



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON DESIGNATED AREA

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regard to GST treatment on Designated Area.

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, only the value added at each stage is taxed thus avoiding double taxation.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 2014 is known as a “registered person”. A registered person is required to charge GST (output tax) on his taxable supply of goods and services made to his customers. He is allowed to claim back any GST incurred on his purchases (input tax) which are inputs to his business. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

OVERVIEW OF DESIGNATED AREAS

5. As a developing nation, Malaysia strongly encourages the development of export-oriented industries. To support this policy, various facilities have been introduced by the government, namely the formation of licensed warehouses, free industrial and commercial zones, licensed manufacturing warehouses and duty free islands.

6. Before the implementation of Good and Service Tax (GST), duty free islands, with minor exceptions, are free from all types of customs duties, excise duties, service tax and sales tax. To maintain this status quo, special provisions under the **Part XIV**

of the **GST Act 2014** are introduced for the duty free islands. For the purpose of GST, the duty free islands are to be known as 'Designated Areas'.

TERMINOLOGY

7. Under the GST legislation, the interpretation of Malaysia, designated area, Langkawi, Labuan, or Tioman are as follows:

- (a) 'Malaysia' excludes designated areas;
- (b) 'designated area' means Labuan, Langkawi, or Tioman;
- (c) 'Langkawi' means Langkawi Island and all adjacent islands lying nearer to Langkawi Island than to the mainland.
- (d) 'Labuan' means the Island of Labuan and its dependent island viz. Rusukan Besar, Rusukan Kechil, Keraman, Burong, Papan and Daat.
- (e) 'Tioman' means the Island of Tioman and the islands of Soyak, Rengis, Tumok, Tulai, Chebeh, Labai, Sepoi and Jahat.

APPLICATION OF GST IN DESIGNATED AREAS

Goods supplied within or between designated areas

8. Supplies of goods made by any person within or between designated areas (DA) are not subject to GST. This means that there is no GST (output tax) imposed on such supplies. As such, the supplies made are excluded from the determination of the GST prescribed threshold. Any such person is not required to be registered for GST.

Goods imported from overseas into designated areas

9. Any goods imported from overseas is not subject to GST unless they are prescribed by the Minister in the GST (Imposition of Tax for Supplies in respect of Designated Areas) Order 2014 to be subject to GST.

Goods supplied from designated areas to Malaysia

10. Goods supplied from a designated area to Malaysia are deemed to be importation into Malaysia. Thus, GST shall be payable on goods supplied to Malaysia as if such supplies were importation into Malaysia. This importation includes the removal of goods from designated area to Malaysia under lease agreement. For the purpose of GST, leasing of goods is a supply of services and subject to GST which is imposed on each successive lease payment. However, the leasing of goods imported from designated area is treated as importation of goods into Malaysia and is subject to GST where the value of the goods is determined in accordance with the Customs Regulations (Rules of Valuation) 1999. The value is the transaction value of the goods, that is, the price paid or payable for the goods when sold for export to Malaysia, adjusted in accordance with regulation 5 of the same Regulations. In this case, the imported goods are leased from designated area. Thus, there is no transfer of ownership and no sale has taken place. However, the value of the lease agreement may be used as a transaction value. Please refer to the GST Guide on Import on the determination of value on such import.

11. Declaration of dutiable goods must be made in Customs No.1 form in the designated area. Import duty, if any, and GST must be paid at the customs office in the designated area. Declaration of goods transported from a designated area to a bonded warehouse or a free commercial zone must be made in Customs No. 8 Form.

12. In certain cases, besides making supplies from designated areas to Malaysia, the person may also makes supplies within Malaysia even though his principal place of business is situated in a designated area. Such person is required to register for GST if the taxable supplies which he makes within Malaysia have exceeded the prescribed threshold.

Goods supplied from Malaysia to designated areas

13. For the purpose of GST, goods supplied from Malaysia to designated areas are zero-rated as stated in the Goods and Services Tax (Zero Rated Supply) Order 2014. However, services supplied from Malaysia to designated area are subject to GST as they are local supplies.

14. For transportation of goods from Malaysia to a designated area, declaration of goods must be made in Customs No.2 Form at the exit point in Malaysia. However, certain goods are required to be declared in Customs No.3 Form except for those goods transported by air. If by air, the use of airway bill is sufficient. Declaration of goods transported from bonded warehouses and free commercial zones (FCZ) must be made in Customs No.8 Form. Declaration of goods in transit into designated areas from overseas must also be made in Customs No.8 Form.

Supply of services within or between designated areas

15. Generally, supply of services made within or between designated areas, except for the supply of freight services between designated areas, is not subject to GST provided that the supplier of the services belongs in the designated area. This means that there is no output tax imposed on such supplies. As such, the supplies made are excluded from the determination of the GST prescribed threshold. Any such person is not required to be registered for GST. The supply of freight services between designated areas is subject to GST at standard rate.

16. In certain circumstances, where the supplier belongs in Malaysia and the services are supplied to the designated area, the services are subject to GST at standard rate.

Example 1:

MSS Sdn.Bhd, a telco service provider based in Kuala Lumpur supplies telecommunication services to businesses in Langkawi. The supplies are subject to GST because the service provider belongs in Malaysia.

Example 2:

EZIE Bank (Labuan Branch), provides loans to residents in Labuan and charges processing fee. This fee is subject to GST at standard rate because the services are actually supplied by EZIE Bank's Headquarters in Kuala Lumpur.

Example 3:

A resident rents a safe deposit box from EZIE Bank (Labuan Branch) where he is subject to rental charges. In this case, the safe deposit box is being supplied by the EZIE Bank (Labuan Branch) and not its headquarters in Kuala Lumpur. The charges are not subject to GST because the supplier belongs in Labuan.

Example 4:

EZIE Bank (Labuan Ltd), provides loans to businesses in Labuan and charges processing fee. This fee is not subject to GST because the services are provided by EZIE Bank (Labuan Ltd) which is incorporated in Labuan under the Labuan Financial Services Authority Act 1996 (LFSA)(the supplier belongs in Labuan).

17. In order to treat a supply of services within a DA provided by a branch located in the DA but it's principal company is located in the principal customs area, the following criteria must be met:

- (a) The supply of services relates to services performed directly in connection with land or any improvement to such land and goods;
- (b) The services is performed in the DA and benefits the person in the DA;
and
- (c) The invoice is issued by the branch in the DA.

Supply of services from or to designated area to or from Malaysia

18. Supplies of services provided to Malaysia from a service provider in designated area are local supplies. The service provider is required to register for GST if the total taxable supplies in a twelve months period exceeds the prescribed threshold even though his business establishment is located in the designated area. Thus, such services are subject to GST and output tax shall be charged in a tax invoice and accounted in the GST return.

Example 5:

EZIE Bank (Labuan Ltd), provides loans to a business in Kota Kinabalu, Sabah and charges processing fee. This fee is subject to GST at standard rate because the services are provided into Malaysia.

19. Supplies of services provided to designated area from a service provider in Malaysia are subject to GST if the supplier is a registered person.

Supply of services from overseas into designated areas

20. Any services supplied from overseas into designated areas are not subject to GST. However, if any of such supply of imported services has been gazetted by the Minister to be subject to GST, then such supply of services are subject to GST.

Imposition of GST in designated areas

21. Notwithstanding the treatment of GST on the supplies as stated in the paragraphs above, goods and services-

- (a) supplied within or between designated areas; or
- (b) imported into designated areas.

are subject to GST if they are prescribed by the Minister in the Goods and Services Tax (Imposition of Tax for Supplies in respect of Designated Areas) Order 2014 published in the Gazette.

FREQUENTLY ASKED QUESTIONS

Q1. I am a trader in Labuan. If I sell goods only within the designated area, is there any GST implication on the goods?

A1. There is no GST implication on supply of goods that you make only in Labuan as it is a designated area.

Q2. Further to my question in Q1 above, if I engage a financial adviser from a bank in Labuan for my business purposes, is there any GST due on the service rendered?

A2. There is no GST imposed on the services provided within the designated area by a bank in Labuan if the bank is incorporated under the Labuan Financial Services Authority Act 1996 (LFSA) (the supplier belongs in Labuan). However, if the bank is a branch where its headquarters is established in Kuala Lumpur, then the supply is subject to GST as the supplier belongs in Malaysia.

Q3. I am a manufacturer in Langkawi. If I sell my goods to a buyer in Labuan, is GST chargeable on the sale?

A3. Supply of goods between designated areas is not subject to GST. Thus, there is no GST chargeable on the supply.

Q4. Further to the question in Q3 above, how about the freight services between the designated areas?

A4. Any supply of freight services between designated areas is standard rated.

Q5. If I, as a trader in Langkawi seek advisory services from a consultant in Labuan for my business purposes, does the advice attract GST?

A5. Such services provided between designated areas do not attract GST.

Q6. I am a businessman in a designated area. If I import goods for the furtherance of my business, is there any GST implication on the imported goods?

- A6. No GST is chargeable on goods imported into a designated area from overseas. Declaration of goods must be made in Customs No.1 Form at the point of importation in the designated area.
- Q7. Further to my question from Q6, if I purchase goods from a person in Malaysia, does the purchase attract GST?**
- A7. If you purchase goods from a person in Malaysia, the goods supplied from Malaysia to a designated area are zero rated.
- Q8. As a business man in Langkawi, if I acquire goods from excise warehouse or bonded warehouse in Malaysia does the acquisition attract GST?**
- A8. Supply of goods from Malaysia to designated area is a zero rated supply. Therefore, there would be no GST incurred when you make purchases from excise warehouse or bonded warehouse. However, based on customs procedure, the movements of the goods from such premises must be declared in Excise No.8 and Customs No.8 Forms respectively. The goods must be transported by bonded truck or sealed container approved by Customs from the premises to the customs office in the designated area.
- Q9. If I buy a car from a trader in Langkawi for the furtherance of my business in the designated area, is the purchase subject to GST?**
- A9. No GST chargeable if a car is purchased in Langkawi irrespective of whether the car is bought for private or for business use because cars supplied in Langkawi are not subject to GST. However, the car must be used in Langkawi. If it is used in Malaysia, then GST has to be paid unless the conditions to the relief from payment of GST under the GST (Relief) Order 2014 are complied with. Similar treatment will apply for cars bought in Labuan. However, vehicles brought into (from overseas or Malaysia), or supplied in Tioman are subject to GST at standard rate.
- Q10. If I am a car dealer in Langkawi, do I have to pay GST on vehicles bought from the Malaysia as well as on imported cars?**

A10. There is no GST imposed on cars imported from overseas into Langkawi. Imported cars from overseas must be declared in Customs No.1 Form at the point of importation in Langkawi. Cars purchased and transported from Malaysia are zero rated. Declaration of the cars must be made in accordance with where the cars are removed from. Cars transported from excise premise in Malaysia to a designated area must be declared in Excise No.8 and Customs No.2 Forms in Malaysia. If cars are removed from a licensed warehouse under the Customs Act 1967, declaration of the cars must be made in Customs No.8 Form. Such forms shall then be endorsed by the proper officer of customs as a proof of transportation from Malaysia at the checkpoint in the designated area.

Q11. If I am an operator in a free commercial zone at Port Klang, what is GST implication on my goods supplied and transported to a designated area?

A11. GST on supply of goods from the free commercial zone to a designated area is not subject to GST unless they are prescribed by the Minister in the Goods and Services Tax (Imposition of Tax for Supplies in respect of Designated Areas) Order 2014. The goods transported into designated area must be declared in Customs No.8 Form.

Q12. I am an exporter whose goods are currently warehoused in an Inland Clearance Depot (ICD). What is the GST treatment if I were to transport my goods to Tioman?

A12. When the goods are transported from ICD to Tioman, the goods are subject to GST at zero rate.

Q13. I am a trader in Penang. If I have purchased goods locally for transporting them to my customer in Labuan, can my local purchase be zero-rated?

A13. Your purchase cannot be zero rated by your supplier because it is a local supply. You can zero rate the goods when you transport them to Labuan.

Q14. If a machine needs to be transported from Malaysia to Labuan for repair and is subsequently returned, what is the GST treatment on the movements of such goods?

A14. GST is zero rated when you transport the machine to Labuan for repair. Subsequently, when the repaired machine is returned back to Malaysia, relief is given from payment of GST under item 14, First Schedule of the Goods and Services Tax (Relief) Order 2014 subject to conditions imposed. An important condition is that GST has to be paid on the value of any new parts or components added to the machine.

Q15. I have a company and my office is located in Langkawi. However, the premise where the business operation is conducted is located at the mainland in Kedah. I issue the bill for the taxable supplies that I sell to companies in Malaysia from my office in Langkawi using the address there. Do I have to account for my output tax?

A15. Your company's office is located in a designated area but you supply goods from a premise in Malaysia to companies which are also located in Malaysia. Hence, it is a local supply which is subject to GST at standard rate. You have to charge GST as your output tax and account the tax in your GST return if you are a registered person.

Q16. If I, as a businessman in Labuan, hire a consultant from Kuala Lumpur to advise me on my business prospect, is there any GST implication on the consultation services provided to me?

A16. The service provided to you shall be standard rated because the service provider belongs in Kuala Lumpur.

Q17. Do incidental services such as freight and handling charges provided by companies located in Malaysia for transporting goods to a designated area attract GST?

A17. Services such as freight and handling charges provided by companies located in Malaysia for transporting goods would attract GST even though the services are provided to a designated area and the goods are zero-rated.

Q18. Are services provided from outside Malaysia into designated areas subject to GST?

A18. Services provided from overseas into designated areas are imported services. There is no GST chargeable on such services.

Q19. I am a manufacturer in Langkawi and I would like to export my products to South Africa. What is the GST implication on the exportation of such goods?

A19. Goods that you wish to export to South Africa or to any other countries are zero-rated. Declaration of exported goods must be made in Customs No.2 Form in the designated area.

Q20. I am a trader in Langkawi and sell kitchenware to small retailers in Kedah. Is GST chargeable on the sale?

A20. If you sell your goods to a person in Malaysia, the goods supplied to Malaysia are deemed to be imported into Malaysia. Thus, import duty and GST shall be payable at the customs office in Langkawi. Declaration of the goods must be made in Customs No.1 Form.

Q21. If I am a trader in Malaysia and I would like to purchase goods from Labuan, where and how should I pay GST on the goods that I brought into Malaysia?

A21. Goods that you purchased from Labuan are deemed to be imported goods from a designated area into Malaysia. Hence, customs duty and GST are imposed at the exit point in Labuan. Since you are in Malaysia you can declare the goods yourself or appoint an agent and register the name of such agent with the proper officer of customs in Labuan for customs clearance purposes.

Q22. Further to my question in Q21 above, can I pay the tax at the entry point in Malaysia if I have not appointed an agent for such purposes?

A22. If you have not appointed an agent for customs clearance purposes, the exporter in the designated area shall be deemed to be your agent, or the proper officer of customs may in lieu of accepting the duty and GST in the designated area, direct that such duty and GST be paid at the entry point or any place within Malaysia at which the imported goods may be produced to the customs.

Q23. If I am a manufacturer in Malaysia and I am also a participant under Approved Trader Scheme (ATS), do I have to pay the tax at the point of importation in a designated area if I purchase goods from the designated area?

A23. If you are a participant under ATS, you do not have to pay GST on your deemed imported goods at the point of importation in the designated area as the tax is suspended under this scheme. However, you must declare the goods at the approved entry point in Malaysia. For further details, please refer to the GST guide on Approved Trader Scheme.

Q24. I am a manufacturer in Selangor and I have an agreement to lease a machine from a trader in Labuan for a period of two years. The equipment will be sent to my premise in Selangor and will be returned to Labuan as soon as the contract expires. What is the treatment of GST on the lease?

A24. Under the normal rule of GST, lease of goods is a supply of services and GST is imposed on the payment made regularly. However, if the lease involves goods transported from a designated area into Malaysia, the lease is deemed to be an importation of goods. In your case, when the machine is sent to you, that machine is subject to GST at the exit point in Labuan. Nevertheless, if you are a registered person, GST paid on the import is claimable as your input tax credit. Please refer to paragraph 9 above.

Q25. Are goods purchased and taken out from a designated area by tourists into Malaysia subject to GST?

A25. Goods sold in the designated area to tourists regardless of whether they are local or from overseas are free from duty and GST. However, local tourists must prove that they have visited Langkawi and Tioman for a period of not less than 48 hours at the point of departure in the designated area to be given relief from the payment of GST. In the case of Labuan, local tourists would have to provide proof of their stay for a period of not less than 24 hours. Relief from payment of GST would be subjected to conditions stipulated in the GST (Relief) Order 2014.

Q26. I am a resident in Langkawi. I would like to go to Penang by car which I have registered in Langkawi. Is there any GST implication on the car driven out of Langkawi to Penang?

A26. The car can be brought out from Langkawi to Penang where relief from payment of GST is given subject to conditions in the Goods and Services Tax (Relief) Order 2014. The car may remain in Penang or any part in Malaysia, not exceeding 30 days per trip subject to a maximum period of 90 days in a year.

Q27. Is there any GST implication on the cars registered in Tioman when they are driven out of the island?

A27. There is no GST implication on the cars brought into Malaysia from Tioman since such cars are subject to GST when they are registered for use in the island.

Q28. I have a construction company and my office is located in Kota Kinabalu. However, the site office is located in Labuan. I issue the bill from Kota Kinabalu for the services provided by me. What is the GST implication on the services provided from the designated area if my customers are in Malaysia and in the designated area as well?

A28. Supply of construction services is subject to GST at standard rate because the service provider belongs in Malaysia.

Q29. Are incidental services such as freight and handling charges for transportation of goods provided by a transport company located in a designated area subject to GST?

A29. Services and other charges provided by a company located in a designated area are not subject to GST if they are supplied within designated areas.

Q30. I am an operator in Labuan. I supply machinery equipment and spare parts to an oil rig sites at the sea of Sabah coastal area. What is the GST treatment on the spare parts transported to the oil rig?

A30. Your transportation of goods from Labuan to a person in the oil rig sites is deemed to be imported into Malaysia. Thus, it is subject to GST.

Q31. NBI and Co. is a legal firm located in Kuala Lumpur. The firm has a few branches including in Langkawi. A hotel in Langkawi has bought a building in that island and engaged the legal firm for its legal services. NBI and Co. branch in Langkawi has provided the legal services which includes preparation of a contract and then issued the bill to the hotel. Is the fee for the legal services subject to GST?

A31. The legal fee charged by NBI and Co. branch in Langkawi to the hotel is not subject to GST because such supply of services is considered as supply of services made within the designated area.

Q32. CC Consultancy (located in Malaysia) was engaged by a hotel in Labuan to advise the hotel on marketing strategy. The firm sent one of its officers to the island to give consultancy services. Are the consultancy services subject to GST?

A32. When the firm billed his client, it has to charge GST as the supply of services is made from Malaysia to the designated area and therefore is subject to GST.

Q33. BB Advertising Sdn Bhd (located in Alor Setar) has obtained an order from a company in Langkawi to provide an advertisement in Langkawi. When BB Advertisement has completed providing the advertisement and bill his client, does the company have to charge GST?

A33. The company has to charge GST as the supply of services is made from Malaysia to Langkawi and not in Langkawi.

Q34. What is the GST implication given the scenario below?

(a) Leasing of a vessel by a DA Company to another DA Company for use in PCA;

- (b) Leasing of vessel by a DA Company to a PCA Company for use in the DA on only dry leasing arrangements (i.e. bareboat charter); and
- (c) The Company can also provide proof that the vessel is used in DA based on the Vessel Daily Report (“VDR”) which will state the area where the vessel operated.

A34. In the case of a Dry Leased

- A supply of a means of transport

Lessor belongs in	Lessee belongs in	Vessel used by lessee in	GST Treatment
DA	DA	PCA	If the vessel is already in the PCA, 6% GST chargeable on the monthly lease payment. (Sec. 157 GSTA) If the vessel is to be imported into PCA from DA, GST 6% will be imposed on the importation [Sec. 156(a) GSTA]. However, there is no GST chargeable on the monthly lease payment.
DA	PCA	DA	No tax chargeable, provided that the vessel is wholly used in DA[Sec. 155 GSTA]

In the case of a Wet leased

- A supply of transportation service

Lessor belongs in	Lessee belongs in	Services in	GST Treatment
DA	DA	PCA	Standard rate. [Sec. 157 GSTA]
DA	DA	DA to PCA (vice versa)	Standard rate. [Sec. 156(b) GSTA]

DA	PCA	DA	No tax chargeable, provided that the transportation service is wholly in DA. [Sec. 155 GSTA]
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INQUIRY

1. For any inquiries for this guide please contact :

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FURTHER ASSISTANCE AND INFORMATION ON GST

2. Further information on GST can be obtained from :

(a) GST website : www.gst.customs.gov.my

(b) Customs Call Center :

- Tel : 03-7806 7200 / 1-300-888-500
- Fax : 03-7806 7599
- Email : ccc@customs.gov.my

AMENDMENTS

No.	Date	Heading/Subheading/Paragraph	Description
1.	05.01.2016	Paragraph 17	New paragraph
2.	05.01.2016	FAQ Q34 & A3	New question and answer