

Claim for input tax

38. (1) Subject to subregulations (2) and (3), any taxable person claiming input tax by deducting from the output tax that is due from him under section 38 of the Act shall do so on the return furnished by him for the taxable period in which he holds,—

- (a) if the claim is in respect of a supply from another taxable person,—
 - (i) a tax invoice in his name which is required to be provided under section 33 of the Act; or
 - (ii) a tax invoice which does not contain the name and address of the recipient where approval has been given by the Director General under paragraph 33(3)(a) of the Act provided that the maximum amount of input tax to be claimed is not more than thirty ringgit;
- (b) if the claim is in respect of a supply from a toll manufacturer under section 72 of the Act, an invoice received by a recipient from a person who does not belong in Malaysia;
- (c) if the claim is in respect of a supply from an approved person under section 74 of the Act, an invoice which is required under regulation 98;
- (d) if the claim is in respect of an importation of goods, the prescribed form under the Customs Act 1967 stating the claimant as the importer, consignee or owner and the amount of tax charged or paid on the goods;
- (e) if the claim is in respect of importation services —
 - (i) a document stating that the claimant has made payment for the services consumed, if the time of supply is the time referred to in paragraph 13(4)(a) of the Act; or
 - (ii) the invoice issued in the name of the claimant by a supplier who belongs in a country other than Malaysia or who carries on business outside Malaysia, if the time of supply is the time referred to in paragraph 13(4)(b) of the Act.

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- (f) if the claim is in respect of goods which have been removed from a licensed warehouse, the prescribed form under the Customs Act 1967 stating the claimant as the importer, consignee or owner and the amount of tax charged or paid on the goods; or
- (g) if the claim is in respect of cash payment which has been made as a result of a settlement of a claim under an insurance contract or takaful certificate to an insured or participant under regulation 47, a document stating that the cash payment has been made by the insurer or takaful operator.

(2) A taxable person claiming the deduction of input tax under paragraph (1)(g) shall calculate such deduction by using tax fraction.

(3) A taxable person claiming the deduction of input tax shall hold, instead of the document or invoice specified in subregulation (1), such other documents which shall contain the particulars of the tax charged or to be charged, as the Director General may direct.

(4) (a) Where any claim of input tax has not been made in the taxable period in which the taxable person holds the document mentioned in subregulation (1) or (3), the Director General may allow such person to make the claim within six years from the date of supply to or importation by him;

(b) If such person is deregistered, he shall make the claim within six years from the date of supply to or importation by him or one year from the date he was deregistered, whichever is the earlier.

(5) Any person who contravenes subregulation (1) or (3) commits an offence.