



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

**GUIDE
ON
PROFESSIONAL SERVICES**

Publication

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

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regard to GST treatment on the Professional, Scientific and Technical Activities in Malaysia. It includes Legal and accounting activities, activities of head offices; management, consultancy activities, architectural and engineering activities, technical testing and analysis, scientific research and development, advertising and market research, other professional, scientific and technical activities and veterinary activities.

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 (GSTA) 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.

PROFESSIONAL SERVICES

5. Professional services cover activities which require a high degree of training, and make specialized knowledge and skills available to users. The Malaysian Standard Industrial Classification (MSIC) under Section M classifies professional services as below:

- (a) legal and accounting activities,

- (b) activities of head offices,
- (c) management consultancy activities,
- (d) architecture and engineering activities,
- (e) technical testing and analysis,
- (f) scientific research and development,
- (g) advertising and market research,
- (h) other professional, scientific and technical activities, and
- (i) veterinary activities.

6. For the purpose of this guide the treatment for GST shall adopt the MSIC grouping and definition of activities on Professional, Scientific And Technical Activities in Malaysia as follows:

Legal Activities

7. The definition is provided for in the Guide on Legal Practitioner.

Accounting Activities

8. Accounting activities include accounting and bookkeeping services such as auditing of accounting records, preparing financial statements and bookkeeping. The services include recording of commercial transactions from businesses or others, preparation or auditing of financial accounts, examination of accounts and certification of their accuracy, preparation of personal and business income tax returns and advisory activities and representation on behalf of clients before tax authorities.

Activities of Head Offices

9. The MSIC classifies activities of Head Offices to include the provision of advice and assistance to businesses and other organizations on management issues, such as strategic and organizational planning, financial planning and budgeting, marketing

objectives and policies, human resource policies, practices and planning, production scheduling and control planning.

10. It also includes the overseeing and managing of other units of the same company or enterprise, i.e. the activities of head offices.

Management Consultancy Activities

11. This group includes the provision of advice, guidance and operational assistance to businesses and other organizations on management issues, such as strategic and organizational planning; decision areas that are financial in nature; marketing objectives and policies; human resource policies, practices and planning; production scheduling and control planning. This provision of business services may include advice, guidance or operational assistance to businesses and the public service regarding public relations and communication; lobbying activities; design of accounting methods or procedures, cost accounting programmes, budgetary control procedures and advice and help to businesses and public services in planning, organization, efficiency and control, management information, etc.

Architectural and Engineering Activities and Related Technical Consultancy Activities

12. The MSIC has described the activities of architectural and engineering activities and related technical consultancy includes the provision of architectural services, engineering services, drafting services, building inspection services and surveying and mapping services. It also includes the performance of physical, chemical, and other analytical testing services, architectural and engineering activities and related technical consultancy.

13. This group includes the provision of architectural services, engineering services, drafting services, building inspection services and surveying and mapping services and the like.

Technical Testing and Analysis

14. This group includes the performance of physical, chemical and other analytical testing of all types of materials and products; certification of products, including

consumer goods, motor vehicles, aircraft, pressurized containers, nuclear plants, etc.; periodic road-safety testing of motor vehicles; testing with use of models or mock-ups (e.g. of aircraft, ships, dams, etc.); operation of police laboratories.

Scientific Research and Development

15. This division includes the activities of three types of research and development:

- (a) Basic research such as experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without particular application or use in view;
- (b) Applied research: original investigation undertaken in order to acquire new knowledge, directed primarily towards a specific practical aim or objective and
- (c) Experimental development: systematic work, drawing on existing knowledge gained from research and/or practical experience, directed to producing new materials, products and devices, to installing new processes, systems and services, and to improving substantially those already produced or installed.

16. Research and experimental development activities in this division are subdivided into two categories: natural sciences and engineering; social sciences and the humanities.

Advertising and Market Research

17. The definition is provided for in another specific guide which has been developed separately to cater for advertising activities. Please refer to Guide on Advertising Services.

Other Professional, Scientific and Technical Activities

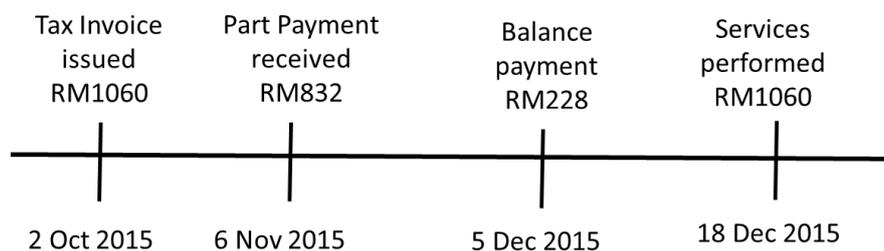
18. This group includes a great variety of service activities generally delivered to commercial clients. It includes those activities for which more advanced professional,

Specific Time of Supply Rules

22. If a service provider issues a tax invoice or receives any payment before the time of supply mentioned 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.

(a) When tax invoice is issued

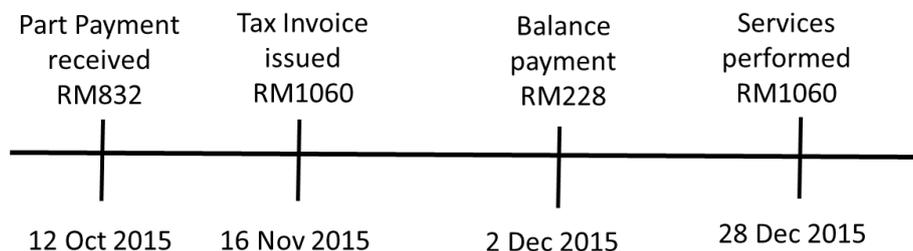
Example 2:



In the example above, the time of supply for GST due amounting to RM60 ($RM1060 \times 6/106$) is on 2 Oct 2015 regardless of any payment he had received or is to receive after 2 Oct 2015. Since the tax invoice is issued before the service is performed and it is earlier than the payment received, therefore the time of supply is when the tax invoice is issued.

(b) When tax payment is received

Example 3:

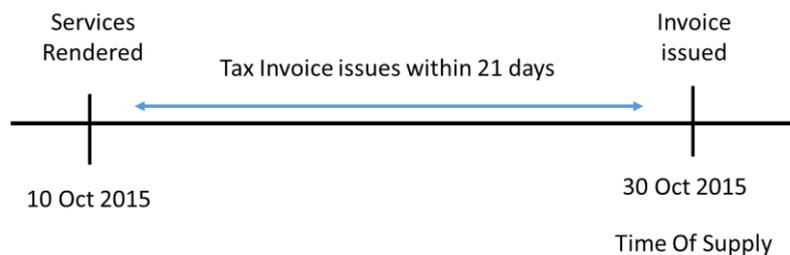


In this example, the time of supply for GST due amounting to RM47.09 ($RM832 \times 6/106$) is on 12 Oct 2015 and the second time of supply for GST due amounting to RM12.91 ($RM228 \times 6/106$) is on 16 Nov 2015. In this case, the time of supply is when the first payment is received since the payment is

received earlier than the tax invoice is issued. Upon receipt of the tax invoice, the second time of supply took place since there is still balance of payment due. Since the tax invoice is earlier than the second payment, therefore the time of supply for the balance due is when the tax invoice is issued.

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

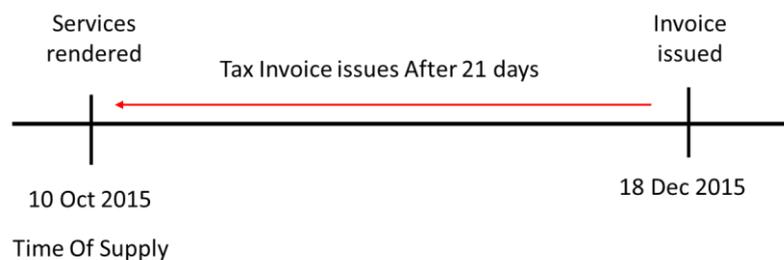
Example 4:



If a supplier does not receive any payment before the basic tax point but issues a tax invoice within twenty one (21) days from the basic tax point, the time of supply will be the date of issuance of the invoice. This is regardless if any payment is received within the twenty one (21) day period.

(d) Tax invoice issued after 21 days from the basic tax point

Example 5:



If a tax invoice is not issued within twenty one (21) days after the service is rendered, then the time of supply will revert to the basic tax point. Please further refer to Specific Guide on Supply.

23. Section 33 GSTA provides that except as otherwise provided in this section, every registered person who makes any taxable supply of goods or services in the

course or furtherance of any business in Malaysia shall issue a tax invoice containing the prescribed particulars. Failure to issue a tax invoice is an offence.

24. In Director General's Decision 3/2015 dated 14 April 2015 if payment is made by the client, every GST registered professional who makes any taxable supply of services in the course or furtherance of his business in Malaysia shall issue a tax invoice to his client within 30 days from the date of payment made on such supply (in full or in part). This is to enable the client (if he is a GST registered person) to make his input tax claim in his return.

VALUE OF SUPPLY

25. The value of a supply is the value on which GST is chargeable. The amount of GST is the value chargeable multiplied by the tax rate. Subject to Section 15 and The Third Schedule of GST Act 2014, the value of supply depends on whether there is a consideration or not. A consideration is any form of payment in money or in kind, including anything which is itself a supply.

26. Supply of services with no consideration is implied as not a supply. Nevertheless, it is a supply of services if the service is rendered with no consideration to a connected person as stipulated under paragraph 6 First Schedule GSTA. The value of the supply is the open market value as indicated under the Third Schedule GSTA.

27. When a GST registered professional publishes, displays, advertises or quotes in any manner the price of his services, it shall be inclusive of GST as required under Section 9(5) of the GST Act 2014. Otherwise, he is required to apply to the Director General for approval if he intends not to published the price inclusive of GST as required under Section 9(6) and (7) of the same act. If he contravenes the provision, he commits an offence. Please refer to specific Guide on Valuation.

ZERO RATED SUPPLIES

28. Generally, all exported services are zero-rated provided the conditions are met as specified under the Second Schedule of Goods and Services Tax (Zero Rate

Supplies) Order 2014. These services are generally performed outside Malaysia. Such services are as described under item 10, 11, 12 and 13 of the same order as follows:

Item 10

29. Services supplied directly in connection with a land situated outside Malaysia or any improvement to such land but shall not include any services comprising either one or both of the following:

- (a) the supply of a right to promulgate an advertisement by means of any medium of communication; and
- (b) the promulgation of an advertisement by means of any medium of communication.

Item 11

30. Services supplied directly in connection with goods which are outside Malaysia when the services are performed but shall not include any services comprising either one or both of the following:

- (a) the supply of a right to promulgate an advertisement by means of any medium of communication; and
- (b) the promulgation of an advertisement by means of any medium of communication.

Item 12

31. Services supplied under a contract with a person who belongs in a country other than Malaysia and which directly benefit a person who belongs in a country other than Malaysia who is outside Malaysia at the time the services are performed but shall not include

- (a) any services comprising either one or both of the following:
 - (i) the supply of a right to promulgate an advertisement by means of any medium of communication; and

- (ii) the promulgation of an advertisement by means of any medium of communication.
- (b) services which are supplied directly in connection with –
 - (i) a land situated in Malaysia or any improvement to such land;
 - (ii) goods which are in Malaysia at the time the services are performed; or
 - (iii) capital market products as defined in the Capital Markets and Services Act 2007 [Act 671] traded in Malaysia or insurance contracts where the coverage relates to risk in Malaysia and includes any similar transaction conducted in accordance with the principles of Syariah.

Item 13

32. Notwithstanding item 12, the following services which are supplied under a contract with and which directly benefit a person wholly in his business capacity (and not in his private or personal capacity) and who in that capacity belongs in a country other than Malaysia:

- (a) services of engineers, lawyers, accountants and other similar consultancy services, not being services which are supplied directly in connection with —
 - (i) land situated in Malaysia or any improvement to such land; or
 - (ii) goods which are in Malaysia at the time the services are performed, other than goods for export outside Malaysia;
- (b) data processing and provision of information, not being services which are supplied directly in connection with —
 - (i) land situated in Malaysia or any improvement to such land; or
 - (ii) goods which are in Malaysia at the time the services are performed, other than goods for export outside Malaysia;

- (c) the testing of a sample of goods taken from or forming part of —
 - (i) goods which are outside Malaysia at the time the services are performed; or
 - (ii) goods for export outside Malaysia
- but shall not include any part of a supply comprising services relating to accommodation and entertainment.

DISBURSEMENT AND REIMBURSEMENT

33. Recovery of expenses may be treated as disbursement or reimbursement and this will depend on whether the expenses are incurred by a principal or an agent acting on behalf of a client.

34. Disbursement is not a supply and thus the registered person is not entitled for input tax claim. However, reimbursement is a supply and GST is chargeable to the client. The input tax incurred however, is claimable.

35. In general, to determine whether it is a disbursement for GST purposes, registered professional must fulfilled all the following criteria:

- (a) Incur expenses as an agent acting on behalf of the client;
- (b) The client is the recipient of the supply (invoice is in the client's name);
- (c) The client is the person responsible to pay for the supply;
- (d) The payment is authorized by the client;
- (e) The client knew that the supply is made by a third party;
- (f) The exact amount is claimed from the client and the agent has no right to alter or add on the value of the supply; and
- (g) The payment is clearly an additional to the supply made to the client.

36. If the criteria in paragraph 35 is not fulfilled, such supply may be treated as reimbursement and subject to GST at a standard rate.

BAD DEBT RELIEF

Eligibility

37. A taxable person may claim bad debt relief subject to the requirements and conditions set forth under section 58 of the GSTA 2014 and Part X of GST Regulations 2014. The professional who has not received any payment or part of the payment in respect of the taxable supply from the client after the sixth month from the date of supply is entitled for a relief for bad debt.

38. Bad debt is amount owed that cannot be collected and all reasonable efforts have been taken by the registered person to collect it. A person is entitled for a bad debt relief subject to the following conditions:

- (a) fulfils the requirements under section 58 GST Act 2014 and Part X of GST Regulations 2014 are fulfilled;
- (b) the supply is made by a GST registered person to another GST registered person;
- (c) GST is already paid;
- (d) the person has not received any payment or part payment 6 months from date of supply or debtor has become insolvent (bankrupt, wound up or receivership) before the six months has elapsed; and
- (e) sufficient efforts have been made to recover the debt.

Amount of relief deductible

39. If the person has not received any payment in respect of the taxable supply, he can make a deduction or claim for the whole of the tax paid. However, if he has received part of the payment he can deduct or claim an amount calculated according to the formula:

$$\frac{A1 \times C}{B}$$

B

Where;

A1 is the payment not received in respect of the taxable supply;

B is the consideration for the taxable supply; and

C is the tax due and payable on the taxable supply.

Debtors liability

40. A GST registered person who has made the input tax claim but fails to pay his supplier within six months from the date of supply shall account for output tax immediately after the expiry of the sixth month (section 38(9) GSTA)

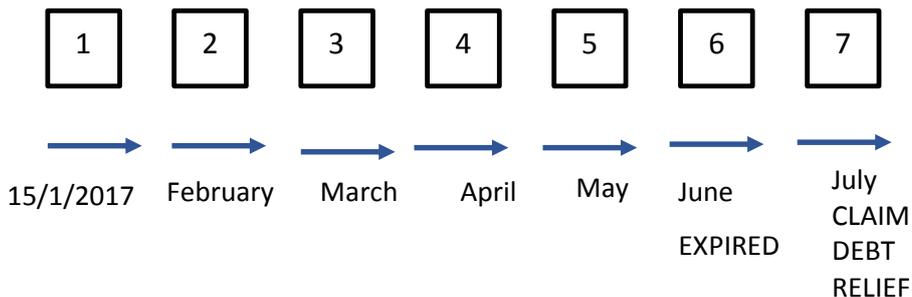
Notification to defer claim of bad debt relief

41. The bad debt relief shall be claimed immediately in the taxable period after the expiry of the sixth month from the date of supply. However, if the bad debt relief is not claimed by the supplier in the immediate taxable period immediately after the expiry of the sixth month, then the taxable person has to notify the Director General (DG) within 30 days after the expiry of the sixth month on his intention to claim at a later date. The word 'month' in section 58 refers to calendar month or complete month.

Example 6:

Invoice issued at 15th January 2017. For monthly taxable period, the sixth month expires at the end of June and the bad debt relief shall be claimed in July taxable period.

Table 1: Claiming Bad Debt Relief



Bad debt recovery

42. In the event where a bad debt relief has been made by the Director General and subsequently payment has been received by the professionals, he has to repay to the Director General an amount calculated according to the formula:

$$\frac{A2 \times C}{B}$$

B

Where;

A2 is the payment received in respect of the taxable supply;

B is the consideration for the taxable supply; and

C is the tax due and payable on the taxable supply.

FREQUENTLY ASKED QUESTIONS

Q1. What is the GST implication on professional services?

A1. Professional services is a taxable supply subject to GST at a standard rate.

Q2. Is GST imposed if the project is put on hold or cancelled but where the services have been performed?

A2. Yes. GST must be imposed on the provision of services that have been performed and billed, even though the project is not carried through. However, no GST will be imposed on such suspension, hold or cancelled project if the payment made is for a compensation for the loss of income or for costs incurred as a result of suspension, hold or cancelled work.

Q3. As a registered professional service provider, do I have to charge and account for GST?

A3. Yes, this includes the value of services charged, commissions, all charges in respect of miscellaneous expenses, cost of extra work, travelling or accommodation expenses, reimbursement, overtime for the staffs and charges for normal copying and stationery. As a provider, you must account for GST on any charges or fees imposed on the date of completion of the services performed. In the event, you receive payment or issue a tax invoice before the date of completion of your services, you have to account for GST on the earlier of the both.

Example 7:

JB & Co who is registered for GST provides architectural services to client B. The services started in April 2015 and completed on 15th May 2015. The tax invoice was issued within 21 days from the date of completion of services i.e. on 4th June 2015. JB & Co has to account for GST in the taxable period the tax invoice was issued.

Q4. Are the fees imposed the Board of Engineers Malaysia, the Board of Architects Malaysia or the Royal Institution of Surveyors subject to GST?

A4. Any fees imposed by any statutory body and the fee is regulated under any respective law and it relates to a regulatory and enforcement function (R&E) is out of scope supply and not subject to GST.

Q5. If I am engaged by local firm to undertake an engineering project overseas, do I have to account for GST?

A5. Services supplied by the professionals directly in connection with a land or goods situated outside Malaysia or any improvement to such land is to be determined as zero-rated supply. However, it shall not include any services comprising either one or both of the following:

- (a) The supply of rights to promulgate an advertisement by means of any medium of communication; and
- (b) The promulgation of an advertisement by means of any medium of communication.

Q6. What can I claim as disbursements?

A6. Disbursements are not subject to GST and do not constitute a supply. The registered professional does not have the legal obligation to pay for the goods and services made on behalf of his client which are treated as disbursements if fulfills the conditions as in para 35 above. Such disbursements may include:-

- (a) non-taxable supply (exempt, out of scope supplies and supplies made by non-taxable person);
- (b) taxable goods and services; and
- (c) statutory fees such as seeking and obtaining statutory approvals from proper authorities issued under the client(s) name.

Q7. Are disbursements excluded from the value of the supply of services?

A7. Any recovery of expenses that fulfills the conditions under disbursements is excluded from the value of supply of services and not subject to GST. The example are as below:

Example 8:

Scientific Research Fee	:	RM 3,000.00
GST (6 %)	:	RM 180.00
Total Amount (includes GST)	:	RM 3,180.00
<i>Disbursement:</i>		
Disposal permit	:	RM 100.00
Grand Total	:	RM 3,280.00

Q8. I make capital contribution to Tenaga Nasional Berhad on behalf of my client for the supply of electricity for a development project. Can this payment be regarded as disbursement?

A8. The payment is made on behalf of your client. Since you have obtained an authorization from your client and fulfills the conditions as listed in para 35, the payment made can be regarded as disbursement. The input tax incurred is claimed by the client himself.

Q9. Are sub-consultants who provide professional engineering services to prime consultants subject to GST?

A9. The GST registered sub-consultants are supplying professional engineering services to the prime consultants. They are required to charge and account for the GST on such services.

Q10. Is GST chargeable on the deposit I receive from my client?

A10. There are two types of GST treatment on deposit received.

- a) If the deposit acts as a security deposit to secure the services of the professional service provider is not subject to GST.
- b) If it is treated as payment for part of the consideration for a supply of professional services, you are required to charge and account for the

GST based on the taxable period at the earlier of the payment is received or date of tax invoice is issued.

Q11. As a professional what can I claim as input tax?

A11. The input tax claimable on your acquisitions such as advertisements, rental of premises, office stationeries, utilities, equipment, traveling and hotel expenses, printing and purchase of documents, drawings, maps and records etc.

Q12. Do I have to account for GST on my acquisitions if I cease to be a registered person?

A12. Yes, the assets you owned will be regarded as a deemed supply since you have claimed the input tax on such assets. You have to account for the output tax on the deemed supply based on the open market value of the assets. The deemed supply must be accounted and paid in your final return.

Q13. How does GST apply when I discount my billing or reduce it in anticipation of bad debt?

A13. GST is charged on the discounted or reduced amount.

Example 9:

Assuming your total charges is RM5,000 and you give discount 10%.

Professional services = RM5,000

Discount 10% = (RM500)

Subtotal = RM4,500

GST @ 6% = RM 270

*Total amount due = **RM4,770***

Q14. My head office is located in London. Sometimes, the London head office renders inspection services on vessels docked outside Malaysia. However, the invoice for the services is issued by us on behalf of the

London office as the clients are in Malaysia. What is the GST implication of such a practice?

A14. The business establishment most directly concerned with the supply of service is your head office in London. If the services were rendered by London office, GST would not be charged on the inspections service as the London office is not a registrant. It is important to state clearly on your invoice that the billing is done on behalf of the London office.

Q15. What will happen if my customer does not pay me after I have issued a tax invoice for my completed work?

A15. You can claim bad debt relief on the GST (output tax) paid in respect of taxable supplies. The requirement for bad debt relief is regulated under section 58 GST Act 2014 and Part X of GST Regulations 2014. Please refer to specific Guide on Input Tax Credit.

Q16. Do I have to make a formal claim to recover GST due to bad debts?

A16. Bad debt claim can be made by making an adjustment in the GST-03 return form by increasing the amount of input tax after you have satisfied all the conditions for bad debts relief under section 58 of GST Act 2014 and Part X of GST Regulation 2014. You are also required to fill in the amount inclusive of GST in the column 17 of GST-03 form, either in full or part of any payment that is not received.

Q17. What happens if my customer pays me back the bad debts after I have claimed bad debts relief?

A17. You have to make an adjustment by increasing the amount of your output tax as the formula under Section 58(3) of GST Act 2014. If your customer pays back the full or part of the bad debts as declared the column 17 of GST-03 return form, you shall declare the bad debts recovered inclusive of GST in column 18 of the same form.

Q18. Are local consulting companies who obtain the services of foreign consultant surveyors required to pay GST on these imported services?

A18. Imported services will be subject to GST by way of a reverse charge mechanism. Under this mechanism, the recipient of the imported services has to account for GST on the imported services as if he is providing the services himself, and at the same time claim input tax accordingly. However, if the consulting company is not a taxable person, he has to account GST on the imported services incurred through GST-04.

Q19. Are professional consultancy works performed spanning the transitional period (pre and post GST commencement) subject to GST?

A19. Only the value on the portion of work done after GST commencement is subject to GST. This value can be apportioned according to the value of work done pre and post GST commencement date.

Q20. As a surveyor I pay for some tools for my relative to help him to set up in business on a small scale. As I paid for them can I deduct the GST paid for the tool?

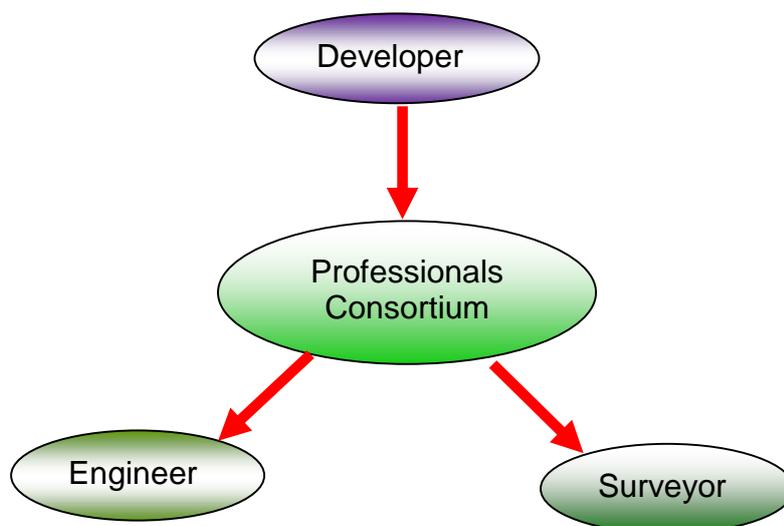
A20. No, you can only claim input tax incurred for acquisitions in the course and furtherance of your business.

Q21. Besides making taxable supply I also make exempt supply such as the giving loans to my employees. What is GST treatment for this supply?

A21. The supply of loans can be treated as an incidental financial exempt supplies and the acquisitions related to those supplies are claimable.

Q22. With reference to Diagram 1, the developer contracted the Professionals' Consortium to engage professional services pertaining to his commercial property development. There were instances where the professionals issue tax invoices to the consortium or directly to the developer. Will such issuance affect the developer's ability to claim input tax on their supplies?

Diagram 1:



A22. The GST implication on the input tax claims is as follows:

- (a) Assuming the consortium (C) and developer (D) are taxable persons. D engages C to acquire the services of an engineer (E) for his development project. When E has completed rendering his services he issues a tax invoice to C. Subsequently C issues a tax invoice to D. Both C and D claim input tax credit respectively on the supply of engineering services. When C charges D commission for services rendered, D incurs and claims input tax accordingly;
- (b) If C is not a taxable person, E issues a tax invoice to C but C cannot issue a tax invoice to D because C is not a taxable person. Both C and D are not eligible to claim any input tax credit incurred for the services rendered by E. Hence, E will have to bill D directly. Then only D can claim the input tax credit.

INQUIRY

1. For any inquiries for this guide please contact:

Sector III

GST Division

Royal Malaysian Customs Department

Level 3 – 7, Block A, Menara Tulus,

No. 22, Persiaran Perdana, Presint 3,

62100 Putrajaya.

Email: gstsector3@customs.gov.my.

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

• E-mail : ccc@customs.gov.my