



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON AVIATION INDUSTRY

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The Guide on Airline Industry as at 31 July 2013 is withdrawn and replaced by the Guide on Aviation Industry revised as at 2 November 2015.

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INTRODUCTION

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

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 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

Overview of aviation industry

5. Aviation service includes the following services:

- (a) the carriage of passengers, mail or cargo for hire or reward by air or by the use of any aircraft between two or more places, of which at least one place is in Malaysia;
- (b) the provision in Malaysia of any of the ground handling services;
- (c) the operation of an aerodrome in Malaysia for the take-off and landing of any aircraft engaged in the carriage of passengers, mail or cargo for hire or reward.

6. Air transport service is defined as a commercial air service that is operated for the purpose of transporting persons, personal belongings, baggage, goods or cargo in an aircraft between two points. Air transport services will need to operate at least one aircraft which it may own, lease or hire for this purpose.

7. On top of that, there are various entities involved in the aviation industry including government body.

GST TREATMENT FOR AVIATION INDUSTRY

Supply of aircrafts

8. According to Malaysian Aviation Commission Act 2015, "aircraft" means a machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the surface of the earth.

9. Under Goods and Services Tax (Zero-Rated Supply) Order 2014, an aircraft includes any aircraft owned or operated by the government of a foreign state which is not used or intended to be used for recreation or pleasure. Thus, for the purpose of Goods and Services Tax (Zero-Rated Supply) Order 2014, the scope of aircraft is only limited to

- (a) aeroplanes (civil or military), and
- (b) helicopters but excludes other aircraft such as:
 - (i) gliders,
 - (ii) simulators,
 - (iii) drone,
 - (iv) hot air balloons, and
 - (v) satellites.

10. The supply of aircrafts is a supply of goods when it involves the sale and acquisition of the aircrafts. The supply of such goods is subject to GST at standard rate.

Chartering services

11. Chartering services in relation to aircraft includes

- (a) the lease of an aircraft, which is a hire with or without pilot or crew
- (b) the hiring of aircraft for
 - (i) freight transport services,
 - (ii) passenger transport services, or
 - (iii) some other services.

12. If only part of the cargo space or seating capacity in any aircraft is being supplied, that is not a supply of the aircraft but a supply of charter for freight or passenger transport.

13. The charter of an aircraft must relate to the whole aircraft. The two parties may also agree that their contract (charter party) provides that the hiring of the aircraft is with or without crew.

14. If charter of an aircraft is without crew, this arrangement is called a dry charter. Depending on the contract, normally the maintenance of the aircraft and the operating costs are borne by the charterer.

15. If charter of an aircraft is with the crew, this arrangement is called a wet charter. Depending on the contract, normally the maintenance and the custody of the aircraft is under the purview by the aircraft owner. However, the operating costs are borne by the charterer.

16. Chartering/hiring of an aircraft to be used in Malaysia is a taxable supply at a standard rate. On the other hand, chartering/hiring of an aircraft to be used outside Malaysia is a zero-rated supply as provided under item 9 of the Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014 provided:

- (a) the aircraft is exported to outside Malaysia; or
- (b) the aircraft is already outside Malaysia when the service is provided.

Example 1:

When an aircraft is leased from a registered person, the lease is subject to GST at standard rate.

Example 2:

On the other hand, if the aircraft is leased from a foreign party or company in a designated area (DA), GST will then be charged on the importation of the leased aircraft into Malaysia at the time the aircraft is imported.

Example 3:

Syarikat Megah Sdn Bhd charters a private jet with pilot and crew to carry their Board of Directors for a meeting in Pulau Langkawi. The charter service is subject to GST at a standard rate.

Aircraft handling services

17. Handling services supplied in relation to the aircraft in the airport under a business capacity is zero-rated under subitem 1(a), Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.
18. The airport area is the aggregate of the lands comprised within an aerodrome including buildings, aircraft hangars, storage, facilities, roads and car parks used or intended to be used in whole or in part for the purposes of or in connection with the operation of such aerodrome.
19. Aircraft handling services include:
 - (a) landing,
 - (b) parking,
 - (c) hangar services,
 - (d) apron services, and
 - (e) security and fire services.

Air navigation services for aircraft

20. Air navigation services include the provision of aeronautical information, air traffic control and flight information in relation to the movement of aircrafts to, from and within Malaysia.

21. Supply of air navigation services is provided by the Department of Civil Aviation (DCA) while the Royal Malaysian Air Force (RMAF) performs the air navigation services for military aircrafts at the military bases.

22. Services performed by government agencies such as DCA and RMAF to any aircraft, whether local or foreign, are not within the scope of GST, and therefore GST is not chargeable.

Salvage services

23. Any services rendered in assisting or in saving life from, in saving the cargo or an aircraft shall be deemed to be salvage services.

24. Salvage services supplied to the aircraft for the purpose of business is a zero-rated supply under subitem 1(c), Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.

Repair and maintenance of aircrafts and installation of parts

25. Airworthiness is the most important thing in the aviation industry to make sure the aircraft is suitability for safe flight. An airworthiness certificate is issued when the required maintenance actions, such as repairing, maintenance services and installation of parts has been carried out. Repair and maintenance services includes :

- (a) restoring the aircraft or aircraft parts to a serviceable condition,
- (b) modification, overhaul, improvement and upgrading works to improve the reliability of the aircraft or aircraft parts but does not alter the nature and form of the original aircraft or aircraft parts,
- (c) evaluation and recertification to assess whether the aircraft or aircraft parts are repairable or airworthy, and

(d) testing of parts and components, cleaning and fumigation.

26. The supply of repair and maintenance services to the aircrafts is a zero-rated supply under subitem 1(d), Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014, provided that the services is supplied by a person who holds a valid certificate or has an approval from the Department of Civil Aviation (DCA) to do the repair, maintenance and installation of an aircraft including repair and maintenance of aircraft components.

27. The supply of aircraft parts including installation services supplied thereof is a zero-rated supply subject to the following conditions:

(a) the parts are installed or incorporated in the propulsion, navigation or communications systems, or the general structure of the aircraft (they must be unique and have no alternative uses apart from being used on an aircraft), and

(b) the aircraft parts must be new or serviceable to be airworthy.

Aircraft management services

28. Aircraft management services are normally part of a management agreement with an aircraft owner or aircraft operator. Services of an aircraft manager usually include the supervision of the maintenance, survey and repair of an aircraft, arranging of insurance in connection with an aircraft, handling insurance claims, engagement and provision of crews, among others.

29. Aircraft management services is a zero-rated supply under item 2, Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014, provided that the services are rendered in relation to the operation of an aircraft under a business capacity and not under a private capacity.

Brokerage services

30. Brokerage and agency services supplied in relation to an aircraft are zero-rated supplies under subitem 1(f), Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014. The making of arrangements for the supply of space in an aircraft is one of the example of brokerage services.

Other related services to aircraft

31. There are other related services provided to an aircraft such as:

- (a) registration services provided by DCA,
- (b) airworthiness certification provided by DCA, and
- (c) surveying and classification services.

32. Registration services and airworthiness certification provided by DCA to aircrafts is not within of the scope of GST and therefore such supplies are not subject to GST.

33. Classification services in relation to registration purposes and surveying services in relation to the issuance of certificate of airworthiness are zero-rated supplies under subitem 1(e), Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014. However, if these services are provided by DCA, it is an out of the scope supply.

Cargo handling

34. Cargo handling includes the loading, unloading, handling and storage of aircraft cargo. Such services are normally provided by a forwarding agent and are subject to GST at standard rate. However, if these services are provided by an airport operator or any person authorized by the Minister responsible for transport, in an airport is a zero-rated supply under subitem 3(1), Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.

35. Storage services of aircraft cargo in an airport is zero rated when supplied in connection with a specific movement of cargo that have been or are to be carried in an aircraft, for instance overnight storage of cargo before being loaded or after being unloaded.

36. Examples of cargo handling services are:

- (a) stevedoring and portorage;
- (b) loading, unloading, reloading, stowing, securing and shifting cargo, the use of cranes and weighing machines;

- (c) sorting, opening for inspection, repairing and making good, weighing and tarring, taping and sealing, erasing and re-marking, labelling and renumbering, tallying, checking, sampling, measuring or gauging of goods;
- (d) survey of cargo (including damaged cargo);
- (e) cargo security services;
- (f) presenting goods for customs declaration;
- (g) preparing or amending customs declaration;
- (h) preparing or amending bills of lading, airway bills, and certificates of shipment.

37. Cargo handling services is subject to GST at standard rate if it is supplied in relation to domestic movement of cargo.

38. On the other hand, cargo handling services supplied in relation to international movement of cargo (import and export cargo including transshipment) is a zero-rated supply under item 5, Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014, if the services is provided by the same supplier providing domestic and international transportation.

Example 4:

The loading, unloading and handling of goods for shipment from KLIA to Kota Kinabalu by freight forwarders is subject to GST standard rate. The freight forwarders has to charge GST at standard rate to the owner or consignor of the goods.

Example 5:

MASCargo is contracted by a local manufacturer to transport its goods from its factory in Shah Alam to London via KLIA. The company provides all the necessary cargo handling services for both the domestic as well as the international legs of the shipment of the

goods. Such services supplied by the same supplier qualify for zero-rated.

Other Services

39. There are other services which are related to the aviation industry such as:

- (a) supply of aircraft stores,
- (b) catering services,
- (c) rental of commercial lots,
- (d) aviation training services,
- (e) airport security,
- (f) airport parking, and
- (g) advertisements

40. The supply of aircraft stores or goods for sale by retail to passengers on international flights are subject to GST at a zero-rated under item 4, First Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.

41. Goods which are classified as stores are as follows:

- (a) consumable goods, for example:
 - (i) In-flight catering (food and drink including alcoholic drinks such as spirits, wine and beer),
 - (ii) reasonable quantities of controlled drugs as medical supplies for use on a flight, and
 - (iii) fuel, lubricants and cleaning materials.
- (b) non-consumable goods, for example:
 - (i) cabin supplies, and

- (ii) parts and equipment for fitting into the aircraft (including equipment such as video player, solely for the benefit of passengers on board an aircraft)

42. In-flight catering services provided for domestic flights is subject to GST at standard rated. However in-flight catering services provided for international flights is subject to GST at a zero rate under item 8, Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.

43. The cabin handling services (transfer, loading and unloading of meals, dry-stores and bonded stores as well as cleaning services) made in connection with the provision of in-flight catering provided by the caterer is subject to GST at a standard rate.

44. Rental charges of commercial lots in airport terminal building are subject to GST at a standard rate.

Example 6:

XYZ Telecommunications has rented a commercial lot in the airport terminal building to market its products. The terminal operator has to charge GST at a standard rate on the rental charges.

45. Aviation training services provided by DCA is not within the scope of GST, and therefore GST is not chargeable. However, if the training services is provided by parties other than government bodies is subject to GST at a standard rate.

46. Provision of security services at an airport is subject to GST at a standard rate.

47. Parking charges for cars, taxis and busses around the airport area are subject to GST at a standard rate.

48. Provision of advertising space at an airport terminal by an airport operator is subject to GST at a standard rate.

49. The GST treatment for fuel supplied for domestic flights is standard rated. If the fuel is supplied for international flights, it is a zero-rated supply under item 4, First Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.

FREQUENTLY ASKED QUESTIONS

Q1: What is the GST treatment for the sales of air containers?

A1: Sales of air containers are subject to GST at a standard rate.

Q2: What is the GST implication if the air containers are leased?

A2: The supply of air containers by way of leased, is zero-rated under item 24, Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014 provided that the containers must:

- (a) be used for transporting goods; and
- (b) conform to the standards for Aircraft Unit Load Devices defined by the International Air Transportation Association or any other equivalent organization.

Q3: Does repair and maintenance service of air containers qualify for zero rated treatment?

A3: No. It is subject to GST at a standard rate.

Q4: What is the GST treatment for Passenger Service Charge (airport tax)?

A4: Passenger service charge imposed by an airport operator is subject to GST at a standard rate irrespective of whether it is for domestic or international travels.

Q5: Does cargo handling services include clearance of goods from customs control?

A5: Yes. The forwarding agent will charge owners of the goods GST at a standard rate for services supplied in clearing the goods from customs control.

Q6: What if the clearance of goods from customs control is done by an airport operator?

A6: If the airport operator clears goods on behalf of the owner/consignee of goods, the handling service is a zero-rated supply.

Q7: Fumigation is a process which is required to be done on most cargos before exportation or after importation. What is the GST treatment for fumigation?

A7: The supply of fumigation services is subject to a zero rate if the service provided by airport operator or by the same supplier under item 5, Second Schedule, Goods and Services Tax (Zero-Rated Supply) Order 2014.

Q8: What is the GST treatment for aviation training services provided by entities other than DCA?

A8: Aviation training services provided by entities other than DCA is subject to GST at a standard rate.

Q9: What is the GST treatment for excess baggage charges by airline operator?

A9: GST treatment on excess baggage will follow the GST treatment of the journey.

Q10: Haneem wants to change her flight ticket. Is there any GST imposed by the airline operator?

A10: The airline operator will charge administrative charges for changing of the airfare ticket and it is subject to GST at a standard rate. The difference of the domestic airfare ticket is subject to GST at standard rate. However, it is zero-rated if it is an international airfare ticket.

Q11: What is the GST treatment for penalty charged by airline operator?

A11: If the penalty is a form of compensation and no service is provided then it is not a supply and not subject to GST. In the case that the penalty is charged as administrative fee, it is subject to GST at standard rate. For example:

- ticket reissue penalty – administrative fee (subject to GST at standard rate)
- cancellation penalty – compensation (not subject to GST)
- refund penalty – compensation (not subject to GST)

- no show penalty – compensation (not subject to GST)
- reroute penalty – administrative fee (subject to GST at standard rate)

Q12: Airline operator provides free meals to passengers due to flight delay or transiting flight more than 4 hours, is the supply of meals to the passengers subject to GST?

A12: The supply of free meal vouchers to the passengers is not subject to GST. However, if the voucher is redeemed at a restaurant run by a GST registered person, the restaurant needs to charge GST at standard rate upon redemption of the voucher.

INQUIRY

1. For any inquiries for this guide please contact :

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Royal Malaysian Customs Department
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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

Ground Handling Services includes

- ground administration and supervision
- passenger handling
- freight and mail handling
- aircraft services
- aircraft maintenance
- flight operations and crew administration
- surface transport
- catering services
- baggage handling
- ramp handling
- fuel and oil handling