



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON PROPERTY MANAGEMENT

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to GST treatment on property management: Joint Management Bodies and Management Corporations.

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.

GST TREATMENT FOR THE INDUSTRY

5. Property management is the management of personal property, equipment, tooling and physical capital assets that are acquired and used to build, repair and maintain end item deliverables. Property management involves the processes, systems and manpower required to manage the life cycle of all acquired property as defined above including acquisition, control, accountability, responsibility, maintenance, utilization and disposition. Property manager is the people who eligible enough to carry out the job manage the property so that objectives and the goal of the property management be achieved and create the optimum net return. On the



other hand, the property management will provide the proper maintenance and maintenance of the building, common area and the facilities in the property; hence it can create a safe and functional living environment to the occupants. For the purposes of this guide, the term “Joint Management Body (JMBs) or Management Corporation (MCs)” is also includes property manager in the strata building.

6. Property Management in Malaysia is enforced under a related act such as National Land Code 1965, Strata Title Act 1985, Housing Development Act 1966 & Regulations, Building & Common Property Act 2007 and Valuers, Appraisals and Estate Agents Act 1981. In the case of Sarawak, the strata title ownership and the establishment of the JMBs or MCs is governed by Strata Title Ordinance 1995 and for Sabah, such property management is enforced by the Land (Subsidiary Title) Enactment 1972.

7. Most of the Act mention about how to conduct or perform duties as a property management. It also provides the proper maintenance and management of buildings and common property and for matters incidental thereof. Basically, there are different type’s management companies that specialize in one or more categories and normally involves four areas of management specialties: retail, office, apartments and miscellaneous areas:-

(a) Retail Management

Within this category there are sub-categories that include: strip, neighbourhood, community and regional shopping centres. The management of a ten-store strip centre would not be comparable with the management of a 100 store regional centre with large anchor stores and national tenants. The management of shopping centres requires specialized accounting skills and programs to handle common area maintenance, billings, as well as leasing talents in many instances.

(b) Office Building Management

There are four grade of office buildings; A, B, C and D, with A being the best location, most prestigious and commanding the highest rents. Class D buildings, on the other hand, are the older buildings in less desirable locations with the lowest rents. The management of large office buildings requires

special engineering, administration and leasing talents. The JMB or MC whom provides the management services needs to know if the building meet local authority's requirements for restrooms, elevators, fire escape plan, building safely plan, etc.

(c) Apartments & Condominiums Management

In Malaysia, management of residential properties is the largest segment of the real estate management business. The management of larger apartment or condo complexes requires onsite managers, maintenance personnel, payroll, etc. JMB or MC must have the professional property management computer system, thus allowing better tracking of delinquencies, units account and cash flow. Management fees charged are normally based on a percentage of income collected with a minimum monthly base fee. Fees are negotiated on a per property basis and depend on many factors including condition, location and size of the property, etc. Leasing and other auxiliary service fees are separate and in addition to the management fee.

(d) Miscellaneous Areas Management

Miscellaneous areas of management includes industrial, self-storage facilities, motels, car parks, etc. These properties require specialized knowledge particular to their market and knowledge of state laws that apply. The management company should have a track record within the specific area.

8. Hence, property management will includes the management of all types of properties, including apartments and condominiums, shopping centers, high rise offices and other buildings. Normally, the retail management, office building management or miscellaneous areas management services are supplied by the JMB or MC in the commercial property whereas apartment & condominium management be supplied in the residential property.

9. Property management may involve the following functions including building maintenance / housekeeping, security management, car park management, promotions and marketing, financial, accounting and administration. For GST purposes:

- (a) any provision of management services by the provider of the property management to the commercial parcel owner; and
- (b) any provision of management services by the provider of the property management to any person other than residential parcel owner in the residential,

are subject to GST. In the case of (b), such JMBs or MCs is mixed supplier (making both exempt and standard rate supplies). In such scenario, the GST legislation requires them to register if their annual turnover involving taxable supplies exceeds the GST threshold in the past 12 months or within the future 12 months. Any consideration received by the registered JMBs or MCs on the taxable supplied of goods or services are subject to GST.

10. Hence, for commercial property, contributions from such parcel owners in the form maintenance fee are subject to GST. The registered JMBs or MCs under section 20 of the GST Act would impose certain fee for their services in performing their management services to the commercial parcel owners or to any person not being the parcel owner but the recipient of the supply of the goods of services in the residential property. The GST registered JMBs or MCs have to charge GST on the fee or commission that they receive and be able to claim input tax on expenses incurred such as audit fee, utilities, cleaning and maintenance services, printing and stationery and other inputs acquired.

11. The supply of management services by the JMBs or MCs ordinarily regarded as a business under section 3(2) of the GST Act 2014. Such supply of services by the JMBs or MCs is a taxable supply as long as their supply of services relates to the management of non-residential (commercial) property. The exceptions from the imposition of GST limited to any supplies of services by the JMBs or MCs who manage all type of residential property to the residential parcel owner. Item 20 of the GST [Exempt Supplies] Order 2014 exempt any supply of services by such JMBs or MCs in the residential property to the residential parcel owner. Hence, if such JMBs or MCs only supplied the management services only to the residential parcel owner, they are not required to register for GST, even if the annual turnover exceeds the

prescribed threshold. Since, contributions from parcel owners in residential buildings is not subject to GST, the input tax incurred by the JMBs or MCs is not recoverable.

12. However, for the JMBs or MCs who is making both taxable and exempt supply (mixed supply) then he must apply the apportionment method to recover his residual input tax incurred in the course or furtherance of his business. Input tax incurred on the taxable supply portion is claimable. In summary, for the purpose of GST, such JMBs or MCs:

- (a) Charge GST on the taxable supply and claim ITC attributable to such taxable supply.
- (b) Do not charge GST on the exempt supply and not entitled to claim ITC attributable to that supply.

Duties and power

13. There are wide functions for the JMBs or MCs. Firstly, maintenance management which includes all the maintenance work and supervision of work in the property. Secondly is the financial management which is need to work on the financial and account of the property. Ownership or tenancy management was work detail in the assessment list, rental and tenancy period and etc. next, where, units need to be rented, the property manager need to market it. At the same time promotional activities are carried out to create interest in the units by the target market. This is under marketing and promotional scope. Lastly, general management is about managing and interact with the service providers.

Contribution to Maintenance Fund and Sinking Fund

14. Owners of strata-titled properties collectively own common area such as lifts, staircase, carpark, playground, clubhouse, swimming pool and tennis court. Contributions to the Maintenance Fund (MF) (which are commonly known as maintenance or service charge) and Sinking Fund (SF) are made by these owners for the purposes of maintaining the common area.

Maintenance Fund



15. MF are fees that are paid on a monthly basis in order to cover general costs and management costs in relation to keeping intact the common areas and the facilities of the building. MF is intended for the regular day-to-day activity of keeping the common property in good condition whereas SF is normally set aside for future major building works such as painting, roof repair and replacement of lifts.

Sinking Fund

16. Sinking funds are used to build up a fund of money for longer term expenditure on building such as replacement windows, repairs and replacements to the structure and roof, lift replacements etc.

Tax Invoice

17. The Strata management Act legislation requires a notice to be issued by JMBs or MCs to the parcel owner. The notice will itemize the list of expenses the parcel owner is required to pay the charges and contribution to the sinking fund for services procured from the JMBs or MCs as determine by the JMBs or MCs from time to time in proportion of allocated share units of each parcel. It can have varying level of details, and should describe the nature of work done by them for the parcel owner, and any other expenses incurred.

18. For the purpose of GST, section 33 of Goods and Services Act 2014 requires every registered person who makes any taxable supply of goods or services in the course or furtherance of any business in Malaysia to issue a tax invoice. A tax invoice is a document containing certain information about the supply that has been made and is similar to a commercial invoice except for some additional details. This document is important as it is an essential evidence to support a customer's claim for deduction of input tax. A tax invoice must be issued within twenty one (21) days from the time of supply. The supplier must keep a copy and the original copy should be retained by the recipient. Only a GST registered person can issue tax invoices. Tax invoices can be in the following forms:

- (a) Tax invoice
 - (i) Full tax invoice,



- (ii) Simplified tax invoice,
- (b) Deemed tax invoice
 - (i) Self-billed invoice,
 - (ii) Invoice or statement of sales by auctioneer.

19. Such invoice can only be treated as a tax invoice under section 33 of GST Act 2014 if it has certain characteristics and particulars of the tax invoice. For further information on tax invoice, please refer to the Guide on Tax Invoice and Record Keeping.

20. This Guide covers all property managers including JMBs and MCs who provides the maintenance and management of the building and common property in Malaysia.

FREQUENTLY ASKED QUESTIONS

Registration

Q1. Who is required to be registered for GST?

A1. All JMBs and MCs who manages a commercial properties are liable to register if their annual turnover involving taxable supplies exceeds the GST threshold in the past 12 months or within the future 12 months. JMBs and MCs in the residential buildings are exempted from GST registration as stipulated in paragraph 20 of the Goods and Services Tax (Exempt Supply) Order 2014. However such JMBs or MCs are required to register if:

- (a) makes a taxable supply of services to the any person who is not the parcel owner of such residential property; and
- (b) their annual turnover involving taxable supply exceeds the GST threshold in the past 12 months or within the future 12 months.

For a mixed property, such JMBs or MCs are required to be registered if his supply of services related to commercial property exceeds the threshold in the past 12 months or within the future 12 months, then you are liable to be registered.

Q2. What are the taxable supply of service to any person who is not the parcel owner of the residential property?

A2. Taxable supply of services means a supply of services which are standard-rated supply and zero-rated supply and does not include an exempt supply. The term “exempt supply” means an exempt supply determined under section 18. Such provision allows the Minister to determine such exempt supply of goods or services in the GST (Exempt Supply) Order 2014. For this exempt supply, such supply of goods and services are not be subjected to the imposition of tax under section 9. Since, item 20 only exempt any taxable supplies of services made by the JMBs or MCs to residential parcel owner, any supplies of services in the residential property supplied to other person not being the residential parcel owner are subject to GST.

Example 1

Mutiara Murni Management Corporation signed a contract with PK telecommunication sdn bhd to lease the space for their telecommunication transmitters. According to the contract, Mutiara Murni Management Corporation will charge PK telecommunication RM7,000 monthly as service charge for provision of the above services. Such supply of leasing services are taxable supply and subject to GST.

If such taxable supply and the value of any other taxable supplies in the 12-month period are expected to exceed the prescribed threshold, Mutiara Murni Management Corporation have to register for GST

Q3. What constitutes the taxable supply?

A3. Taxable supply includes all fees and charges imposed by JMBs and MCs for the services. It includes management fees, service charge and maintenance, promotional and other charges for services made available to owners of property. These services may include building maintenance / housekeeping, security management, car park management, promotions and marketing, financial, accounting and administration. Provisions of these services are liable for GST because these services are standard rated supplies.



Q4. If my annual turnover of taxable supplies does not exceed the GST threshold, can I apply to be registered?

A4. Yes, you may apply for voluntary registration, but once registered you must remain registered for a minimum of 2 years.

Q5. Supplies of residential properties are exempt supply and supplies of commercial properties are taxable. Are services provided by JMBs and MCs to residential property owners subject to GST?

A5. No, supply of services by JMBs and MCs to all type of residential property owner are not subject to GST. However, the exceptions to impose GST only applicable to supply of services made by JMBs or MC to the residential parcel owner only. Hence, for wholly exempt supplier are exempted from any liability to register and such JMBs or MCs are not entitled to claim input tax incurred on their acquisitions.

Q6. What is the GST treatment on the supply of management services by the JMBs or MCs in the gated residential properties? Whether such maintenance fee imposed for the management of the the common area and security is subject to GST?

A6. No. Supply of services by such JMBs or MCs in the residential property to the residential parcel owner is exempt supplies. However, the service provider such as security, cleaning company shall imposed GST on their supply of services and such input tax is not recoverable. Hence, JMBs or MCs on the gated residential property are not be required to register for GST. However, they are required to register for GST if their supply of services to any person not being the residential parcel owner in 12 months exceed prescribed threshold.

Place of Supply

Q7. If I am a JMBs or MCs registered in the designated area (Langkawi, Labuan or Tioman), and provide property management services inside the designated area, do I have to account for GST?

A7. No tax chargeable on the provisions of such services inside the designated area and therefore is not liable for GST.



Q8. If I am a JMBs or MCs registered in the free zone and provide property management services inside the free zone, do I have to account for GST?

A8. No tax chargeable on the provisions of such services inside the free zone. For example, no tax will be charged on the supply of services by property manager (JMBs or MCs) inside the Free Zone in Jalan Stulang Laut in Johor Bahru.

Time of Supply and Accounting Period

Q9. When do I have to account for GST?

A9. The time of supply is the time at which supplies made by the JMBs or MCs is treated as having taken place. However, the rules below determines when output tax is to be accounted on consideration. Where fee or the contribution for the fund are paid in a lump sum or paid periodically, the time of supply is at the earliest of or output tax will be accounted based on the earlier of:

- (a) the date when you receive the payments; or
- (b) the date when you issue a tax invoice.

Example 2

DC Sdn Bhd issues an invoice for 3 monthly billing amounting to RM4,770 (RM4,500 plus GST of RM270) to an owner of a building on 1st of April 2015. DC Sdn Bhd has to account for GST his April GST returns.

Q10. When do I have to submit GST payment to Customs?

A10. On or before the last working day of the month subsequent to the taxable period.

Example 3

Based on the above example, the last day to submit the April GST returns is the last working day of May.

Q11. How do I account GST on charges received?

A11. GST on fees must be exclusive.



Example 4

Fee: RM1,500

GST: 6%

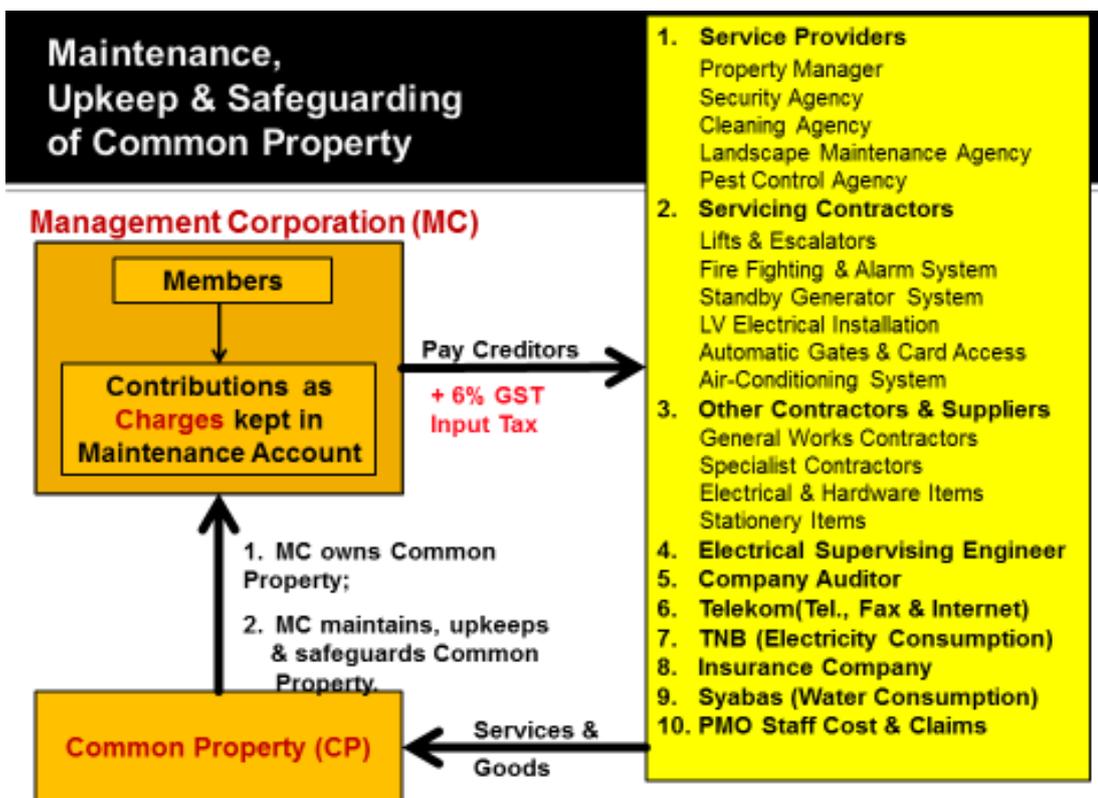
GST amount RM90 [RM1,500 (fees) X 6% (GST rate)]

Total amount payable; RM1590 [RM1500+ RM90].

Supplies, Charges and Contributions to Management and Sinking Funds

Q12. Is the service / maintenance charge imposed by JMBs or MCs to the commercial parcel owner subject to GST?

A12. Yes, the service / maintenance charge imposed by such JMBs or MCs is subject to GST. This is because such maintenance charge is consideration received by them for the provision of maintenance, upkeep and safeguarding of the common property i.e. operational, security, maintenance and other services.



Q13. As the JMBs or MCs, my duties include preparation of tenancy agreements, administration of rental collection, initiating lease renewals and negotiating of terms. Whether such tenancy or leasing services is subject to GST?

A13. Rental of commercial and industrial building are taxable supply and subject to GST at standard rated. However the rental of residential housing (including apartments and condominiums) are exempt supply and not subject to GST as stipulated in paragraphs 1 and 2 of the Goods and Services Tax (Exempt Supply) Order 2014.

Q14. What happens if I fail to impose GST on the services I charge?

A14. You have to charge GST every time you impose a charge for providing taxable services. If you fail to charge GST on such services, the fee receive will be treated as inclusive of GST. You have to account for the GST based on the value of the services charged.

Example 5

Fee = RM1,000

Value of GST = RM1,000 X [6/106]

GST amount = RM56.60

Marketing and Promotional, Insurance, Electricity and Water

Q15. Are marketing service and promotional services supplied in the commercial property by the JMBs or MC to GST?

A15. Yes. Supply of marketing services or promotional services supplied by the JMB or MC to the parcel owner are subject to GST.

Example 6

JMB / MC organize and provide a promotional events inside the commercial complex and KRU Studio Sdn Bhd be invited by such JMB /MC to perform in such promotional events.

The GST treatment is as follows:-



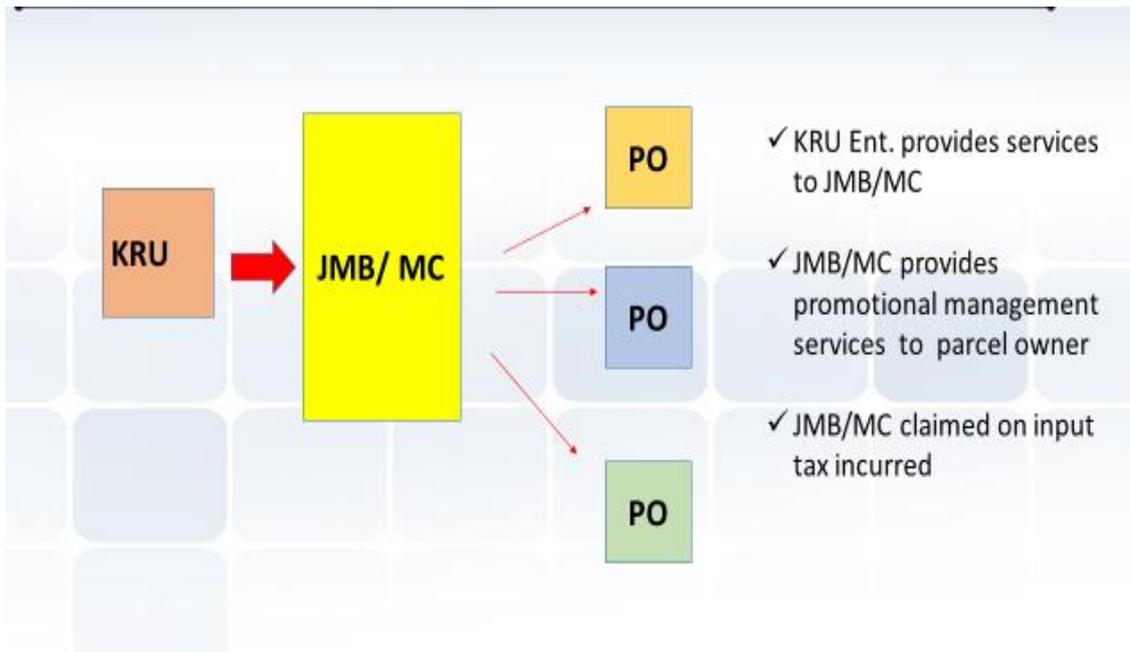
(a) GST on the supply of services by KRU Studio Sdn Bhd to the JMBs or MCs.

KRU Studio Sdn Bhd are supplying services to JMBs or MCs and such services is taxable supply and is subject to GST. KRU Studio Sdn Bhd will issue tax invoice to the JMBs or MCs on such supply and account for tax. As such input be incurred in the course of furtherance of the business, the JMBs or MCs as the recipient of the services are entitle for ITC.

(b) GST on the supply of promotional services by JMB or MC to the commercial parcel owner

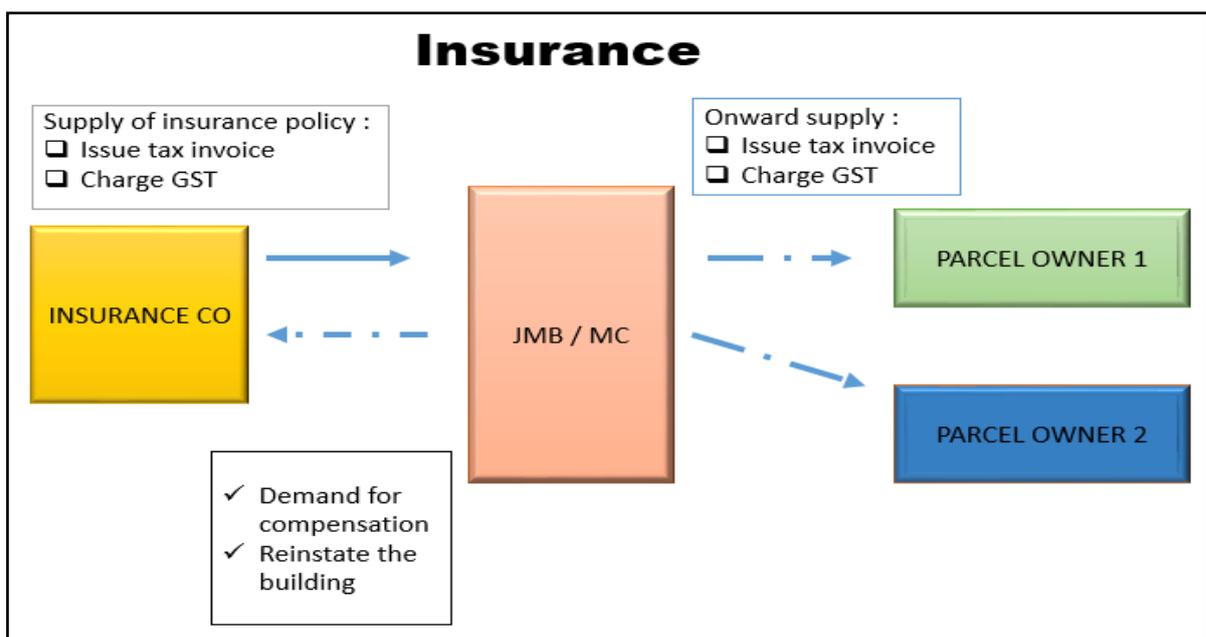
JMBs or MCs is responsible for managing and marketing such commercial property, they are actually providing a taxable supply of service to commercial parcel owner. Therefore, any charge or contribution for this supply of services are subject to GST. Commercial parcel owner as the taxable person are allows to claim ITC on such supply

Basically, based on the illustration below registered shows that JMBs or MC or the commercial parcel owner can claim GST incurred in relation to any taxable supply of services as their input tax, so long as taxable supply of services is used for the purpose of business. The business must involve the making of taxable supplies upon which you collect GST and account for output tax.



Q16. Are fire insurance policy will be charged GST? If yes, how to charge the parcel owner because master fire insurance policy is issued to the JMBs or MCs?

A16. For the purposes of GST, only supply of life insurance is exempt supply. Hence, any supply of general insurance such as Fire insurance policy is standard rated supply. Below is the illustration for your easy understanding.



The GST treatment is as follows:-

(a) GST on the supply of services by Insurance Co to the JMB or MCs

Insurance Co are supplying services to JMBs or MCs and such services is taxable supply and is subject to GST. Insurance Co will issue tax invoice to the JMBs or MCs on such supply and account for tax. As such input be incurred in the course of furtherance of the business, the JMBs or MCs as the recipient of the services are entitled for ITC.

(b) GST on the supply of services by JMB or MC to the commercial parcel owner

JMBs or MCs is responsible for managing the maintenance and safeguard such commercial property, their duties involves to insure the building and apply insurance money for rebuilding and reinstatement of the building. Therefore, any charge or contribution for this supply of insurance policy is subject to GST. As, this input incurred in the course of the business, such commercial parcel owner as the taxable person are allows to claim ITC on such supply of insurance policy.

Q17. Based on the above example, what is the GST treatment on the supply of insurance policy in the residential property?

A17. Similarly, such of services is taxable supply and is subject to GST. Insurance Co will issue tax invoice to the JMBs or MCs on such supply and account for tax. As, supply of services by the JMBs or MCs is exempt supply, such input be incurred is not claimable. The JMBs or MCs as the person who is responsible to insure the building and apply insurance money for rebuilding and reinstatement of the building cannot imposed any GST on their supply of services to the residential parcel owner and such residential parcel owner also not entitle to claim ITC on such input.

Q18. What is the GST treatment for electricity services?

A18. Generally, supply of the first 300 units of electricity to domestic consumers is zero rated. Supply of electricity to parcel owner in the strata title buildings have 2 scenarios as below:

(A) Commercial properties



Scenario 1 (Bulk meters in the commercial properties):

Electricity provider issued bill to the JMB or MC

- ✓ The treatment is standard rated supply. Zero rate 300kw is not applicable if the usage of the property is for commercial.
- ✓ TNB will issue tax invoice to JMB or MC.
- ✓ JMB or MC to issue tax invoice to the parcel owner separately. JMB have to account to GST on output.
- ✓ ITC on supply of electricity used in the course of business is claimable. Parcel owner account as their input.
- ✓ JMB or MC managed the common areas, ITC on such input is claimable.

Scenario 2 (Split meters in the commercial properties)

- ✓ The treatment is standard rated supply. Zero rate 300kw is not applicable if the usage of the property is for commercial.
- ✓ TNB will issue the tax invoice to the parcel owner and account for tax. For common area, tax invoice will be issued to JMB or MC.
- ✓ Parcel owner will claim ITC. Similarly on the common area, ITC will be claimed by JMB or MC.

(B) Residential Property

Scenario 1 (Bulk meters in residential property)

Electricity provider issued bill to the parcel owner of residential

- ✓ TNB will issue a tax invoice to the JMB or MC and charge GST at standard rate. No 300kw is allowable since such supply is not a domestic user.
- ✓ Parcel owner entitle of the first 300 units of electricity for zero rated supply.

Scenario 2 (Split meters in residential property)

- ✓ The treatment is standard rated supply. The first 300kw will be zero rated except for common area.
- ✓ TNB will issue the tax invoice to the parcel owner and account for tax.

Q19. What is the GST treatment for water bill in the strata title building?

A19. Supply of water to common area of residential and commercial property and commercial property is standard rated. For the residential property, such supply of water will be zero rate if tax invoice is issued by the supplier of treated water to the domestic consumers and such supply is standard rate if the provider of treated water invoice the JMBs or MCs and then the JMBs or MCs who will invoice the residential parcel owner.

Input Tax Credit

Q20. As the registered person under section 20 of GST Act, what can the JMB or MC claim as their input tax?

A20. The input tax claimable includes the GST incurred on the marketing and promotional of the strata building, Insurance, Electricity and Water on the common area of the strata building, office stationeries, utilities, equipment, etc. Running expenses of a motor vehicle incurred are not claimable.

Q21. I incur GST on inputs such as security, cleaning, utilities and maintenance services. Can I recover the GST incurred?

A21. Yes, you can recover the GST incurred by claiming it as your input tax. You only entitled for such amount of input tax if you are the taxable person and such amount of input tax incurred is attributable to any taxable supply made by you in the course or furtherance of any business in Malaysia. Hence, for residential JMBs or MCs, the input tax incurred by the such JMBs or MCs is not recoverable.

Q22. How do I claim input tax?

A22. JMBs or MCs will incur GST on the purchase of goods or services. The GST incurred is called input tax. The input tax claimable may include the GST incurred on the advertisement, office stationeries, utilities, equipment's, etc.



GST will be charged on the services performed. The GST charged is called output tax. The GST payable to Customs Department will be output tax minus input tax. If output tax is greater than input tax, then the difference will have to be remitted to the Royal Malaysian Customs Department (RMCD).

Example 7

Assuming your output is management fees and your inputs are maintenance bills.

Output Management fee : RM3,000

Inputs Maintenance bills : RM1,000

Output tax $RM3,000 \times 6\%$: RM180

Input tax $RM1,000 \times 6\%$: RM60

The difference (output tax minus input tax) to be remitted to RMCD is RM120 (RM180 – RM60).

Q23. I am the Management Corporation in the mixed development, how can I claim ITC on my supply of services?

A23. For JMBs or MCs who managed mixed development comprising of both residential and non-residential parcel units, you have to segregate your supplies of services into the following categories:

- (a) Those directly for the making of taxable supplies (e.g. maintenance or up keeping of non-residential areas and common areas);
- (b) Those directly for the making of exempt supplies (e.g. maintenance or up keeping of residential areas); and
- (c) Those for the making of both taxable and exempt supplies (e.g. fire insurance that covers both the bare apartment and the contents within).
Such costs are termed as common costs.

The GST incurred in category (a) is claimable in full and The GST incurred in category (b) cannot be claimed at all. The GST incurred in category (c) is termed residual input tax. Such JMBs or MCs will have to apportion the residual input tax and claim only the portion attributable to taxable supply.

Bad Debts

Q24. What will happen if my customer does not pay me after I have billed him and paid the relevant GST to RMCD?

A24. You can claim bad debt relief on the GST output tax paid in respect of taxable supplies. The GST portion of the bad debt can be recovered subject to certain conditions;

- (a) The tax already paid;
- (b) Have not received any payment six months from the date of supply or the debtor has become insolvent before the period of six months has elapsed; and
- (c) Sufficient efforts have been made to recover the debt.

Q25. Do I have to make a formal claim to RMCD to recover GST due to bad debts?

A25. No, you only need to make adjustment by increasing your input tax in your GST returns after you have satisfied all the conditions for bad debts relief.

Other related issue

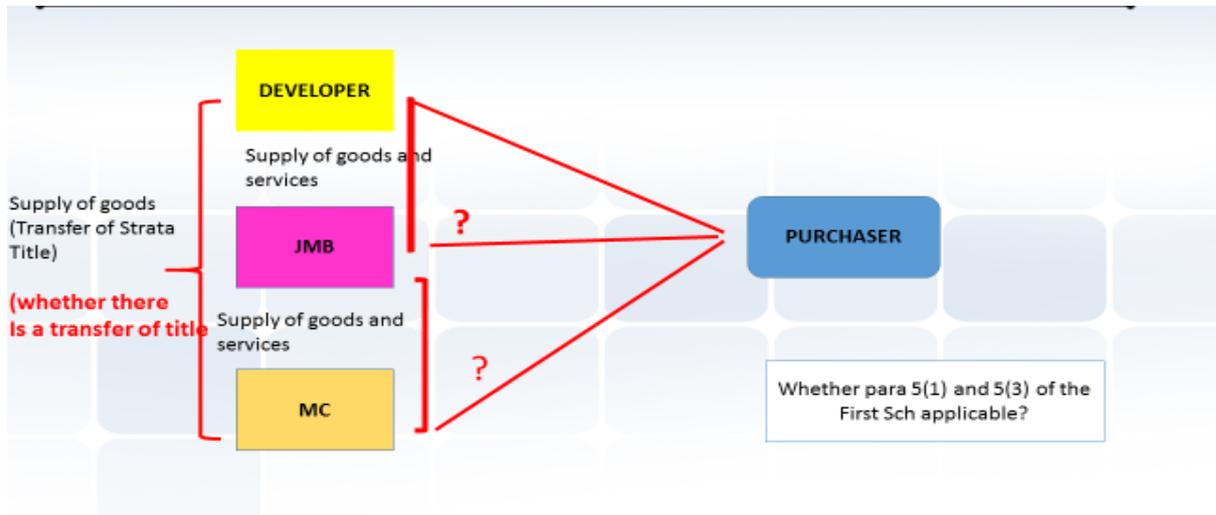
Q26. Section 9 of the Strata management Act 2013 requires the developer be responsible to maintain and manage properly any building or land and common area during the developer's management period (from the date of the delivery of the vacant possession of a parcel to a purchaser by the developer until one month after the establishment of the JMBs or any such time as may be extended by the commissioner). What is the GST treatment on this interim JMBs and did developer or his agent need to register under section 20 of the GST?

A26. No, during such period, the management of the building be done by the developer due to no JMBs be established. GST law does not required such developer who have the responsibility to maintain and manage the building during the developer's management period to be registered regardless of whether such supply of services be performed to commercial property or not.



Hence, supply of such management and maintenance services by the developer during developer's management period be treated as non-business.

Q27. The Strata Management Act also requires the goods (moveable and immovable) and funds be transferred from the developer to the JMBs and MCs, whether such transfer be regarded as a supply under Para 5(1) and 5(3) of the first schedule of GST and subject to GST?



A27. Based on above illustration, it's clearly shows that such goods and the fund are supplied for the benefit and usage of the parcel owner and the JMB or MC only managed such goods and services. Hence, supplies of goods or services by developers to the JMBs or MCs is non supply and not subject to GST.

Q28. What is the GST treatment the handover of balance of "building maintenance fund and sinking fund" from developer to JMBs or JMBs to MCs?

A28. GST will not be charged because the handover of balance of "building maintenance fund and sinking fund" is not a supply.

Transitional Issues and Contracts

Q29. Can I claim input tax on goods that were subject to sales tax?

A29. Yes, if you are registered under GST, you may claim sales tax refund on these goods if they are reflected in your balance sheet and if you have

records / documentation such as invoices and customs documentation to show sales tax have been paid.

Q30. I incurred service tax on services procured before the GST commencement date. Can I claim input tax on these services?

A30. No, you cannot claim input tax on service tax incurred before the GST commencement date because the services are regarded as consumed before GST commencement date.

Q31. What is the GST treatment if parties i.e. the JMBs or MCs and the cleaning provider enters into a contract before the GST is subject to GST?

A31. Property management services provided after the GST commencement date is subject to GST even though the contracts for the services were signed before the GST commencement date.

Example 8

PK Sdn Bhd signed a contract with Mutiara Murni Management Coporation to provide cleaning and maintenance services of a complex. The contract is valid for a year from 1st January 2015 to 31st December 2015. According to the contract, PK Sdn Bhd will charge the Mutiara Murni Management Corporation RM36,000 service charge for provision of the above services. GST implementation date is 1st April 2015. PK Sdn Bhd is liable to account for GST for services provided after 1st April 2015. Therefore, PK Sdn Bhd has for 9 months out of total 12 months of services provided, that is to account.

$$9/12 \times RM36,000 \times 6\% \text{ GST} = RM1,620$$

PK Sdn Bhd is liable to pay a GST of RM1,620.

Q32. What are the consequences if the contract entered by the JMBs or MCs in the commercial property has no provision for the general opportunity to review?

A32. Failure to include the GST provision may make the property manager unable to recover the GST from the client. Therefore, the amount of GST incurred will be paid by you.

Basically, supply of cleaning services is supply of services and subject to GST. GST treatment for spanning period is based either on:-

- (a) contract has no provision for general review opportunity to change /renegotiate the consideration for such supply of cleaning services (section 187 GST).

The provision of such cleaning services under a reviewable contract entered into no less than two years before 1 April 2015 be zero-rated until its first opportunity after that date for review or for a period of five years after 1 April 2015, whichever is the earlier.

However this section is only applicable if:

- (i) the supplier and recipient of the supply are registered persons;
- (ii) the supply is a taxable supply; and
- (iii) the recipient is making wholly taxable supply.

Hence, If the parties have an opportunity to review the contract, the supply of cleaning services will be subject to GST when the first review opportunity arises and in the case where no review opportunity arises, such supply will subject to GST after the expiry of the five year period from 1 April 2015.

Or

- (b) Application of section 188 of the Act

Such services is a continuous supply of cleaning services spanning the GST commencement. Section 188 of the Act allows only the portion of supply made before 1 April 2015 is not subject to GST. The proportion of supply made on or after 1 April 2015 is subject to GST. The supply is taken to be made on a continuous and uniform basis throughout the period. In this case, cleaning provider as a taxable person makes a continuous supply of services spanning 1 April 2015, then such provider have to apportion the supply and account for GST accordingly.

Q33. How do I account for GST on the supplies of the services provided by the property managers if such services were performed spanning GST implementation?

A33. Generally, GST is payable on supplies of services made on or after 1 April 2015. However if there is a continuous supply of services spanning the GST Commencement, only the portion of supply made after 1 April 2015 is subject to GST. JMBs or MCs supplying their services in the mixed development and commercial property must apportion their services and charge accordingly. GST is only chargeable for such services rendered after GST implementation. Apportionment can be by way of time spent or transactions of the services.

FEEDBACK OR COMMENTS

21. Any feedback or comments will be greatly appreciated. Please email your feedback or comments to gstsector3@customs.gov.my.

FURTHER INFORMATION

22. Further information can be obtained from:

- (a) GST Website: www.gst.customs.gov.my
- (b) GST Hotline: 03-88822111
- (c) Customs Call Centre:
 - Tel : 03-78067200 / 1-300-888-500
 - Fax : 03-78067599
 - E-mail : ccc@customs.gov.my

