

Attribution of input tax to taxable supplies

39. (1) Subject to regulation 43, the amount of input tax which a taxable person shall be entitled to deduct provisionally shall be that amount which is attributable to taxable supplies in accordance with this regulation.

(2) In respect of each taxable period—

- (a) goods imported by and goods or services supplied to the taxable person in the period shall be identified;
- (b) there shall be attributed to taxable supplies the whole of the input tax on the goods or services which are used or to be used by him exclusively in making taxable supplies or in making supplies outside Malaysia which would be taxable supplies if made in Malaysia;
- (c) no part of the input tax on the goods or services which are used or to be used by him exclusively in making exempt supplies, or in carrying on any activity other than the making of taxable supplies shall be attributed to taxable supplies; and
- (d) there shall be attributed to taxable supplies and supplies made outside Malaysia which would be taxable supplies if made in Malaysia such proportion of the input tax as determine in accordance with the formula under subregulation (4) on the goods or services which are used or to be used by the taxable person in making taxable supplies, supplies made outside Malaysia which would be taxable supplies if made in Malaysia and exempt supplies.

(3) In calculating the proportion under paragraph (2)(d), there shall be excluded—

- (a) the value of supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied;
- (b) the value of any supply made by a recipient in accordance with the Approved Toll Manufacturer Scheme under section 72 of the Act;
- (c) the value of any supply referred to in regulations 40 and 42; or
- (d) the value of any supply of imported services.

(4) The amount of input tax which a taxable person shall be entitled under subregulation (1) shall be an amount determined in accordance with the following formula:

$$a = \frac{T - O}{S - O} \times 100$$

- Where a is the recoverable percentage of residual input tax
- T is the total value (exclusive of GST) of taxable supplies made in the taxable period
- O is the total value of any supply within subregulation (3), and
- S is the total value of taxable and exempt supplies made in the taxable period.

(5) The ratio calculated for the purposes of paragraph (2)(d) shall be expressed as a percentage and, if that percentage is not a whole number, it shall be rounded off to the nearest two decimal places.

(6) Subject to subregulation (7), the Director General may approve or direct the use by a taxable person of a method other than that specified in paragraph (2)(d).

(7) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, in calculating the proportion of any input tax on goods or services used or to be used by the taxable person in making taxable supplies, supplies made outside Malaysia which would be taxable supplies if made in Malaysia and exempt supplies, which is to be treated as attributable to taxable supplies, the value of any supply within subregulation (3) shall be excluded.

(8) A taxable person using a method as approved or directed to be used by the Director General under subregulation (6) shall continue to use that method unless the Director General approve or direct the termination of its use.

(9) Any direction under subregulation (6) or (8) shall take effect from the date the Director General gives such direction or from such later date as he may specify.

(10) Any approval given or direction made by the Director General under this regulation shall only have effect if it is made in writing.

(11) Any person who contravenes subregulation (8) commits an offence.