



SERVICE TAX 2018

GUIDE ON: ACCOMMODATION

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

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INTRODUCTION

1. Service Tax is a consumption tax governed by the Service Tax Act 2018 and its subsidiary legislation. The effective date of the Service Tax Act 2018 is 1 September 2018.
2. Service tax is imposed on prescribed services called “taxable services”.
3. A person who provides taxable services exceeding a specified threshold is required to be registered under the Services Tax Act 2018 and is known as a “registered person” who is required to charge service tax on his taxable services made to his customers.
4. The Guide is to provide guidance to the service providers in the hospitality industry specifically hoteliers, and other providers of sleeping accommodations.

IMPOSITION AND SCOPE OF TAX

5. Effective 1 September 2018, under Group A, First Schedule of the Service Tax Regulations 2018, the provision of accommodation under prescribed circumstances is subject to service tax. Provision of accommodation premises is subject to service tax at the rate of 6%.

Service Tax Due

6. The service tax chargeable shall be due at the time when payment is received for the taxable services provided to the customer by the registered hotel operator.

SCOPE OF SERVICE TAX ON ACCOMMODATION

7. Under Group A, the service provider refers to an operator of;
 - (i) Hotels;
 - (ii) Inns;
 - (iii) Lodging house;

- (iv) Service apartment;
- (v) Homestay; and
- (vi) Any other similar establishment.

8. However, it does not include premises that are used to provide accommodation provided by:

- (i) The Federal Government, State Government, statutory body, local authority, or private higher educational institutions registered under the Private Higher Educational Institutions Act 1996 as a facility for educational, training or welfare purpose;
- (ii) An employer as a facility to his employees; and
- (iii) A religious or welfare body for the purpose of religious or welfare activities and not for commercial purpose and registered with the Registrar of Societies Malaysia or under any written law governing such body.

9. The provision of taxable services by such service provider are:-

- (i) Provision of accommodation premises;
- (ii) Provision of any other taxable service specified in other Group of taxable person stated in the First Schedule of Service Tax Regulations 2018;
- (iii) Provision of other services within the accommodation premises such as banquet facilities, rental of office space, recreational, and theme park;
- (iv) Provision or sale of tobacco products and alcoholic and non-alcoholic beverages.

10. Any service provider for the provision for accommodation services within or between special areas shall be chargeable to service tax.

11. “Similar establishments” refer to premises which have the characteristics similar to hotels, inns or boarding houses. It includes premises which provide furnished sleeping accommodation, with or without board or facilities for the preparation of food, and which are used by or held out as being suitable for use by visitors or travellers. Similar establishments also include hostels guest houses, bed and breakfast rest houses, resorts, chalets and lodging houses, private residence clubs, service apartments and home-stay.

Service Tax Treatment on Similar Establishments

12. Services provided by premises similar to hotels, motels, inns or boarding houses that attract service tax are as follows:

(i) **Home-stays**

Rental on home-stays is a taxable service is subject to service tax.

(ii) **Service apartments**

Service apartments used as a lodging or holiday accommodation rented out with central management, multiple occupancy, and short term stay offering services such as cleaning, laundry, telephone, utilities, 24-hour security, swimming pool facilities, landscape and other common facilities are subject to service tax.

(iii) **Camping ground**

These premises operate differently than hotels and the like. Guests may pay to stay in a hut, or a permanent cabin on the site. Alternatively, they may pay a fee to park their own tents or vehicles on the site. All these services are subject to service tax. The services or rental of any associated facilities for example camping facilities such as jungle lodges, tents, camp beds and security service are also subject to service tax.

Related Services

13. Related services which may also be provided by the hotel operator that attract service tax are as follows:

(i) **Admission fee to the theme park**

Admission fee to a theme park in a resort or hotel is subject to service tax. Service tax is to be levied on the net ticket price, excluding entertainment duty.

(ii) **Free tickets and complimentary rooms**

(a) Free tickets or complimentary rooms provided with no charge offered to the guest in at a resort, hotel or similar establishments is subject to service tax.

(b) Complimentary rooms put up for private use for business associates are subject to service tax. Service tax is chargeable based on the open market value.

Example:

If the complimentary rooms are sold at the rate of RM250++, the hotel should account for service tax on the value of RM250++.

(iii) **Complimentary rooms let out under promotional program**

(c) Complimentary rooms let out under promotional program (e.g. loyalty program) to attract customers are allowable. Complimentary rooms are to be treated as a discount and therefore not subject to service tax.

(d) Complimentary rooms given as part of a package charged by the service provider (e.g. hotel) in the form of wedding package,

seminar, dinner and other F & B package is not subject to service tax.

(iv) **Events/ Conferences/ Meetings/ Seminar Package**

Premises in hotels and the like are commonly offered as avenue to hold events/ conferences/ meetings/ seminars. The services are normally offered as a package (example: rental of premises, food and beverages, facilities to be used) and are subject to service tax.

(v) **Wedding Package**

Wedding package offered by the hotel includes breakfast, buffet, meals, ancillary services such as floral decorations, the services of the toastmaster and room for bridal ceremony and bridal party. The whole wedding package is treated as a single taxable service and subject to service tax.

(vi) **Hotel club facilities**

Hotel's club membership fees are subject to service tax. Hotel's club facilities provided such as gymnasium and swimming pool are subject to service tax.

(vii) **Other services that attract service tax:**

- (i) Rental space within the hotel for display of cabinets and advertising panels;
- (ii) Rental received from shops situated in hotel's premise;
- (iii) Hire of a sports or games room;
- (iv) Hire of sports equipment and providing coaching sessions;
- (v) Hire of rooms for trade sales and exhibitions;
- (vi) Usage of business center;

- (vii) Usage of health center/ spa;
- (viii) Car jockey services;
- (ix) Outdoor catering; and
- (x) Parking fees when charged separately.

Deposit or Booking Fees

14. If the deposit or booking fee forms part of payment, it is subject to service tax when payment is received. If it is not part of the payment, it is not a consideration and not subject to service tax.

15. Forfeited deposits/ booking fees is not considered as a service, but as a penalty and is therefore not subject to service tax.

Retention Fees/ Cancellation Fees

16. Retention fees are paid to reserve an accommodation for future use and considered as an advance payment and subject to service tax. The cancellation fees are regarded as compensation and not subject to service tax.

RESPONSIBILITY OF REGISTERED PERSON

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

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

18. A registered person is responsible to :
- (i) Charge service tax on his taxable services;
 - (ii) Issue invoices and receipts to his customers in respect of any transaction relating to the provision of taxable services;

- (iii) Submit service tax return SST-02 via electronic and pay service tax before due date; and
- (iv) Keep proper records with regards to his business.

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

FREQUENTLY ASKED QUESTIONS (FAQs)

Supplies of Accommodation and Other Services

1. Q : What is the service tax treatment on provision of hotel accommodation services and other services such as gymnasium manage by the hotel and laundry services which is outsourced?

A : Generally, all the services provided by the hotel operator are subject to service tax. However, the laundry services which is outsourced is not subject to service tax.

2. Q : What is the service tax implication if a hotel operator manages a theme park and charges an entrance fee of RM100?

A : The entrance fee of RM100 is subject to service tax as the service is provided by the hotel operator.

3. Q : A hotel operator provides telecommunication services such as facsimile, e-mail/internet and IDD phone for his guests either for consumption their rooms or at the business center. Is such service subject to service tax?

A : The telecommunication services charge by hotel operator are subject to service tax.

4. Q : I am a hotel operator and provide parking facilities for my guests without any charges as they are staying at my hotel. Am I required to account for service tax on the parking facilities which are provided free of charge to guests and if there is a charge imposed, how do I account for service tax?

A : Parking facilities provided to the hotel guests are not subject to service tax because it is accounted for in the guest room charges. However, letting of parking space charged separately is subject to service tax. If a discount is given, service tax will be charged on the discounted amount.

5. Q : A travel agent has made a booking for 150 rooms and it is given one complimentary room by the hotel for every 100 rooms booked. What is the service tax treatment on the complimentary room?

A : The complimentary room given by the hotel to travel agent is subject to service tax.

6. Q MNO is a hotel operator. He is provided a complimentary rooms for his staff, auditor and contractor when their do work for MNO. What is the service tax treatment on the complimentary room?

A The complimentary room given by the hotel to his staff, auditor and contractor is subject to service tax.

7. Q : How is service tax calculated on a wedding package offered by a hotel, which includes room and ancillary facilities?

A : The wedding package offered may consist of the wedding breakfast, buffet and meals served in a room with ancillary services provided as part of the package (including floral decorations; the service of a toastmaster; a room for the

ceremony and bridal party). The calculation of service tax must be based on the total value of this package. The service tax treatment is the same for other similar packages like conferences, seminar and gatherings with ancillary services.

8. Q : I run a hotel with less than 25 rooms. Am I required to register for service tax?

A : Yes, you are required to register for service tax if your value of taxable service for the period 12 months exceeds RM500,000.

9. Q : A hotel charges RM1.06 (inclusive of service tax) for a night stay as an annual event during the school holidays. The hotel received a booking for 10 rooms for 4 nights. What is the amount of service tax charged?

A : The amount of service tax charge is RM2.40.

10. Q : What is the service tax implication for the food and beverage services provided by hotel operator to his guests and also to other than hotel guest (walk-in)?

A : Provision of food and beverage services by hotel operator is subject to service tax at 6%.

11. Q : What is the service tax treatment on letting out hotel's sports facilities, such as golf course and golf driving range?

A : The letting out of such facilities is subject to service tax.

12. Q : ABC Property Sdn Bhd (ABCP) built a 15-storey hotel and the hotel is managed by ABC Hotel Management Sdn Bhd (ABCHM). ABCP receives net income from ABCHM after deduction of operational expenses incurred by ABCHM. Is ABCP making a taxable service?

- A : ABCP is not making a taxable service but ABCHM is making a taxable service as a hotel operator.
13. Q : **XYZ Property Sdn Bhd (XYZP) built a 15-storey hotel building and XYZP leased the hotel building to XYZ Hotel Management Sdn Bhd (XYZHM). Is XYZP making a taxable service?**
- A : XYZP provides leasing services which is not a taxable service under the First Schedule of Service Tax Regulations 2018.
14. Q : **We are a hotel operator and also a service apartment operator and we provide accommodation to our customers besides other facilities available at the hotel and apartment. Are we required to charge service tax for operating the hotel and the service apartment or only the hotel?**
- A : You are required to charge service tax for the services of operating the hotel and service apartment.

Membership

15. Q : **In the promotion of the new membership recruitment campaign, the hotel offers “Stay 6 Nights Get One Night Free” program to all who wish to join. Do we have to charge service tax on the free night accommodation?**
- A : The free night offered as a package in a promotion campaign is treated as a discount and allowable. Service tax is chargeable on the actual amount paid for the package.
16. Q : **Members of the hotel’s club enjoy certain facilities such as the gym and swimming pool at discounted rates. How do I account for service tax on these services?**

- A : These services are taxable services and subject to service tax. If a discount is given for using these facilities, service tax shall be accounted on the discounted amount.

Time-share Accommodation

- 17. Q : Is a timeshare programme sold by a timeshare provider subject to service tax as the programme provides its members time-share week rights to stay in participating hotels/resorts?**

- A : No, a timeshare programme sold by a timeshare provider is not subject to service tax.

Deposits / No Show Charges

- 18. Q : What is the service tax treatment on no show charge, if a hotel charges a customer on booking cancellation?**

- A : No show charge is subject to service tax. It cannot be treated as a penalty since the provision of accommodation has been made to the customer.

Compensatory Payment

- 19. Q : A guest was charged for breaking the hotel teapot. Is the charge subject to service tax?**

- A : No, the guest does not have to pay the service tax for the broken teapot.

- 20. Q : A guest purchased a towel and mug from the hotel operator. Is the purchase subject to service tax?**

- A : No, the purchased is not subject to service tax.

Other Related Services

21. Q : It is a common practice for a hotel to order bouquets of flowers or purchase gifts on behalf of customers at their request. The hotel will include this cost as a separate charge in the invoice issued. Is this charge for the services of providing gifts subject to service tax?

A : The supply of bouquets of flowers or gifts to the hotel operator is not a taxable service. However, when it is provided by the hotel operator to his guest for a charge, such services are also subject to service tax.

22. Q : What is the service tax treatment for the provision of food and beverage services provided by a restaurant operator (other than hotel operator) within the premises of the hotel?

A : Provision of food and beverage services provided by restaurant operator is subject to service tax if his total annual taxable turnover exceeds RM1,500,000.

23. Q : Is the collections taken from the coin-operated machines located in the hotel's premise subject to service tax?

A : Yes. The provision of services through any coin-operated machines, such as video game, vending machine or snack machines are subject to service tax.

Service tax is to be accounted as a tax fraction of the total value of the coins/tokens removed or collected from the machine.

24. Q : Are tips given by guests voluntarily subject to service tax?

A : A tip given voluntarily by guests or customers to a hotel's staff as a token of appreciation for services rendered is not subject to service tax.

Price Display

25. Q : Is the price displayed at the hotel for accommodation, food and beverage etc. required to be inclusive or exclusive of service tax?

A : The price displayed may be inclusive or exclusive of service tax. However, the price displayed on the invoice should be exclusive unless the registered person request in writing to the Director General and subject to conditions as he deem fits to impose any one or more of the prescribed particulars not to be contained on an invoice.

Transitional Issues

26. Q : Andrew checks into a hotel on 28 August 2018 and checks out on 7 September 2018. Is the hotel operator required to issue 2 invoices for his stay before and after 1 September 2018? What is the tax treatment on accommodation for the period of 1 September 2018 to 7 September 2018?

A : The hotel operator should issue an invoice to the customer where a GST of 0% charged on accommodation for the period 28 August 2018 to 31 August 2018 and service tax chargeable on accommodation for the period 1 September 2018 to 7 September 2018 (6 nights).

27. Q : Indah Hotel Sdn Bhd issued a privilege card for a fee to the members of the hotel's club for an annual programme from 1 June 2018 to 31 May 2019 to enjoy certain facilities such as the gymnasium and swimming pool at a discounted rate. The members have paid the full amount on 31 July 2018. Is the issuance of the privilege card subject to service tax on 1 September 2018?

- A : The issuance of the privilege card is not subject to service tax on 1 September 2018.
- 28. Q : Yusra made a hotel booking and paid the full amount of RM600 through Agoda on 20 August 2018 for a stay from 30 August 2018 until 2 September 2018. What is the tax implication on the stay?**
- A : The stay from 30 August 2018 to 31 August 2018 is subject to GST at 0% but the stay from 1 September 2018 to 2 September 2018 (1 nights) is subject to service tax at 6%.

INQUIRY

For any inquiries for this guide please contact:

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62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on SST can be obtained from :

- (i) SST website : <https://mysst.customs.gov.my>
- (ii) Customs Call Center:
- Tel : 03-7806 7200 / 1-300-888-500
 - Fax : 03-7806 7599
 - Email: ccc@customs.gov.my

SUMMARY OF DOCUMENT CHANGE

Version 2 - 7 September 2018

Para	Changes
Para 10	Removed word “ <i>designated areas</i> ”
Para 13	Replaced para 13 no (iv) to para 13 no (ii) and changed to (e) <i>Free tickets or complimentary rooms provided with no charge offered to the guest in at a resort, hotel or similar establishments is subject to service tax.</i> (f) <i>Complimentary rooms put up for private use for business associates are subject to service tax. Service tax is chargeable based on the open market value.</i> Example: <i>If the complimentary rooms are sold at the rate of RM250++, the hotel should account for service tax on the value of RM250++.</i>
Para 13 (vii)	Replaced (b) <i>rent</i> to “ <i>rental</i> ”
Para 14	Add in “ <i>when payment is received</i> ”
Q 15	Add in “ <i>for the package</i> ”
A 22	Replaced “ <i>RM1,000,000</i> ” to “ <i>RM1,500,000</i> ”
A 24	Removed “ <i>However, if the tip is included in the customer’s bill as a service charge, then service tax is chargeable. Service tax is to be calculated on the value of the services inclusive of the service charge.</i> ”
A 25	Add in “ <i>to the Director General</i> ” and removed “ <i>by approval of the Director General.</i> ”
A 26	Add in “ <i>(6 nights)</i> ”
A 28	Add in “ <i>(1 nights)</i> ”