



SERVICE TAX 2018

GENERAL GUIDE

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INTRODUCTION

General Guide

1. The General Guide on Service Tax is a part of a series of educational materials made available to help businesses prepare for the implementation of the imposition of service tax in Malaysia.

Legislation

2. The related legislation for the implementation of service tax is as follows:

- (i) Service Tax Act 2018
- (ii) Service Tax Regulations 2018
- (iii) Service Tax (Customs Rulings) Regulations 2018
- (iv) Service Tax (Compounding of Offences) Regulations 2018
- (v) Service Tax (Amount of Value of Taxable Service) Order 2018
- (vi) Service Tax (Rate of Tax) Order 2018
- (vii) Service Tax (Appointment of Date of Coming into Operation) Order 2018

SCOPE OF TAX

3. Service tax in Malaysia is a form of indirect single stage tax imposed on specified services termed as “taxable services”. Service tax cannot be levied on any service which is not included in the list of taxable services prescribed by the Minister under First Schedule of the Service Tax Regulations 2018.

4. Service tax applies to certain prescribed goods and services in Malaysia including foods, drinks and tobacco.

5. The Service Tax Act 2018 (STA 2018) applies throughout Malaysia excluding designated areas, free zones, licensed warehouses, licensed manufacturing warehouses and Joint Development Area (JDA).

Charge to Tax

6. Service tax is charged on:

- (i) Any provision of taxable services;
- (ii) Provided in Malaysia;
- (iii) By a registered person; and
- (iv) In carrying on his business

7. Service tax is due and payable when payment is received for any taxable service provided to a customer by the registered person.

8. Service tax is not chargeable for imported and exported services under the STA 2018.

Rate of Service Tax

9. The rate of service tax is fixed under the Service Tax (Rate of Tax) Order 2018 and comes into force on 1 September 2018.

10. The rate of service tax is 6% of the price, charge or premium for insurance policy, value of betting and gaming, etc. of the taxable service as determined under section 9 of STA 2018.

Rate of Service Tax for Credit and Charge Cards

11. The rate of service tax on the provision of credit card or charge card services is RM25 per year on the principal and supplementary card.

12. The service tax is chargeable on the date of the issuance of the card and every 12 months thereafter or part thereof after the issuance of the card or on the date of the

renewal of the card and every 12 months thereafter or part thereof after the renewal of the card.

Taxable Person

13. A taxable person is defined under Section 12 of the STA 2018 as any person who is prescribed to be a taxable person.

14. Taxable person can be any individual, company, enterprise, partnership, club, trust body, co-operative society, association, etc.

Taxable Service

15. Taxable services are any services which are listed in the various categories in the First Schedule of Service Tax Regulations 2018. Any taxable person providing taxable services and is expected to exceed the respective thresholds are required to be registered. These categories and thresholds can be summarised as in **Table 1**.

Table 1

Group	Category	Service Provider
A	Accommodation (Threshold : RM500,000)	Operator of accommodation including hotel, inns, lodging house, service apartment, homestay and any other similar establishment
B	Food and beverage operator (Threshold : RM1,000,000)	<ol style="list-style-type: none"> 1. Operator of restaurant, bar, snack-bar, canteen, coffee house or any place which provides food and drinks <ul style="list-style-type: none"> ➤ eat-in or take-away ➤ exclude canteen in an educational institution or operated by a religious institution or body. 2. Person providing catering services. 3. Food court operator.
C	Night-clubs, Dance Halls, Health Centres, Massage Parlours, Public Houses and	Operator of the Night clubs, Dance Halls, Cabaret, Health Centres, Massage Parlours, Public Houses and Beer Houses

Group	Category	Service Provider
	Beer Houses (Threshold : RM500,000)	
D	Private Club (Threshold : RM500,000)	Operator of private clubs
E	Golf club and golf driving range (Threshold : RM500,000)	Operator of any golf course or golf driving range
F	Betting and gaming services (Threshold : RM500,000)	Betting and gaming provider involving betting, sweepstakes, lotteries, gaming machines or games of chance
G	Professional services (Threshold : RM500,000)	<ul style="list-style-type: none"> a. Advocates, solicitors b. <i>Syarie</i> Lawyer c. Public accountant d. Surveyor e. Professional engineering f. Architect g. Consultancy services excluding research and development companies h. Information technology services i. Management services excluding such services provided by: <ul style="list-style-type: none"> (i) the developer, joint management body or management corporation to the owners of a building held under a strata title; or (ii) asset and fund managers j. Employment agency excluding <ul style="list-style-type: none"> (i) secondment of employees or supplying employees to work for another person for a period of time; or (ii) employment outside Malaysia k. Private agency

Group	Category	Service Provider
H	Credit Card or Charge Card Services (No threshold specified)	Credit Card or Charge Card Provider
I	Other Service Providers (Threshold : RM500,000 unless otherwise indicated)	<ol style="list-style-type: none"> 1. Insurance and takaful 2. Telecommunication and paid television service provider 3. Customs Agent (No threshold) 4. Parking operator 5. Operator of motor vehicle service or repair centre or provider of motor vehicle service or repair 6. Courier service operator 7. Hire-and-drive passenger motor vehicle and hire-passenger motor vehicle 8. Advertising 9. Transmission and distribution of electricity provider (Threshold : excluding first 600 kWh) 10. Domestic flight except Rural Air Services

Intra Group Services

16. Taxable services that are provided between companies in the same group of companies and the services are under category G (a, b, c, d, e, f, g, or h) as in Table 1 except employment agency and private agency, the taxable services are not subject to service tax.

17. Two or more companies are eligible to be treated as companies within a group of companies if one company controls each of the other companies and a company shall be taken to control another company if the first mentioned company holds:

- (i) Directly;

- (ii) Indirectly through subsidiaries; or
- (iii) Together directly or indirectly from subsidiaries,
 - (a) More than fifty percent of the issued share capital of the second mentioned company; or
 - (b) From twenty percent to fifty percent of the issued share capital of the second mentioned company and the first mentioned company has exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

18. Where a company is controlled by virtue of paragraph 18 by two or more companies, such company (second mentioned company) shall be taken to be controlled by the first mentioned company which has the exercisable power to appoint or remove all or a majority of directors in the board of directors in the second mentioned company.

19. The shares mentioned in paragraph 18 is not treated as held if the shares are held:

- (i) Through nominees;
- (ii) In a fiduciary capacity; or
- (iii) By virtue of provisions of debenture holding, trust deeds for securing debentures or money lending activities.

Example 1

JSK Group of Companies is in the food and beverage business operating a number of restaurants, food courts, night clubs and private clubs under its various subsidiaries (each more than 50% shareholding). Intra group provision of taxable services within the same

group of companies is a taxable service and subject to service tax at 6%.

Example 2

Kings Crane Rental Sdn Bhd provides rental of all types of crane. The rental of crane is not a taxable service under the First Schedule of Service Tax Regulations 2018.

Example 3

PP Sdn Bhd is a consultancy company and has direct control (90%) to QQ Sdn Bhd. QQ Sdn Bhd is providing architectural services to PP Sdn Bhd. The taxable services between companies in the same group of companies is not subject to service tax.

Inter Group Services

20. Where a company provides any services mentioned in paragraph 17 to another company outside the group of companies, then such service provided to any company outside or within the group of companies shall be treated as a taxable service and subject to service tax.

Threshold

21. The total value of taxable services for the purpose of registration is prescribed by the Minister in the Service Tax (Amount of Value of Taxable Service) Order 2018.

22. In the case of taxable persons providing taxable service in operation exceeding a 12 month period, the determination of the total value of taxable service is made with reference to the value of taxable services for the preceding 12 months.

23. If the total value of taxable services for the preceding 12 months does not exceeds the prescribed threshold, it is not necessary to apply for the service tax registration until such date when the threshold is exceeded. However, voluntary registration is allowed.

24. Where a taxable person commenced operation for less than 12 months, the threshold is determined with reference to the total value of taxable services beginning from the date of commencement of operation.

25. Once registered, the taxable person will continue to be registered unless his registration is revoked. Should the total value of taxable services equal or falls below the threshold, a written application for cancellation of the service tax registration may be submitted to the RMCD. Should the sales turnover of taxable services subsequently increase to the amount prescribed for the threshold, the taxable person should again apply for a service tax registration.

26. For the purpose of determining threshold, the total value of taxable services is considered separately for each legally constituted entity. An entity may provide taxable services in more than one premise, such as branches. The threshold then shall be determined by taking into consideration the total value of taxable services of the entire entity and not the annual total value of each individual branch. If a branch, however, is required under any law to be registered separately, making it a legally constituted entity, then the annual total value of such branch would be considered separately from that of its head office and other branches.

27. In the case where the taxable person provides more than one type of taxable service, the taxable value of services under the same Group should be combined, for example provision of accountancy and management services. Likewise, if the taxable services are from different services such hotel and parking services then the threshold is calculated separately.

Service Tax Due

28. The service tax chargeable under Section 11(1) of STA 2018 is due at the time when payment is received for the taxable service provided to the customer by the taxable person.

29. When the whole or any part of the payment in respect to the taxable service provided is not received within a period of 12 calendar months from the date of the

invoice service tax shall be due on the day following that period of 12 calendar months.

30. In the case of taxable persons who ceases to carry on a business of providing taxable services or whose registration is suspended or revoked by the Director General, service tax required to be accounted in any return made shall be due and payable on the day the return is required to be delivered to the proper officer of customs.

31. Advance payments are subject to service tax when invoices are issued. However, payment as deposit is not subject to service tax until such deposit is realized as payment for the taxable service rendered and invoice have been issued. Treatment of services rendered under transitional contracts.

32. A taxable person may have rendered taxable services prior to the date such services were prescribed to be taxable. Invoices for rendering such services were only issued after such date. In this case, such services rendered are not subject to service tax.

33. Similarly, where the provision of services straddled a period before and after the date such services become taxable and only invoiced after that date, only the portion of services rendered after that effective date are subject to service tax. In such a case, the charge in respect of the services rendered before and after the effective date should be determined accordingly and if necessary, recorded separately in order to facilitate verification by the customs officer.

REGISTRATION

Liability to Be Registered

34. The Minister may register a person who provides any taxable service where his total value of taxable services has exceeded the prescribed threshold.

35. A person provides taxable services is liable to be registered at the earlier of:

- (i) Not later than the last day of the month following the end of the month where the total value of all his taxable services in that month and the

eleven months immediately preceding the month has exceeded prescribed threshold; or

- (ii) Not later than the last day of the month following the end of the month where the total value of all his taxable services in that month and the eleven months immediately succeeding the month will exceed prescribed threshold.

36. There are special rules for registration under the transitional period from the previous taxation system to the service tax system as provided in the Transitional Provision below.

Application for Registration

37. Any person who carries on a business of providing taxable service shall apply for registration under Section 13(1) STA 2018 as a registered person in the Form SST-01.

38. The effective date of registration shall be the first day of the month following the month the notification of liability is received or any earlier date agreed by the Director General but not earlier than the date he becomes liable to be registered.

39. Every application by a body corporate or by an unincorporated body must be made by a proprietor, a director or a secretary or by a person authorised to accept service of notices or other documents on behalf of the said body. In the case of partnership, the application must be signed by all the partners.

40. Application for registration shall be made online through the MySST Portal.

Voluntary Registration

41. Any person who is not required to be registered under Section 14 STA 2018 may apply to the Director General for registration as a registered person. The Director General may register the said person if he is satisfied that the said person is providing taxable service but has not reached the threshold or is intending to carry on a business of providing taxable service.

42. The taxable person will be registered with effect from the first day of the following month or from such earlier date as may be agreed between the Director General and registered person. Such date shall not be earlier than the date he becomes liable to be registered.

Registration of Partnership

43. The registration of a partnership for the purposes of business will be in the name of the firm. The same persons can form separate partnerships for separate businesses, and the registration will be in the name of the respective firms.

44. The calculation of taxable turnover to determine whether a partnership is required to be registered or otherwise is based on the value of all taxable services provided by the partnership.

Registration of Branches or Divisions

45. For companies that wish to register the branches or divisions of the company separately, the application for the relevant registration shall be submitted to the Director General in the form SST-01 in the name of the branches or divisions. Registration of branches or divisions may be considered if:

- (i) It is difficult to submit a single return for all the branches or divisions;
- (ii) Each branch or division maintains a separate account;
- (iii) Such branch or division is separately identifiable by reference to the nature of the business or its location; and
- (iv) Every separately registered branch or division has the same taxable period.

Direction To Treat Persons As A Single Taxable Person

46. When the Director General is satisfied that the separation of business activity is artificial, he may make directions to treat persons as a single taxable person carrying

on the activities of such business. In determining whether any separation of business is artificial, consideration should be given to the extent that different persons carrying those business activities are closely bond to one another by financial, economic, and organizational links.

47. Before a person is named in a direction, the Director General must be satisfied that:

- (i) The person is providing or has provided taxable services;
- (ii) The provision of taxable service forms only part of certain activities in the business and that the other activities in the business are being carried on concurrently or previously, or both, by one or more other persons; and
- (iii) That if all the taxable services provided in that business were considered, the person carrying on that business would at the time of such direction, be required to be registered under the act.

48. Any direction made shall be served on each of the persons named in it. In this connection, the single taxable person shall not continue to carry on the activities of such business, unless he is registered within 14 days from the date of service of such direction on the last of such persons or from such later date as may be specified in that direction.

Cessation of Liability to Be Registered

49. The registered person shall notify the DG in writing by including the date of cessation if:-

- a) he ceases to carry on the business of providing taxable services; or
- b) his total value of taxable services in that month and the eleven months immediately succeeding that month does not exceed RM500,000

50. The registered person may make a written request to cancel his registration within 30 days from the date of cessation.

Cancellation of Registration

51. Generally, the service tax registration shall be cancelled by the Director General if the taxable person:

- (i) Ceases to carry on business of providing taxable services;
- (ii) Fails to provide taxable service by the date which the registration issued upon application for voluntary registration is to take effect;
- (iii) A company is dissolved.

52. Before the cancellation on registration the DG shall serve a notice of cancellation of registration on the person, to whom the registration was issued, specifying the date of cancellation of registration.

53. A registration may also be cancelled if the person to whom the registration was issued fails to comply with or is found to be acting contrary to the provisions of the Act with respect to invoices and receipts, keeping of records, furnishing of returns, and payment of tax.

54. In this respect, the Director General shall, before cancelling such registration, serve a notice on such person informing him of the proposed revocation and giving him an opportunity to make representation on the matter. If the Director General is convinced, after considering the representation of such person, that the registration of such person shall be revoked, he shall serve a notice of revocation of the registration on that person informing him that his registration has been revoked from the date specified in the notice. The person, if continues to provide taxable services shall be deemed to be carrying on the business of providing taxable services without registering under the Act.

55. For further details on registration, please refer to the Guide on Registration of Service Tax.

ACCOUNTING FOR SERVICE TAX

56. This section explains taxable period and types of records that you are required to keep in relation to services you make or receive, as a registered person under the STA 2018. It also provides circumstances where invoice is required or not required to be issued and some guidelines on how to keep these records.

Taxable Periods

57. The first taxable period of every taxable person shall begin from the date he should have been registered under section 13 STA 2018 and end on the last day of the following month and the subsequent taxable period shall be a period of two months ending on the last day of any month of any calendar year.

Filing Frequency	Taxable Period
First Taxable Period – Bimonthly	Sept – Oct 2018
Subsequent Taxable Period	Nov-Dec, Jan-Feb, Mar-Apr, May-Jun, Jul-Aug, Sept-Oct
Specific Basis	Subject to an approval from the Director General

58. The Director General may reassign the taxable person to any taxable period other than the period previously assigned to him and also upon an application in writing, vary the length of any taxable period or the date on which any taxable period begins or ends if he considers it necessary in the circumstances of any particular case.

Invoices

59. Every taxable person is required under section 21 STA 2018, unless otherwise prescribed by regulation, to issue an invoice to the customers in respect of any transaction relating to the provision of taxable services.

60. The invoice should contain the following information:

- (i) The invoice serial number;

- (ii) The date of the invoice;
- (iii) The name, address and identification number of the registered person;
- (iv) A description sufficient to identify the taxable services are provided;
- (v) Any discount offered;
- (vi) The total amount payable excluding tax, the rate of tax and the total tax chargeable shown as a separate amount;
- (vii) The total amount payable inclusive of total chargeable;
- (viii) Any amount referred to in a currency other than the ringgit shall also be expressed in ringgit at the selling rate of exchange prevailing in malaysia at the time of the taxable service is provided; and
- (ix) It must be in the national language or English.

61. Any registered person who request in writing and subject to conditions as he deem fits to impose with refer to paragraph 61, the Director General may approve any one or more of the prescribed particulars not to be contained on an invoice.

Example 4

Ali Furniture manufactures and sells kitchen cabinets and appliances besides providing consultancy services to design and remodel kitchens. Ali Furniture is manufacturing taxable goods and providing taxable services (consultancy services). Hence he is required to be registered under section 13 of the Sales Tax Act 2018 and section 13 of the Service Tax Act 2018. However, he may use the same invoice format for either the sale of goods or provision of services subject to approval of the Director General.

62. Not allowed to issue invoice with service tax for services which is not a taxable service and not a taxable person.

63. Other methods of invoicing, including invoices computer-generated invoices, would require the approval of the Director General and, in granting such approval, the Director General may impose such conditions he deem necessary for the safeguarding of the collection of service tax.

64. Once an invoice is issued no alteration shall be made on the invoice or receipt and copies thereof.

65. The invoices and their copies shall be treated as cancelled if a mistake has been made on such invoice and such documents shall be clearly marked "**CANCELLED**".

66. If any issued Invoice is missing, the service tax to be paid shall be estimated by the Director General.

67. In the case of a missing invoice which has not been issued and is not satisfactorily accounted for such invoice shall be presumed to have been issued for the provision of taxable service. Service tax then shall be paid based on an estimate made accordingly by the Director General.

Production of invoices by computer

68. The Act makes provision to enable computer generated invoices for transactions relating to provision of taxable service. For the purposes of any provision under section 22 in relation to an invoice, it shall be presumed that an invoice has been issued to a customer, even though there is no delivery of any equivalent document in paper form to the customer. This is so if the requisite information is recorded in a computer and

- (i) Are transmitted to such customer by electronic means; or
- (ii) Are produced in any material other than paper and is delivered to the customer.

69. Issuance of invoice electronically is allowable.

Credit Notes And Debit Notes

70. A credit note is issued when the amount previously invoiced is reduced or a transaction is cancelled. On the other hand, a debit note is issued when the amount previously invoiced is increased for the same transaction. The reduction or addition to service tax amount is:-

- (i) Due to a change in the rate of tax in force under section 10 STA 2018; or
- (ii) Due to any adjustment in the course of business.

71. The taxable person is required to do the adjustments relating to the credit note or debit note in his return when the credit note or debit note is issued or received or in the case of person who has ceased to be a taxable person, he shall make the adjustments in the return for the last period during which he was registered.

72. The credit note and debit note shall contain prescribed particulars as follows:-.

- (i) The words "credit note" or "debit note" in a prominent place;
- (ii) The serial number and date of issue;
- (iii) The name, address and identification number of the registered person;
- (iv) The reason for the issuance;
- (v) A description which identifies the taxable services;
- (vi) The quantity and amount for each taxable service;
- (vii) The total amount excluding tax;
- (viii) The rate and amount of tax; and
- (ix) The number and date of the invoice.

Duty To Keep Records

73. It is a requirement that a taxable person keeps records which affects his liability

to service tax for seven (7) years and the records must be in English or national language.

74. The records must be kept in Malaysia unless otherwise approved by the Director General. The required records are: -

- (i) All records of provision of taxable services by or to that taxable person including invoices, receipts, debit notes and credit notes; and
- (ii) All other records as director general may determine.

75. Where records are kept in an electronically readable form, such records must be readily accessible and easily converted into writing. Where records are initially kept in manual form but subsequently converted into electronic form, the records are required to be retained in its original form prior to its conversion.

76. The basic records to be kept are :

- (i) Invoices and payment receipt;
- (ii) Daily, Monthly or Yearly Sales Report;
- (iii) Debtor Aging Listing;
- (iv) Credit / Debit Note Listing;
- (v) Audited Financial Statement;
- (vi) Bank statement; and
- (vii) Contractual Agreement and Progressive Report

77. Failure to comply with such requirement constitutes an offence under section 24 of the STA 2018 and the offender is liable to a fine not exceeding RM50,000 or an imprisonment for a term not exceeding three years or to both such imprisonment and fine.

Determination of Value of Taxable Service

78. Service tax is calculated on the charge, premium or value collected for the taxable service.

79. The value or charge on the services including premiums imposed on any taxable service supplied to any person shall be subject to service tax.

80. The charge, the premium or value on which service tax is payable shall be ascertained as follows:

- (i) Taxable service for the sale of goods:
 - (a) Where the receiver of the service is not connected with the taxable person, the value for charging service tax shall be determined based the actual price for which the goods are sold;
 - (b) Where the receiver of the service is connected with the taxable person or where no charge is levied for the provision of the goods, the value for charging service tax shall be determined based on the price at which the goods would have been sold in the ordinary course of business to a person not connected with the taxable person.
- (ii) In the case of taxable services other than paragraph (a), a similar basis of valuation as the provision of taxable service for the sale of goods is adopted. The charge and premium in respect of provision of other taxable services is determined as follows:
 - (a) Where the receiver of the service is not connected with the taxable person, the value for charging service tax shall be determined based the actual price for which the taxable services are provided or the actual premium or contribution paid for the insurance coverage;
 - (b) Where the receiver of the service is connected with the taxable

person or where the services provided for free, the value for charging service tax shall be determined based on the open market value of the taxable service i.e. provided in the ordinary course of business to a person not connected with the taxable person.

81. For the purpose of service tax, the meaning of person connected with the taxable person is provided for in Regulation 4 of the Service Tax Regulations 2018.

82. If the provision of taxable services is made without any charge or premium collected and the provision of goods is not charged or given for free, it shall be subject to tax according to the open market value.

Disbursement

83. The recovery of cost or a payment made by registered person on behalf of another party is termed as a “disbursement”. A disbursement does not constitute providing taxable services and hence, is not subject to service tax. Payment to third party or on behalf of the principal will be treated as disbursement if the registered person fulfils all the following criteria:

- (i) Incur expenses on behalf of the client;
- (ii) The client is the recipient of the services (invoice is in the client’s name);
- (iii) The payment is authorised by the client;
- (iv) The client knew that the services is made by a third party;
- (v) The exact amount is claimed from the client and has no right to alter or add on the value of the services;
- (vi) The payment is clearly an additional to the services made to the client.

Reimbursement

84. A reimbursement is subject to service tax. A registered person must fulfil all the following criteria:

- (i) Incur expenses as principal;
- (ii) The client is not the recipient of the services (invoice is in the principal's name);
- (iii) The principal is the person responsible to pay for the service;
- (iv) The payment is not authorised by the client;
- (v) The client has no knowledge that the service is made by a third party;
- (vi) The principal has the right to alter or add on the value of the services;
- (vii) The payment is for the service made to the client.

FURNISHING SERVICE TAX RETURNS

Submission of returns

85. A taxable person has to furnish a service tax return and account for service tax in Form SST-02 every two months according to his taxable period which is defined as two calendar months.

86. The taxable person shall set forth in the SST-02 the aggregate amount of payment received during the taxable period in respect to charges levied or collected for providing taxable services, the amount of service tax payable and such other as may be required.

87. The service tax return should be furnished whether or not there is tax to be paid.

88. The submission can be done electronically at MySST or the taxable person can download and print the Form SST-02 from the MySST portal. The return shall be

furnished by post to the Customs Processing Centre.

89. Any taxable person who ceases to be liable to be registered or cease providing taxable services has to furnish a final return not later than thirty (30) days after such cessation.

90. A registered person who fails to submit service tax returns within the stipulated period shall be guilty of an offence under subsection 26(6) of the STA 2018 and shall be liable to a fine not exceeding RM50,000 or an imprisonment for a term not exceeding 3 years or to both such imprisonment and fine.

Correction of errors

91. If a person makes an error in any return, he can correct it in Form SST-02 in such manner and within such time as the officer of services tax may require.

Power To Assess

92. The Director General may assess the amount of service tax and the penalty due and payable from the taxable person who:

- (i) Fails to apply for registration;
- (ii) Fails to furnish a return; or
- (iii) Furnishes a return which appears to be incomplete or incorrect for any taxable period.

93. The proper officer may assess the service tax payable on any services by any person. However, the Director General may assess the amount of tax including the penalty due and payable from the taxable person who fails to pay tax on any services by any person in the course or furtherance of his and a notice of the assessment will be sent to the person in writing.

ASSESSMENT AND PAYMENT OF SERVICE TAX

Assessment of Service Tax

94. The proper officer may assess the amount of service tax payable, and in this regard, may accept a return furnished as sufficient proof of the matters therein contained and accordingly assess the service tax. However, if the proper officer may make an assessment of the service tax payable at a greater amount as he deems fit if it is believed that the amount of service tax shown in the return is less than the amount payable under the Act. This assessment will be conveyed to the taxable person by way of notice in writing.

Payment of Service Tax

95. Any service tax which falls due during any taxable period shall be payable to the Director General not later than the last day on which he is required to furnish the return.

96. Payment by cheque or bank draft may be made by mailing to the proper officer at Customs Processing Centre (CPC). Post-dated cheques are not allowed.

Example 5

Company ABC posted a cheque for the payment of service tax on 25 Jan 2019. The cheque was post-dated as 29 Jan 2019. The cheque was received by the Customs Processing Centre on 26 Jan 2019. Cheques written by the registered person for a date in the future is not accepted as payment for service tax by RMCD.

97. Service tax is deemed paid when remittance is received by the proper officer at Customs Processing Centre (CPC) during the hours of payment, provided that in the case of a cheque or bank draft received by the proper officer which is not paid on presentation, the amount thereof shall be deemed not to have been received, though a receipt has been given therefore, until such cheque or bank draft is honoured or the amount is otherwise duly paid to the proper officer.

Treatment of Remittance By Post

98. If payment of service tax is remitted to the proper officer by post such payment shall be deemed to have been received within the permitted period if such remittance has been sent by ordinary or registered post on or before the due date. In this respect, penalty shall not be imposed.

Imposition of Penalty For Late Payment

99. Where any tax due and payable is not paid wholly or partly by any taxable person after the last day on which it is due and payable, and no prosecution is instituted, the taxable person shall pay a penalty: -

- (i) For the first thirty days period, that the tax is not paid wholly or partly after the expiry of the period, a penalty of ten percent of the amount of tax remain unpaid;
- (ii) For the second thirty days period that the tax is not paid wholly or partly after the expiry of the period, an additional penalty of fifteen percent of the amount of tax remain unpaid;
- (iii) For the third thirty days period that the tax is not paid wholly or partly after the expiry of the period, an additional penalty of fifteen percent of the amount of tax remain unpaid.

Example 6: Late payment of tax

Taxable Period (monthly)	Due Date	Service Tax			Due Date	
		Tax due (RM)	Tax paid before due date (RM)	Balance (RM)	Rate of penalty %	Penalty due (RM)
1.09.2018 to 31.10.2018	31.12.2018	10,000	-	10,000		
	31.01.2019	10,000	5,000	5,000	10%	500

Taxable Period (monthly)	Due Date	Service Tax			Due Date	
		Tax due (RM)	Tax paid before due date (RM)	Balance (RM)	Rate of penalty %	Penalty due (RM)
	28.02.2019	5,000	3,000	2,000	15%	300
	31.03.2019	2,000	1,000	1,000	15%	150

Amount of penalty due on is calculated as below:

- 31.01.2019: $RM5,000 \times 10\% = RM500$
- 28.02.2019: $RM2,000 \times 15\% = RM300$
- 31.03.2019: $RM1,000 \times 15\% = RM150$

Deduction From Return of Refunded Service Tax

100. The Director General may approve, subject to such conditions as he may deem it to impose, an application by any taxable person to deduct, from time to time, from his tax return the amount of service tax paid which was subsequently refunded to his customer by reason of:

- (i) Cancellation of taxable service;
- (ii) Termination of taxable service;
- (iii) Other reasons as may be approved by the Director General.

101. The deduction of service tax shall be made within one year from the date of payment of service tax, or such further period as approved by the Director General.

102. This deduction facility is called the "contra system" which allows for the deduction of refunded service tax by way of set-off against future service tax payable.

103. An application to the Director General for approval to use this facility must be made and upon approval, the taxable person may proceed to deduct service tax refunded to his customers from his payment of service tax through the Form SST-02. In the event that the service tax deduction exceeds the service tax payable in a

particular taxable period, the balance will be carried forward to the next taxable period.

104. In practice, the following transactions are allowed for deduction under the contra system:

- (i) Termination of agreed transaction,
- (ii) Discounts given subsequent to the payment of service tax,
- (iii) Reduction or adjustment of price,
- (iv) Cancellation of insurance policy before expiry,
- (v) Reduction of insurance premium due to reduction in the period or risk covered

RECOVERY OF SERVICE TAX

Recovery of Tax

105. Under the Act, the taxable person is responsible to account to the authorities the amount of service tax payable and to make payment of service tax accordingly. In cases of default, there are provisions under the Act to empower the authorities to recover such service tax, penalty, surcharge or other money.

Recovery of Service Tax As A Civil Debt

106. In addition to the recovery of service tax, penalty or other moneys by a demand, any service tax, penalty or other moneys due and payable may be recovered as a civil debt due to the government.

Collection of Service Tax From Persons Owing Money To Taxable Persons

107. Another measure to enhance the recovery of service tax, penalty or surcharge from a taxable person is to recover such service tax, penalty or surcharge from person(s) owing money to such taxable person. In this connection, the Director General shall serve on the person(s) owing money to a taxable person a notice in writing

requiring such person to pay forthwith, or within such period as the Director General may decide, such money or so much thereof is sufficient to pay the sum due and payable by the taxable person.

108. All payment made in pursuance to the notice shall be construed to have been made by the taxable person and with his authority and the authority of all other persons concerned.

Recovery of Service Tax Before Payable From Persons About To Leave Malaysia

109. The Director General may, if he deems fit, require service tax to be paid at an earlier date as he may determine if he has reason to believe that a taxable person is about to leave Malaysia before such service tax due by the taxable person becomes payable. In this case, the taxable shall be notified accordingly.

Recovery of Service Tax From Persons Leaving Malaysia

110. As a measure for the recovery of service tax, penalty, surcharge and other moneys, a person who is about or likely to leave Malaysia may be prevented from leaving unless and until he pays the service tax, penalty, surcharge or other moneys, or furnishes security for their payment.

Payment By Instalment

111. The Director General may allow service tax or penalty to be paid in instalments. Following the approval to pay by instalments, the imposition of penalty shall not be applicable to such amount as from the date the Director General allows the payment by instalment under the instalment scheme, the amount of each instalment and the dates of payment shall be determined by the Director General.

112. If there is a default in the payment of any instalment on its date due, the instalment payment facility will be withdrawn and the person is required to pay forthwith the whole outstanding balance on that date. In addition, the whole outstanding balance shall be subject to a surcharge of 10% of that outstanding balance, and such surcharge

shall be recoverable as if it were due and payable under the Act.

Liability of Directors, etc.

113. Generally, the liability of directors in respect to debts incurred by a company is limited. However, under the Act, directors are made together with the company to be jointly and severally liable for the service tax due and payable, penalty, surcharge or other money which are payable by the company.

114. The liability of the directors, however, in the case of a company being wound up arises only where the assets of the company are insufficient to meet the amount due, after paying those creditors having priority under the Companies Act 1965 over the service tax or penalty due.

EXEMPTION, REFUND AND REMISSION OF SERVICE TAX

Power of Minister to Exempt and Refund

115. The Minister may direct subject to any condition he deem fit to impose, the refund to any person or class of persons of the whole or any part of the service tax and/or penalty paid by such person or class of persons. In this respect, any person intending to seek a refund of service tax or penalty is required to apply in writing to the Minister.

Claim for Refund of Service Tax In Relation To Bad Debt

116. For the purpose of service tax, bad debt means the outstanding amount of the payments in respect of the provision of taxable services including the service tax which is due to a person who is, or has ceased to be, a registered person but has not been paid to, and is irrecoverable by, the person.

117. Any claim for bad debts from the Director General can be made by a registered person or a person who has ceased to be a registered person. He may make a claim to the Director General for a refund of the whole or any part of the service tax paid by him in respect of taxable services subject to conditions and satisfaction of the Director General as follows:

- (i) Service tax has been paid;
- (ii) The whole or any part of the service tax payable has been written off in his accounts as bad debts;
- (iii) He has not received any payment in respect of the provision of taxable services from the debtor; and
- (iv) Reasonable efforts have been made by him to recover the service tax.

118. The payment in respect of taxable service provided by the person referred to in paragraph 117 owed by the debtor shall be deemed as irrecoverable if;

- (i) The debtor has been considered as insolvent; or
- (ii) The registered person has not received the whole or any part of such payment after six (6) months from the date such service tax was paid by him and
- (iii) The payment owed by the debtor has been provided as doubtful debt or written off in the registered person's account.

119. The debtor where the whole or any part of the service tax payable to registered person has been written off in his account as bad debt shall be treated as insolvent. The registered person is entitled to a bad debt claim if the DG is satisfied that:

- (i) In the case the debtor is an individual, he is adjudged bankrupt, a deed or arrangement is made for the benefit of his creditors or a composition or scheme of arrangement proposed by him is approved under the Bankruptcy Act 1967 [Act 360]; or
- (ii) In the case where the debtor is a company;
 - (a) It is ordered by the court to be wound up because it is unable to pay its debts within the meaning of the Companies Act 2016 [Act 777]: and

- (b) A receiver is appointed and the statement of affairs lodged with the Companies Commission of Malaysia shows that its assets would be insufficient to cover the payment of any dividend in respect of debt which are neither secured nor preferential.

120. The person making the claim for a refund is entitled for a refund of the whole of the service tax paid if he has not received any payment in respect of the taxable services.

121. If he has received any payment in respect of the taxable services, the claim can be made for the difference between the service tax paid and the amount calculated according to the following formula:

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

- Where
- A is the payment received in respect of provision of such taxable services:
 - B is the value of such taxable services plus service tax payable on such taxable services; and
 - C is the service tax payable on such taxable services

122. Claim in respect of any refund is made within 6 years from the date the service tax is paid and Director General may refund the whole or any part of service tax after being satisfied that the person has properly established the claim.

Example 7:

AB & BB Partners is a registered person. They provide taxable services to a client on 1 Oct 2018 where the total value of service including service tax is RM53,000.00 and the invoice is issued on the same day. AB & BB Partners has accounted for service tax of RM3,000.00 on 1 Oct 2019 (after 12 months from the date of invoice issued). On 15 November 2019, they have received a payment of RM43,000.00 from the client. However,

six months later, the debtor has been declared bankrupt and was unable to pay the balance of RM 10,000. Therefore, AB & BB Partners can claim bad debt based on the calculation as follows:

$$\begin{aligned} & \frac{\text{RM } 43,000}{\text{RM } 53,000} \times \text{RM } 3,000 = \text{RM } 2,433.96 \\ & = \text{RM } 3,000 - \text{RM } 2,433.96 \\ & = \text{RM } 566.04 \end{aligned}$$

*The amount of service tax to be refund by RMCD is **RM 566.04***

Repayment of Service Tax In Relation To Bad Debt

123. When a refund of service tax has been made by the Director General under Section 35 and any payment in respect of the provision of taxable services, the person shall repay to the Director General following the formula under paragraph 122.

Example 8

AC & GG Associates is a taxable person under service tax who has claimed a bad debt refund and has received a refund of RM3,000.00 from the value of service RM 53,000.00. Four years later, his debtor has been release from bankruptcy and has paid RM 10,000 including service tax to AC & GG Associates to settle his debt. The AC & GG Associates under service tax has to pay back the service tax to RMCD according to the formula as follow: -

$$\begin{aligned} & \frac{\text{RM } 10,000}{\text{RM } 53,000} \times \text{RM } 3,000 = \text{RM } 476.20 \end{aligned}$$

*The amount of service tax to be paid to RMCD is **RM 476.20***

124. A person who is eligible to apply for bad debt claim shall make an application

in JKDM Form No.2 to the Director General of Customs and to be submitted to the Revenue Accounting Branch (Cawangan Perakaunan Hasil) in the controlling zone / state / station.

125. The application of bad debt shall be made by providing the documents as follows:

- (i) A copy of invoice and receipt;
- (ii) Form sst-02 or any other documents showing service tax have been paid and accounted for;
- (iii) A record or document showing that there is no payment received;
- (iv) A record or document showing reasonable efforts have been made to recover the payment of taxable service;
- (v) A record showing the bad debt has been written off; and
- (vi) A record or document showing the status of the debtor as insolvent.

126. A person will be issued an approval letter if his application is approved by the DG and his approved refund amount will be transferred into his bank account.

127. The Director General of Customs may disallow any refund if:

- (i) The record or any document that was submitted is untrue or incorrect; or
- (ii) For any other reasons for the purpose of protection of revenue.

128. A person who manage to recover his bad debt shall declare the amount of service tax payable to the Director General of Customs in the SST-02 return according to taxable period which he receives the tax payment from his customer.

129. If the taxable person has ceased to be a taxable person, he shall pay the service tax to the Director General of Customs in his return on the last taxable period.

130. The person who is claiming bad debt is required to keep all the records and

documents related to the claim for a period of seven (7) years from the date of the claim for inspection by the proper officer at any time.

Example 9

The registered person has performed his architectural services on 2 September 2018 and no payment has been received. His debtor has been declared bankrupt and the registered person is claiming the bad debt in the fifth year from the date of service tax was paid on 1 October 2023. Hence, the records relating to the bad debt claim shall be kept for an additional period of seven (7) years until 30 September 2030.

Payment of Service Tax Short Paid or Erroneously Refunded

131. The Act allows the authorities to demand the whole or part of any unpaid service tax, penalty or other moneys payable under this Act from the person liable to pay such service tax, penalty or other money, or the deficient service tax, penalty or other moneys. Similarly, a demand may also be made for the whole or any part of service tax, penalty or other money, which, after having been paid, has been erroneously refunded, from the person to whom the refund was erroneously made.

132. The demand must be made within six years from the date on which the service tax, penalty or other moneys were payable, or the deficient service tax, penalty or other moneys were paid, or the refund was made.

Refund of Tax or Penalty Overpaid or Erroneously Paid

133. The Director General may grant a refund of service tax or penalty, which is proved to his satisfaction to be overpaid or erroneously paid because of error whether of fact or of law, subject to such limit as may be prescribed by regulation.

134. The claim of refund can be made within one (1) year from the time:

- (i) Such exemption granted by the minister of finance;
- (ii) Such overpayment or erroneous payment occurred; or

- (iii) Such approval of remission given.

135. Application for refund shall be made in the prescribed form JKDM 2 and submitted together with the relevant supporting documents to the Revenue Accounting Branch (Cawangan Perakaunan Hasil) in the controlling zone / state / station with the following documents as follows:

- (i) Application letter from the company that explain about refund of service tax, penalties, fee and any other money.
- (ii) A copy of invoice and receipt;
- (iii) A copy of exemption letter if applicable;
- (iv) A copy of SST- 02 return form;
- (v) Statement of refund; and
- (vi) Other related documents.

136. The Director General may, however, reduce or altogether disallow any refund on the basis that the refund would unjustly enrich the claimant.

Remission by The Minister

137. The Minister may remit the whole or any part of the service tax, subject to such conditions he may deem fit to impose. Application for remission to the Minister must be supported by valid grounds.

138. The application to the DG for remission of surcharges, penalties, fees and other money shall be submitted to the respective Customs controlling zone / state / station.

139. The documents to be submitted for application of remission are as follows:

- (i) Appeal letter
- (ii) Account inspection report (if applicable)

- (iii) Police report (in the case theft/fire)
- (iv) Fire report (in the case of fire)
- (v) A copy of insurance policy (in the case of fire)
- (vi) Other related documents (if applicable)

Powers of Director General

140. The Director General may remit the whole or any part of the surcharge, penalty or other money subject to such conditions he may deem fit to impose. Application for remission to the Director General must be supported by valid grounds.

SERVICE TAX RULINGS

Public Ruling

141. A public ruling is a ruling made by the Director General and issued to the public to provide guidance on the interpretation and application of any provision of the Service Tax Act 2018. The aim is to provide clarity and transparency in the application of the service tax legislation.

142. Any public ruling issued is applicable to any person or class of persons, or any type of business activity. Where a ruling has been issued to the public, the Director General may withdraw either wholly or partly such ruling to facilitate the implementation of the Service Tax Act 2018.

Customs Ruling

143. A customs ruling is a ruling made by the Director General upon application by any person to seek ruling on the application of the provisions of the Service Tax Act and arrangement for which the customs ruling is sought. The issuance of a customs ruling aims to ensure clarity and certainty of tax treatment and consistency in the application of the Service Tax legislations. This will help to promote compliance and minimize disputes.

144. An application for customs ruling is required to be made in such form and manner as the Director General may determine and subject to a prescribed fee.

145. When an application for customs ruling is received, the Director General will make a ruling sought by the person which will take effect from the date as specified in the ruling.

146. A person who has obtained a customs ruling is required to notify in writing to the Director General the following information: -

- (i) Whether there are material changes made to the arrangement identified in the customs ruling;
- (ii) Whether the person accepts the customs ruling and intends to apply such ruling to the said arrangement; and
- (iii) Whether the person has entered into or effected the arrangement for which the customs ruling is sought.

147. Any customs ruling issued for any arrangement is final and no appeal can be lodged against such ruling.

148. Where a provision of the STA 2018 is amended or repealed which relates to customs ruling issued, such ruling shall be treated as not applicable effective from the date when the provision is amended or repealed.

149. Any person may apply to the Director General for customs ruling under section 42 of the STA 2018 on the following matters:

- (i) Determination of a taxable service;
- (ii) The principles to be adopted for the purposes of determination of value of a service;
- (iii) Other matters as prescribed by the director general.

SPECIAL PROVISIONS RELATING TO DESIGNATED AREAS (DA)

Interpretation

150. Under Part VIII of the Service Tax Act 2018, the interpretation of Malaysia and designated area are as follows:

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

151. Any provision of taxable service within or between DA is not subject to service tax unless the Minister prescribed in an order for the services to be chargeable to service tax.

152. Any taxable service provided within Malaysia by any person whose principal place in business is located in a DA is subject to service tax.

153. Any taxable service provided in a DA by any person whose principal place of business is located in Malaysia is subject to service tax.

154. Any person providing any prescribed taxable service between DA and SA is not chargeable to service tax.

SPECIAL PROVISIONS RELATING TO SPECIAL AREAS (SA)

Interpretation

155. Under Part IX of the Service Tax Act 2018, the interpretation of Malaysia and special areas are as follows:

- (i) 'Malaysia' excludes the special areas;
- (ii) Special areas means any free zone, licensed warehouse, and licensed manufacturing warehouse and Joint Development Areas (JDA).

156. Any provision of taxable service within or between SA is not subject to service tax unless the Minister prescribed in an order for the services to be chargeable to service tax.

157. Any taxable service provided within Malaysia by any person whose principal place in business is located in SA is subject to service tax.

Example 10

A company in SA provide engineering service to a company located at PCA. The engineering service is performed in PCA. The service is subject to service tax.

158. Any taxable service provided in a SA by any person whose principal place of business is located in Malaysia is subject to service tax.

Example 11

A company in PCA provide accounting service to a company located at SA. The accounting service is performed in PCA. The service is subject to service tax.

Example 12

A company in SA provide consultancy service to company located at

PCA. The consultancy service is performed in SA. The service is not subject to service tax.

159. Any person providing any prescribed taxable service between SA and DA are not chargeable to service tax.

REVIEW AND APPEAL

160. Any person, who disputes the decision of a proper officer acting in the course of his duty, may appeal to the Director General whose decision shall then be final. He may appeal to the Director General within 30 days from the date the he has been notified of the decision for a review provided no appeal has been made on the same matter to the Tribunal or court.

161. However, any person who is aggrieved by the decision of the Director General may appeal to the Customs Appeal Tribunal within 30 days of being notified of the decision of the Director General. The decision of the Customs Appeal Tribunal shall be final.

TRANSITIONAL PROVISIONS

Repeal of GST Act 2014

162. With effective from 1 September 2018, the Goods and Services Tax (GST) Act 2014 is repealed. The impact on goods and services from 1 September 2018:

- (i) GST can no longer be imposed on any supply of services made in Malaysia including deemed supplies under GST Act 2014 and any imported services into Malaysia; and
- (ii) The provision of taxable services will be subject to service tax.
- (iii) Continuance of liability, etc.
 - (i) Any liability incurred may be enforced;

- (ii) GST due, overpaid or erroneously paid may be collected, refunded or remitted;
- (iii) Sections 178, 181 and 191 of the GST Act shall continue to remain in operation after 1 September 2018.

Registration on The Commencement Date

163. A service provider, who provides taxable services before 1 September 2018 and has exceed the threshold on the 1 September 2018 shall apply for registration within 30 days from the 1 September 2018. The Director General shall register the service provider with effect from the first day of the month following the month in which the application is made and the taxable person shall charge the service tax with effect from such date. His registration will commence on 1 October 2018.

164. A service provider who provides services before 1 September 2018 but this services will become taxable services in 1 September 2018 and has applied for registration before 1 September 2018. The DG shall register the service provider if his total value of taxable services exceeds the threshold using the future method (in the month of effective date and eleven months immediately succeeding that month), on 1 September 2018 and the registered person shall charge service tax on the taxable services with effect from such date.

165. A service provider who is registered for GST before 1 September 2018 who provides taxable services on 1 September 2018 is deemed to be registered under the Service Tax Act 2018 if his total value of taxable services exceeds the threshold using the future method (in the month of effective date and eleven months immediately succeeding that month) and shall charge service tax on 1 September 2018.

Automatic Registration

166. Taxable person who are GST registered persons which have been identified and fulfilled the required criteria will be registered automatically as a registered person under the Service Tax Act 2018 with effect from 1 September 2018. The registered person needs to charge service tax from 1 September 2018.

167. Please refer SST Online Registration guide for registration in MySST portal.

Furnishing of Return/Declaration For The Last Taxable Period, Payment Of GST And Claiming for Input Tax and Refund.

168. The taxable period for a person registered for GST which begins before 1 September 2018 and ends after 1 September 2018 shall be deemed to end on 1 September 2018.

169. The submission of GST under section 40 of the Repealed GST Act 2018, the last taxable period shall be furnished and corresponding payment of GST shall be made not later than one hundred and twenty days from 1 September 2018 i.e. before or on 29 December 2018.

170. Any declarations under subsection 42(1) of the Repealed GST Act 2018 shall be made and furnished with payment of GST to be made not later than thirty days from 1 September 2018 i.e. before or on 30 September 2018.

171. Any input tax under Repealed GST Act 2014 which has not been claimed before the 1 September 2018 shall be claimed in the return under paragraph 155 and that claim shall be considered as the final claim for all input tax.

172. Any refund which is subject to verification, audit or investigation which relates to any input tax that has not been made by the Director General on 1 September 2018; or any input tax claim made under paragraph 157, the refund shall be paid by the Director General within six years from 1 September 2018.

Pending Reviews and Appeals

173. DG may make decision on any review application made immediately before 1 September 2018, on or after 1 September 2018;

174. Decision of review made by DG before or after 1 September 2018, which is appealable to the GST Appeal Tribunal, may be appealed to the Customs Appeal Tribunal provided that the appeal is made within thirty days from the date of the decision;

175. GST Appeal Tribunal may continue to hear and decide any appeal which is pending immediately before 1 September 2018, on or after 1 September 2018.

GST Tax Agent

176. A registered tax agent under section 170 GSTA 2014 is allowed to represent a GST registered person until the expiry of his license and not allowed to represent a taxable person on service tax.

Invoices

177. Registered persons may continue to issue invoices which were pre-printed during the implementation of GST as invoices required to be issued under section 21 of STA 2018 until such invoices are disposed of or within the period of three months from 1 September 2018, whichever is the earlier.

INQUIRY

For any inquiries for this guide please contact:

Internal Tax Division
Royal Malaysian Customs Department
Level 3 - 7, Block A, Menara Tulus,
No. 22, Persiaran Perdana, Presint 3,
62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on 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