

DECISION BY DIRECTOR GENERAL, ROYAL MALAYSIAN CUSTOMS**ITEM 1:****Claiming input tax on electricity and water expenses invoiced/billed under the owner of the property's name.**

- (i) As specified in regulation 38 GSTR 2014 (Goods and Services Tax Regulations), a registered person can only claim input tax credit (ITC) incurred by him if he holds tax invoice in his name.
- (ii) 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 his name.
- (iii) However a GST registered person (tenant) is allowed to claim ITC using electricity and water invoices/bills which in the name of the property owner until 31/3/2016 subject to the following conditions –
 - (aa) The property owner is not a GST registered person;
 - (bb) There must be a tenancy agreement signed by the property owner and the tenant;
 - (cc) 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.”*
 - (dd) The tenant must keep records of the input tax claimed for the electricity and water invoices/bills under the name of the landlord; **and**
 - (ee) 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.