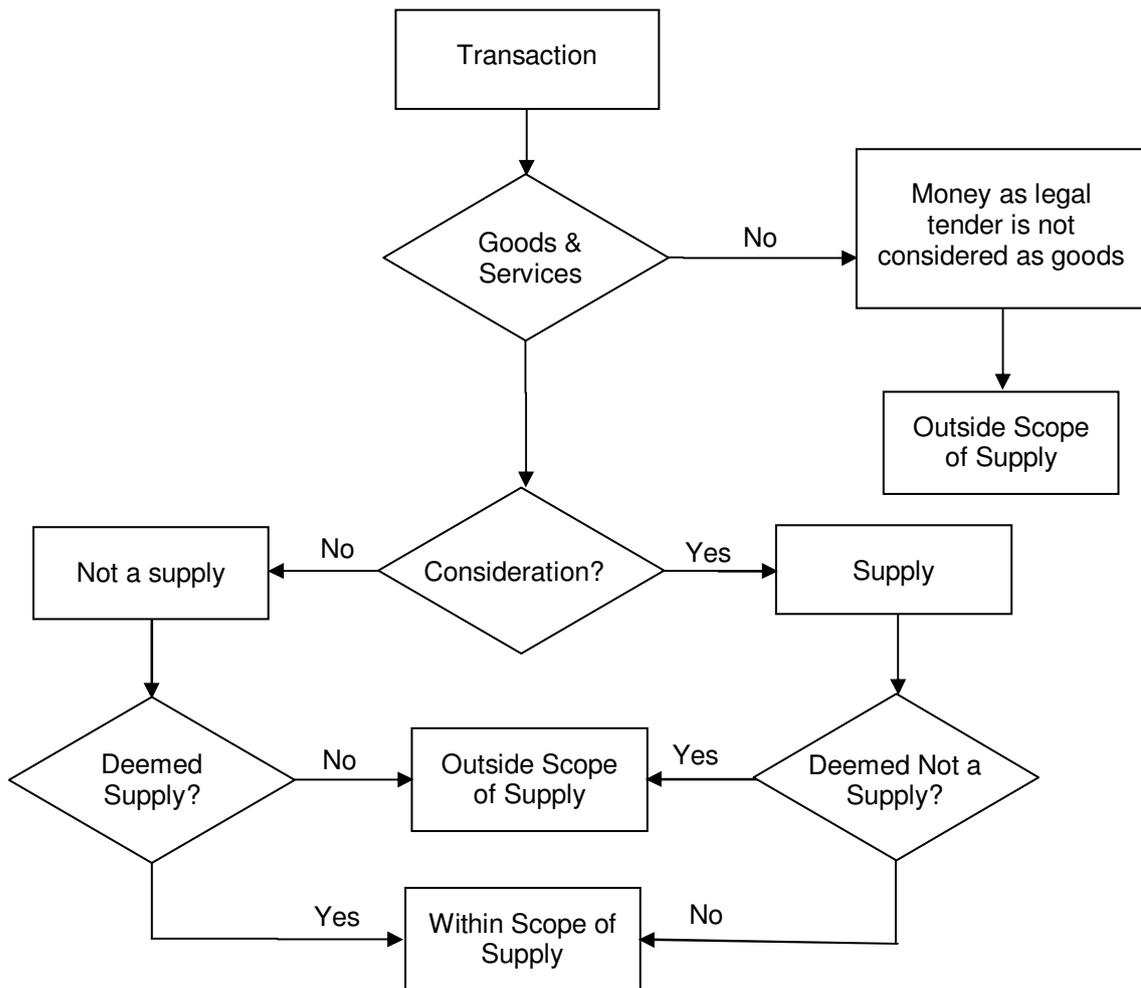
- (a) a bank note or coin before it becomes legal tender in Malaysia or in any other country; or
- (b) a collector's piece, an investment article or an item of numismatic interest;

16. Generally, any goods or services supplied without consideration is regarded as not a supply and is not subject to GST. However, under certain circumstances a supply of goods or services:

- (a) without consideration may be deemed as a supply; or
- (b) with consideration may be deemed as not a supply.

17. For ease of understanding, supplies are categorised into supply and not a supply as illustrated in Figure 2 below and will be explained further in the following paragraphs.

Figure 2: Scope of Supply



Consideration

18. Consideration includes;

- (a) any payment made or to be made, whether in money or otherwise, or
- (b) any act or forbearance, whether or not voluntary,

in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the person or by any other person.

19. The phrase “in respect of, in response to, or for the inducement of” means there must be a direct link between the supply and the consideration, i.e. for the supply of goods or services made under an invoice, a contract or an agreement, there is a consideration received or to be received for such supply.

20. Inducement means to gives something to a person so that he will do something else in return.

Example 1:

A football player is offered a branded car as an inducement for him to join the club. In this case, the car offered is the consideration that induces the player to join the club to provide his football skills. There is a direct link between the act of joining the club and the provision of the car.

Example 2:

A restaurateur offered 'free' meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premises. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.

21. Normally, when a supplier makes a supply of goods or services to a recipient, he receives a consideration directly from the recipient. However, in some cases consideration may have been received from a third party. This is known as a supply made under a tripartite arrangement. As long as there is a direct link between the supply made and the consideration given, there is a supply for GST purposes.

Example 3:

Angel Sdn. Bhd. (Angel) contracts with a Flora Hypermarket (Flora) to provide hampers worth RM10,000 to its business clients during Chinese New Year. The consideration for the supply of the hampers is paid by Angel as stipulated in the contract.



When Angel has a binding contract with Flora to supply hampers to the clients, there is a taxable supply made by Flora to Angel since there is a direct link between the supply made and the consideration given.

Types of Consideration

22. Consideration can be in monetary or non-monetary form or partly in monetary form and partly in non-monetary form.

- (a) Monetary consideration includes payment by cash, cheque or credit card, bank transfer and deduction from bank account.
- (b) Non-monetary consideration is goods or services provided as payment e.g. in a barter or part-exchange transaction.

Payments Which May Not Be Consideration

23. Payment received is not a consideration when there is no direct link between the payment and the supply or there is no supply of goods or services in return for the payment. However, if there is a direct link between the payment and the supply or if there is a supply of goods or services in return for the payment, then such payment is a consideration for the supply and subject to GST.

Example 1:

A rich man donates a large sum of money to an orphanage without receiving any benefit in return. The donation (payment) is not a consideration because there is no supply of goods or services by the orphanage to the donor in return.

- (a) Fines and Penalty charges

If a payment is a fine or a penalty, then it is not a consideration. However, if the fine or penalty is actually an additional consideration for a supply in fulfilment of the terms and conditions of the agreement or arrangement, it is a consideration for the supply and is subject to GST.

For example, a fine that is imposed on illegal parking is not a consideration.

Example 2:

A traffic police issued a summons to a motorist who parked his car on a yellow box on the road. The motorist later paid the fine. Payment of a

parking fine which is imposed to penalise illegal parking is not a consideration because there is no supply of goods or services in return for the payment.

However, a fine or a penalty charge for late return of a DVD compact disc is a consideration for a supply of hire as the customer has extended the use of the DVD compact disc for a longer period.

(b) Grants

If grants are given freely in which the grantor does not receive any benefit in return, then they are not consideration for any supply and are therefore outside the scope of GST. However, if the grantor receives a benefit in return, then the grant is treated as a consideration for the supply. For example, if a grant is given to a researcher and in return, the grantor receives a research finding exclusively for his own benefit, then the person receiving the grant must account for GST on the research services on a tax inclusive basis.

(c) Monetary Donation

Monetary donation which is freely given with no expectation of anything in return is not a consideration for any supply. On the other hand, if the donor's name is advertised in the newspaper in return for the monetary donation, the donor has received benefit from his donation. Therefore, his monetary donation is a consideration for the supply of the benefit to him in the form of the advertisement about him.

(d) Sponsorship payment

Sponsorship payment which involves the sponsor receiving clearly identifiable benefits in return, either in terms of advertising and publicity is a consideration for any supply. On the other hand, if the sponsorship does not involve any identifiable benefits in return, then the sponsorship payment is not a consideration for the supply.

(e) Project Funding

Businesses and government bodies may co-sponsor a research and development project by contributing funds to the project. The amount contributed by the individual sponsors is dependent on the cost of the project rather than on any commercial benefit to them. The funding of the project is not a consideration for a supply.

Deposit

24. Deposit whether refundable or not refundable or in the form of security given in respect of any supply of goods or services, is not part of the consideration for the supply if it does not form part of the payment for the supply. Generally most deposit payments represent consideration, as the amount paid over is intended by the parties to the contract to be offset against the purchase price once the supply has been made. Such payments fall within the scope of GST and tax must be accounted for on receipt of the deposit.

Example 1:

Derby Land Sdn. Bhd. (Derby) awards a building contract to Keira Construction Sdn. Bhd. (Keira). Keira is required to submit a security deposit in the form of a banker's guarantee of 5% of the contract sum for non-performance. Since this deposit will be refunded upon completion of the contract, it is not subject to GST as there is no supply made.

Keira requests Derby to give an advance payment to be used in offsetting against future progress payments. GST is chargeable on this advance payment.

(a) Forfeit deposit

Generally, forfeit deposit is not consideration for any supply because it constitutes a compensation payment for damages due to non performance of the contract or for breach of contract.

Example 2:

A consumer buys a cylinder of cooking gas (14kg) from a LPG dealer. Contractually, other than paying for the price of the gas, the consumer also pays a deposit on the gas cylinder. If the consumer were to lose the tank, the deposit paid will be forfeited as a compensation for the loss. Being a compensation payment for breach of contract, this deposit payment is not considered as a consideration for a supply, and therefore, it is not subject to GST.

However, in some circumstances, the deposit may still be a consideration for a supply. An example would be where a contract involving accommodation of hotel room provides for the letting of a room whether it was occupied or not.

(b) Security deposit

A deposit is taken as security, for example against the safe return of goods on hire or loan, is not consideration for a supply. The terms of the contract under which such a deposit is required will specify that the deposit is refundable to the customer subject to the safe return of the goods.

(c) Return deposit

Return deposit is not a consideration for any supply because it is not part of payment but a return of money to the customer due to cancellation of the contract between the supplier and customer.

TYPES OF SUPPLY

25. To determine whether the supply is subject to GST or not, it is important to know the various types of supply.

Taxable Supply

26. A taxable supply means a supply of goods or services which is either standard-rated or zero-rated. An exempt supply is not a taxable supply.

(a) Standard-Rated Supply

Standard-rated supply means a taxable supply of goods or services subject to a positive tax rate. Examples of standard rated supply are sales of commercial properties, medical equipment, textiles and furniture. When a supplier who is a GST registered person supplies standard rated goods or services, he has to charge GST on the supply.

(b) Zero-Rated Supply

Zero-rated supply is a taxable supply which is subject to a rate of zero percent. Examples of zero-rated supply are paddy, fresh vegetables, live animals (cattle, buffalo, goat, sheep and swine), fresh and salted chicken and duck eggs, international services and exports of goods and services.

Please refer to *GST (Zero Rate Supply) Order 20XX* for detailed list of zero rated supplies.

27. In certain circumstances, a taxable supply may be disregarded for the purpose of GST:

- (a) Supply of goods or services between members of a GST group;
- (b) Supply of goods within or between warehouses under the Warehousing Scheme;
- (c) Supply of goods or services between a venturer and a venture operator in respect of a GST joint venture;
- (d) Supply of finished goods from an approved toll manufacturer to his overseas principal or to a local buyer on behalf of his overseas principal under the Approved Toll Manufacturer Scheme (ATMS);
- (e) Supply of goods or services in carrying on a business of dealing in securities or derivatives between members and a lead member in capital market; and
- (f) Supply of goods by a principal who is a taxable person to an agent who is acting in his own name as an auctioneer.

Non Taxable Supply

28. A non taxable supply is a supply of goods or services which is not subject to GST.

Exempt Supply

Exempt supply is a supply which is not subject to GST, i.e. no GST is chargeable on such supply. Examples of exempt supply of services are domestic transportation of passengers for mass public transports i.e. by rail, ship, boat, ferry, express bus, stage bus, school bus, feeder bus, workers' bus and taxi (except airport taxi and limousine taxi), toll highway, private education and private health services. Examples of exempt supplies of goods are residential properties, land for agricultural and land for general use (government building and burial ground).

Please refer to *GST (Exempt Supply) Order 20XX* for detailed list of exempt supplies.

Out of Scope Supply

29. Out of scope supply is a supply which is not within the ambit or boundary of GST. Thus, GST is not applicable on such supply. Examples of out of scope supply are:

- Non business supply;
- Supply of goods made outside Malaysia;
- Supply of services made by a person who does not belong in Malaysia other than the supply of imported services;
- Business below threshold;
- Government supply except selected prescribed services;
- Supply by statutory bodies and local authorities with respect to regulatory and enforcement functions; and

- Supply of goods or services made within or between designated areas (Labuan, Langkawi and Tioman) except selected prescribed goods or services.

Composite Supply

30. Composite supply refers to a single supply with more than one component. Where a supply appears to consist of more than one component, the supply is still a single supply if there is clearly one overall supply being made to which the remaining components can be seen as incidental, integral or tie-in.

(a) Integral elements

These are components of a supply that are essential or necessary to the supply as a whole. The test to determine whether a component is part of a composite supply, or is itself a separate supply, is whether the component is an integral part of what is being supplied.

Example 1:

An Airline Company supplies standard rated flights for a single price. This includes the provision of in-flight catering. The catering is provided for the comfort and convenience of passengers in the same way as magazines, cushions etc. Therefore, the catering is integral to the main supply of the flight and a single composite supply is being made.

(Note: If the flight ticket sold to the passenger by the airlines company is exclusive of the meals provided to him during the flight, the supply of flight services and the supply of meals by the company to the passenger are treated as two separate supplies).

Example 2:

An agent supplies a tourism package consisting of air-ticket, hotel room, transport, tourist guide and tour to various sites and he charges a single price. The supply is a composite supply where the main supply is the tour and the other components are seen as integral or incidental to the main supply.

(b) Incidental elements

These are components of a supply that naturally accompany a main supply, but generally are not a significant part of it. Examples of incidental elements are the instruction booklet provided with new electronic equipment, packaging materials or the services of packing and transport. An incidental element is, nonetheless, an integral part of the overall single supply.

Example 3:

Aztec Sdn. Bhd. buys a car from a car dealer. The contract for the purchase of the car is inclusive of its delivery. In this case, the principal supply is the goods (the car) and the incidental supply is the services (its delivery). The dealer is making a composite supply.

Example 4:

A supplier charges a single price for the supply of rice and its delivery (transport) from the warehouse. The supply is a composite supply where the delivery component is seen as incidental to the main supply of rice.

(c) Tie-in elements

This is a component of low value that accompanies a main supply. The tie-in component is always given as a free item. Examples of tie-in goods are a toothbrush (free item) sold with a toothpaste (main supply), a plate (free item) sold with a packet of rice and a plastic toy (free item) enclosed in a box of cereal.

31. The following are some of the indicators in determining whether a transaction is a composite supply.

- (a) The components are sold as a package at a single price.
- (b) The components are advertised as a package.
- (c) The different components are not available separately.

- (d) Goods are physically packaged together (e.g. a plastic toy enclosed in a packet of cereal).
- (e) It would not normally make sense to supply part of the package independently (e.g. a new fridge and its delivery from the warehouse).
- (f) Although components are separately priced, the value of each component is arbitrarily assigned.
- (g) The customer perceives what they receive as a single supply, not independent components (e.g. one supply of a tailor-made suit, not separate supplies of cloth and tailoring services).
- (h) The different components are aspects of the quality or grade of the overall supply.
- (i) The different components are integral to one main supply. If one or more of the components is removed, the nature of the main supply would be affected.
- (j) Some components are clearly incidental or ancillary to an identifiable main supply.
- (k) The separation of components, on an invoice or otherwise, is artificial.

32. The above indicators are not exhaustive or conclusive proof of a composite supply. If the transaction has more of these indicators, it is likely that it is a composite supply. The following table summarizes the indicators on the composite supply and the GST treatment:

Indicators	Composite Supply
One price, one invoice	✓
Integral, Incidental, Tie-in component	✓
Dominant supply	✓
Different components <ul style="list-style-type: none"> • Mixed tax liabilities of components • Mixed supplies of goods and services • Same tax rate 	✓ ✓ ✓

GST treatment of supply	Single tax treatment based on dominant supply (either zero rate, standard rate or exempt)
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Mixed Supply

33. Mixed supply refers to a 'multiple' supply whose components are either of mixed liabilities (e.g. standard rated and exempt or standard rated and zero rated) or a mixture of both goods and services. The individual components are not integral to each other and are separate principal supplies. A trader makes a mixed supply where he charges a single inclusive price for a number of separate supplies of goods or services.

34. The following indicators suggest a transaction is a mixed supply. They are not exhaustive or conclusive proof of a mixed supply but if the transaction has more of these indicators, it is likely that it is a mixed supply.

- (a) Separate pricing where separate prices on different components of the supply are listed out.
- (b) The individual components are not integral to each other.
- (c) A single price is charged for separate principal supplies.
- (d) The components are available separately.
- (e) There is time differential between parts of the supply.
- (f) The components are not interdependent or connected.

35. Common examples of situations where mixed supplies might occur are:

Example 1:

A housing developer sells a residential house and supplies a refrigerator as a complimentary gift. This is a mixed supply consisting of two components i.e. an exempt supply of a residential house and a standard rated supply of a refrigerator. The supply of a refrigerator is not integral to the supply of the

house but a separate supply by itself because both components are available separately and not interdependent on each other.

Example 2:

A hamper (different goods packaged together) consisting of wheat flour, canned foods, sweets, branded chocolates, crackers, cakes, non-alcoholic drink and fruit juices is on sale at a single price of RM500. This is a mixed supply of zero rated wheat flour and other standard rated components. The components can be made available separately and are not interdependent on each other. The components are capable of being separate supplies in themselves.

Example 3:

A car repair workshop supplies both repair services and car batteries to its customers. When it charges a customer for supply of repair services and a car battery at a single inclusive price, it is making a mixed supply.

36. The following table summarizes the indicators on the mixed supply and the GST treatment:

Indicators	Mixed Supply
One price, one invoice	✓
Integral, Incidental, Tie-in component	X
Dominant supply	X
Different components <ul style="list-style-type: none"> • Mixed tax liabilities of components • Mixed supplies of goods and services 	✓ ✓
Same tax rate	✓
GST treatment on supply	Separate tax treatment based on separate components

SUPPLY OF GOODS OR SERVICES

37. It is important to differentiate between the supply of goods and the supply of services because the rules on place and time of supply for goods and for services are different.

Supply of Goods

(a) Transfer

(i) *Transfer of the whole property in goods*

Transfer of the whole property where it involves the transfer of ownership of the goods is a supply of goods.

Example 1:

Rafflesia Bhd. (Rafflesia) sells a printing machine to Melia Jaya Sdn. Bhd. (Melia.) By selling the printing machine, Rafflesia is transferring its ownership of the printing machine to Melia. The sale of the printing machine is a supply of goods.

(ii) *Transfer of possession of goods*

The transfer of the possession of the goods is a supply of goods when the supplier agrees to transfer the possession of the goods under an agreement;

- to sell the goods; or
- to transfer the ownership of the goods in the future.

Example 2:

Under a Sale & Purchase agreement, Ixora Co. buys a shop lot from a housing developer and agrees to pay in full in 6 instalments. The possession of the shop lot is passed to Ixora Co. upon paying the 1st instalment but the ownership of the shop lot will only be passed after full payment is made. This transaction is a supply of goods and subject to GST.

Example 3:

Kemayan Sdn. Bhd. buys a dump truck for RM125,000 under a hire purchase agreement with a bank. The ownership of the truck is caveat by the bank until the company makes full payment of the hire purchase loan amount. This hire purchase transaction is a supply of goods and subject to GST.

Example 4:

A leasing company leases out an excavator to a customer for a period of two years. The company still retains ownership of the excavator but the customer is in possession of the excavator during the rental period. Such transfer is a supply of services and subject to GST.

(iii) *Alienation, transfer or surrender of land*

Any transaction which involves the changing of ownership to the title of the land is a supply of goods. These include alienation, transfer or surrender of the title of land. Alienation of land means disposal or transfer of an interest in property by the government. Transfer of land means there is a change in ownership to the title of a land. Surrender of land means the title to a piece of land is surrendered to the government.

Example 5:

The state government has alienated a plot of land (500 acres) in Sepang, Selangor to a housing developer to build a low cost housing project. The alienation of the land is an out of scope supply of goods by the state government and is not subject to GST.

Example 6:

Cemerlang Bhd. transferred the ownership of a piece of commercial land to its subsidiary company, Bagus Sdn. Bhd. The transaction is treated as a supply of goods because the title

of the land has changed from Cemerlang Bhd. to Bagus Sdn. Bhd. and is subject to GST.

Example 7:

Bright Future Sdn. Bhd. is instructed by the government to surrender his plot of land to make way for highway construction. The surrender of land to the government is a supply of goods.

(b) Utilities etc.

Supply of electricity, gas, water, refrigeration, air conditioning or ventilation is treated as a supply of goods.

(c) Transfer and disposal of business assets

- (i) Generally, the transfer or disposal of business assets is a supply of goods. The transfer or disposal can be made to any person including to himself. It may or may not involve a consideration.

Example 8:

An insurance company disposes its used computer (its book value is more than RM500) by giving it to a charitable organisation. The disposal of the computer is a supply of goods and subject to GST.

Example 9:

Star Furniture Enterprise, a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his bedroom permanently. The transfer of the furniture by the owner, whether or not for a consideration, is a supply of goods and subject to GST.

Example 10:

Kero Sdn. Bhd. (Kero), a GST registered person, loans 1 million litres of diesel to Helix Bhd. (Helix), another GST registered person, on condition that the same quantity of diesel of similar quality will be returned to Kero one week later. Although Kero

supplies the diesel to Helix without a consideration, it is still a supply of goods which is subject to GST. Similarly, when Helix returns 1 million litres of diesel to Kero without a consideration, it is also a supply of goods which is subject to GST.

- (ii) The transfer or disposal of business assets by the person carrying on the business is not a supply of goods if it is made as:
- a gift in the course or furtherance of the business to the same person in the same year where the total cost to the donor is not more than RM500; or
 - a gift to an actual or potential customer of the business, of an industrial or commercial sample in a form not ordinarily available for sale to the public.

The maximum limit of gift is set at RM500 to the same person in the same year. Therefore, a gift for business purposes where the total cost to the donor is not more than RM500 is not a supply for GST purposes.

Examples of gift for business purposes are:

- ceramic mug given to customer who purchased more than RM200 worth of goods at a retail outlet.
- diary and calendars to customers and public.

There is no limitation on the value or the quantity of the gift of an industrial or commercial sample to actual or potential customer. However, the sample must not be in the form of goods the business normally sells to the public.

Examples of an industrial or commercial sample are:

- merchandise which is marked as sample and in the form of reduced size of actual merchandise available for sale;
- replica of machinery having a limited function in comparison to the actual specifications of the machinery.

For the purpose of paragraph (c)(ii), the person carrying on the business is entitled to claim input tax on the supply or importation of the goods.

- (iii) The transfer or disposal of business assets by the person carrying on the business either to himself or to any other party, not for a consideration, is a supply of goods if he is entitled to a credit. If he is not entitled to a credit, then it is not a supply of goods.

Example 11:

A stage bus company is making an exempt supply of stage bus transportation services. The company is not allowed to claim input tax incurred on the acquisition of its buses since it is a wholly exempt supplier of services. When the company later disposes of the buses without consideration, i.e. giving them away free of charge, it is not a supply of goods.

Example 12:

An insurance company is a mixed supplier, i.e. it supplies both general insurance (standard rated) and life insurance (exempt). The company purchased computer equipments to supply equally both the general insurance and life insurance policies and, therefore, was entitled to claim part (50%) of the input tax on the acquisition of the equipments. A few years later, the company disposes the computer equipments. The disposal of the equipments, whether or not for a consideration, is a supply of goods and subject to GST.

Example 13:

Suria Jingga Sdn. Bhd. (Suria), a GST registered person, bought a set of furniture from a non taxable person. Since the non taxable person does not charge him GST, the company does not incur any input tax on the purchase of the furniture. When Suria subsequently disposes the furniture, without a consideration, it is a not supply of goods and is not subject to GST. If he disposes

the furniture with a consideration, it is a supply of goods and subject to GST.

- (iv) The transfer or disposal business assets involving goods for personal consumption is a supply of goods.

Example 14:

A GST registered retailer is in the business of supplying mineral water. His family is consuming 100 bottles of mineral water regularly every month. The disposal of the mineral water for his family's consumption is a supply of goods and subject to GST.

- (d) Change of Use of Goods Where Input Tax Has Been Claimed

Where a taxable person who is in the business of making a taxable supply of goods has claimed input tax and there is a change of use of such goods which results in the goods being excluded from any credit, the use of such goods by him, whether for a consideration or not, is treated as a supply of goods.

Goods being excluded from input tax credit are goods such as passenger motor cars that are disallowed or blocked from input tax claim even though they are used for business purposes. However, the following usages of the cars are eligible for input tax credit:

- (i) a public service vehicle licensed under Commercial Vehicle Licensing Board Act 1987 or Land Public Transport Act 2010, or a tourism vehicle licensed under Tourism Vehicle Licensing Act 1999;
- (ii) a motor car supplied to or imported by a taxable person for the purposes of being let on hire or sold by that taxable person who is a dealer of motor cars licensed under the Second-Hand Dealers Act 1946;
- (iii) an approved vehicle used for driving instructional purposes by a driving school or driving institute permitted under Motor Vehicles (Driving Schools) Rules, 1992;

- (iv) a motor car that forms part of the stock in trade of a motor manufacturer or a motor dealer; or
- (v) a motor car used exclusively for the purposes of business as may be approved by the Director General such as test drive car and highway patrol car.

Example 15:

Lexus Motors Sdn. Bhd. is a company whose business is selling cars. The company purchases 50 cars for sale and claimed input tax on the acquisition. The company decided, after getting approval from the Director General, to register one of the cars to be used as a test drive car for potential customers. The test drive car is in the category of car on which input tax is not excluded from any credit. This is because the car is used exclusively for the purpose of business which is approved by the Director General. The usage of the car is not subject to GST but the subsequent sale of the test drive car is subject to GST.

Example 16:

GS Limousine Sdn. Bhd. converted one of its limousines to be used by its workers as a company car to attend meetings. The company has already claimed the input tax incurred on the acquisition of the limousine. The usage of the car is a supply and subject to GST. GS Limousine Sdn. Bhd. has changed the use of the limousine on which input tax credit is disallowed.

Example 17:

ABC Rent-a-Car Sdn. Bhd. bought a motor car to be used as a hire and drive vehicle for his clients. When the permit issued by the Land Public Transport Commission expires, the company decides to give it to one of its senior managers in appreciation of a good service. The company has to account GST on the car since it is a supply of goods.

For further information, please refer to the *GST Guide on Input Tax* to determine whether or not input tax on a passenger motor car is allowed.

(e) Goods sold in satisfaction of a debt

A creditor may arrange to sell goods (business assets) belonging to his debtor in satisfaction of the debt. Goods repossessed by the creditor from the debtor are not a supply. The disposal of goods made by the creditor is deemed to be a supply made by the debtor. If the debtor is a taxable person and the creditor is not a taxable person, the creditor must issue a document which is deemed to be a tax invoice on the supply made and is required to account and pay the output tax. If both debtor and creditor are taxable persons, the creditor issues a tax invoice and account and pay the output tax. Please refer to *GST Guide on Repossession* for more information.

The above supply is outside the scope of GST if:

- (i) the debtor is not a taxable person;
- (ii) the assets do not form part of the debtor's business assets; or
- (iii) the assets of the debtor who is a taxable person is excluded from any credit on the acquisition of the assets.

Example 18:

ZZ Sdn. Bhd. (ZZ) is a registered person who purchased electrical appliances under the hire purchase agreement financed by a hire purchase company. When ZZ defaulted in his instalment payment, the goods were repossessed by the hire purchase company which then sells the goods through a tender to recover any debt owed by ZZ. ZZ as the owner who is a GST registered person, is considered as making a supply of goods and the goods sold is subject to GST. However, the hire purchase company is liable to account for tax on the goods sold. ZZ is not required to account for the tax.

Example 19:

ASA Enterprise, a GST registered person, bought a motor car through a hire purchase agreement. However, the company is not allowed to claim the input tax incurred on the acquisition of the car because it is excluded from any credit. In the third year of its business, ASA

Enterprise failed to pay for the instalment of the motor car. Consequently, the car was repossessed by the hire purchase company. Since ASA Enterprise is not entitled to claim the input tax on the acquisition of the motor car, the supply of the car by the hire purchase company is outside the scope of supply.

- (f) Ceases to be a registered person

When a person ceases to be registered under GST, the person may be holding goods such as raw materials, products, trading stocks, land, plant and machinery at the time of deregistration where input tax on these goods has been claimed. As a result, the deregistered person is holding goods which are free from GST. In line with the GST principles, the person is deemed to be making a supply of goods which formed part of his business asset at the time of deregistration. The person is required to account and pay for the GST on the supply if the supply of goods is a standard rated supply.

Example 20:

Mr Doe is a GST registered sundry store owner. As his business has substantially reduced over the last year, he has decided to close the business and retire. At the time of deregistration he has goods on hand valued at RM5,000. Mr. Doe's final GST return will therefore show his supplies made during the last taxable period plus the RM5,000 value of the goods on hand during the deregistration.

Deemed supply is restricted to goods on which the person has already claimed the input tax. However, there is no deemed supply where:

- (i) the business is transferred as a going concern to another taxable person;
- (ii) the business is carried on by a personal representative who manages the estate or continues the business of a taxable person who has passed away, become bankrupt or incapacitated, or gone into liquidation or receivership;

- (iii) the business can prove that the goods held on hand were acquired from a person who is not registered under GST;
- (iv) the business can prove that no credit for input tax has been allowed on the goods held on hand in respect of;
 - blocked input tax goods;
 - goods acquired under the margin scheme; or
 - goods acquired for making wholly exempt supply;

and the goods are not acquired under a transfer of going concern.

Example 21:

ABC Sdn. Bhd., a registered person under GST, acquires a noodle machine from Mee Sim Enterprise (MSE) who is not registered under GST on 2.1.2016. After the machine has been used for more than 2 years, ABC ceases to be a taxable person and deregisters on 28.1.2018. The noodle machine held on hand by ABC at the time of its cessation as a taxable person is not deemed as a supply by him.

Example 22:

DZ Enterprise, a GST registered person, makes an acquisition of a passenger car for business purposes on 4.7.2015. He is not allowed to claim input tax charged by the supplier because the car is subjected to the blocked input tax list. Subsequently, DZ ceases to be a taxable person and deregisters on 31.10.2016. In this case, since the car was subject to blocked input tax, the car held on hand at the time of deregistration is not deemed as a supply.

Example 23:

PD Enterprise, a GST registered person, acquires a second-hand passenger car for business purposes on 2.1.2016. He is not allowed to claim the input tax incurred because the car is acquired under the GST margin scheme. Subsequently, PD ceases to be a taxable person and deregisters on 31.3.2017. In this case, since the car was acquired under the margin scheme and was also not acquired through a transfer

of going concern from another taxable person, the car held on hand at the time of deregistration is not deemed as a supply.

Example 24:

Cover Enterprise (CE) is a GST registered supplier of both taxable general insurance and exempt life insurance. On 2.8.2015, CE acquires a desktop computer for the business purposes of supplying life insurance. He is not allowed to claim the input tax charged by the supplier because the computer is acquired for making wholly exempt supply of life insurance. Subsequently, CE ceases to be a taxable person and deregisters on 31.10.2016. In this case, since the desktop computer was acquired for making wholly exempt supply and was not acquired under a transfer of going concern from another taxable person, the desktop computer held on hand at the time of deregistration is not deemed as a supply.

Supply of Services

38. A supply of services is something done for a consideration, other than supply of goods. For example, a person is making a supply of services if he:

- (a) lends his goods to another person;
- (b) rents his goods to another person;
- (c) hires goods to another person;
- (d) applies treatment or process on another person's goods;
- (e) uses goods owned by the business other than for the purpose of business;
- (f) grants, assigns or surrenders a right for a consideration;
- (g) assigns the right to use his patent or copyright to another person;
- (h) provides telecommunication, consultancy, health and education, repair and maintenance and renovation services;
- (i) provides hotel accommodation;

39. In addition to the above examples, the following matters are also treated as supply of services:

(a) Transfer of undivided share of property

Undivided share of property refers to a property that can be owned by more than one person. When one owner of the property decides to sell his share in the property, it is a supply of services. When all owners of the property sell the property, it is a supply of goods.

Example 1:

Jon, Ron and Don co-owned a shop lot under one title. Jon sold his part of the shop lot to Don. Therefore, Jon has transferred the undivided share of the property to Don. Such transfer is a supply of services.

(b) Transfer of possession of goods not involving transfer of title

“Possession” means having control over the goods and having immediate facility for their use. Possession is transferred when the use of goods is given to another party, for example when goods are hired. After an agreed period, the goods will be returned to the owner, who has retained title to the goods during the period of use. In other words, if there is no transfer of title to a property, it is a supply of services.

Example 2:

A leasing company leased out a bulldozer to a customer for a period of two years. The company still retains ownership of the bulldozer but the customer is in possession of the bulldozer during the leasing period. Such leasing activity is a supply of services because it only involves a transfer of possession and not a transfer of title.

Example 3:

Avira Property Sdn. Bhd. enters into an agreement to lease a commercial property to Greene Lakes Sdn. Bhd. for a period of 5 years. The leasing of commercial property is a supply of services.

(c) Treatment or process

Any treatment or process which is being applied to another person's goods is a supply of services.

Treatment involves changing the nature of goods, for example, heat treatment and sand-blasting. Whereas, process involves a continuous action, operation, or series of changes taking place in a definite manner in the production of goods, for example, varnishing, painting, moulding and assembling. As long as the treatment or process activity is done on someone's goods, it is a supply of services.

Example 4:

XYZ Tools Sdn. Bhd. sent their tools to Mercury Sdn. Bhd. for heat treatment to harden them. The heat treatment done by Mercury Sdn. Bhd. is a supply of services.

Example 5:

New Glass Sdn. Bhd. sent their glass to Banyan Sdn. Bhd. for heat treatment to produce tempered glass. The heat treatment done by Banyan Sdn. Bhd. is a supply of services.

Example 6:

Iron Works Bhd. sent their wrought iron gates to Chemical Works Sdn. Bhd. for chemical treatment to produce rust-resistant gates. The chemical treatment done by Chemical Works Sdn. Bhd. is a supply of services.

Example 7:

KRM Furniture Sdn. Bhd. sent their semi-finished dining sets to SSV Varnishing Sdn. Bhd. for the process of varnishing. The varnishing work done by SSV Varnishing Sdn. Bhd. is a supply of services.

(d) Use of business assets

Generally, there is no supply when goods acquired by a person are used for his own business purposes. However, if the goods are:

- (i) put to private or personal use; or
- (ii) used for the purpose other than business; or
- (iii) made available for another person's use but not done in the course or furtherance of the business of the owner of the goods.

it is a supply of services whether or not there is a consideration.

If the usage or making available of goods as stated in (i), (ii) and (iii) are made without a consideration and at the same time, the person is not entitled to input tax credit, then it is not a supply of services.

Similarly, where a business is carried on by an individual and the same goods are used or made available for use by himself personally, whether or not for a consideration, it is a supply of services.

- (i) *Private or personal use*

Example 8:

Khemah Siap Enterprise is a supplier of tents for its business. The company lends a few tents to its manager for his son's wedding. The private usage of the tents by the manager (with or without a consideration) is deemed as a supply of services by the company to him.

Example 9:

Niaga Untung Sdn. Bhd. bought a pool car for its business. One of the drivers borrowed the car for private usage. The input tax on the acquisition of the car is disallowed because it is a blocked input under GST. If the private usage involves a consideration, then it is deemed as a supply of services by the company. However, if the usage is without a consideration, then it is not deemed as a supply of services.

Example 10:

Meranti Perabut Enterprise, a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his

house's verandah temporarily for 3 months. The personal use of the furniture by the owner, whether or not for a consideration, is deemed as a supply of services by the company to him.

- (ii) *Used for the purpose other than business*

Example 11:

Ladang Sawit Bhd. (Ladang), an oil palm plantation company, organized an international golf tournament and invited a few international players to join the event. The company provides the secretariat the usage of its office equipment such as the scanner and photocopier. The usage of the office equipment is not for the purpose of the company's plantation business.

The usage of Ladang's office equipment for any purpose other than its own business purpose, whether or not for a consideration, is a supply of services by Ladang to the players.

- (iii) *Made available for another person's use but not done in the course or furtherance of the business of the goods' owner*

Example 12:

Endah Bina Sdn. Bhd. (Endah) bought a bulldozer to be used in its own construction business. However, it made the bulldozer available to be used in the construction business of its sister company, Freida Construction Sdn. Bhd. (Freida). In this case, the usage of Endah's bulldozer for any purpose other than its own business purpose, whether or not for a consideration, is a supply of services by Endah to Freida.

Example 13:

Graha Teguh Sdn. Bhd. (Graha) bought a factory bus for its business and then lent it (with or without a consideration) to its sister company, Maju Factory Sdn. Bhd. (Maju). The supply of the factory bus by Graha to Maju is a supply of services even though the bus is used for Maju's business.

(e) Supply of free services to connected person

Supply of services without consideration by a taxable person to a connected person is a supply of services. For details on 'connected person', please refer to *GST Guide on Valuation*.

Example 14:

Adrian, a sole owner of CWY Enterprise, is a GST registered person. He is in the business of renting out air filtering machines. Adrian rented out two units of the machines to his brother, Alvin, without imposing any rental charges.

Alvin's company, AFT Enterprise, is not registered under GST. Since Adrian and Alvin are connected persons, the supply of the air filtering machines for rental to AFT Enterprise without consideration is a supply of services.

MATTERS TO BE TREATED AS NOT A SUPPLY

40. Generally, the provision of goods and services without a consideration (e.g. business assets put to private use) is not a supply unless it is deemed so. However, there are some activities with a consideration which can also be treated as not a supply.

41. The following activities with a consideration are treated as neither a supply of goods nor a supply of services:

Transfer of Going Concern

42. A transfer of business as a going concern (TOGC) means a transfer or sale of a business either wholly or partly, together with the assets of the business, from one taxable person (transferor) to another person (transferee) who is a taxable person or becomes a taxable person as a result of that transfer.

43. TOGC is treated as neither a supply of goods nor a supply of services provided that the transferee carries on the same kind of business and the business transferred is capable of operating separately. Thus, there is no GST charged and

payable on such transfer. For further information, please refer to the *GST Guide on Transfer of Going Concern*.

Example:

Jidin Workshop Sdn. Bhd. (Jidin) is a registered person who runs a workshop and intends to sell his business to Terachi Auto Enterprise (Terachi) which is involved in car repair business. Currently, Terachi is not a GST registered person because his annual turnover for the car repair business is only RM300,000. Terachi agrees to buy the business and anticipates that the workshop business will generate income amounting to RM700,000.

The transfer of the workshop business from Jidin to Terachi can be treated as a TOGC because Terachi will become a taxable person as a result of the transfer provided that Terachi continues running the workshop as before. Terachi is liable to be registered under GST.

Pension, Provident or Social Security Fund

44. A pension fund is established to facilitate and organise the investment of employees' fund contributed by the employer and employees.

45. A provident fund such as Employee Provident Fund (EPF) is formed to provide retirement benefits for members, i.e. private and non-pensionable public sector employees, through management of their savings in an efficient and reliable manner.

46. A social security fund such as the one established by the Social Security Organisation (SOCSO) is formed to manage and administer the contribution made by the principal employer in respect of an insured employee and includes any amount payable by or on behalf of the employee.

47. Contribution by an employer and an employee (individual) to a pension, provident or social security fund is treated as neither a supply of goods nor a supply of services under GST.

Example 1:

Pension contribution of 17.5% of the basic salaries of pensionable employees by Statutory Bodies, Local Authorities and Agencies to Kumpulan Wang Persaraan (KWAP) on a monthly basis is not treated as a supply.

Example 2:

Employee's contribution of 11% of his monthly salary to his individual account in the Employee Provident Fund (EPF) is not treated as a supply.

Example 3:

Employee's contribution of 0.5% of his monthly salary to the Social Security Organisation (SOCSO) for the Employment Injury Scheme is not treated as a supply.

Example 4:

Employers contribute 1.75% of a worker's monthly wage (1.25% percent for the Employment Injury Scheme and 0.5% for Invalidity Pension Scheme) to SOSCO is not treated as a supply.

Supply by Societies and Similar Organisations

48. Societies and similar organisations are referred to as any organisations registered under any written law such as Societies Act 1966, Companies Act 1965, Sports Development Act 1997 or any Act of Parliament. They include profitable bodies, non-profit organizations and charitable bodies in Malaysia such as Federation of Malaysian Manufacturers (FMM), Kelab Golf Perkhidmatan Awam (KGPA), Persatuan Seniman Malaysia, St. John Ambulance of Malaysia and trade unions or associations.

49. The following supplies provided by any society or similar organization are to be treated as not a supply if:

- (a) the supplies to its members are related to its aims and objectives and available without payment other than a membership subscription and the value of the supplies are nominal; or
- (b) the supplies to a donor or sponsor have no commercial value.

50. The term 'no commercial value' for supply of goods refers to supplies which:
- (a) have no resale value;
 - (b) are specially made for a particular fundraising event and are not available for sales in the market;
 - (c) bear the logo of the private charitable body; or
 - (d) carry the fundraising message.
51. As for supply of services, the term 'no commercial value' means;
- (a) mere acknowledgement which is not tantamount to advertising (e.g. naming the donors in the programme/ booklet/ banner, giving a small token of appreciation, etc.)
 - (b) no written or verbal agreements where the conditions confer benefits on the sponsor (e.g. the sponsor's name or its products are advertised or promoted). Such benefits constitute taxable supplies by the recipient. Examples of such benefits include;
 - (i) naming of the event after the sponsor;
 - (ii) displaying the sponsor's name on shirts worn by a team (recipient);
 - (iii) advertising the sponsor's name or products in the programme booklet;
 - (iv) providing the use of facilities to the sponsor.
 - (c) not link to its business activity

For further information, please refer to the *GST Guide on Societies and Similar Organisations*.

Example 1:

KLM is a professional accounting body registered under the Society Act, 1965 and the GST Act 20XX. All members would be subjected to a yearly fee. KLM conducts training and courses for the public as well as its members. Fees are chargeable for the training and courses but members are eligible for a

discounted rate. As one of its means is to update its members the latest practices of accounting, KLM would distribute monthly magazine to them without any charges. In this situation, even though KLM is making a supply of goods (monthly magazine) to its members, it is treated as not a supply. The annual fees received by KLM are not subject to GST. However, if KLM conducts training course to its members, this is a supply of services and subject to GST.

Example 2:

Seri Kenanga, an orphanage house, received cash sponsorship amounting to RM300,000 from Murah Hati Sdn. Bhd. for a higher education scholarship to orphans who pursue tertiary education in Malaysia. The principal of Seri Kenanga organised an event for the cash sponsorship presentation and as an appreciation for the sponsor, a plaque costing RM100 was given and the sponsor's name was stated in the programme book. In this case, since the supply of plaque to the sponsor has no commercial value, the supply of plaque is treated as not a supply.

Supply of Goods Excluded from Input Tax Credit

52. Generally, a taxable person is allowed to claim input tax incurred on the acquisition of goods and services made in the course or furtherance of business. However, certain acquisitions of goods and services listed under the GST Regulations 20XX are disallowed or blocked from input tax claim even though they are used for business purposes. For example, purchase or importation of passenger motor car, payment of club subscription fee, expenses related to medical expenses and family benefits.

53. If goods under the blocked input tax are later disposed of, they are to be treated as not a supply. In this case, the registered person is not liable to charge and account for GST on such transaction.

Example:

Margosa Sdn. Bhd. is registered under GST and operates as a supplier of laboratory equipment. The company acquired a passenger car for its director

which is not allowed for input tax claim. After the car had been used for 5 years, the company intends to dispose the car to a second hand car dealer. The sale of the car which had previously been disallowed from input tax claim is not a supply.

Insurance Indemnity Settlement

54. Any supply of goods, under insurance indemnity settlement, between an insurer or *takaful* operator and an insured in the course of settling a claim under the insurance policy or contract of *takaful* shall be treated as neither a supply of goods nor a supply of services.

55. In the case where the insured surrenders the damaged goods to the insurer in return for cash compensation or replacement goods, both the surrendering of the goods and the supply of the cash compensation or replacement goods are treated as not a supply. In the case where an insurer supplies replacement goods to the insured for lost goods, it is also treated as not a supply.

Example 1:

When an insured surrenders his totally damaged car to the insurer, there is no supply made by the insured, i.e. the disposal of damaged car to the insurer is not a supply of goods or services by the insured. When the insurer supplies cash compensation or a replacement car to the insured in lieu of the insurance contract, the insurer is not making a supply to the insured.

Example 2:

Ramly, the insured, has his camera set stolen. His insurer buys a new camera and supplies it to Ramly in settlement of the claim. When the insurer supplies the replacement camera set to Ramly in lieu of the insurance contract, the insurer is not making a supply to Ramly.

Supply by Diplomatic and Consular Mission

56. Any supply by a diplomatic foreign mission shall be treated as neither a supply of goods nor a supply of services.

57. Foreign diplomatic and consular missions are governed under the Vienna Convention. The supplies made by these missions include issuing of visa, travelling permit and temporary passage certificate and they are treated as neither a supply of goods nor a supply of services.

PLACE OF SUPPLY

58. The place of supply of goods or services is where the supply is made or treated to be made. A supply of goods or services will be within the scope of GST and therefore chargeable to GST if the place of supply is in Malaysia. Supplies made outside Malaysia are considered to be out of the scope of GST.

59. For the purposes of GST, “Malaysia” means the territories of the Federation of Malaysia, its territorial waters and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of its territorial waters, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia as an area over which it has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living.

60. There are separate rules for determining the place of supply for goods and the place of supply for services.

Place of Supply of Goods

61. It is important to determine whether a supply is made in Malaysia or outside Malaysia because GST is chargeable on any taxable supply made in Malaysia. GST is not chargeable on any supply made outside Malaysia.

(a) **Place of Supply of Goods is In Malaysia**

The place of supply of goods is in Malaysia if the supply involves goods which are removed:

- (i) from a location in Malaysia to another location in Malaysia; or
- (ii) from a location in Malaysia to a location outside Malaysia.

Paragraph 61(a)(i) refers to a local supply of goods made within Malaysia. An example is illustrated as follows:

Example 1:

Tanusha Textile Sdn Bhd which is located in Kuala Lumpur sends some cotton textiles using courier service to a buyer who is in Kuching. The textiles are transported using special cargo plane that travelled from Kuala Lumpur to another city in a neighbouring country before arriving in Kuching. The place of supply is in Malaysia.

Paragraph 61(a)(ii) relates to an export of goods. When goods are exported from Malaysia, the supply is treated to be made in Malaysia. However, the export of goods is a zero rated supply. An example is illustrated as follows:

Example 2:

Lazat Food Sdn Bhd which is located in Alor Star exported 50 kilograms of processed foods to a buyer who is in Singapore by lorry. Even though the supply is from Malaysia to a place outside Malaysia, the place of supply is in Malaysia.

(b) Place of Supply of Goods is Outside Malaysia

On the other hand, the place of supply of goods is outside Malaysia if the supply involves goods which are removed:

- (i) from a location outside Malaysia to another location outside Malaysia; or
- (ii) from a location outside Malaysia to a location in Malaysia.

Paragraph 61(b)(i) relates to a supply of goods taking place outside Malaysia. An example is illustrated as follows:

Example 3:

A Malaysian seafood supplier located in Australia sold 500 kilograms of frozen seafood to Pink Lotus Restaurant which is located in New Zealand. The place of supply of the frozen seafood is outside Malaysia.

Paragraph 61(b)(ii) relates to an importation of goods. Although the place of supply is outside Malaysia, the goods are subjected to GST on importation unless the importation is done through a suspension or relief arrangement. An example is illustrated as follows:

Example 4:

Target Hypermarket which is located in Malaysia, imported one container of mandarin oranges from a supplier who is located in China. This supply is a supply from a place outside Malaysia to a place in Malaysia. This transaction is an importation of goods and thus, is subject to GST at the point of import.

(c) Place of Supply of Goods in Various Circumstances

(i) *Goods supplied through an agent located in Malaysia*

In the case where goods are supplied through an agent located in Malaysia, the supply is treated as supplied by the principal and not by the agent. If the goods belonging to the principal moves from a place outside Malaysia to another place inside or outside Malaysia, the place of supply is outside Malaysia. If the goods belonging to the principal moves from a place in Malaysia to another place inside or outside Malaysia, the place of supply is inside Malaysia. For further information, please refer to *GST Guide on Agent*.

Example 5:

A principal who is located in Singapore sold his products to a buyer in Malaysia through his selling agent in Malaysia. The invoice is issued in the name of the principal. Therefore, the goods moved from a place outside Malaysia to a place in Malaysia with the agent acting on behalf of the principal. This is an importation of goods and subject to GST if the goods are not granted relief on importation.

Example 6:

A local company sold its products to an overseas buyer through a buying agent in Malaysia. Therefore, the goods moved from a place in Malaysia to a place outside Malaysia with the agent acting on behalf of the overseas principal (buyer). This is an export of goods and is zero rated.

(ii) *Goods relating to drop shipment by Toll Manufacturer*

A person, a toll manufacturer, who is in Malaysia processes goods belonging to an overseas principal. On the instruction of the overseas principal, the goods are delivered to another company in Malaysia. The place of supply is treated as made in Malaysia because the goods are located in Malaysia and delivered to another location in Malaysia. The goods are subject to GST and the person delivering it has to account for the tax.

However, if the toll manufacturer is under the Approved Toll Manufacturer Scheme (ATMS), the supply made by the Approved Toll Manufacturer is disregarded but the recipient of the goods has to account for GST on the supply he receives. For further information, please refer to *GST Guide on Approved Toll Manufacturer Scheme (ATMS)*.

Example 7:

An approved toll manufacturer under the ATMS facility will carry out drop shipment of the goods processed or treated by him to a local customer of his overseas principal on the instruction of the overseas principal. The place of supply for the drop shipped goods is in Malaysia.

(iii) *Goods supplied on board ship*

Goods such as merchandise for sale by retail supplied on board ship may involve a supply made in Malaysia or a supply made outside Malaysia.

Example 8:

A Malaysian cruise ship supplies souvenirs (as merchandise for sale by retail) on board while on a voyage from Port Klang, Malaysia to Singapore. Since the supply is taking place on board the ship between the point of departure (Port Klang, Malaysia) and the point of arrival (Singapore), the place of supply of goods is treated as made outside Malaysia and such supply is out of the scope of GST.

Example 9:

A Malaysian cruise ship supplies souvenirs (as merchandise for sale by retail) on board while on a voyage from Singapore to Port Klang, Malaysia. Since the supply is taking place on board the ship between the point of departure (Singapore) and the point of arrival (Port Klang, Malaysia), the place of supply of goods is treated as made outside Malaysia and such supply is out of the scope of GST.

Example 10:

A Malaysian cruise ship supplies souvenirs (as merchandise for sale by retail) on board while on a voyage from Penang Port to Port Klang, Malaysia. The place of supply of goods is treated as made in Malaysia and such supply is subject to GST at standard rate.

(iv) *Goods supplied on board aircraft*

Goods such as merchandise for sale by retail supplied on board aircraft may involve a supply made in Malaysia or a supply made outside Malaysia.

Example 11:

Terbang Airline System supplies souvenirs (as merchandise for sale by retail) on board a flight from Kuala Lumpur International Airport, Malaysia to Narita International Airport, Japan. Since the

supply is taking place on board the aircraft between the point of departure (Kuala Lumpur International Airport, Malaysia) and the point of arrival (Narita International Airport, Japan), the place of supply of goods is treated as made outside Malaysia and such supply is out of the scope of GST.

Example 12:

Flyer Airline System supplies souvenirs (as merchandise for sale by retail) on board a flight from Narita International Airport, Japan to Kuala Lumpur International Airport, Malaysia. Since the supply is taking place on board the aircraft between the point of departure (Narita International Airport, Japan) and the point of arrival (Kuala Lumpur International Airport, Malaysia), the place of supply of goods is treated as made outside Malaysia and such supply is out of the scope of GST.

Example 13:

Laju Airline System supplies souvenirs (as merchandise for sale by retail) on board a flight from Penang International Airport to Senai International Airport, Johor, Malaysia. The place of supply is treated as made in Malaysia and such supply is subject to GST at standard rate.

(v) *Goods supplied on board train*

Goods such as merchandise for sale by retail supplied on board train may involve a supply made in Malaysia or a supply made outside Malaysia.

Example 14:

A passenger train, owned by a company based in Malaysia, supplies souvenirs (as merchandise for sale by retail) on board while travelling via Malaysian rail track from KL Sentral Train Station, Kuala Lumpur to Butterworth Train Station, Penang. The place of supply (on board train) between KL Sentral Train Station and Butterworth Train Station (both in Malaysia) is treated as in

Malaysia and such supply of goods is subject to GST at standard rate.

Example 15:

A passenger train, owned by a company based in Malaysia, supplies souvenirs (as merchandise for sale by retail) on board while travelling via Malaysian rail track from K.L Sentral Train Station, Kuala Lumpur to Padang Besar Train Station, Perlis (at the Malaysia-Thailand border), and then onwards to Hat Yai Train Station, Thailand via Thailand rail track.

The place of supply (on board train) between KL Sentral Train Station, Kuala Lumpur and Padang Besar Train Station, Perlis (both in Malaysia) is treated as in Malaysia and such supply of goods is subject to GST at standard rate.

The place of supply (on board train) between Padang Besar Train Station, Perlis, Malaysia and Hat Yai Train Station, Thailand is treated as made outside Malaysia and such supply of goods is out of the scope of GST.

As for the return journey from Hat Yai Train Station, Thailand to KL Sentral Train Station, Malaysia, the treatment of GST is as follows:

The place of supply (on board train) between Hat Yai Train Station, Thailand and Padang Besar Train Station, Perlis, Malaysia, is treated as made outside Malaysia and such supply of goods is out of the scope of GST.

The place of supply (on board train) between Padang Besar Train Station, Perlis and KL Sentral Train Station, Kuala Lumpur (both in Malaysia) is treated as in Malaysia and such supply of goods is subject to GST at standard rate.

Example 16:

Eastern & Oriental Express, a luxury passenger train operated by a foreign company based in Thailand, supplies souvenirs (as

merchandise for sale by retail) on board while travelling from Bangkok, Thailand to Singapore. Part of the train's journey is via the Malaysian rail track. Where the train does not pick up passengers along the way in Malaysia, the place of supply (on board train) is treated as made outside Malaysia and such supply of goods is out of the scope of GST.

For further details relating to supply of goods on board ship, aircraft and train, please refer to *GST Guide on Shipping Industries*, *GST Guide on Airline Industry*, and *GST Guide on Passenger Transportation*, respectively.

Place of Supply of Services

62. The place of supply of services is treated as made in the country where the supplier belongs. Therefore, a supply of services is treated as made in Malaysia if the supplier belongs in Malaysia. A supply of services is treated as made outside Malaysia if the supplier belongs in a country other than Malaysia. Where a supplier belongs in Malaysia, every supply of services provided by him is within the scope of GST.

(a) Place where Supplier or Recipient of Services Belongs

(i) *A supplier of services belongs in Malaysia under the following circumstances:*

- he has a business establishment or fixed establishment in Malaysia and not elsewhere; or
- he has no business or fixed establishments anywhere, but Malaysia is his usual place of residence; or
- he has business or fixed establishments both in Malaysia and elsewhere and his establishment which is most directly concerned with the supply is in Malaysia.

Example 1:

Upon receiving an order from a customer in Indonesia, Kochiwa Computer Co.'s head office in Japan instructs its regional office in Malaysia, Nexus Computer Co. to supply computer programming services to the customer in Indonesia. The supplier of the services belongs in Malaysia and not Japan since the establishment which is most directly concerned with the supply is in Malaysia.

Example 2:

A Malaysian company is awarded a contract overseas and set up a business establishment (a company) there. The contract services are provided there by its overseas business establishment. The place of supply of services is overseas. The supplier of the services belongs overseas and not in Malaysia since the establishment which is most directly concerned with the supply is the overseas business establishment.

- (ii) *A recipient of services belongs in Malaysia if he has his usual place of residence in Malaysia where the supply of services is made to him as an individual and not for the purpose of his business.*
- (iii) *Where the recipient (individual or business entity) receives the services in the course or furtherance of business, he is treated as belonging in Malaysia under the following circumstances:*
- *he has a business establishment or fixed establishment in Malaysia and not elsewhere; or*
 - *he has no business or fixed establishments anywhere, but Malaysia is his usual place of residence; or*
 - *he has business or fixed establishments both in Malaysia and elsewhere and his establishment at which the services are most directly used or to be used is in Malaysia.*

Example 3:

Tax Consult's head office in Japan engages a software company to upgrade the computer accounting system in its regional office in Malaysia. The recipient of the upgrading services belongs in Malaysia since the establishment at which the services are most directly used or to be used is the regional office in Malaysia.

A business establishment means the principal place of business of the supplier and it is usually the head office or the headquarters from which the business is run.

A fixed establishment is an establishment other than the business establishment from which the activities of the business are carried out. It includes a branch or agency through which the supplier carries on a business.

Usual place of residence refers to the following categories:

- for corporate body, the country where it is legally constituted; or
- for an unincorporated body, the country where it has its centre of administration; or
- for an individual, the country where he has his usual place of residence.

Example 4:

Tasty Restaurant, a local food outlet in Malaysia, is in the business of providing foods and beverages to its customers. The supply of services is treated as made in Malaysia. The restaurant belongs to a company incorporated in Malaysia.

Example 5:

A firm located in Malaysia provides engineering services in relation to a highway construction project in Mumbai to a company located in India. The supply of services is treated as made in Malaysia because the firm belongs in Malaysia. Since such supply is made from Malaysia to a

company who belongs in India, it is treated as an export of services and subject to GST at zero rate.

Example 6:

Firma Arkitek Edry, a local architect, is doing a project overseas. He plans and designs the project in his house in Kuala Lumpur. Since Firma Arkitek Edry belongs in Malaysia, then the supply of architecture services is made in Malaysia. The supply of architecture services is an export of services and it is zero rated.

Example 7:

Rasa Melissa Café is a food outlet situated in London, United Kingdom. Although the owner of the café, Melissa is a Malaysian citizen, the place of supply is outside Malaysia because her business establishment is in the United Kingdom.

(b) Place of Supply for Various Services

(i) Services supplied on board ship

Example 8:

A Malaysian cruise ship supplies services (such as provision of food and beverages) on board while on a voyage from Port Klang, Malaysia to Singapore. The place of supply is treated as made in Malaysia because the supplier belongs in Malaysia and such supply is subject to GST at standard rate.

Example 9:

A Malaysian cruise ship supplies services (such as provision of food and beverages) on board while on a voyage from Singapore to Port Klang, Malaysia. The place of supply of services is treated as made in Malaysia because the supplier belongs in Malaysia and such supply is subject to GST at standard rate.

Example 10:

A Malaysian cruise ship supplies services (such as provision of food and beverages) on board while on a voyage from Penang Port to Port Klang, Malaysia. The place of supply of services is treated as made in Malaysia and such supply is subject to GST at standard rate.

- (ii) *Services supplied on board aircraft*

Example 11:

Terbang Airline System supplies services (such as provision of food and beverages) on board a flight from Kuala Lumpur International Airport, Malaysia to Narita International Airport, Japan. The place of supply of services is treated as made in Malaysia because the supplier belongs in Malaysia and such supply is subject to GST at standard rate.

Example 12:

Flyer Airline System, a Malaysian owned airline company, supplies services (such as provision of food and beverages) on board a flight from Narita International Airport, Japan to Kuala Lumpur International Airport, Malaysia. The place of supply of services is treated as made in Malaysia because the supplier belongs to Malaysia and such supply is subject to GST at standard rate.

Example 13:

Laju Airline System supplies services (such as provision of food and beverages) on board a flight from Penang International Airport to Senai International Airport, Johor, Malaysia. The place of supply of services is treated as made in Malaysia and such supply of services is subject to GST at standard rate.

(iii) *Services supplied on board train*

Example 14:

A passenger train, owned by a company based in Malaysia, supplies services (such as provision of food and beverages) on board while travelling via Malaysian rail track from KL Sentral Train Station, Kuala Lumpur to Padang Besar Train Station, Perlis (at the Malaysia-Thailand border), and then onwards to Hat Yai Train Station, Thailand via Thailand rail track.

- The place of supply of services (on board train) between KL Sentral Train Station, Kuala Lumpur and Padang Besar Train Station, Perlis (both in Malaysia) is treated as in Malaysia and such supply of services is subject to GST at standard rate.*
- The place of supply of services (on board train) between Padang Besar Train Station, Perlis, Malaysia (the Malaysian border) and Hat Yai Train Station, Thailand is treated as as made in Malaysia because the supplier belongs to Malaysia and such supply is subject to GST at standard rate.*

As for the return journey from Hat Yai Train Station, Thailand to KL Sentral Train Station, Malaysia, the treatment of GST is as follows:

- The place of supply of services (on board train) between Hat Yai Train Station, Thailand and Padang Besar Train Station, Perlis, Malaysia (the Malaysian border), is treated as made in Malaysia because the supplier belongs to Malaysia and such supply is subject to GST at standard rate.*
- The place of supply of services (on board train) between Padang Besar Train Station, Perlis and KL Sentral Train Station, Kuala Lumpur (both in Malaysia) is treated as in Malaysia and such supply of services is subject to GST at standard rate.*

(iv) *Telecommunication services*

Example 15:

The place of supply of telecommunication services by a telecommunication provider is where he belongs. For a subscriber of a local telecommunication company who makes an international call, the place of supply of services to him is in Malaysia because the supplier of the telecommunication services belongs in Malaysia.

For further information on telecommunication services, please refer to *GST Guide on Telecommunication Services*.

(v) *Travel services*

Example 16:

The place of supply of travel services by a travel agency is where the travel agency belongs. When a Malaysian travel agency arranges inbound tour package for a UK travel agency, the place of supply of travel services (tour package) by the Malaysian travel agency is in Malaysia because he belongs in Malaysia. However, when the Malaysian travel agency arranges outbound tour package for his customers, the place of supply of travel services is outside Malaysia since the tour is conducted overseas.

On the other hand, when the Malaysian travel agency who belongs in Malaysia makes a supply of travel services comprising the arranging of inbound or outbound tour to the U.K travel agency who belongs in a country other than Malaysia and is outside Malaysia when the services are performed, the supply is subject to GST at zero rate.

*For further information, please refer to *GST Guide on Travel Industry*.*

(vi) *Services provided by an artist or a sportsman*

Example 17:

The place of supply of services provided by an artist or a sportsman is where he belongs. For example, when a Malaysian artist stages a performance, the place of supply of services is in Malaysia. When he performs overseas, the place of supply is in Malaysia because he belongs in Malaysia. However, he is making a supply of export services since the services are wholly performed overseas. The same treatment applies to the sportsman.

(vii) *Broadcasting services*

Example 18:

The place of supply of broadcasting services by a broadcasting company is where he belongs. If a Malaysian broadcasting company broadcasts television programmes, the place of supply is in Malaysia. When its sister company in a neighbouring foreign country broadcasts television programmes, the place of supply of services is in that country.

(viii) *Supply of services relating to land*

Example 19:

The place of supply of services relating to land is where the supplier belongs. Examples of land-related services are as follows:

- *Services supplied in the course of construction, reconstruction, renovation, demolition, repair or maintenance of any building.*
- *Services of estate agents, auctioneers, architects, solicitors, surveyors and engineers relating to land, buildings or civil engineering works.*

- *Property management services which include rent collection, repairs arrangement and maintenance of financial accounts.*

When these land-related services are supplied by a person who belongs in Malaysia, the place of supply is in Malaysia. When these services are supplied to the overseas customers by a Malaysian supplier in relation to land located outside Malaysia, the supply is still made in Malaysia. However, since the services are supplied in relation to land located outside Malaysia, the supply is treated as exported services. Thus, the service provider can zero rate the supply to the overseas customers.

- (ix) *Server co-locating services*

Example 20:

A Malaysian company provides server co-locating services in Malaysia to a Singapore web hosting company, Atar.sg. The supply of co-locating services, which include the provision of rental space and maintenance services for Atar.sg's server, is zero rated under the Goods and Services (Zero Rate Supplies) Order 20XX. But when a third party is engaged to do maintenance works on the server, the supply of services by the third party is standard rated.

- (x) *Web hosting services*

Example 21:

Referring to the above example, when Atar.sg uses his server in Malaysia to make a supply of web hosting services, the place of supply is in Singapore because he belongs in Singapore, even though his server is located in Malaysia. He is making a supply of services from Singapore to his customer and the supply is out of the scope of the Malaysian GST.

Example 22:

A Malaysian company, Men.my, co-locates his server in Singapore. When he uses the server to make a supply of web hosting services to his customers, the place of supply is in Malaysia because he belongs in Malaysia, even though his server is located in Singapore. When he supplies web hosting services to his customers, the place of supply is still in Malaysia and the supply is standard rated.

(c) Supply of Imported Services

Imported services refer to 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. Accordingly, a supply of imported services is treated as a supply made in Malaysia by and to the recipient who belongs in Malaysia.

A supplier who does not belong in Malaysia and supplies services to a customer (or recipient) in Malaysia does not have to charge GST. However, the customer (or recipient) who receives the services for the purpose of any business carried on by him is required to account for GST by a reverse charge mechanism. The time of supply of imported services is when the supply is paid for by the recipient.

A recipient of services is treated as belonging in Malaysia based on the presence of his business or fixed establishment in Malaysia. If a recipient has no such establishment in Malaysia, he still belongs in Malaysia if his usual place of residence is located in Malaysia. If he has such establishments in both Malaysia and elsewhere, he belongs in Malaysia if the services are directly used or to be used in his establishment in Malaysia.

Example 23:

MY Co. is the computer database centre for ASEAN region where Kuala Lumpur is the head office. An overseas company (UK Co.) was

engaged to upgrade MY Co.'s database. The upgrading cost of RM80,000 covers all five regional offices of MY Co. The cost of upgrading MY Co.'s database in Malaysia is RM30,000 and is liable to GST while the remaining RM50,000 is not liable because the work is done for the other regional offices, that is, consumed outside Malaysia although payment is made by MY Co. which is based in Malaysia.

Example 24:

Stylo Bhd. is a wholesaler for 'X brand' shoes in Malaysia and Thailand. Stylo Bhd. pays royalty to Italy Shoes Co. (holder of rights) at the end of every year. The royalty paid depends on the total amount of shoes sold in the year. Stylo Bhd. paid RM36,000 this year for shoes sold in both countries, which is RM16,000 for the sale in Malaysia and RM20,000 in Thailand. The amount of imported services liable to GST is RM16,000.

Example 25:

KL Co. engaged a few experts from Europe for a consultation on productivity management for a factory located in Cambodia. The job was performed in Cambodia but payment was made by the KL Co. in Kuala Lumpur. No GST is charged on the consultation services because these services were consumed outside Malaysia.

TIME OF SUPPLY

63. The time of supply is the time when a supply of goods or services is treated as being made. It is important to determine the time of supply because a taxable person should charge GST at the time when the supply is made. Consequently, he accounts for GST for the taxable period in which the time of supply occurs unless he is allowed to account GST under payment basis.

64. The time of supply rules which is referred to as the 'tax point', fix the time at which a supply is treated as taking place for GST purposes. A supplier becomes liable to account for GST once a tax point has occurred and must include it in the return covering the period in which the tax point falls.

65. There are general rules for determining the time of supply. However, in certain cases and in particular situations, there is specific time of supply rules to be applied. It is essential to note that where a specific time of supply rule applies, it will override the general rule.

General Time of Supply Rules

66. In general, the basic tax point is when

- (a) goods are removed or when goods are made available to a customer;
or
- (b) services are performed.

67. The time of supply of goods occurs when the goods are removed or if the goods are not to be removed, the time when goods are made available to the customer.

Example 1: Goods are removed

Axis Laundry Sdn. Bhd. ordered 10 washing machines from Omni Electrical Sdn. Bhd. on 28th December 2015 and received delivery of the washing machines on 6th January 2016. The basic tax point is 6th January 2016 i.e. when goods were removed for sales.

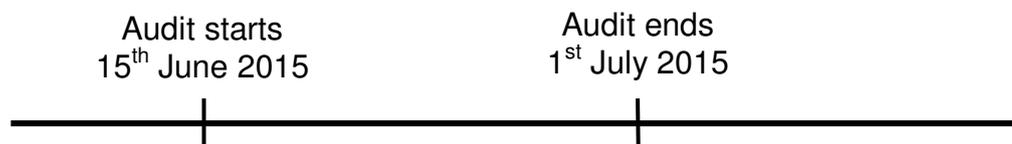
Example 2: Goods are made available



Pemaju Gemilang Sdn. Bhd., a developer, was contracted to build a hotel for Boutique Hotelier Sdn. Bhd. on 1st March 2016. The developer finished building the hotel and enabled his client to take possession of it on the 31st December 2018. Thus, the time of supply is on the 31st December 2018 i.e. when the hotel is made available to the client.

68. In the case of a supply of services, the time of supply is when the services are performed. A service is considered “performed” when work is done or completed by the supplier of services.

Example 3: Services are performed



Feroz has an audit firm. Usually beginning June, Feroz has to audit Meiji & Co. and prepare an audit report. The audit started on 15th June 2015. By 1st July 2015, Feroz has completed the report and sent it to Meiji & Co. i.e. the services are performed. In this case, the basic tax point is 1st July 2015 which is the end date of an audit i.e. when services are performed.

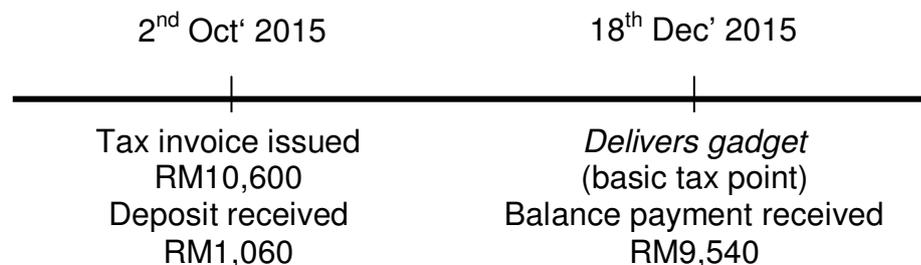
Specific Time of Supply Rules

69. Specific time of supply rules for certain circumstances are as follows:

- (a) Tax invoice issued or payment received before the basic tax point

If a supplier issues a tax invoice or receives any payment before the time of supply mentioned in paragraph 66 above, the time of supply for the amount invoiced or payment received will be the date of the invoice issued or the date of the payment received, whichever is the earlier.

Example 1: Invoice before basic tax point

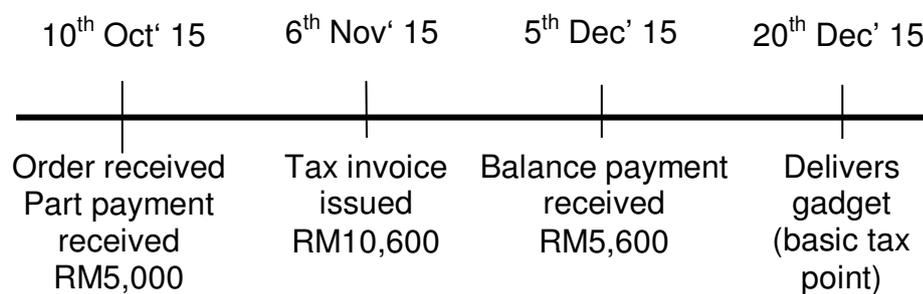


Company A sells and delivers a gadget to Company B on 18th December 2015. The value of the gadget is RM10,000. Company A

however, issues a tax invoice for RM10,600 to Company B on 2nd October 2015 when Company B places the order. Company B also pays a deposit of RM1,060 on the same day. Company B pays the remaining balance of RM9,540 on 18th December 2015.

The time of supply for GST due amounting to RM600 ($6/106 \times RM10,600$) is 2nd October 2015 regardless of any payment Company A had received or is to receive from Company B after 2nd October 2015.

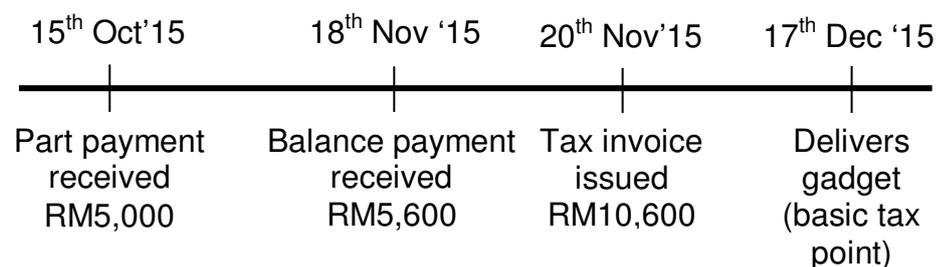
Example 2: Part payment before basic tax point



Company A sells and delivers a gadget to Company C on 20th December 2015. When Company C places the order on 10th October 2015, he pays a part payment of RM5,000. The value of the gadget is RM10,000 and the GST chargeable is RM600. Company A issues a tax invoice for the whole amount of RM10,600 on 6th November 2015. Company C later pays the balance amount of RM5,600 to Company A on 5th December 2015.

The time of supply for GST due amounting to RM283 ($6/106 \times RM5,000$) is 10th October 2015 and the time of supply for GST due amounting to RM317 ($6/106 \times RM5,600$) is 6th November 2015.

Example 3: Full payment before basic tax point



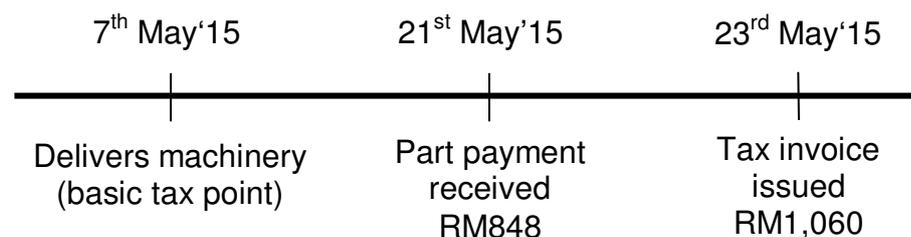
Company A sells and delivers a gadget to Company D on 17th December 2015. The value of the gadget is RM10,000 and the GST chargeable is RM600. Company A receives RM5,000 as part payment from Company D on 15th October 2015 and the remaining balance amount of RM5,600 on 18th November 2015. Company A issues a tax invoice for the whole amount on 20th November 2015.

The time of supply for GST due amounting to RM283 ($6/106 \times RM5,000$) is 15th October 2015 and the time of supply for GST due amounting to RM317 ($6/106 \times RM5,600$) is 18th November 2015.

- (b) Tax invoice issued within 21 days from the basic tax point

If a supplier does not receive any payment before the basic tax point but issues a tax invoice within 21 days from the basic tax point, the time of supply will be the date of issuance of the invoice. This is regardless of any payment received within the 21 day period. If a tax invoice is not issued within 21 days, then the time of supply will revert to the basic tax point.

Example 4:



Wira Trading Sdn. Bhd. (Wira) delivered a machinery value at RM1,000 on 7th May 2015. On 21st May 2015, Plutonic Manufacturing Sdn. Bhd. paid RM848 as part payment. Wira issued a tax invoice on 23rd May 2015 for the total amount of RM1,060 but stated the balance of RM212 to be paid.

Even though Wira received part payment earlier than the issuance of tax invoice, the time of supply for GST due amounting to RM60 ($6/106$

X RM1,060) is still 23rd May 2015 since the tax invoice was issued within 21 days from the basic tax point.

Example 5:

In relation to the above example, if Wira Trading Sdn. Bhd. issued an invoice on 9th June 2015 (the invoice was issued more than 21 days after the basic tax point), then the time of supply is on 7th May 2015 i.e. when the machinery is removed.

(c) Consignment Sale

If a supply of goods is on a sale or return or similar terms, the time of supply will be such time when the consignee issues a statement of sales to the consignor stating that the goods had been sold or twelve months from the date the goods were sent to the consignee, whichever is the earlier. Applying the 21 days rule, if a tax invoice was issued within 21 days from the date the consignee issued the statement of sales or after twelve months the goods were removed, then the time of supply is the date of the tax invoice.

Example 6:

A consignor supplied 1,000 units of goods to a consignee on 1st July 2015. A statement of sales received by the consignor from the consignee on 2nd August 2015 is on 100 units only. The consignor needs to issue a tax invoice within 21 days from the date of issuance of the statement of sales.

After 12 months from 1st July 2015, the remaining balance of 900 units had not been sold or the consignor did not receive any statement of sales from the consignee, the consignor needs to issue a tax invoice within 21 days after the 12 months period has lapsed.

(d) Disposal of Business Assets

Transfer or disposal of goods which form part of business assets by or under the direction of the person carrying on the business, whether or

not for a consideration, the time of supply is at the time when the goods are transferred or disposed i.e. when the goods are removed.

This would include a situation where the supplier temporarily loans his goods to another person and that person replaces the loaned goods with another batch of goods to the supplier.

Example 7:

TF Furniture Sdn. Bhd. disposes two work stations to its sister company, TF Trading Sdn. Bhd. on 17th December 2015. The time of supply is on 17th December 2015.

(e) Non-business Use of Business Assets

If goods are temporarily taken out for private use or any purpose other than for business, it is a supply of services. The time of supply is when the goods are appropriated. However, where the non-business use is of a continuing nature, the time of supply shall be the last day of the taxable period during which the goods are made available or are used.

Example 8:

Qazem Construction Sdn. Bhd. (Qazem), a GST registered person who is on a monthly taxable period, allows his brother to use one of his excavators that was purchased for his business for 3 months effective from 1st January 2016. Qazem takes back the excavator after his brother has used the excavator. The time of supply will be on the last day of each of Qazem's monthly taxable period where the excavator was used by his brother i.e. the taxable period of January, February and March 2016 respectively.

(f) Transfer of Land

Where there is a transfer of land under title and the whole or part of the consideration for that transfer of land is payable periodically or from time to time, the time of supply is the earlier of the following:

- (i) whenever a part of the consideration is received; or

- (ii) whenever the supplier issues a tax invoice relating to that transfer.

This situation may apply to a developer on the supply of property under construction under a progressive payment contract.

Example 9:

A purchaser enters into an agreement to buy a shop lot which is under construction. The sales price of the building is RM1,000,000. The payment is scheduled for 4 successive interval payments and the respective amounts to be paid are as follows:

Scheduled payment period	Amount
1 st payment (1 April 2016)	RM 100,000.00
2 nd payment (1 July 2016)	RM 200,000.00
3 rd payment (1 October 2016)	RM 400,000.00
4 th payment (1 January 2017)	RM 300,000.00

The developer subsequently issues a tax invoice at each successive period for the scheduled amount.

The developer needs to account for GST based on the earlier of when the tax invoice is issued or when payment is received. For example, if he issues a tax invoice on 1st April 2016 for the first interval but the purchaser makes payment on 1st May 2016, the time of supply is on 1st April 2016 and the developer has to account for GST in the April taxable period (the developer is on a monthly taxable period).

- (g) Supply of telecommunication services and utilities, etc

Supply of telecommunication services, gas, water, refrigeration, air conditioning, ventilation, petroleum or petroleum product through pipeline or any form of power including electricity is treated as taking place whenever -

- (i) full or part payment in respect of the supply is received, or

- (ii) a tax invoice relating to the supply is issued by the supplier whichever is the earlier.

In relation to this, if the supplier supplies such goods or services on a continuous basis and receives payments periodically from time to time, then the time of supply is based on the earlier of the following:

- (i) when he receives a part of the payment; or
(ii) when he issues a tax invoice.

Example 10:



Cakra Power Plant (Cakra) supplies electricity to Hino Semiconductor Sdn. Bhd. (Hino) on a continuous basis since 10th January 2016. On 27th January 2016, Cakra receives RM530 from Hino as part payment of the supply of electricity. Cakra later issues a tax invoice of RM1,060 on 15th February 2016 for the total amount of electricity being supplied to Hino for the period of 10th January 2016 to 10th February 2016.

The time of supply for the GST due on the part payment amounting to RM30 ($6/106 \times RM530$) is on 27th January 2016 and Cakra has to account for the GST in the January taxable period (Cakra is on a monthly taxable period).

The time of supply for the GST due on the remaining balance of RM530 as stated in the tax invoice is on 15th February 2016 and Cakra has to account for the GST in the February taxable period.

- (h) Supplier's goods in possession of the recipient

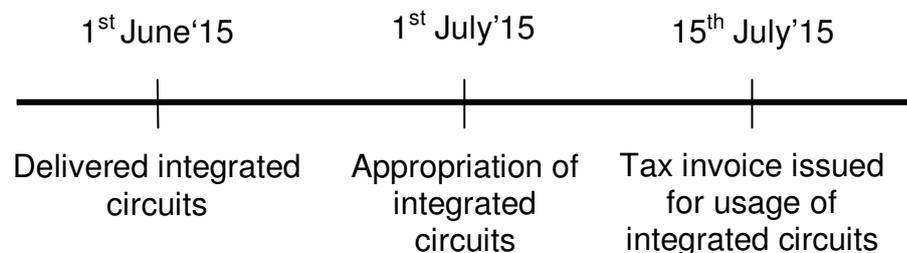
If the supplier supplies goods under an agreement where ownership will only pass at the date of appropriation by the recipient and the consideration will not be fixed until that date, then the time of supply is the earliest of the following dates:

- (i) the date when the recipient appropriates the goods;
- (ii) the date when a tax invoice is issued by the supplier; or
- (iii) the date when a payment is received by the supplier.

If the supplier issues a tax invoice within 21 days from the date of appropriation by the recipient and no payment is received before the date of appropriation of goods, then the date when the tax invoice is issued becomes the actual time of supply.

In the case where there is a self-billing agreement between the supplier and the recipient, the basic tax point is the date of appropriation. If the recipient issues a self-billed invoice within 21 days from the date of appropriation by him, then the actual time of supply is the date when the self-billed invoice is issued.

Example 11:

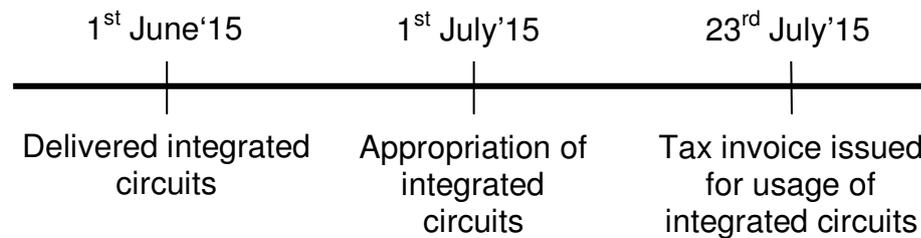


Qtronic Enterprise (Qtronic) delivered 100,000 units of integrated circuits to Uno Manufacturing Sdn. Bhd. (Uno) warehouse on 1st June 2015. Under the contract signed between the two companies, the ownership of the integrated circuits will only pass to Uno every time Uno appropriates the integrated circuits to manufacture mobile phone. Both Qtronic and Uno are GST registered persons.

On 1st July 2015, Uno appropriated 30,000 units of integrated circuits to manufacture mobile phones and sent a statement of usage to Qtronic

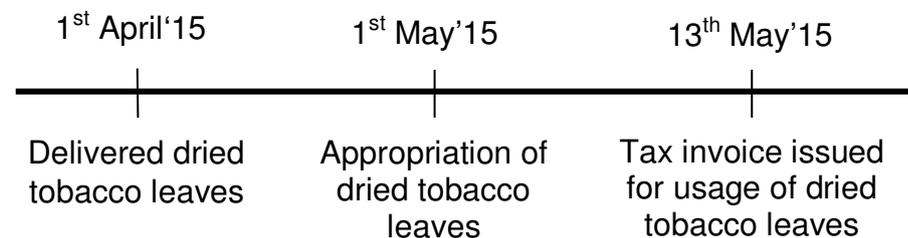
accordingly. Qtronic then issued a tax invoice on 15th July 2015 to Uno for the value of 30,000 units of integrated circuits used. Since the tax invoice is issued within 21 days from the date of appropriation, the date when the tax invoice is issued becomes the time of supply.

Example 12:



In relation to the above example, if Qtronic issues the tax invoice on 23rd July 2015 i.e. exceeding 21 days from the date of appropriation, then the time of supply is the date of appropriation.

Example 13:



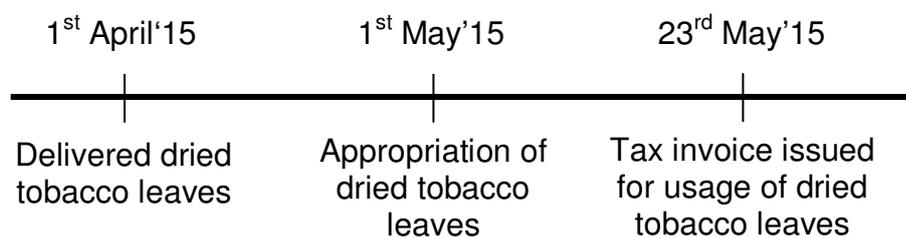
Tebakau Farm Enterprise (Tebakau) supplies dried tobacco leaves to Alpine Cigarette Manufacturing Sdn. Bhd. (Alpine) through a self-billing agreement for the year of 2015. The agreement is signed between the two companies because the supplier (Tebakau) cannot determine the price of the dried tobacco leaves which always fluctuates according to market demand.

Tebakau delivered 100,000 tons of dried tobacco leaves to Alpine's warehouse on 1st April 2015. Under the contract signed between the two companies, the ownership of the dried tobacco leaves will only pass to Alpine every time Alpine appropriates the dried tobacco leaves

to manufacture cigarettes. Both Tebakau and Alpine are GST registered persons.

On 1st May 2015, Alpine appropriated 45,000 tons of dried tobacco leaves to manufacture cigarettes and issued a self-billed invoice on the appropriated quantity to Tebakau on 13th May 2015. Since the tax invoice is issued within 21 days from the date of appropriation, the date when the self-billed invoice is issued becomes the time of supply.

Example 14:



In relation the above example, if Alpine Cigarette Manufacturing Sdn. Bhd. issues the self-billed invoice on 23rd May 2015 i.e. exceeding 21 days from the date of appropriation, then the time of supply is the date of appropriation.

(i) Retention payment

Occasionally, a customer withholds a percentage of the payment to the supplier until the satisfaction of conditions specified in the contract. The amount withheld is termed as retention payment and is not subject to GST until the money is released to the supplier.

For retention of any part of a consideration by a person pending full and satisfactory performance of the contract, or any part of it, by the supplier, the time of such supply is the earliest of the following:

- (i) when payment is received; or
- (ii) when tax invoice is issued by the supplier.

Example 15:

Assuming a project costs RM84,000 and the contractor has completed the project. In his billing, he will have to account for GST as below:

<i>Value of construction works</i>	<i>:</i>	<i>RM84,000</i>
<i>Less: Retention amount</i>	<i>:</i>	<i>RM2,200</i>
<i>Payment due</i>	<i>:</i>	<i>RM81,800</i>
<i>GST</i>	<i>:</i>	<i>RM4,908 (RM 81,800 x 6%)</i>

The GST payable is RM4,908.

The contractor has to account for GST when he receives the amount of retention sum, or when he issues an invoice relating to the retention sum, whichever is the earlier. The amount of GST to be accounted is RM132 (RM2,200 x 6%).

(j) Continuous supply of services

When a supplier supplies services on a continuous basis for a consideration, and receives whole or part of payments periodically or from time to time, the time of supply for such services is at the earlier of the following:

- (i) when the tax invoice issued; or
- (ii) when payment is received.

If there is an agreement where successive payments are to be made at regular intervals by the customer, the supplier can issue a tax invoice at the start of any period of up to one year (not exceeding twelve months) to cover all the payments due in that period.

For each payment, he should state the:

- (i) date on which the payment is due;
- (ii) amount payable exclusive of GST;
- (iii) rate of GST; and
- (iv) amount of GST chargeable.

Under such an arrangement, the time of supply is taken to be the earlier of the following:

- (i) the date on which the payment is due; or
- (ii) the date he receives the payment.

However, if there is a change in the tax chargeable on or before any of the dates that a payment is due as stated in the tax invoice, i.e. there is a change in the rate of tax on the supplies, then the invoice will cease to be a tax invoice in respect of any such supplies for which payments are due after the change.

Example 16:

Urus Jaya Sdn. Bhd. (Urus) provides warehouse rental services to Kenawi Engineering Sdn. Bhd. (Kenawi) on a quarterly basis via a rental agreement. Urus issues a tax invoice for rental services for the 1st quarter of 2016 on 2nd January 2016 as shown below:

*Urus Jaya Sdn. Bhd.
Kepong*

*GST No.: 00788
Date: 2nd January 2016*

Tax Invoice No.: 2465

*To: Kenawi Engineering Sdn. Bhd.
Kepong Industrial Area, Kepong*

Rental period / payment due date	Rental Amount	GST rate	GST due
January (5 th February 2016)	RM2,000	6%	RM120
February (5 th March 2016)	RM2,000	6%	RM120
March (5 th April 2016)	RM2,000	6%	RM120

- (i) *If Kenawi pays the rental amount of RM6,000 for the months of January, February and March 2016 according to the payment due dates stated in the tax invoice, the time of supply for rental services is the payment due date of each month, i.e. on 5th February 2016, 5th March 2016 and 5th April 2016 respectively.*

- (ii) *If Kenawi were to pay the rental amount of RM6,000 on an earlier dates for the months of January, February and March 2016 on 1st February 2016, 2nd March 2016 and 3rd April 2016 respectively, the time of supply is the date the payment is received by Urus, i.e. on 1st February 2016, 2nd March 2016 and 3rd April 2016 respectively.*
- (iii) *If Kenawi were to pay the rental amount of RM6,000 on a later dates for the months of January, February and March 2016 on 10th February 2016, 12th March 2016 and 15th April 2016 respectively, the time of supply for rental services is still the payment due date of each month, i.e. on 5th February 2016, 5th March 2016 and 5th April 2016 respectively.*

(k) Payment related to intellectual property

The time of supply of such services is the earlier of the following:

- (i) when payment in respect of the use of the benefit of the services is received, or
- (ii) when tax invoice is issued by the supplier.

However, if a further supply takes place and the consideration of the supply is not ascertainable at the time when the services are supplied, the time of supply is the earlier of the following:

- (i) when a payment is received; or
- (ii) when a tax invoice is issued.

Example 17:

Cutie Garment Sdn. Bhd. (Cutie) enters into a contract with ComelKu Baby Clothing Bhd. (ComelKu) which allows Cutie the rights to use ComelKu patent on Cutie clothing for two years (2016 – 2017). In return, Cutie has to pay RM106,000 monthly patent fee to ComelKu plus an additional 2% royalty on Cutie's annual turnover. Assuming Cutie's annual turnovers for 2016 and 2017 are RM100 million and

RM150 million respectively, the royalty of RM2 million and RM3 million respectively will be payable to ComelKu.

ComelKu has to account for GST on the RM106,000 patent fee every time it issues a tax invoice to Cutie as follows:

$$\text{GST payable} = 6/106 \times \text{RM}106,000 = \text{RM}6,000$$

On top of that, ComelKu also has to account for GST on the additional royalty payment of RM2 million (2% of 2016 turnover) and RM3 million (2% of 2017 turnover) when it receives royalty payments from Cutie as follows:

$$\text{GST payable} = 6/106 \times \text{RM}2,000,000 = \text{RM}113,207.55$$

$$\text{GST payable} = 6/106 \times \text{RM}3,000,000 = \text{RM}169,811.30$$

- (l) Continuous supplies of goods and services between connected persons

In cases where;

- (a) supply involves transfer of land; supply of telecommunication services, utilities, etc, continuous supply of services or payments related to intellectual property;
- (b) a tax invoice is not issued;
- (c) payment is not received;
- (d) supplier and recipient are connected with each other; and
- (e) recipient is not allowed to claim input tax fully or partially on the supply,

the supplies are treated as separately and successively supplied at the end of the period of 3 months after the supplies commenced and thereafter, at the end of each subsequent period of 3 months.

Example 18:

Syarikat Air Bersih Bhd., a water utility company registered under GST, supplies water to its subsidiary, Hayat Insurans, an exempt supplier of life insurance. They are connected with each other and Hayat Insurans,

being an exempt supplier, is not allowed to claim input tax incurred on the acquisition of the water. The supply of water begins on 12th January 2016.

If no invoice is issued and no payment is received on the supply, the time of supply for the water supply is;

- *11th April 2016 - (between 12th January 2016 – 11th April 2016)*
- *11th July 2016 - (between 12th April 2016 – 11th July 2016),*
- *11th October 2016 - (between 12th July 2016 – 11th October 2016)*

and so on.

(m) Supplies in construction industry

In the construction industry, goods and services are supplied in the course of construction, alteration, demolition, repair or maintenance of a building or of any engineering work under a contract which may or may not require the issuance of a certificate of work done.

The time of supply is:

- (i) In the case where the certificate of work done is not required, the supply is treated as taking place at the earlier of the following times;
 - when payment is received by the supplier where the consideration for the contract is wholly in money; or
 - when tax invoice is issued.
- (ii) In the case where the certificate of work done is required, the supply is treated as taking place at the earlier of the following times:
 - when payment is received by the supplier where the consideration for the contract is wholly in money;
 - when tax invoice is issued; or

- when certificate of work done is issued, if no tax invoice has been issued within 21 days after the date of issuance of the certificate.

Example 19:

No issuance of certificate of work done.

Assuming Xena Co. is on a monthly taxable period and he has not received any payment. If Xena Co. issues a tax invoice on 15th June 2015, the time of supply is on 15th June 2015.

However, if Xena Co. receives a payment on 23rd July 2015, the time of supply is on 23rd July 2015.

Example 20:

Issuance of certificate of work done.

If the certificate of work done is issued on 12th June 2015 and no payment is received before its issuance, and the invoice is issued after 21 days, that is on 9th July 2015, the time of supply is 12th June 2015. However, if the invoice is issued on 2nd July 2015 (within 21 days from the date of issuance of certificate of work done), the time of supply is on 2nd July 2015.

- (n) Machines or devices operated by coins, etc

The time of supply for supplies made through machines or devices operated by coins and the like, such as vending and amusement machines, is the date when the collections are removed from the machine or device.

- (o) Betting and gaming supplies

Supply of services made by a person licensed or approved under any written law involving betting, sweepstakes, lotteries, gaming machines or games of chance is treated as taking place at the following times:

- (i) where there is a supply of services involving number forecasting, lottery and a game of chance, the time of supply is at the time when the numbers are drawn;
- (ii) where there is a supply of services involving sweepstakes, the time of supply is at the time when the race is taking place;
- (iii) where there is a supply of services by gaming machine, the time of supply is at the time when collection is removed from the machine, or at the time when transaction is recorded by the machine; or
- (iv) where there is a supply of services involving casino betting, the time of supply is on the last day of the taxable period in which the supply takes place.

For further information, please refer to *GST Guide on Gaming*.

(p) Relief for Second-hand Goods (Margin Scheme)

When a GST registered person supplies second-hand goods under the Margin Scheme, his supply is treated as taking place at the earlier of the following times:

- (i) when the goods are removed or made available;
- (ii) when an invoice is issued by him; or
- (iii) when a payment is received by him.

For further information, please refer to *GST Guide on Relief for Second-hand Goods (Margin Scheme)*.

(q) Imported services

A recipient who receives the imported services for the purpose of any business carried on by him is required to account for GST by a reverse charge mechanism. The time of supply for imported services is when the supplies are paid for by the recipient.

(r) Supply of goods in Warehousing Scheme

The GST on imported goods being deposited into a licensed warehouse under Warehousing Scheme is suspended. The GST on the imported goods being supplied between such licensed warehouses is also suspended. When imported goods are supplied through many parties within the warehouse, such supplies are disregarded except for the last supply prior to its removal from the warehousing scheme. The last supply is treated as taking place at the duty point i.e. its time of removal from the warehousing scheme.

Thus, for goods removed from a licensed or bonded warehouse, GST becomes chargeable at the time of their removal. For further information, please refer to *GST Guide on Warehousing*.

(s) Supplies under Approved Toll Manufacturer Scheme

A person who belongs in Malaysia and receives the treated or processed goods from the toll manufacturer (upon the instruction of the overseas principal) has to account and pay for tax as if he had supplied and acquired the goods in Malaysia himself in the course or furtherance of his business and as if the supply was a taxable supply.

The time of supply for the treated or processed goods under the scheme is the earlier of the following:

- (i) whenever a payment in respect of the supply is made to the overseas principal; or
- (ii) whenever the taxable person who is granted approval to receive such treated or processed goods receives an invoice relating to such supply from the overseas principal.

For further information, please refer to *GST Guide on Approved Toll Manufacturer Scheme*.

(t) Supplies under Approved Jeweller Scheme

The approved jeweller who receives the prescribed supply of goods (precious metals of purity not less than 99.9% gold, 99.9% silver and 99.5% platinum) from the supplier has to account and pay for the tax as

if he himself had supplied and acquired the goods in Malaysia in the course or furtherance of his business and as if the prescribed supply of goods was a taxable supply.

The time of supply of the prescribed goods under the scheme is the earlier of the following:

- (i) whenever a payment in respect of the supply is made; or
- (ii) whenever the approved jeweller receives an invoice relating to such supply.

For further information, please refer to *GST Guide on Approved Jeweller Scheme*.

(u) Accommodation Tax Point

Accommodation tax point is a specific time of supply approved by the Director General to allow a taxable person on application to alter the general time of supply rules. Any approval on the specific time of supply is only applicable to the applicant. This facilitation is granted where complying with the general rules would cause severe hardship or difficulty to the taxable person.

VALUE OF SUPPLY OF GOODS OR SERVICES

70. The value of a supply is the value on which GST is chargeable. The amount of GST is the value multiplied by the tax rate.

71. The value of a supply is equal to the consideration less the tax chargeable. The consideration of a supply depends on the exchange given for the supply. The consideration may be in the form of payment in money or in kind or both in money and in kind.

72. For the supply of goods, the value includes excise duty paid or to be paid, where applicable. In the case of imported goods, the value includes customs duty and excise duty paid or to be paid, where applicable. For further information, please refer to the *GST Guide on Valuation*.

SUPPLIES SPANNING CHANGE IN RATE OR DESCRIPTION

73. Supply of goods and services is said to be spanning when in the course of supply, there is a change in rate of tax or a change in description.

74. Change in description refers to the following situations:

- (a) the status of the supply changes from zero rate to standard rate, or vice versa; or
- (b) the status of the supply changes from taxable supply to exempt supply, or vice versa.

75. The time of supply as provided under section 11 is applicable to a supply spanning in the change of the tax rate or description. For this supply, the supplier is required to charge GST based on the old rate or description. The tax chargeable is on the higher of the following amounts:

- (a) any payment received; or
- (b) the value of supply made

before the date of change in the rate or description.

Example 1: Change in description

Total contract of supply : RM100,000

Payment received before the date of change : RM60,000

Value of supply made before the date of change : RM35,000

Change in description from standard rate (6%) to zero rate

Since the payment received is higher than the value of supply made before the change, 6% GST is charged on RM60,000. There is no GST imposed on the difference of RM100,000 and RM60,000 i.e. RM40,000 (zero rate).

Example 2: Change in rate

Total contract of supply : RM100,000

Payment received before the date of change : RM50,000

Value of supply made before the date of change : RM70,000

Change in tax rate from 6% to 7%

Since the value of supply made is higher than the payment received before the change, 6% GST is charged on RM70,000 and GST at 7% is imposed on the difference of RM100,000 and RM70,000 i.e. RM30,000.

Table 1 summarises the GST treatment for the various circumstances in which a supply would spanned during a change in the GST rate or a change in description.

Table 1: GST Treatment on Supply Spanning

CHANGE IN	BEFORE	AFTER	TREATMENT
Rate from 6% to 7% or Description from standard rate to zero rate	(i) Full payment received	(i) Goods are wholly removed	The whole supply is subject to the old rate* i.e. 6% or standard rate
	(ii) Goods are wholly removed	(ii) Full payment received	
	(iii) Full payment is received and goods are partly removed	(iii) Goods are partly removed	
	(iv) Goods partly removed	(iv) Full payment received and goods are partly removed	The goods partly removed before the date of change is subject to the old rate* i.e. 6% or standard rate and the new rate** is on the value of the difference
	(v) Goods are wholly removed and part payment received	(v) Part payment received	The whole supply is subject to the old rate* i.e. 6% or standard rate

	(vi) Part payment received	(vi) Goods are wholly removed and part payment received	The part payment received before the date of change is subject to the old rate* i.e. 6% or standard rate
	(vii) Part payment received	(vii) Part payment received	The part payment received before the date of change is subject to the old rate* i.e. 6% or standard rate
	(viii) Part payment received	(viii) Goods are partly removed	The part payment received before the date of change is subject to the old rate* i.e. 6% or standard rate
	(ix) Goods are partly removed	(ix) Part payment received	The goods partly removed before the date of change is subject to the old rate* i.e. 6% or standard rate
	(x) Goods are partly removed	(x) Goods are partly removed	The goods partly removed before the date of change is subject to the old rate* i.e. 6% or standard rate

- * “old tax rate” means the rate of tax applicable immediately before the date the change in the tax rate or description comes into operation.
- ** “new tax rate” means the rate of tax applicable on the date the change in the tax rate or description comes into operation.

FEEDBACK OR COMMENTS

76. Any feedback or comments will be greatly appreciated. Please email your feedbacks or comments to either Mohd Hisham B. Mohd Nor (m_hisham.nor@customs.gov.my) or Aminul Izmeer B. Mohd Sohaimi (izmeer.msohaimi@customs.gov.my).

FURTHER ASSISTANCE AND INFORMATION

77. More information to help you understand GST further can be obtained from:

- (a) GST Website : www.gst.customs.gov.my
- (b) Customs Call Centre :
 - Tel : 03- 7806 7200/ 1-300-888-500
 - Fax : 03- 7806 7599
 - E-mail : ccc@customs.gov.my