

Title	GST Treatment for Imported Services GST Treatment for Foreign Exchange Rate
Basis	Goods and Service Tax Act 2014 Director General's Decision 1, 2014
Date	28 October 2015

IMPORTED SERVICES

Section 2 (1) GST Act 2014

“Imported services” means any services by a supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia, to a recipient who belongs in Malaysia, and the services are consumed in Malaysia.

Section 13 GST Act 2014

Supply of imported services

- (1) Where imported services, being a taxable supply if made in Malaysia, is supplied to a person (hereinafter referred to as the “recipient”) for the purposes of any business carried on by him, the supply shall be treated as a supply made by the recipient in the course or furtherance of his business, and the supply is a taxable supply.
- (2) Where the recipient is a taxable person, the provisions of this Act shall apply to him with respect to the supply of imported services.
- (3) Where the recipient is a person other than a taxable person, tax shall be charged on the supply of such imported services and he shall be liable for any tax due and payable on that supply.
- (4) Notwithstanding section 11 and for the purposes of subsection (1), the time of supply of imported services shall, to the extent covered by any payment by the recipient, be treated to have been made when the supplies are paid for.
- (5) Notwithstanding subsection (1), when goods are imported into Malaysia under a lease agreement from a person who does not belong in Malaysia, tax shall be charged on the goods.

Section 14 GST Act 2014

Place where supplier of services belongs

- (1) The supplier of services shall be treated as belonging in a country if -
 - (a) he has in that country a business establishment or fixed establishment and no such establishment elsewhere;
 - (b) he has no business establishment or fixed establishment in any country but his usual place of residence is in that country; or
 - (c) he has business establishments or fixed establishments both in that country and elsewhere and his establishment which is most directly concerned with the supply is in that country.
- (2) For the purposes of this section, a fixed establishment in any country includes a branch or an agency through which a person carries on a business in that country.

Director General's Decision 1/2014

To clarify Section 13(4) - Goods and Service Tax Act 2014

The Director General of RMCD has further clarified that:

- (1) Section 13(4) GST Act 2014 provides that the time of supply for imported services shall, to the extent covered by any payment by the recipient, be treated to have been made when the supplies are paid for.
- (2) A GST registered person however, may account for output tax based on the date of invoice if it is issued earlier than the date of payment.
- (3) The value for imported services is tax exclusive.

GST Treatment

Services "consumed in Malaysia" in relation to imported service means any service which is used, utilised or enjoyed in Malaysia. A recipient of imported services shall be liable for GST for the portion of the services consumed in Malaysia.

A recipient who receives the imported services for the purpose of any business carried on by him is required to account for GST by a reverse charge mechanism. The GST liability shifts from the supplier to the recipient if the recipient's fixed or business establishment or his usual place of residence is in Malaysia. Hence, the recipient is liable to account GST on the supply made for the purpose of any business carried on by him.

The time of supply for imported services is:

- (1) when the supplies are paid for by the recipient or
- (2) when the invoice is issued, if the date is earlier than the date of payment.

The value of the supply of imported services should be treated as made by the recipient and shall be taken to be such amount as is equal to:

- (1) in the case of the recipient who is not connected to the supplier of such services, whatever consideration paid by the recipient; or
- (2) in the case of the recipient who is connected to the supplier of such services, the open market value.

FOREIGN EXCHANGE RATE

GST Act 2014

Third Schedule Paragraph 5 - Foreign exchange

Where any sum relevant for determining value is expressed in a currency other than Ringgit, it is to be converted into Ringgit at the selling rate of exchange prevailing in Malaysia at the time when the supply takes place or in the case of the importation of goods, at the rate of exchange determined by the Director General at the time applicable for the calculation of customs duty or excise duty and valuation.

Director General's Decision 1/2014

To clarify foreign exchange rate

The Director General (DG) of the Royal Malaysian Customs Department (RMCD) has further clarified that:

- (1) The meaning of supply in the Third Schedule of Paragraph 5 includes imported services.
- (2) The GST Act 2014 requires business to convert the foreign exchange into Ringgit:
 - (a) In the case of a supply including imported services, at the selling rate of exchange prevailing in Malaysia at the time the supply takes place; or
 - (b) In the case of importation of goods, at the rate of exchange determined by DG at the time applicable for the calculation of customs duty or excise duty and valuation. Therefore, for imported goods, irrespective whether the importer is GST registered or not, he must use the exchange rate determined by the DG.
- (3) In the case of local supply including imported services or export of goods, where the supplier and the buyer are both making wholly taxable supplies and both are businesses registered for GST:
 - (a) the businesses may use any of the following exchange rates published by:-
 - Bank Negara Malaysia (BNM);
 - any commercial banks in Malaysia or any other banks registered under BNM;
 - news agencies e.g. Bloomberg, Reuters, Oanda, ASWJ, XE, Strikeiron;
 - any foreign central banks e.g. European Central Bank and Federal Reserve Bank of New York, Korean Exchange Bank.

- (b) The exchange rate from any of the published rates above must be:-
- the prevailing exchange rate (selling rate) corresponding to the time of supply;
 - the monthly average rate of the previous month corresponding to the time of supply;
 - the month-end average rate corresponding to the time of supply;
 - the month end selling rate corresponding to the time of supply;
 - the opening selling rate of the month corresponding to the time of supply;
 - the average rate of the highest rate plus (+) the lowest rate of the previous month corresponding to the time of supply; or
 - the hedged exchange rate with banks corresponding to the time of supply;
- (c) The exchange rate above must be used consistently for internal business reporting and accounting purposes and used for at least one year from the end of the accounting period in which the method was first used.
- (d) If a GST registered person wants to use an exchange rate other than the rates above, he must apply in writing to the Director General for his approval.

GST Treatment

The GST treatment for foreign exchange is detailed in the Director General's Decision 1/2014. A transactional foreign exchange gain or loss arises when a transaction (be it a sale or a purchase) is recorded in the accounts at the exchange rate at the time of the transaction but payment is made at a different rate. International Accounting Standards require the transaction to be recorded initially using the exchange rate at the date of the transaction and exchange rate gains/losses to be presented as other income or expense in the Income Statement.

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