



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON THE UTILITY INDUSTRY (ELECTRICITY)

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INTRODUCTION

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

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 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.

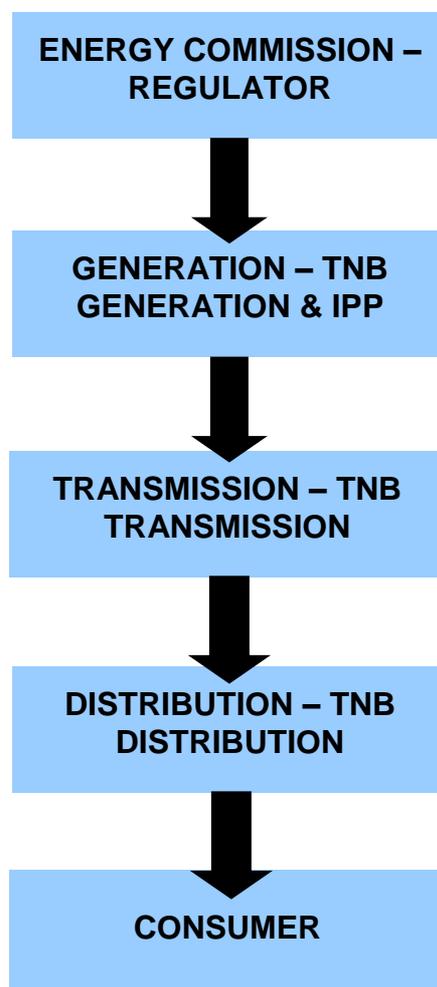
GENERAL OPERATIONS OF UTILITY INDUSTRY (ELECTRICITY)

5. The supply of electricity tariffs is regulated under the Electricity Supply Act 1990 for Peninsular Malaysia by the Energy Commission of Malaysia, Sarawak Electricity Supply Ordinance 1982 for Sarawak, Electricity Supply (Successor Company) Act 1990 and Lembaga Letrik Sabah Act 1983 for Sabah.

6. The main activities in the electricity industry are generation, transmission and distribution of electricity. Basically, the supply chain of electricity involves the three processes before it is finally supplied to the consumers. In Peninsular Malaysia the parties involved are Tenaga Nasional Berhad (TNB) and the Independent Power Producers (IPPs).

7. The IPPs in Peninsular Malaysia are such as Genting Sanyen Power Sdn Bhd, Powertek Sdn Bhd and Port Dickson Sdn Bhd, are licensed by the Government to generate electricity. The electricity generated is subsequently supplied to Tenaga Nasional Transmission Division who is entrusted to maintain the National Grid System before it is being supplied to TNB Distribution who will finally distribute electricity to the domestic, commercial and industrial consumers. The supplier of electricity in Sabah is SESB while in Sarawak is SESCo.

8. The diagram below shows the supply chain of electricity in Peninsular Malaysia:



GST TREATMENT ON THE SUPPLY OF ELECTRICITY

9. The supply of electricity is under the purview of the Ministry of Energy, Green Technology and Water.

10. Under Para 4, First Schedule, GST Act 2014, electric is defined as goods and the supply of electric is a taxable supply which subject to GST at standard rate. All intermediaries in the supply chain are eligible to claim input tax incurred to the businesses.

11. Under Item 7, First Schedule, GST (Zero-Rated Supply) Order 2014, the supply of the first 300 units of electricity to domestic consumers irrespective of minimum or non-usage for a minimum period of twenty-eight days per billing cycle is subject to GST at zero rate.

Example 1: (Billing period exceeds 28 days)

En Abu's electricity consumption of electricity for 17 April 2015 to 16 May 2015 bill is 350KWH subjects to RM0.218 tariff. What is the GST chargeable to En Abu?

<i>Electricity consumed</i>	=	350KWH
<i>Value subject to zero rated</i>	=	RM65.40 (300 x RM0.218)
<i>Value subject to 6%</i>	=	RM10.90 (50 x RM0.218)
<i>Amount GST due</i>	=	RM0.65 (RM10.90 x 6%)
<i>Amount of En Abu's bill</i>	=	RM76.95 (65.40+10.90 +0.65)

Example 2: (Billing period less than 28 days)

Pn Amura's electricity consumption of electricity for 23 Jun 2015 to 14 July 2015 bill is 350KWH subjects to RM0.218 tariff. What is the GST chargeable to Pn Amura?

<i>Electricity consumed</i>	=	350KWH
<i>Value subject to zero rated</i>	=	NOT QUALIFIED
<i>Value subject to 6%</i>	=	RM76.30 (350 x RM0.218)
<i>Amount GST due</i>	=	RM4.58 (RM76.30 x 6%)
<i>Amount of Pn Amura's bill</i>	=	RM80.88 (76.30+4.58)

12. Domestic user refers to user of residential unit. Commercial user refers to shop house, factory, government offices and etc (religious building and charitable entity) is subject to standard rate.

13. The supply of electricity to Federal or State Government departments are given relief under Item 3, First Schedule, GST (Relief) Order 2014. *(For more information, please refer to Relief Guide on Item 3, First Schedule, GST (Relief) Order 2014).*

14. The time of supply for goods is when the goods are removed, or at the time when the goods are made available to the person to whom the goods are supplied if the goods are not removed. The time of supply for electricity is when the payment received or invoice issued, whichever is earlier. *(For further details, please refer to the GST Guide on Supply).*

15. Deposit received in the form of security is not treated as part of consideration for the supply and it is not subject to GST. If the supplier applies the deposit as part of the consideration for the supply, the deposit is subject to GST.

16. A taxable person is entitled to a relief for bad debt on the whole or any part of the tax paid by him in respect of a taxable supply if;

- a. the person has not received any payment in respect of the taxable supply from the debtor six months from the date of supply or the debtor has become insolvent before the period of six months has elapsed;
- b. sufficient efforts have been made by him to recover the debt; and
- c. the bad debt relief is only allowable if the taxable supply involve both GST registered supplier and receiver

17. The time of supply refers to the date of invoice issued. A person is entitled to claim bad debt relief even though the bad debt is not written off from his books. It is sufficient if he has some documentary proof to show that some efforts had been made to recover the debt. Example of such efforts includes a reminder letter or notice to the customer. *(For more information, please refer to GST Guide on Tax Invoice and Record Keeping).* Adjustment due to bad debt relief is done in the taxable period in which the claim is made. *(For more information, please refer to the General Guide).*

18. Commission received on payment collection by Pos Malaysia Bhd on behalf of electric supplier is subject to GST. Electric supplier can claim the input tax incurred on taxable supply made by Pos Malaysia Bhd. (*For more information, please refer to GST Guide on Agent*).

19. Wayleave compensation paid to a landowner for the purpose of installing a power line across the private land is a taxable supply and subject to GST. Wayleave compensation is a right to use which is considered as supply of services. The land owner if he is a GST registered person, he has to issue a tax invoice to the electric supplier and the electric supplier is entitled to claim the input tax incurred.

20. Payment of liquidated damages caused by breach of contract for non-performance/ non-compliance is not subject to GST.

21. Late payment penalty for overdue account is not subject to GST.

22. The supply of electricity from Malaysia to customers in DA is zero-rated even though the electricity bills are issued from an office situated in DA. This is based on the premise that the goods (electricity) is removed from a place in Malaysia, i.e. from the Grid System in Malaysia.

23. The supply of electricity from TNB's generator and Mini Hydro Station located in Tioman is not subject to GST. This is based on the premise that the goods (electricity) is removed from a place in the DA.

24. The supply of services provided by the office/station situated in the DA to customers in DA is considered as a supply made in Malaysia since the supplier (e.g. TNB Bhd.) belongs to Malaysia and GST is chargeable on the output supply. This is based on the principle of where the supplier belong, i.e. the premise of the principal place of business, which is in Malaysia, the services (request for meter testing) even though is rendered in the DA is subject to GST.

FREQUENTLY ASKED QUESTIONS

Q1. Can the electricity bills be treated as tax invoices?

A1. Yes. The bills can be treated as tax invoices if all the information that is required of the tax invoice is provided in the electricity bill.

Q2. TGH Power System Manufacturer Bhd. (TGH) is supplying electrical components as well as providing consultancy for construction and maintenance of a power plant to Independent Power Producer (IPP). Does TGH has to charge GST to IPP?

A2. Yes, supply of goods and services made by TGH to IPP is a taxable supply and subject to GST at standard rate if TGH is a registered person under GST.

Q3. ABC Power Provider Bhd. (ABCPP) lend its electronic components to HAD Power Provider Bhd. (HPP). Does ABCPP have to charge and account GST on the loaned goods?

A3. ABCPP must account for goods lend to HPP whether or not for a consideration.

Q4. IPP A lends its electric to IPP B. Does IPP A has to charge and account GST on the loaned goods?

A4. Electric lend by IPP A and subsequently replace by identical but not same goods (electric) by IPP B, such supply is subject to GST.

Q5. Pemaju Untung Sdn. Bhd. (PUS) acquires supply of electricity from Tenaga National Bhd. (TNB) as a *single tenant premise* to be supplied to 10 units of newly built residential terrace houses at Taman Untung. Is the supply to be zero rated for the first 300 units under GST (Zero Rated Supply) Order? Can it be devided by 10?

A5. The supply of electricity under the name of PUS is considered as supply made for commercial purpose. However, if PUS appllies for connection as multi tenanted premise, separate meters and individual bills for each resident of the 10 units terrace houses are installed, the supply for the first 300 units will be entitled for zero rating.

Q6. Besides the prevailing tariffs, commercial customers are imposed a maximum demand charge normally for usage exceeds 6.6kv. Is the extra charge subject to GST?

A6. Yes, maximum demand charge is subject to GST at standard-rate since it is an additional charge on the supply of electricity to commercial customers.

Q7. Besides supplying electricity, a power company also performs services. Are the following services subject to GST?

- **New connection or connection for increase of supply;**
- **Disconnection and reconnection of supply.**
- **Installation of new meters.**
- **Installation of additional meters and related metering facilities.**
- **Replacement of mechanical meters to electronic meters or reprogramming of electronic meters or repair of meters.**
- **Services in connection with test carried out to meters, upon request from the customers.**
- **Providing street lighting to the customer.**
- **Providing neon, floodlighting, emergency or decorative lighting.**
- **Providing electricity for mining works, etc.**

A7. Services as above are considered as supplies for GST purposes and will be subjected to GST at standard rate.

Q8. ASEAN member countries exchange electricity to resolve problems of power shortage and enhance cooperation and development among ASEAN countries. What is the GST treatment on the exchange of electricity?

A8. Treatment of GST on electricity exchange program between ASEAN countries is considered as a supply which is not within the ambit of the GST Act 2014.

Q9. What is the GST treatment on compensation paid to consumer in the case of major interruption of supply, such as power outage?

A9. Compensation payment in the form of money is not a supply and it is not subject to GST.

Q10. Power factor surcharge is the ratio between real power (i.e. output) and apparent power (i.e. input). It provides a reading of overall electricity use efficiency. Improvement in the power factor would increase the system reliability. If the power factor in any month falls short of the minimum

power factor set (currently at 0.90 for high voltage customers and 0.85 for other customers), the loss in providing the supply by TNB is very high. To compensate this loss by the customer.

Connected Load Charge (CLC) “When a consumer initially requests for a supply at a high maximum demand. TNB has to install adequate electrical infrastructure to ensure that electricity can be provided to that consumer at that maximum demand. CLC is the penalty charged by TNB when there is a significant load burden reduction from the original burden declared by a consumer. The charge was introduced to avoid cases of under-utilization of load burden where consumers initially requested for high maximum demand”

Are these charges subject to GST?

A10. Compensation given and penalty charged to the customer are not subject to GST.

Q11. Backbilling is done in situation where the amount billed was lesser than the actual amount consumed for a particular period. Adjustment is made through the issuance of Backbilling. Does the adjustment subject to GST?

A11. Yes, the issuance of backbilling for the purpose of adjustment is subject to GST at standard rate and must be added to the output tax during the taxable period in which the backbilling is issued. *(For more information, please refer to the General Guide).*

Q12. TNB and a developer share the cost of the capital asset on a 50-50 basis. The land for distribution substation is to be provided by the developer. It will be leased or purchased by TNB after completion. If TNB defaults on the agreement, and TNB was not able to provide the infrastructure, there will be a compensation paid by TNB to the developer. What is the GST treatment for such activity?

A12. When the developer pays upfront 50% of the total cost, it is not making any payment in consideration because the infrastructure belongs to TNB. TNB as a

registered person needs to pay GST incurred on the acquisition of goods and services for the construction of the infrastructure.

TNB is eligible to claim input tax credit on all taxable supply of goods including capital goods acquired in the course or furtherance of business. Input tax can be claimed in full if TNB is making wholly taxable supplies.

For GST purposes, if a taxable person is a mixed supplier, he can only claim the input tax which is attributable to his taxable supplies. In this situation, Capital Goods Adjustment (CGA) must be used to make adjustments to his initial input tax claim on a capital item when the capital item is used for making both taxable and exempt supplies. Please refer to Guide on Capital Goods Adjustment for further details.

In the case of TNB making a compensation to the developer is not a supply and therefore is not subject to GST.

Q13. Can the provision of accommodation (quarters) to workers with nominal payment be considered as incidental supply, thus will not put the electric supplier under a mixed supplier situation?

A13. The supply of accommodation (quarters) to workers is an exempt supply. since the payment is nominal and exempt supply is negligible, de minimis rule can be used to claim input tax credit as stipulated in Regulation 37, GST Regulations 2014. Electric supplier can claim the full amount of the residual input tax incurred if the amount of exempt supply fulfilled the de minimis rule.

Q14. It is common for a power provider to receive excess payment from the customers. Can the excess payment received subject to GST?

A14. By virtue of Regulation 15, GST Regulations 2014, tax on supply chargeable only to the extent covered by the invoice. Any excess payment in relation to the invoice issued is not a consideration for the supply and not subject to GST.

INQUIRY

1. For any inquiries for this guide please contact :
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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