



# **ROYAL MALAYSIAN CUSTOMS**

## **GOODS AND SERVICES TAX**

### **GUIDE ON LODGING OR HOLIDAY ACCOMMODATION SERVICES**

## **Publication**

Date Revised: 23 January 2018.

The Guide on Accommodation Premises and Similar Establishments revised as at 22 November 2017 is withdrawn and replaced by the Guide on Lodging or Holiday Accommodation Services revised as at 23 January 2018.

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## **INTRODUCTION**

1. This industry guide is prepared to assist you in understanding the Goods and Services Tax (GST) and its implications on the hospitality industry relating to lodging or holiday accommodation which involves supply of rooms for lodging and sleeping accommodation and also other related supplies.

### **Overview of Goods and Services Tax (GST)**

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 listed in Goods and Services Tax (Exempt Supplies) Order 2014. GST is also charged on importation of goods and services into Malaysia.

3. Payment of tax is made in stages by intermediaries in the production and distribution process. Although tax would be paid throughout the production and distribution chain, it is ultimately passed on to the final consumer. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 2014 is known as a GST registered person. A GST 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 input tax on any GST incurred (input tax) on his purchases which are inputs to his business. Thus, this mechanism would avoid double taxation and only the value added at each stage is taxed.

## **IMPACT OF GST**

### **Lodging or holiday accommodation**

5. The supplies of lodging or holiday accommodation and other facilities such as food and beverages, recreational and rental supplied in the course or furtherance of business are subject to GST.

6. Lodging or holiday accommodation includes:

- (a) hotels, inns, boarding houses;
- (b) holiday accommodation which is advertised or held out as suitable for holiday or leisure use such as resort, villa, chalet, beach hut or tent; or
- (c) similar establishments

7. “Similar establishments” refer to premises which have the characteristics similar to hotels, inns or boarding houses. It includes premises which provide furnished sleeping accommodation, with or without board or facilities for the preparation of food, and which are used by or held out as being suitable for use by visitors or travelers. Similar establishments also include hostels guest houses, bed and breakfast rest houses, resorts, chalets and lodging houses, private residential clubs, service apartments and home-stay. However, it does not include premises that are used to provide accommodation to students in connection with an education institution, such as residential colleges on university campuses.

### **Exempt Supply**

8. Under item 19 Second Schedule Goods and Services Tax (Exempt Supply) Order 2014, the grant of a right, interest or license to occupy a building for residential purposes where the building is designed or adapted for used as dwelling is an exempt supply.

9. “Dwelling” generally means any building used and occupied for human habitation or intended to be so used, being the place where the individual ordinarily resides and routinely returns to after visiting other places for a reasonably significant period of time except that it does not include any building used solely for a seasonal vacation purpose.

### **Difference between the provision of dwelling and lodging / holiday accommodation**

10. A table is provided in Appendix 1 as guidance to providers to distinguish between a dwelling and lodging / holiday accommodation.

## **GST Treatment on Similar Establishments**

11. Supplies provided by premises similar to hotels, motels, inns or boarding houses that attract GST are as follows:

**(a) Home-stays**

Rental on home-stays is a taxable supply is subject to GST at a standard rate.

**(b) Service apartments**

Service apartments used as a lodging or holiday accommodation rented out with central management, multiple occupancy, short term stay offering with services offered such as cleaning, laundry, telephone, utilities are subject to GST at a standard rate.

**(c) Camping ground**

These premises operate differently than hotels and the like. Guests may pay to stay in a hut, or a permanent cabin on the site. Alternatively, they may pay a fee to park their own tents or vehicles on the site. All these supplies are subject to GST at a standard rate.

The supplies or rental of any associated facilities for example camping facilities such as jungle lodges, tents, camp beds and security service are also subject to GST at a standard rate.

**(d) Time-share programme**

(i) A **timeshare** (sometimes called vacation ownership) is a property with a divided form of rights ownership. These timeshare properties are typically resort condominium units, in which multiple parties hold rights to use the property, and each rights owner of the same accommodation is allotted their period of time.

(ii) Supply of rights under the timeshare programme is a supply of rights by the Timeshare Management Provider (TMP) to the timeshare members (TMs) to stay in any of their holiday accommodation in Malaysia or outside Malaysia. The supply of rights to stay in any of the

holiday accommodation in Malaysia under the timeshare programme is a standard rated supply. The same treatment applies irrespective if the sale is made to a resident or a non-resident TM.

- (iii) However, if the supply of rights relates to a stay in any holiday accommodation (timeshare property) located in Malaysia or outside Malaysia, it is treated as a standard rated supply as at the time of sale it cannot be determined when and where the TM will exercise his rights.
- (iv) Facilities, if provided as a package under the timeshare programme, for example swimming pool and security services, are not subject to GST if there is no charge. If services are charged separately, then it is subject to GST at a standard rate.
- (i) The GST treatment on leasing of property by a hotel owner to TMP to facilitate a timeshare ownership program is a taxable supply and subject to GST at standard rate.
- (ii) Supply of rights under the timeshare programme in Malaysia by a foreign TMP established in Malaysia is subject to GST at a standard rate.
- (iii) For TMP in Malaysia that own timeshare properties in Malaysia and outside of Malaysia, a maintenance fee is charged by the TMP to the TMs for services of maintenance of all the timeshare properties. In Malaysia, the maintenance fee charged is not apportioned based on the location and number of timeshare properties located in Malaysia or outside Malaysia. Hence, the GST treatment on such supply is that the TMP is making a single taxable supply to the TMs at a standard rate.

### **Online Exchange of Timeshares**

12. Resort Condominiums International, or RCI, is a timeshare exchange company located outside Malaysia where TMs who are RCI members can exchange their timeshare accommodations each year or swap their home resort (timeshare week) for a

stay at a different affiliated property and explore different destinations globally. RCI provides vacation exchange services to its members.

13. In order to use the RCI online platform, timeshare member must register as an approved member and is subject to an annual membership fee. The supply of rights to access the RCI platform by RCI to a Malaysian resident is treated as imported services. Any person who acquires such services in the course and furtherance of his business is required to account for GST by using the reverse charge mechanism.

14. Similarly, the GST treatment for the supply of exchange services delivered by RCI where an exchange fee is imposed on a TM to stay at any RCI affiliated resort is as follows:

- a) This fee is paid by the TMs directly to RCI.
- b) The exchange fee paid by Malaysian TM is treated as imported services to the TM if the exchange fee paid is for a stay in a timeshare resort in Malaysia. Any person who acquires such services in the course and furtherance of his business is required to account for GST by using the reverse charge mechanism.
- c) The exchange fee paid by Malaysian TM to RCI is an out of scope supply if the fee is paid to stay in a timeshare property which is located outside Malaysia.

### **Related supplies**

15. Related supplies which may also be provided by the lodging or accommodation provider that attract GST are as follows:

**(a) Admission fee to theme park**

Admission fee to theme park in a resort or hotel is subject to GST. GST is to be levied on the net ticket price, excluding entertainment duty.

**(b) Free tickets and complimentary rooms**

Free tickets or complimentary rooms being a supply freely offered to the guest in a resort, hotel or similar establishments is not subject to GST.

**(c) Complimentary rooms let out under promotional program**

Complimentary rooms let out under promotional program (e.g. loyalty program) to attract customers are allowable. Complimentary rooms are to be treated as a discount and therefore not subject to GST.

**(d) Complimentary rooms put up for private use for business associates (not connected person)**

Such complimentary rooms are subject to GST. GST is chargeable based on the open market value.

**(e) Events/ Conferences/ Meetings/ Seminar Package**

Premises in hotels and the like are commonly offered as avenue to hold events/ conferences/ meetings/ seminars. The services are normally offered as a package (example: rental of premises, food and beverages, facilities to be used) and are subject to GST.

**(f) Wedding Package**

Wedding package offered by hotel includes breakfast, buffet, meals, ancillary services such as floral decorations, services of toastmaster and room for bridal ceremony and bridal party. The whole wedding package is treated as a single taxable supply and subject to GST.

**(g) Hotel club facilities**

Hotel's club membership fees are subject to GST. Hotel's club facilities provided such as gym and swimming pool are subject to GST.

**(h) Gift provided to hotel guest**

Gift provided to hotel guest will be subject to gift rules under subitem 5(2) of the First Schedule, Goods and Services Tax Act 2014.

**(i) Other services that attract GST:**

(i) Supply of space within the hotel for display of cabinets and advertising panels;

(ii) Rent received from shops situated in hotel's premise;

- (iii) Hire of a sports or games room;
- (iv) Hire of sports equipment and providing coaching sessions;
- (v) Hire of rooms for trade sales and exhibitions;
- (vi) Usage of business center;
- (vii) Usage of health center/ spa;
- (viii) Car jockey services;
- (ix) Outdoor catering; and
- (x) Parking fees when charged separately.

### **GST Treatment on Promoters and Hotel Brokers**

16. Hotel brokers and promoters are marketing agent for the hotel industry. The service of the agent is a taxable supply and the agent must account for GST on the commission received if he is a GST registered person. Input tax is claimable if it is attributable to a taxable supply.

17. Hoteliers in Malaysia appoint of online travel agent (OTA) such as Agoda, Booking.com, Traveloka, Expedia, etc. to act as an agent to sell their hotel accommodation. The services of the OTA, if they are non-resident, is treated as supplying imported services to the hoteliers. Hence, the hoteliers is required to account for GST by the reverse charge mechanism for the commission paid to the OTA. If the OTA has a fixed establishment in Malaysia or is registered under the section 65(6) of the Goods and Services Tax Act 2014, any commission received from the hotels is subject to GST at a standard rate.

### **Deposit or Booking Fees**

18. If the deposit or booking fee forms part of payment, it is a consideration for a supply of accommodation and is subject to GST at a standard rate. If it is not part of the payment, it is not a consideration and not subject to GST.

19. Forfeited deposits/ booking fees is not considered as a supply but as a penalty and is therefore not subject to GST.

### **Retention fees/ Cancellation fees**

20. Retention fees are paid to reserve an accommodation for future use and considered as advance payment and subject to GST at a standard rate. Cancellation fees are regarded as compensation and not subject to GST.

### **Exempt supplies made by lodging or holiday accommodation provider**

21. The exempt supplies includes:

- (a) Deposit of money; and
- (b) Currency exchange

These are regarded as incidental exempt supplies and input tax incurred for the making of such supplies is treated as input tax attributable to taxable supply and the input tax is claimable.

## **FREQUENTLY ASKED QUESTIONS**

### **Supplies of accommodation and other services**

**Q1. What is the GST treatment on rooms that are provided with furnished sleeping accommodation, spa, gym and laundry services to hotel guests?**

A1. Supply of room with furnished sleeping accommodation is subject to GST. Recreational facilities such as spa, masseur services, compact gym and laundry services are taxable supplies and subject to GST at a standard rate. If services

provided are not part of the room accommodation services, these services should be stated in a separate bill with the amount and GST charged indicated. If it is provided as part of the accommodation package, then these services are to be considered as a single supply for charging GST.

**Q2. How is GST on telecommunication services such as facsimile, e-mail/ internet and IDD phone used by guests in their room or at the business center to be accounted for?**

A2. All these telecommunications services and service charge, if any, by the hotel are to be standard rated.

**Q3. Do we have to account for GST on parking facilities which are provided free of charge to the guests and how is GST to be accounted if discounts are given to those parking space that have a charge?**

A3. Parking facilities provided free of charge by the hotel are not subject to GST because normally it is inclusive of the room charges or rental of facilities. However, letting of parking space charged separately is subject to GST. If discount is given to everyone, then GST is charged on the discounted amount.

**Q4. How is GST calculated on a wedding package offered by a hotel, which includes room and ancillary facilities?**

A4. The wedding package offered may consist of wedding breakfast, buffet and meals served in a room with ancillary services provided as part of the package (including floral decorations; the service of a toast master; a room for ceremony and bridal party). This package is treated as a single taxable supply. The calculation of GST must be based on the total value of this package. The GST treatment is the same for other similar packages like conferences, seminar and gatherings with ancillary services.

## Membership

**Q5. In the promotion of new membership recruitment campaign, the hotel offers “Stay 6 Nights Get One Night Free” program to all who wish to join. Do we have to charge GST on the free night accommodation?**

A5. The free night offered as a package in a promotion campaign is treated as a discount and allowable. GST is chargeable on the actual amount paid.

**Q6. Members of the hotel’s club enjoy certain facilities such as the gym and swimming pool at discounted rates. How do I account for GST on these services?**

A6. These services are taxable supplies and subject to GST. If discount is given for using these facilities, GST shall be accounted on the discounted amount.

## Miscellaneous supplies

**Q7. It is a common practice for a hotel to order bouquets of flowers or purchase gifts on behalf of customers at their request. The hotel will include this cost as a separate charge in the invoice issued. Is this charge on the services of providing gifts subject to GST?**

A7. The supply of bouquets of flowers or gifts is a taxable supply. If there is any charge on such services imposed by the hotel, such services are also subject to GST.

**Q8. A hotel charges RM1.00 per night stay as an annual event during school holidays. On what value should GST be charged?**

A8. GST is to be charged on the actual amount paid.

**Q9. Is the supply of bed and breakfast (B & B) treated as a single supply?**

A9. The B&B establishment normally will include breakfast at an inclusive price. This is treated as a single supply and subject to GST.

**Q10. Does a hotel operator have to account for GST on in-house training given free to his employees?**

A10. The in-house training (employment-related skills) given free to his employees is to improve their working skill and is regarded as a non-supply and therefore not subject to GST. If the operator provides a similar training to other hotel's employees for a fee, the fee is subject to GST at a standard rate.

**Q11. Are takings from coin-operated machines located in the hotel's premise subject to GST?**

A11. Yes. The supplies of goods or services through any coin-operated machines, such as video game, vending machine or snack machines are subject to GST. The supplier of these machines must account for the total value of the coins/tokens removed from the machine, and GST is to be accounted for by applying the GST fraction as below:

$$\text{Output tax} = \frac{\text{GST rate}}{\text{GST rate} + 100\%} \times \text{takings}$$

$$= \frac{6\%}{(6\% + 100\%)} \times \text{takings}$$

$$= \frac{6\%}{(106\%)} \times \text{takings}$$

The time of supply is the date the coins/takings are removed from the machine.

**Q12. What is the GST treatment on letting out hotel's sports facilities, such as golf course and golf driving range?**

A12. Sports facilities are facilities used for sports or physical recreation which are normally designed or equipped premises or land for particular sporting activities. The letting out of such facilities is subject to GST at a standard rate.

**Q13. What is the GST treatment on the disposal of a hotel's business assets, for example disposal of used curtains and furniture?**

A13. The disposal of goods which form part of the business assets, by selling, giving them away or using them for private use, is a taxable supply. You have to account for GST on disposal of business assets based on the disposal value.

#### **Deposits / No Show Charges**

**Q14. In the course or furtherance of my business, I may invite tenders for a future supply of goods and services. The person applying for the tender will have to pay a deposit. Is the deposit subject to GST?**

A14. In this case, the deposit is taken as a security and not as a payment for supply which is eventually refundable. It is therefore not subject to GST.

**Q15. What is the GST treatment on no show charge, if a hotel charges a customer on booking cancellation?**

A15. No show charge is subject to GST. It cannot be treated as penalty since the supply of room has been made to customer.

#### **Business entertainment expenses**

**Q16. As a service apartment operator, I usually entertain my guests on New Year's Eve. What is the GST implication on this business entertainment?**

A16. The input tax incurred on the entertainment expenses to your existing guest is claimable.

**Q17. A hotelier engaged services of professionals such as interior decorator, architect, auditor and management consultant from abroad to refurbish his hotel. Are these services subject to GST and who should account for the tax?**

A17. Those services qualify to be treated as imported taxable services and are subject to GST. The supplies are treated as made by the hotelier and he must account

for the output tax by way of reverse charge mechanism. In this particular case, the hotelier must account for the output tax and input tax attributable is claimable.

For further detail please refer to the GST General Guide on Supply.

### **Compensatory payment**

**Q18. A guest was charged for breaking the hotel teapot. Is the charge subject to GST?**

A18. Yes, the guest will have to pay for the broken teapot inclusive of GST.

### **Time-share accommodation**

**Q19. Are other charges related to time-share package such as advance license fee for security, annual license fee for use of club facilities, annual maintenance fee, upgrading fee and administrative charges for transfer services subject to GST?**

A19. These charges are consideration for supplies related to time-share package. They are taxable supplies and therefore subject to GST at a standard rate.

**Q20. The time-share program entitled members to stay in the participating hotels/resorts within Malaysia or abroad. What is the GST treatment if members used their time-share week rights to stay in the participating hotels/resorts outside Malaysia?**

A20. The time-share membership is a holiday/vacation package. It is a taxable supply and is subject to GST at the point of sale. However, purchase of rooms outside Malaysia by the TMP to accomplish the request of its members to use their timeshare rights abroad is not within the scope of GST.

On the other hand, purchase of rooms in hotels/resort in Malaysia by affiliated TMPs abroad for their time share members is subject to GST because the services is consumed in Malaysia.

**Q21. A TMP in Malaysia does promotion of his program overseas where the buyer has a right to stay in a holiday accommodation in Malaysia. Is the time-share membership sold during the promotion subject to GST?**

A21. Yes, the time-share membership sold is subject to GST because the time-share package is in Malaysia and the supplier belongs in Malaysia.

**Q22. Time-share members can elect to stay at their resort during the prescribed period or they can also sell or rent out their rights (e.g. one week stay). What is the GST implication on these transactions?**

A22. If the TMs sells or leases their rights to stay in holiday accommodation, the supply is standard rated. If they sell or lease the time-share rights through the TMP, they must account for GST. If they make their own arrangement to sell or lease their rights to stay in holiday accommodation, they must account for GST if they are registered for GST.

**Q23. What is the GST treatment on the refund of payment for the timeshare programme by the TMP to the TM due to the cancellation of the programme?**

A23. Refund for cancelled time-share membership is not subject to GST because it is not a supply, and any tax paid on the balance of membership fee is refundable. Time-share management must produce evidence of tax refunded to the member before claiming tax refund.

**Q24. If a TMP supplies a timeshare programme to person who is outside Malaysia (foreigner), and the holiday accommodation is in Malaysia, is the supply subject to GST?**

A24. TMP is making a taxable supply when he sells the timeshare programme to foreigners and the supply is subject to GST at standard rate.

**Q25. What is the GST implication on the resale of a timeshare programme by a TM to a third party through TMP?**

A25. The resale of the timeshare programme (supply of services) is subject to GST at standard rate. TMP must provide their prospectus to new timeshare members. If TM wants to resale to another party (B), B required to sign transfer form from TMP and TMP will provide their prospectus to B. A fee RM20.00 is imposed for the prospectus and the fee is subject to GST at standard rate.

**Q26. What is the GST implication on the annual maintenance fee paid by the TM after the resale of a timeshare programme to the TMP?**

A26. The annual fee paid by TM to TMP before the TM resells his timeshare programme is non-refundable after he has successful sold it back to the TMP. The subsequent TM holder will continue to pay the annual maintenance fee in the following next year. There is no GST implication.

**Q27. Is the supply of maintenance services relating to a timeshare property located outside of Malaysia subject to GST?**

A27. Maintenance fee charged is not determined based on the location of the timeshare properties whether inside or outside Malaysia. Hence, the GST treatment on such supply is that the TMP is making a single taxable supply to the TM at a standard rate.

**Q28. What is the GST treatment for supply of accommodation by the TMP under the timeshare programme when the TM redeems his allotted period of ownership?**

A28. Supply of holiday accommodation to TM is not a supply.

#### **Other Related Issues**

**Q29. Generally, service apartments provide services such as 24-hour security, swimming pool facilities, landscape and other common facilities. Are these services subject to GST?**

A29. When management fees are charged for maintenance of the above services, the fee is subject to GST. If the management company is a GST registered person, the GST paid to the service providers is claimable as input tax.

**Q30. Service apartments are occasionally rented out as a dwelling to individuals or companies. Is the rent received subject to GST?**

A30. No, the supply is an exempt supply and not subject to GST. The GST treatment on service apartments will depend on the usage of the apartments. If it is for providing accommodation and not dwelling purposes, it is subject to GST.

**Q31. Are tips given by guests voluntarily subject to GST?**

A31. A tip given voluntarily by guests or customers to a hotel's staff as token of appreciation for services rendered is not part of consideration for the supply, and is therefore not subject to GST. However, if the tip is included in the customer's bill as a mandatory service charge, then GST is chargeable. GST is to be calculated on the value of the supplies (customer's bill) inclusive of the service charge. Customer will have to pay GST on the supplies and also on service charge (normally at 10%).

## **FURTHER ASSISTANCE AND INFORMATION ON GST**

1. Further inquiries and assistance may be obtained from:

- a) GST website : [www.gst.customs.gov.my](http://www.gst.customs.gov.my)
- b) Customs Call Center
  - Tel : 1-300-888-500
  - Fax : 03-7806 7599
  - E-mail : [ccc@customs.gov.my](mailto:ccc@customs.gov.my)
- c) Correspondence:
  - Royal Malaysian Customs Department
  - Sector IV, GST Division
  - Level 3 – 7, Block A, Menara Tulus,
  - No. 22, Persiaran Perdana, Presint 3,
  - 62100 Putrajaya.
  - Email : [gstsector4@customs.gov.my](mailto:gstsector4@customs.gov.my).

**APPENDIX 1**

**Differences between the provision of dwelling and lodging / holiday accommodation**

NO.	DESCRIPTION	ACCOMMODATION (SR)	DWELLING (ES)
1.	Short-term vs Long-Term	Short-term Rate based on per night stay	Short-term or Long Term Rate based on monthly or annual rental
2.	Central Management services such as Front Office, security, parking facilities, house-keeping, etc.	Hotel-like amenities without charges	Non hotel-like amenities includes maintenance fee
3.	Multiple occupancy	High frequency	Low frequency
4.	Tenancy Agreement	With operator	With landlord
5.	Deposit	Fixed amount based on stay per night	Based on monthly or annual rental
6.	Responsibility to upkeep the premise occupied	Operator	Tenant
7.	Notice of extension	Short notice (verbally)	Generally 30 days notification before expiry of tenancy agreement and in writing
8.	Renewal term	Not applicable	One month commencing from the date of agreement
9.	Renewal rental	Not applicable	Applicable

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ACCOMMODATION (SR)</b>	<b>DWELLING (ES)</b>
10.	Notice of termination	Not applicable	Applicable
11.	Furnishing and fittings	Fully furnished without any charges	Fully/ partially with charges or no furnishing and fittings
12.	Period of usage	Temporary	Permanent

SR- Standard Rated Supply

ES- Exempt Supply

## AMENDMENTS

No	Date	Heading/ Sub-Heading/ Paragraph	Description
1.	23.01.2018	Paragraph 11(d)	New Update
2.	23.01.2018	Paragraph 17	New Update
3.	23.01.2018	Question 22	New Update
4.	23.01.2018	Question 23	New Update
5.	23.01.2018	Question 24	New Update
6.	23.01.2018	Question 25	New Update
7.	23.01.2018	Question 26	New Update
8.	23.01.2018	Question 27	New Update
9.	23.01.2018	Question 28	New Update
10.	23.01.2018	Question 29	New Update