



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON WEB HOSTING SERVICES

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CONTENTS

INTRODUCTION	1
Overview of Goods and Services Tax	1
GENERAL OPERATIONS OF THE INDUSTRY	1
WEB HOSTING	2
What a web hosting company does?.....	2
Domain name	2
Why web hosting is needed for the internet?	2
Types of web hosting	3
Shared web host and a virtual web host.....	3
Dedicated web hosting	3
Co-location web hosting	3
Web host reseller	4
Managed services	4
GST TREATMENT FOR WEB HOSTING SERVICES	4
Place of supply	4
The criteria of “belonging to Malaysia”	5
The provision of web hosting service to customer.....	6
The service of hosting web pages to an overseas customer.....	6
The usage of Malaysia’s domain name (dot MY) by overseas customer for hosting web pages	7
Co-location web hosting	7
Bandwidth overage.....	8
FREQUENTLY ASKED QUESTIONS	9
INQUIRY	11
FURTHER ASSISTANCE AND INFORMATION ON GST	11

GLOSSARY..... 12

INTRODUCTION

1. This industry guide is prepared to assist you in understanding matters with regards to Goods and Services Tax (GST) treatment on web hosting services.

Overview of Goods and Services Tax

2. 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 chargeable on the 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. Thus, this mechanism would avoid double taxation and only the value added at each stage is taxed.

GENERAL OPERATIONS OF THE INDUSTRY

5. Under GST, all provisions of services whether it originates in the country or imported from other countries are under the scope of GST. These include services which are related to internet.

6. The popularity of the internet has soared over the years. Internet provides a new and speedier way to communicate, disseminate information and conduct business. By means of internet, anybody can place his web site and many users can access the site. In order to have websites available to the general public, a server on which the web sites are stored must be linked to the internet through powerful bandwidth connectivity. There are thousands of web servers in the world,

and there are companies that own them. Such a company is called a web-hosting provider.

WEB HOSTING

7. Web hosting is the act of providing space and bandwidth by a company for the placement of website onto the Internet through a server. Web hosting is, in many ways, similar to renting property. There are plenty of companies that will rent space on their web servers to their customers. The services range from providing free hosting to customers up to selling a server for personal use.

What a web hosting company does?

8. Other than providing web space, a web hosting company may provide a number of other "value-added" services. The services vary from company to company but there are some key services provided by most of them. They are the registration of domain names and provision of email services. Web hosting companies may also provide customer technical support such as script writing, email maintenance or file backup, training and consulting services, 24-hour site monitoring, maintenance and traffic reporting, security management and others.

Domain name

9. Domain names are somewhat similar to the web equivalent of brand names or identities. A domain name is the identity of web site on the internet. It is also used to identify where to route email destined for the domain owner. All websites are reached by a user typing in the domain name to their web browser. To set up a website on web servers, customer will need a domain name. A domain name consists of a sequence of letters or numbers along with a TLD (top level domain) that uniquely identifies the website. A domain name needs to be registered before the website can be published on the internet.

Why web hosting is needed for the internet?

10. If someone wants to establish an internet presence, whether it is in the form of a personal homepage or a full-service e-commerce catalogue, and does not own a server, then he will definitely need a web host. Technically speaking, it is possible

to connect a desktop PC to the internet and have it serve pages. But it is not practical since a home-based internet connection is generally not powerful enough to serve many users at the same time.

Types of web hosting

11. There are different types of web hosting, designed to meet different needs. For example, a multinational high-traffic site set up by a company will need more powerful web hosting package than a simple two-page web site set up by an individual. Thus, depending on the customer requirements of the web site, there are different kinds of web hosting that a customer can choose from the web presence provider (WPP).

Shared web host and a virtual web host

12. Shared web hosting or virtual web hosting are two terms for the same thing. It is the most basic of web hosting types. Shared web hosting or virtual web hosting refers to the process of running multiple "virtual" web servers on a single physical host computer. Using this technique, a single computer acts as many separate systems and this server can host thousands of independent web sites. For identifications of individual website, a name-based web hosting or IP-based web hosting technique can be used. This category of web hosting is an economic solution for smaller and personal web sites.

Dedicated web hosting

13. In dedicated web hosting, a specific server is rented to a single customer for his website; it will not be shared with other clients. The dedicated web hosting offers the customer the option to host more than one website, configure the software to best meet the needs of his site or provide minimum bandwidth allotment. Generally, a contract is negotiated specifying the services the customer will receive and the fees involved.

Co-location web hosting

14. Co-location is the most advanced level of web hosting services. A customer leases space at the co-location facility and places his own server equipment at that

location. The web-hosting provider only houses the web server computer and sells bandwidth to the customer. However, the customer may also have the choice to contract directly with a telecommunication company for outside lines. With co-location web hosting services, the customer has full control of the server in the co-location cage.

Web host reseller

15. A reseller operates components of a web hosting operation using services, infrastructures and equipment provided by another web hosting service. Web hosting reseller's activity is very similar to shared web hosting, as many web sites end up sharing space and bandwidth on the same web server. In other words, a web host reseller sells the space in their accounts to other users.

Managed services

16. Managed services cover a wide spectrum of monitoring, administrative and support services. Such services include network port monitoring, operating system monitoring, internet monitoring, load balancing, redundancy and database administration management. In addition, sophisticated services such as system integration and business process design are also considered as managed services. It is considered a supply of services. A supply of taxable services for a consideration is subject to GST. A GST-registered person has to charge GST accordingly to the customers subject to the place where the recipient of services belongs.

GST TREATMENT FOR WEB HOSTING SERVICES

Place of supply

17. The principal rule with regards to place of supply for services provided by web host is where the supplier belongs. In this context, if the supplier of web host services belongs to Malaysia, such services are subject to GST at a standard rate. On the other hand, if the supplier belongs to another country, the supply of service is an out of scope supply. However, if the recipient of the services provided by an overseas supplier belongs to Malaysia, it is considered to be an imported service

subject to GST at standard rate and the recipient has to account GST as if the supply is made to himself.

The criteria of “belonging to Malaysia”

18. Subject to subsection 14(1) of the GST Act 2014, the supplier of services shall be treated as belonging in Malaysia if-

- (a) he has a business establishment or some other fixed establishment only in Malaysia;
- (b) he has no such establishment in any country but his usual place of residence is in Malaysia; or
- (c) he has such establishments both in Malaysia and elsewhere and the establishment of his which is most directly concerned with the supply is in Malaysia.

19. With regards to the recipient of services, a person belongs in a country other than Malaysia if-

- (a) in the case of supply to individual for the purpose of non-business - he has his usual place of residence outside Malaysia.
- (b) in other the cases -
 - (i) he has a business establishment or some other fixed establishment outside Malaysia;
 - (ii) he has no such establishment in any country but his usual place of residence is outside Malaysia; or
 - (iii) he has such establishments both in Malaysia and elsewhere and the establishment of which the services are most directly used is outside Malaysia.

The provision of web hosting service to customer

20. Supply of web hosting service to a recipient who belongs in Malaysia is standard rated. On the other hand, the supply of web hosting service is zero-rated under item 12, Second Schedule of Goods and Services (Zero-Rated Supply) Order 2014, if the supply is:

- (a) under a contract with a person who belongs outside Malaysia;
- (b) directly benefits a person who belongs outside Malaysia; and
- (c) who is outside Malaysia when the services are performed.

The service of hosting web pages to an overseas customer

21. If the web hosting company merely provides the overseas customers with a *simple* “web-hosting” service, the supply can be zero-rated. In this context, *simple* web-hosting refers to the situation where the customer uses his own web site’s domain name [other than TLD name of Malaysia (.dot MY)] and only uses space in the server provided by the web hosting company. This type of service normally relates to share web host, virtual web host and dedicated web host categories.

Example 1:

A GST registered person provides web hosting services to local and overseas customer. In which country does the recipient belong?

Scenario 1: A Malaysian broadcasting company uses domain name of another country. For example, www.goodstation.tv.

Scenario 2: A Singaporean company which has representative office in Kuala Lumpur uses domain name of Singapore. For example, www.thecompany.net.sg.

Scenario 3: A British company regional office uses domain name of Malaysia. For example, www.uk_asia.com.my

Scenario 4: An American individual uses domain name of Vietnam. For example, www.vince_norman.vn.

- *In scenario 1, the recipient belongs in Malaysia because of the company's physical presence.*
- *In scenario 2, the recipient belongs outside Malaysia. Having a representative office in Malaysia does not substantiate that the service is directly used in Malaysia.*
- *In scenario 3, the recipient belongs in Malaysia. Setting up regional office in Malaysia is definitely for the purpose of conducting business in the country.*
- *In scenario 4, the recipient belongs outside Malaysia. An individual is treated as belonging to a country that he has his usual place of residence.*

The usage of Malaysia's domain name (dot MY) by overseas customer for hosting web pages

22. In order to register Malaysia's domain name (dot MY), the applicant has to comply with the requirement by Malaysian Network Information Centre (MYNIC) for registration of dot MY domain name. Based on the conditions for registration of the dot MY domain name, suffice to say that it is a necessity for the applicant to have his presence in Malaysia in order to qualify. Hence, whether the overseas customer is subject to standard rate or otherwise, it will depend to which country he belongs under the GST Act. His presence in Malaysia either by having an office or via domain name (dot MY) does not an automatic indication that he belongs to Malaysia.

23. The supply of web hosting service is a zero-rated supply only if the supply is made under a contract with a person who belongs outside Malaysia; and directly benefits a person who belongs outside Malaysia and is outside Malaysia when the services are performed.

Co-location web hosting

24. Co-location web hosting services involve the provision of physical space in the co-location facility for the placement of servers. With co-location web hosting

services, the customer maintains full control of the web server whereas the facility operator only provides bandwidth and space to house the server. The service of co-location web hosting to local customer is a standard rated supply.

25. The supply of services relating to co-location of computer server equipment belonging to a person who belongs outside Malaysia is zero-rated under item 19, Second Schedule of the Goods and Services (Zero-Rated Supply) Order 2014, if the supply is:

- (a) under a contract with a person who belongs in a country other than Malaysia; and
- (b) which directly benefits a person who belongs in a country other than Malaysia.

Bandwidth overage

26. Bandwidth overage is where the volume of data that the web site transmits has gone above the allotted amount bandwidth. When this situation arises, some web hosting companies will switch off the web site while others will automatically add on extra bandwidth charges which are priced at a different (usually much higher) rate than the normal monthly hosting charges. These extra charges are not to penalize the customer, instead it is used to cover the cost that the web hosting company has to compensate for the extra bandwidth quota. On that account, bandwidth overage is subject to GST at a standard rate.

FREQUENTLY ASKED QUESTIONS

Q1. A company has two servers located at two different countries. One server is in Malaysia whereas the other is located overseas. The server's contents are identical to each other where it stores web pages for the company's web site. Where is the place of supply of web hosting service?

A1. Busy web sites typically employ two or more web servers to cater traffic. If one server starts to get swamped, requests are forwarded to another server with more capacity. This method is known as load balancing technique. If the location of servers is in more than one nation, then each server is treated independently. Each server will definitely have different web host. Thus, for GST purposes, the rule of where the supplier belongs is applicable in determining the place of supply for web hosting service.

Q2. A web host provides free hosting for its customer. What is the GST treatment?

A2. Provision of services without consideration is not supply and the service is not subject to GST.

Q3. A web host charges certain amount to its client for opting out from its web hosting services before the contract expires. Is this charge subject to GST?

A3. Fines, penalty charges or other sum levied as a consequence for contravention of terms of contract is not classified as consideration for a supply. Thus, the charge is not subject to GST.

Q4. A dedicated web hosting customer uses its server to publish three different web sites for companies within the group. Is the web hosting charges billed to all the companies within the group?

A4. When a web hosting customers publish different web sites for companies within a group, GST is charged to the person that is billed for the dedicated web hosting service.

Q5. If a dedicated web hosting customer uses its server to host web sites, what is the GST treatment?

A5. This type of service is normally provided by a reseller. A reseller will be required to register for GST should the value of his supply exceed the threshold.

Q6. A web hosting company also provides domain name registration services for his customer. What is the GST treatment for the registration services?

A6. When a web hosting company provides domain name registration services, the company is acting as an agent for a principal which is the registrar. With regards to GST treatment on agent, any supply by an agent on behalf of a principal is treated as supply by the principal. On the other hand, if the supply is provided through an agent acting in his own name, the supply is treated as a supply by the agent.

INQUIRY

1. For any inquiries for this guide please contact:

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GST Division

Royal Malaysian Customs Department

Level 3 – 7, Block A, Menara Tulus,

No. 22, Persiaran Perdana, Presint 3,

62100 Putrajaya.

Email: gstsector5@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
- E-mail : ccc@customs.gov.my

GLOSSARY

Cage at a co-location facility - Cages are secure spaces where server and telecommunications equipment can be kept under lock and key.

Internet Protocol (IP) - is the principal communications protocol in the Internet protocol suite for relaying datagrams across network boundaries.

IP-based web hosting - IP-based hosting is a technique that can be used when providing virtual web hosting services. Each web site that is hosted on a single machine is given its own separate public IP address.

Load balancing - is a technique to spread work between many computers, processors, disks or other resources in order to get optimal resource utilization and decrease computing time.

MYNIC - The Malaysian Network Information Centre (MYNIC) is a division of MIMOS Berhad, a mission-oriented research and development (R&D) Government Corporation. MIMOS Berhad plays a pivotal role in developing capabilities in Information and Communication Technology (ICT) in Malaysia.

Name-based web hosting - Name-based web hosting is a technique that can be used when providing virtual web hosting services. Each web site that is hosted on a single machine shares a single public IP address.

TLD (top level domain) - TLD is what appears at the far right end of a domain name. TLDs come either as country codes domain names like **.my**, and **.jp**, or generic top-level domain names like **.com**, **.net**, or **.gov**.

Web presence provider (WPP) - WPPs are Web hosting and Internet services providers who manage the Web server hardware and software required to make Web site available on the Internet.