



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON FORESTRY INDUSTRY

Publication

Date Published: 8 January 2016.

The Guide on Forestry Industry as at 26 August 2014 is withdrawn and replaced by the Guide on Forestry Industry revised as at 8 January 2016.

Copyright Notice

Copyright 2015 Royal Malaysian Customs Department.

All rights reserved. Subject to the Copyright Act, 1987 (Malaysia).

The Guide may be withdrawn, either wholly or in part, by publication of a new guide. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form, including on-site for commercial purposes without written permission from the Royal Malaysian Customs Department (RMCD). In reproducing or quoting the contents, acknowledgment of source is required.

Disclaimer

This information is intended to provide a general understanding of the relevant treatment under Goods and Services Tax and aims to provide a better general understanding of taxpayers' tax obligations. It is not intended to comprehensively address all possible tax issues that may arise. While RMCD has taken the initiative to ensure that all information contained in this Guide is correct, the RMCD will not be responsible for any mistakes and inaccuracies that may be contained, or any financial loss or other incurred by individuals using the information from this Guide. All information is current at the time of preparation and is subject to change when necessary.

CONTENTS

INTRODUCTION	1
Overview of Goods and Services Tax	1
GENERAL OPERATIONS OF THE INDUSTRY	1
Forestry Industry	1
SCOPE	3
GST TREATMENT ON UPSTREAM AND DOWNSTREAM ACTIVITIES	3
GST Treatment on Supplies under Upstream Activities	3
GST Treatment on Supplies under the Downstream Activities.....	3
GST Treatment on Secondary Activities	4
FREQUENTLY ASKED QUESTIONS	5
INQUIRY	14
FURTHER ASSISTANCE AND INFORMATION ON GST	14

INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to GST treatment in the Forestry industry.

Overview of Goods and Services Tax

2. Goods and Services Tax (GST) is a multi-stage tax on domestic consumption. GST is charged on all taxable supplies of goods and services in Malaysia except those specifically exempted. GST is also charged on importation of goods and services into Malaysia.

3. Payment of tax is made in stages by the intermediaries in the production and distribution process. Although the tax would be paid throughout the production and distribution chain, only the value added at each stage is taxed thus avoiding double taxation.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 2014 is known as a “registered person”. A registered person is required to charge GST (output tax) on his taxable supply of goods and services made to his customers. He is allowed to claim back any GST incurred on his purchases (input tax) which are inputs to his business. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

GENERAL OPERATIONS OF THE INDUSTRY

Forestry Industry

5. Land matters fall under the jurisdiction of the respective State Governments which are also empowered to enact laws and regulations for forest management of each state. Thus, the upstream activities within the forestry sector in the three regions of Malaysia are under the administration of:

- (i) Forestry Department Peninsular Malaysia (FDPM) which is under the Ministry of Natural Resources and Environment for the forests of Peninsular Malaysia;
 - (ii) Sabah Forestry Department under the Chief Minister's Department Sabah for Sabah's forests; and
 - (iii) Sarawak Forest Department under its State Ministry of Resource Planning and Environment for Sarawak's forests.
6. In Sarawak, two other additional agencies are involved in the upstream activities:
- (i) the Sarawak Forestry Corporation, established by the Sarawak State Government to ensure that the forests are logged sustainably as well as to assess cess and royalty for timber and timber products harvested from the forests; and
 - (ii) Harwood Timber Sdn. Bhd., a wholly-owned subsidiary of Sarawak Timber Industry Development Corporation under the ambit of its State Ministry of Resource Planning and Environment, which performs inspection on consignments of logs to ensure logs extracted are legal.
7. Downstream activities comprise of value-adding activities such as:
- (i) primary processing; converting logs to sawn timber, logs to veneer, woodchips to particleboard and medium density fiberboard and
 - (ii) secondary processing; utilizing the sawn timber to fabricate engineered timber products such as glulam, laminated truck flooring; veneer, plywood, particle board and medium density fiberboard for furniture production and other timber products such as laminated veneer lumber.

8. In Peninsular Malaysia and Sabah, downstream activities are under the administration of the Malaysian Timber Industry Board under the ambit of the Ministry of Plantation Industries and Commodities, whereas in Sarawak, they are under the administration of the Sarawak Timber Industry Development Corporation.

SCOPE

9. This Guide covers upstream activities, downstream activities and other activities in the forestry industry. Upstream activities in the forestry sector, among others, include logging activities, reforestations and forest plantations. Downstream activities in the forestry sector include the manufacturing of value-added manufacturing activities for the conversion and manufacturing of timber products into semi-finished and finished products. GST treatment on manufacturing activities is covered in a specific industry guide. Please refer to the Guide on Manufacturing for further details.

GST TREATMENT ON UPSTREAM AND DOWNSTREAM ACTIVITIES

GST Treatment on Supplies under Upstream Activities

10. Generally upstream activities involved in a supply of logs are treated as taxable supplies and are subjected to GST at a standard rate. Reforestation and forestation, as well as forest husbandry are also part of the upstream activities. GST treatments for these activities are in accordance to the normal provision as prescribed in the GST Act, Regulations and Orders.

GST Treatment on Supplies under the Downstream Activities

11. Downstream activities involved in the conversion and manufacturing of logs in primary and secondary processes and subsequently supplies are treated as taxable supplies of goods and are subject to GST at a standard rate.

GST Treatment on Secondary Activities

12. Besides the upstream and downstream activities, secondary activities are also carried out in the forestry industry, i.e. incidental activities involved in the supply of goods and services such as research and development, animal husbandry, agriculture, community projects and other activities which are not the principal activities of the forestry industry. GST treatments for these activities are in accordance with the normal provision as prescribed in the GST Act, Regulations and Orders.

FREQUENTLY ASKED QUESTIONS

GST treatment on logging and logging-related activities

Q1. I am engaged in logging activities. Is sales of logs to my clients (sawmill operators) subject to GST?

A1. Sales of logs to your clients (sawmill operators) are considered as a taxable supplies. Therefore, the supplies are subject to GST at a standard rate and you must charge your client and account the tax according to your taxable period.

Q2. Are purchases of capital goods such as machineries and equipment used in forestry operations subject to GST?

A2. Yes, if you purchase the capital goods from a GST-registered person, you will be charged GST at a standard rate. If you are making wholly taxable supplies of upstream and downstream activities, the input tax incurred on the purchases in the taxable period can be recovered in full by off-setting it with your output tax when you submit your GST return.

Q3. In forestry industry, royalty, premium, cess and other fees and charges are paid to the state government concerned where the businesses operate. Are such payments subjected to GST?

A3. Payments of royalty, premium, cess and other fees and charges to the state government, including federal government, are not subject to GST.

Q4. My company borrows money from banks to finance our business. What is the GST treatment on the loans?

A4. Loans from banks are exempt supplies under the GST. Therefore no GST is payable.

Q5. If my company provides financial supply such as the provision of loans to my staff, am I considered as making wholly taxable supplies?

A5. Yes, you are regarded as making wholly taxable supplies. The provision of loan by your company is considered as an incidental-financial supply and such supply shall be treated as a taxable supply for the purpose of approval for group registration, branch registration and Approved Trader Scheme. The input tax incurred on the acquisition for the provision of such supply is also claimable.

Q6. Sometimes my company pays surcharge and fines for late payment of royalty, premium and cess to the government authority. In addition to that, my company also has to pay charges or penalties for offences such as the felling of undersized trees, high stumps, merchantable timber trees not harvested, damage to residual stand, etc. What is the GST treatment on the fines and surcharges on the late payment imposed by the authorities?

A6. Fines and surcharges for late payment and/or penalties imposed by the government authorities, for example, the Forestry Department are not subject to GST.

Q7. The Forestry Department sometimes subcontracts its regulatory and enforcement functions such as grading and marking of timber to a private company. Are such services made by the private company subject to GST?

A7. Yes, regulatory and enforcement functions such as grading and marking of timber made by a private company subcontracted by the Forestry Department are subject to GST at a standard rate.

Q8. My company is dealing in logging operation and is contractually required to pay liquidated damages to a licensee should the

stipulated minimum annual production not be met. What is the GST treatment on such payment?

- A8. Liquidated damages is not a payment for a supply, therefore it is not subject to GST.

Registration

Q9. My company is not a registered person under GST when we are awarded a timber concession from the state government and it will take some time for us to extract the logs from the forest as we have to do some preparatory works. For the preparatory works I have to acquire supplies subject to GST which will become cost to my supply of logs. Can I be registered under the GST even if my logging activity has not properly taken off and claim the input tax in respect of my purchases?

- A9. Yes, you can apply for a **voluntary registration** if you intend to make taxable supplies i.e., supply of logs as soon as you get a written approval for the concession and you are certain with the time of making taxable supplies such as in a 6 months period. Once registered you must remain as a GST-registered person for a minimum of two years. This will enable you to claim input tax incurred on your purchases prior to the harvesting of the logs.

Q10. Is registration for GST mandatory for all logging operators?

- A10. Registration for GST is mandatory if the logging operators are carrying on a business of making taxable supplies and the annual turnover for the said supplies exceeds or is expected to exceed the prescribed threshold.

Q11. What constitutes annual turnover for the purpose of GST registration?

A11. The annual turnover includes the value of all taxable supplies (standard-rated and zero-rated supplies) made in the course or furtherance of the business. It also includes the value of taxable supplies resulting from your secondary business activities, e.g. supplies of cash crops, animal husbandry, fish ponds, etc. It excludes the value of exempt supplies and sale proceeds of capital assets and other non-taxable supplies, e.g. out of scope supply. When computing the value of taxable supplies, it should take into account supplies of goods and services (standard rated), and goods or services exported (zero-rated).

Export and supply through an Agent

Q12. Q12. If I export my products, do I have to charge GST to my overseas clients?

A12. Goods exported are subjected to GST at a zero rate. This means that you do not collect GST on your exports but you are entitled to claim GST you have incurred on your inputs. However, you must keep the supporting documents as an evidence of exports. The supporting documents include:

- (i) original purchase orders received from overseas customers;
- (ii) copies of invoices issued;
- (iii) copies of export declarations (Customs Form No. 2), bills of lading/airway bills, packing lists/delivery notes, other shipping documents and insurance documents;
- (iv) proof of payments received from customers; and
- (v) any other relevant documents supporting the exports.

Q13. Q13. Y is a marketing agent acting on behalf of a local customer X. Y exports logs to X's client, Z and uses its own name as the exporter. The sale price from X to Y is the same as the sales price

from Y to Z. Is there a supply between X and Y and does X has to charge GST to Y on the local supply of logs from X to Y? Y is earning a “handling fee” for this job. What is the treatment on the handling fee?

A13. A13. There is no supply from X to Y if there is no transfer of ownership from X to Y, and there is no consideration for this transaction and X does not invoice Y. In such a transaction, X will not charge Y and there is no liability to pay GST.

On the other hand, if there is a transfer of ownership and there is consideration in return for the supply of goods, and X invoices Y for the local supply of logs prior to export to Z, X is making a supply to Y. Therefore, X has to charge GST in the invoice if he is registered under GST and Y is liable to pay GST. If Y is a registered person, Y may claim the tax as his input tax.

As far as the “handling fee” is concerned, if Y is a registered person under GST, Y has to charge GST on the “handling fee” to X, and X may claim the tax incurred as his input tax.

Q14. Q14. A foreign customer Y purchased logs from my company. Upon his instruction, I delivered the logs to an independent local freight forwarder X, who would consolidate them with other consignments before exporting. Do I have to charge GST to X for the delivery of logs to be exported to Y?

A14. A14. There will be no GST implication on the delivery of the logs to the local freight forwarder because you are not selling the logs to X. Therefore, there is no transfer of ownership. You do not have to charge GST to the freight forwarder X who acts on your behalf for supplying the logs to your overseas client, Y. Your export to Y is treated as a zero-rated supply. On the other hand, X will charge you GST on the services he

performed for the delivery of logs to Y if X is registered under GST. If you are a GST registered person, you may claim it as your input tax credit. You must hold the documents related to the exportation of logs to support your claim.

Grants and Funds

Q15. Q15. If a Timber Association receives financial grants from the state government and subsequently distributes them to the subsidiaries to handle training for the members, research and development (R & D) of the industry and also for social welfare, what is GST treatment on the grants?

A15. A15. For the purpose of GST, financial grants in form of money whereby the state government does not receive any benefit in return is not considered as a supply. If the state government awards the grants to the association and the association distributes the grants to its subsidiaries, such provision of grants is out of scope under the GST and not subjected to GST.

Q16. Q16. My company spends a significant sum of money every year for research and development (R & D) activities associated with the forest and timber industry. What is GST treatment if I engage a company to carry out R & D activities?

A16. A16. If you outsource the R & D task to a private company and provide funds to such company, the funds provided to the company is considered as a consideration for the supply of R & D services provided by the company. In other words, the company who is providing the R & D services will have to account GST based on the funds you provide to the company. If you are a registered person, you can claim the tax incurred as your input tax credit.

Reforestation and forest plantation

Q17. Q17. My company is dealing in forest plantation, i.e. the growing and forest husbandry of trees in a forest. We also do reforestation activities, i.e. the replanting of trees in a forest. If I outsource the general maintenance to a registered person, what is the GST treatment on such activities?

A17. A17. If you outsource or sub-contract the activities, e.g. general maintenance to another registered person, then the supply of such services by the registered person is subject to GST at a standard rate. The input tax incurred is claimable as it is your input in the forest plantation.

Secondary and agricultural activities at logging sites

Q18. Q18. Besides my forest plantation activities, I am also involved in secondary activities, e.g. planting of cash crops and engaging in animal husbandry in the same forest plantation areas while waiting for the trees to mature. Can I claim input tax incurred on my secondary activities?

A18. A18. Yes, you can claim input tax incurred on your secondary activities provided that you have registered under GST.

Q19. Q19. My company (logging operator) engaged individuals or small-scale subcontractors who are non-registered persons to carry out the harvesting of timber trees and transportation of logs to the designated logs points. In some cases, they would purchase tools and equipment to carry out their respective activities. Such expenses (embedded with GST) would subsequently be reimbursed by my company (logging operator). What is the GST treatment on the reimbursements and can I claim input tax incurred on them?

A19. A19. When an individual or a subcontractor who is not registered under GST purchases tools and equipment from a registered person, he incurs

GST on the purchase, where the tax cannot be claimed by him. When he recovers the cost from you, the recovery is not subject to GST because he is not a GST registered person. Certainly, you are not eligible to claim the input tax charged on the purchase because the tax invoice issued for the purchase is not under your name.

Q20. Q20. Our company receives advance payments (non-refundable) from our buyers as part of the final payments. Are the advance payments subjected to GST?

A20. A20. Yes, advance payment is subjected to GST at a standard rate. GST has to be charged on the remaining value of the goods when the goods are delivered to your buyer later.

Free supplies to the community (Corporate Social Responsibility) and employee's benefit

Q21. Q21. In forestry industry, we sometimes provide staff with remote work-site accommodation for free (e.g. cabins, caravans, barracks, etc.). What is the GST treatment on supplies of such accommodation?

A21. A21. When you give such benefit to your employee such as accommodation which is an exempt supply of services for no consideration, you are not making a supply. Therefore, you do not have to account for the output tax and the input tax incurred which is related to the exempt supply. It is also not claimable although such supply is given for free.

Q22. Q22. We provide transport facility to our workers to and from their work places with a nominal fee. What is the GST treatment on the transportation?

A22. A22. You are making an exempt supply when you give an employee benefit such as transportation services for a consideration. Therefore, you do not have to account for output tax and input tax incurred is not claimable.

Q23. Q23. My company provides free logs to build long-house, medical and educational facilities to the community at my logging sites as part of our community project. What is the GST treatment on such facilities?

A23. A23. The supply of the above mentioned facilities is subject to GST. However, you can apply to the Minister of Finance under section 56 of the GST Act 2014 to be relieved from charging and collecting GST on the supply of logs for a community project. Furthermore, input tax incurred attributed to the supply of logs to the community is claimable. On the other hand, for supply of services such as medical and educational services provided without a consideration to the community, the services are not considered as supplies. The input tax attributed to these supplies are not claimable since they are related to exempt supplies.

INQUIRY

1. For any inquiries for this guide please contact :

Sector VI

GST Division

Royal Malaysian Customs Department

Level 3 – 7, Block A, Menara Tulus,

No. 22, Persiaran Perdana, Presint 3,

62100 Putrajaya.

Email : gstsector6@customs.gov.my

FURTHER ASSISTANCE AND INFORMATION ON GST

2. Further information on GST can be obtained from :

(a) GST website : www.gst.customs.gov.my

(b) Customs Call Center :

- Tel : 03-7806 7200 / 1-300-888-500
- Fax : 03-7806 7599
- Email : ccc@customs.gov.my