

Title	Input Tax Credit <ul style="list-style-type: none"> ▪ Business expenses billed to employees ▪ Utilities billed to owner of business premises ▪ Pre-registration input tax
Basis	Director General's Decision 2, 2014 Director General's Decision 7, 2015 Reg. 46 - Goods and Service Tax Regulation 2014
Date	1 October 2015

INPUT TAX

Section 2 (1) GST Act 2014

“Input Tax” means –

- (a) any Goods and Services Tax (tax) on any taxable supply of goods or services to a taxable person; or
- (b) any tax paid or to be paid by a taxable person on any importation of goods; and the goods or services are used or are to be used for the purpose of any business carried on or to be carried on by the taxable person:

Provided that where the goods or services are used or to be used partly for the purpose of any business carried on or to be carried on by the taxable person and partly for other purposes, tax on the supply and importations shall be apportioned so that only so much as is attributable to the purpose of his business is counted as his input tax.

Apportionment rules

To compute credit available in respect of input tax on common costs may require an apportionment to disallow input tax attributable to any activity other than making supplies. Whilst there is no ruling or written guidance from the Royal Malaysian Customs Department (RMCD) clarifying the basis of apportionment, an apportionment should generally be between business and non-business as well as be fair and reasonable.

INPUT TAX CREDIT

Section 38 (1) GST Act 2014

Any taxable person is entitled to claim Input Tax Credit (ITC) for so much of his input tax as is allowable under Section 39 to be deducted from any output tax that is due from him.

Section 39 (1) GST Act 2014

The amount of input tax for which any taxable person is entitled to credit in any taxable period shall be so much of the input tax for the period that is allowable and reasonable to be attributable, as may be prescribed, to the following supplies made or to be made by the taxable person in the course or furtherance of any business in Malaysia:

- (a) any taxable supply, including a taxable supply which is disregarded under this Act;
- (b) any supply made outside Malaysia which would be a taxable supply if made in Malaysia;
or
- (c) any other supply as may be prescribed.

Types of Input Tax	Input Tax Credit Available
Input tax on goods and services which are used or to be used, exclusively in making taxable supplies	Qualifies for full credit except for input taxes on certain items, which are specified as blocked
Input tax on goods and services which are used or to be used: (a) exclusively in making exempt supplies; or (b) in carrying on any activity other than the making of taxable supplies.	No credit available, except: (a) for input taxes attributable to incidental exempt financial supplies (b) where de minimis rule is satisfied for the period (c) other exceptions
Input tax on common cost: Should compute credit available in respect of input tax on common costs. This may require an apportionment to disallow input tax attributable to any activity other than making supplies.	General steps for apportionment: 1. Identify the input tax on goods or services which are used or to be used in making taxable supplies and exempt supplies. 2. Compute the recoverable percentage, which in principle represent the value of taxable turnover or total turnover. 3. Input tax credit is the amount derived by multiplying the input tax in step 1 with the proportion in step 2.

Director General's Decision 2, 2014

To clarify claiming Input Tax Credit on business expenses billed to employees

The Director General of RMCD has clarified that:

- i) A registered person claiming input tax must hold a valid document (tax invoice) under his name which is required to be provided under Section 33 GST Act 2014 and Reg. 38 (1)(a)(i) - Goods and Service Tax Regulation 2014.
- ii) Invoices under names of employees cannot be used for claiming input tax EXCEPT for mobile phone bill expenses used for business purposes.
- iii) A registered person can use the mobile phone invoice billed to his employees for claiming input tax as long as the expenses are reimbursed and accounted as business expenses.

Given the above Director General's Decision, the following expenses cannot be claimed as input tax by the businesses if they are **billed to employees** and not to the businesses:

- (a) Car park and other traveling expenses incurred while visiting customers on working trips.
- (b) Entertainment meals with existing customers.
- (c) Hotel accommodation while on outstation business trips.

However, simplified tax invoice is valid for claiming of input tax if the consideration for the standard rated supply does not exceed RM500 ie for GST of RM30.

Director General's Decision 7, 2015

To clarify claiming Input Tax Credit on electricity and water expenses invoiced/billed under the name of the owner of the property

In the case of a rented property where the electricity or water invoices/bills are in the name of the property owner, the tenant who is a GST registered person is not allowed to use such invoices/bills for claiming the ITC unless the name in the invoices/bills has been changed into the name of the tenant who is a GST registered person.

The Director General of RMCD has clarified that the tenant who is a GST registered person, is allowed to claim ITC using electricity and water invoices/bills which in the name of the property owner until **31 March 2016** subject to the following conditions:

- (a) The property owner is not a GST registered person;
- (b) There must be a tenancy agreement signed by the property owner and the tenant;
- (c) There must be a clause in the tenancy agreement or a written declaration signed by both the tenant and property owner in a separate document stating that "the input tax on the electricity and water invoices/bills can only be claimed by the tenant. However if the property owner becomes GST registered person, the tenant is not allowed to claim the input tax using such invoices/bills";

- (d) The tenant must keep records of the input tax claimed for the electricity and water invoices/bills under the name of the landlord; and
- (e) The tenant shall stop claiming ITC using electricity and water invoices/bills under the name of the property owner once the property owner becomes a GST registered person. In this case, the normal GST rules apply where the landlord will have to issue a tax invoice and charge GST to the tenant. The tenant can use the tax invoice for claiming the ITC.

Director General's Decision 2, 2014

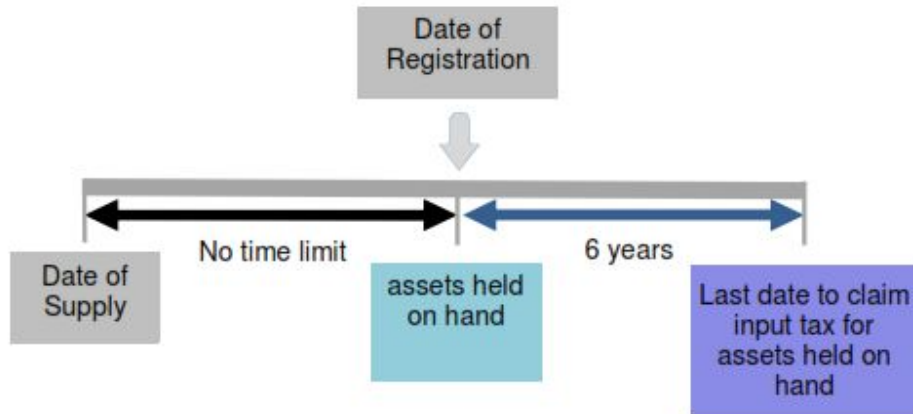
To clarify voluntary registration for pre commencement of business

- i) A person who intends to make any taxable supplies can apply for voluntary registration if he can satisfy that he is committed to do business by submitting the following documents:
 - (a) details of business arrangements such as business plans, plants and location;
 - (b) copies of contract for establishment of premises such as rental of premises / construction of pipelines / purchase of equipment;
 - (c) details of any patents;
 - (d) details of business purchases; or
 - (e) other documentary supporting evidence.
- and**
- ii) The total taxable supply is expected to exceed the threshold within 12 months from the date of application.

INPUT TAX IN RELATION TO PRE-REGISTRATION

Reg. 46 - Goods and Service Tax Regulation 2014

- (1) Subject to subregulation (2), the Director General may authorize a taxable person to treat as if it were input tax, any tax paid on the supply of **goods** to the taxable person before the date with effect from which he was, or was required to be registered, or paid by him on imported goods before that date, for the purpose of a business which was carried on or was to be carried on by him at the time of such supply or payment.
- (2) No tax may be treated as if it were input tax in respect of -
 - (a) goods which had been supplied or consumed;
 - (b) goods which have been used partially or incorporated into some other goods; or
 - (c) goods held for other than business use,by the person referred to in subregulation (1) before the date with effect from which such person was, or was required to be, registered.



Services

GST incurred on services acquired before registration (both voluntary and mandatory registration including late registration) is not eligible for input tax credit.

Goods

In the case of goods including capital goods, the registered person is entitled to claim input tax on the goods he holds at the time of registration.

Input tax on any asset held on hand can be claimed on the book value within 6 years from the date of registration irrespective of when the asset is acquired.

Input tax claim on land and building is on the open market value of the assets or book value whichever is the lower.

Example

A GST registered manufacturing company purchased machinery valued at RM5,000,000 in June 2016 and pays GST amounting to RM300,000. The company is registered in April 2020. At the time of registration, the book value of the machinery is RM500,000.

The manufacturing company being a wholly taxable supplier is eligible to claim input tax on the remaining RM500,000 (i.e. $RM500,000 \times 6\% = RM30,000$).

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