



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON ADVERTISING SERVICES

TABLE OF CONTENTS

INTRODUCTION	1
Overview of Goods and Services Tax (GST)	1
ADVERTISING SERVICES	1
Media planning.....	9
Creative and Production Sales.....	10
FREQUENTLY ASKED QUESTIONS.....	11
Registration.....	11
Taxable Supplies and Accounting For GST	12
Time of supplies.....	13
Place of supply.....	13
Advertising to Charities	17
Sponsorship	18
Licenses.....	19
Complimentary Copies.....	19
FEEDBACK OR COMMENTS	20

INTRODUCTION

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

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.

ADVERTISING SERVICES

5. This Guide provides guidance on the GST treatment on advertising services provided by media owners, production houses and advertising agencies including media agencies, creative agencies and full range advertising agencies. Advertising services are provided in many forms. The common forms of advertising are media sales, media planning, creative and production sales and brand PR and Event Organizing.

6. Item 20 of GST (Zero-Rated Supply) Order 2014 provides that:

“Services comprising either one or both of the following:

- a) The supply of a right to promulgate an advertisement by means of any medium of communication; and***
- b) The promulgation of an advertisement by means of any medium of communication,***

where the Director General is satisfied that the advertisement is intended to be substantially promulgated outside Malaysia, but shall not include any services comprising only the promulgation of an advertisement by means of the transmission, remission or reception of signs, signals, writing, images, sounds or information of any kind by wire cable, radio, optical or other electromagnetic systems whether or not such signs, signals, writing, images, sounds or information have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception.

7. Hence, any supply of advertising service made in Malaysia if the supplier belongs in Malaysia (i.e. has a business or fixed establishment in Malaysia) will attract GST unless it qualifies for zero-rating as in Item 20 of the GST Act. Such Order states that any supply of a right to promulgate or promulgate an advertisement by means of any medium of communication can be zero rated if the following two conditions are satisfied:

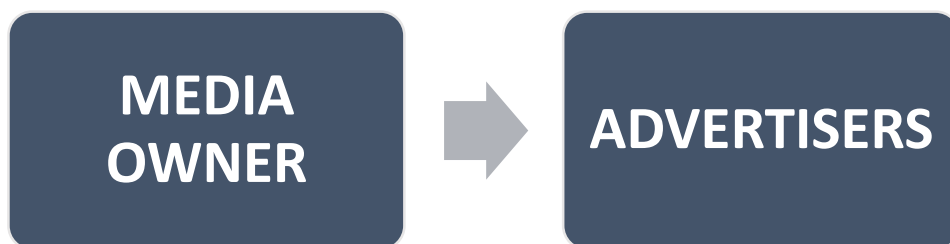
- (i) The advertisement is intended to be substantially promulgated outside Malaysia.
- (ii) Such advertisement services shall excludes any services comprising only the promulgation of an advertisement by means of the transmission, remission or reception of signs, signals, writing, images, sounds or information of any kind by wire cable, radio, optical or other electromagnetic systems.

8. Media owners refer to owners of the respective media and include the following types of advertising:
 - (a) Television
 - (b) Newspaper
 - (c) Magazine
 - (d) Radio
 - (e) Outdoor advertising (e.g. billboards)
 - (f) Online advertising (e.g. phone and internet)

7. The services provided by the media owner includes:
 - (a) The advertising space for hardcopy print and outdoor advertisements in newspapers and magazines or on billboards;
 - (b) The advertising time for broadcasting in television and radio; and
 - (c) The advertising space for online advertising in phone and internet.

8. There are two (2) common scenarios of the supply chain for media sales.
 - (i) the sale from media owner directly to the advertisers as illustrated below:

Figure-1: Illustration of Sale from Media Owner Direct To Advertiser



- (ii) The sale from media owner to intermediary supply such as media agencies, creative advertising agencies or full range advertising agencies who will make an onward supply to the advertisers. Hence, an advertising agency may acts on behalf of his client as a principal for such transaction on media sales. **(Refer to FIGURE 2)**

Figure-2: Illustration of Sale from Media Agencies as Principle for Advertiser

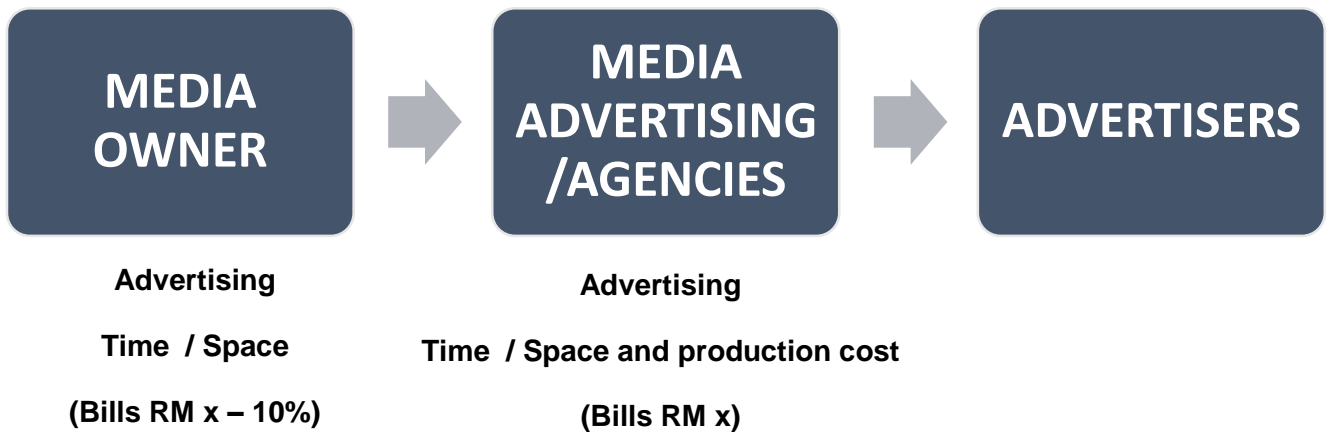


9. In general, the value of supply of media sales is the amount billed to their client. Normally, the media owner will bill the advertiser the rates. The value of supply for media sales made by media owner is the gross selling price he charged to the advertiser including all costs incurred in typesetting, formatting, printing and necessary technology to have the advertisement fitted into time and space supplied, and transmission by any medium of communication to the reader or viewers.
10. Business practice allows the media owner to give a discount from the gross selling price when the media owner makes media sales to a media/advertiser agency. Since that, the value of supply for the media sales is the discounted price payable by the agency. The media/advertising agency is making another supply of media sales when such agency bills the advertiser to recover the cost of such media sales and the value of this supply is the gross selling price.
11. There are two (2) common scenarios for media sales supply chain:-
- (i) Advertising agency acting as a principal
 - (ii) Adverting agency acting as an agent

The illustration below shows the different effect when the advertising agency acts as a principal or as an agent:

(a) Advertising agency acting as principal

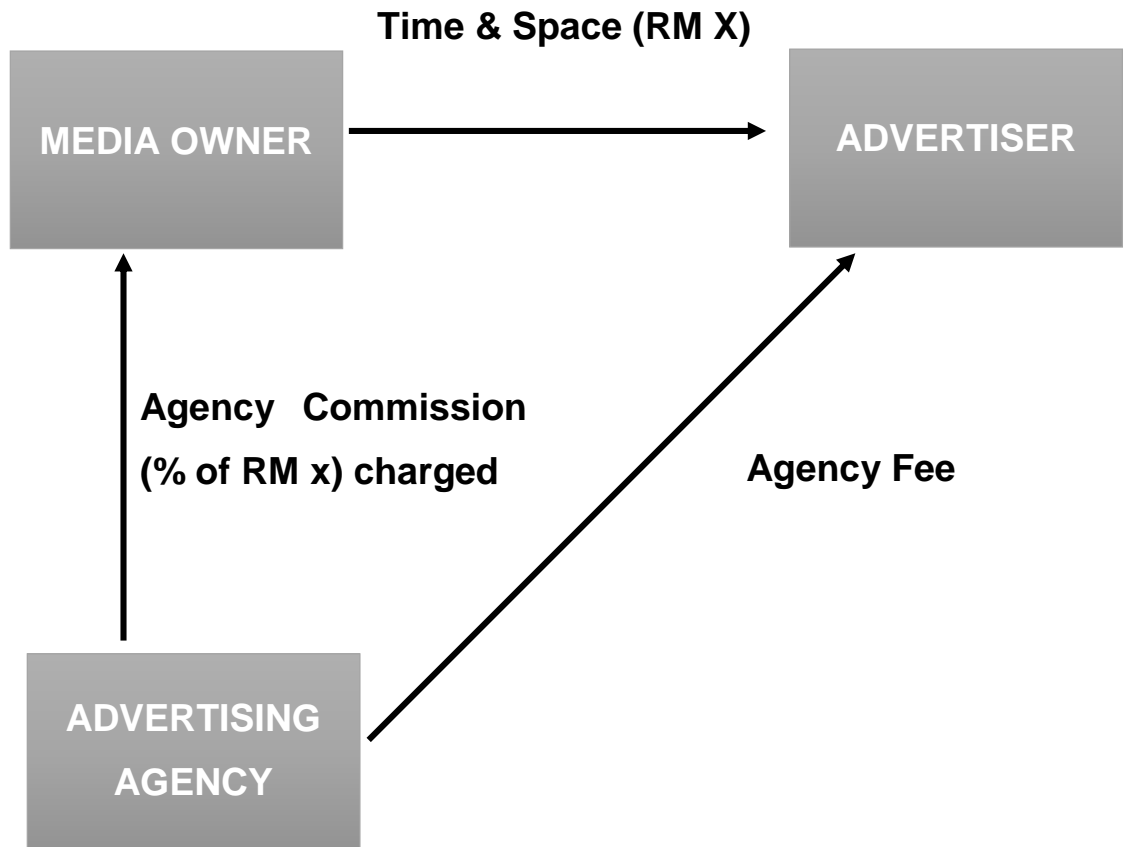
Figure-3: Illustration Of Transaction Between Media Owner and Advertising agency acting as principal



There are different treatments when the advertisers engage advertising agency to act on behalf of him (principal) compare as an agent. If the advertising agency acts as a principal, the media owner will bill to the advertising agency the supply of advertising time and space (RM x - 10%) and the advertising agency will claim the GST charged as input tax credit. The agency will bill the advertiser RM x.

- (b) Advertising agency acting as an agent.

Figure-4: Illustration Of Transaction between Media Owner and Advertising agency acting as Agent



However, if the advertising agency acts as an agent, the media owner will bill the advertiser directly for supply of advertising time and space equivalent to gross media selling price, RM X . The advertising agency will collect agency fee from the media owner for providing agency services. The advertiser may claim input taxes charged by both the agency and media owner.

12. If the advertising services are done by local media owner or local advertising agencies, the supply of services shall be treated as made in Malaysia. If the supplier belongs in Malaysia that is, he has a business establishment in Malaysia or he is a

resident in Malaysia. The person or company providing the advertising services is required to be registered if his sales turnover exceeds the prescribe threshold.

13. Normally a media owner will bill the advertiser at a gross selling price if the advertiser advertises their product directly to media owner without appointing an advertising agency. However, a discounted price will be given by the media owner to advertising agency if the advertising agency be appointed by the advertiser to act on his behalf. The structure of billing is illustrated in the diagram below:



10% = Discount Price

RM x = Gross Selling Price

For the media owner, GST will be charged on the discounted price. If the bill after discount is RM90,000 GST to be charged on that amount. In this case, the advertising agency will charge GST based on the gross selling price of RM100,000.

14. In general, if the advertising services are done by local media owner or local advertising agencies, the supply of services shall be treated as made in Malaysia. If the supplier of the services belongs in Malaysia that is, he has a business establishment in Malaysia or his place of residence is in Malaysia, such provider of the advertising service is required to be registered if his sales turnover exceeds the prescribe threshold.

15. Hence, determination whether the supply of media sales is the according to the place of circulation. This treatment may cover all suppliers who bill for media sales.

Example-1

Property developer who buy advertising media space or airtime from media owner / media agency and make onward supplies of those advertising media sales to their customers.

16. The place of circulation will treat whether such supply of media sales is treated as standard rate or zero rate. The GST treatment on media sales is as follows:

- (a) If the circulation of the media advertisement is in Malaysia, such supply is a standard rated supply
- (b) If the circulation of the media sales is outside Malaysia, the supply is a zero rated supply.

17. The supplier must charge and account for GST on the media sales unless such supply is a zero-rated supply under item 20 of the GST (Zero-Rated Supply) Order 2014. The proxy will determine whether to standard-rate or zero-rate the supply, the supplier must charge and account for GST if the advertisement is circulated in Malaysia regardless of whether the supply is made to a local or overseas customer. The advertisement is considered to be circulated in Malaysia if:

- (a) The advertisement is placed on a hardcopy print (e.g. newspapers, magazines) made available in Malaysia; or
- (b) The advertisement is placed on local television and radio channels aired mainly in Malaysia.

18. For media sales advertising through mobile phones (e.g. in the form of SMS or SMS-enabled banner), the place of subscription of the telephone line is used as a proxy to determine the place of circulation. If an advertisement is sent to subscribers of local telephone lines, the circulation is in Malaysia. The media sales have to be standard-rated. Item 20 of GST (Zero-Rated Supply) Order 2014 have excludes such supply.

19. Media sales for advertisement circulated outside Malaysia by means of hardcopy printed such as magazines, and digital mode via TV, radio, internet and mobile phone can be zero-rated under Item 20 of GST (Zero-Rated Supply) Order 2014 regardless of whether the services are provided to a local or overseas customer if fulfilled the conditions under Item 20 of the GST (Zero-Rated Supply) Order 2014.

Media planning

20. Media planning is generally the task of a media agency and entails finding media platforms for a client's brand or product to use. The job of media planning is to determine the best combination of media to achieve the marketing campaign objectives. Media planning is strictly a professional and advisory service where media planning is the process of using this information to identify the most appropriate platforms and most appropriate types of messages that we can use to communicate our clients message. In today's complex media environment, media planning means considering options such as sponsorship, social search or even encouraging brands to create their own content. Media planning's major steps includes:

- a) Targeting,
- b) Environmental scan,
- c) Understanding the audience,
- d) Determination of content,
- e) Control

The supplier of media planning bills its client for this media planning service based on the time cost or on a retainer fee basis. For GST purposes, media planning bears no direct nexus with the place of media circulation of the advertisement and the subject matter of the advertisement. Therefore, zero-rating concept based on the rule of media circulation for media sales advertising cannot be applied for media planning services.

21. Hence, if the supply of media planning services is made to a Malaysia client, the supplier has to charge and account for GST on such supply. If the supplier is engaged by a Malaysia client to provide media planning for its group of companies

that are located outside Malaysia, or located both inside and outside Malaysia, the supplier has to similarly standard rate its supply.

22. The supplier may be engaged by an overseas advertising agency to perform media planning services for the latter's advertiser client. The supplier can zero-rate its supply because it is dealing directly with the overseas advertising agency and bill him for its services. The supplier can therefore zero-rate its supply if the client is an overseas advertiser who will directly benefit from its services. However, if the contract specifies the advertiser to be the recipient of services and/or requires the supplier to deal directly with the advertiser, then the advertiser benefits directly from the supplier's services. The supplier has to standard rate its supply made to the overseas advertising agency if the advertiser is a local person as the services benefit a local person. If the advertiser is an overseas person, the supplier can zero rate its supply.

Creative and Production Sales

23. Creative and Production sale is a sale of creative ideas and advertising artworks provided by the advertising agencies. The creative and production sale (concept development, art direction, design, copywriting, etc.) is generally charged based on certain rates and such service is fully performed when the idea is conceptualized, artworks created and accepted. The creative and production stage results in the advertisement concepts and artworks being developed but does not result in the actual delivery of the advertisement to the public. For the GST purposes, the supply of creative and production sales is a supply of service with no direct connection with the subject matter of the advertisement or with the media or circulation of the advertisement. The advertiser usually contracts for this service, uses the artworks and controls the usage. Thus, the advertiser is the person who directly benefits from the supply. Hence, if the supply of creative and production sales is made to a local advertiser, the full value of this supply which includes billing for production costs incurred in or outside Malaysia, third party costs and the supplier's own fees, has to be standard-rated. However, if the supply is made to an overseas advertiser, it can qualify for zero-rating under Section 17 as the overseas advertiser contracts for and is the immediate recipient and direct beneficiary of the service.

Example-2

An advertising agency (B Agency) has outsourced certain aspects of creative work to the supplier (A Sdn Bhd) so that he can incorporate it when he renders creative and production services to his advertiser client (D Agency).

24. For GST purposes, there are two separate supplies involved. Both A Sdn Bhd and B Agency are principals of the supplies:

- (i) The supply of creative work from A to B (the immediate recipient of the service) depending on whether B is a local or overseas advertising agency. Such supply of services is subject to GST at standard rate if B is a local persons and A can zero-rate the supply if the client is overseas persons.
- (ii) The entire package of service supplied by B to his advertiser client (D Agency) is also depending on whether his advertiser client is a local or overseas person .Such supply will subject to GST at standard rate if D Agency is local persons and B Sdn Bhd can zero rate the supply if D is overseas persons.

FREQUENTLY ASKED QUESTIONS

Registration

Q1. Who is liable to be registered?

A1. All media owner or advertising agencies or production houses, whether they are companies, partnerships or self-employed individuals are liable to register if their annual turnover taxable supplies exceeds the threshold in the past 12 months or within the future 12 months.

Q2. If my annual turnover of taxable supplies does not exceed the threshold, may I apply to be registered?

A2. You may apply for voluntary registration, but once registered you must remain registered for a minimum period of two years.

Taxable Supplies and Accounting For GST

Q3. What types of advertising services are subject to GST?

A3. The provision of advertising services is a standard rated supply. Thus, all advertising services are subject to GST. Such advertising services includes :-

- (a) airtime advertisement through radios and television.
- (b) the right to place advertisement on a billboard.
- (c) advertising time or space in any publication and newsprint.
- (d) promotional activities such as an entry in a telephone enquiry directory and advertising space in any electronic location.

Meanwhile, for the creative agencies that provide creative artwork services is a standard rated supply.

Q4. What constitutes my taxable turnover?

A4. Your taxable turnover includes commissioner other fee based charges received from your clients. For media owner, it includes advertising sales and sales through newspapers, magazines, bulletins, billboards, TV, radio, mobile phone or internet (digital form).

Q5. As an advertising agency acting as a principal, how do I account for GST?

A5. GST constitutes on the selling price, including the cost of advertising space or time.

Example-3

ABC Sdn Bhd engaged local advertising agency, Syarikat Pengiklanan Haslim to act on his behalf as a principal to advertise their product in the local newspaper. Syarikat Pengiklanan Haslim values his work as follows :

Cost of advertising time or space : RM 8,000

Advertising fee : RM 3,000

The amount of GST chargeable to ABC Sdn Bhd by Syarikat Pengiklanan Haslim is RM660 (RM11,000 X 6%), which is output tax to Syarikat Pengiklanan Haslim.

The amount of GST chargeable by local newspaper (media owner) is RM480 (8,000 X 6%), which is Syarikat Pengiklanan Haslim's input tax.

Time of supplies

Q6. When do I have to account for GST?

A6. You have to account for GST at the earliest of the following:

- (a) when the advertising service is performed,
- (b) when payment is received, or
- (c) when the tax invoice is issued.

Q7. When is the basic tax point for “Media Owner” and “Creative and Production Services”?

A7. The basic tax point for advertising services providers are as follows:

- (a) Media Owner
 - i. When the circulation takes place i.e. when it was viewed or broadcasted.
- (b) Creative and Production Services
 - ii. When the creative work and artwork is created and accepted.

Place of supply

Q8. Hotel Sri Malaysia places a booking with a media owner to air an advertisement in Malaysia on its worldwide hotel chain. Whether the sale of airtime subject to GST?

A8. The sale of airtime is subject to GST at standard rate as the circulation of the broadcasting is in Malaysia.

Q9. I am an advertising agency registered in Malaysia and I provide advertising services in Malaysia. Do I have to account for GST?

A9. Yes, all advertising services provided and circulated in Malaysia, are subjected to GST at standard rate regardless whether the supply is made to a local or an

overseas customer. For TV and radio broadcasting, advertisement placed on TV and radio channels in Malaysia are considered to be made in Malaysia and it is standard rated supply. This is because these TV and radio channels are aired mainly in Malaysia. For media sales advertising through mobile phones, the place of subscription of the telephone line is used as a proxy to determine the place of circulation. If an advertisement is sent to subscribers of local telephones, the circulation is in Malaysia and such supply is standard rated. However, if the circulation of media advertisement is outside Malaysia, the supply is zero-rated.

Q10. If I am an advertising agency registered in Langkawi and provide billboard advertising in Langkawi, do I have to account for GST?

A10. No, advertising services provided inside these islands (Langkawi, Tioman and Labuan) are not subject to GST. These islands are called designated area. Services supplies inside the designated area are treated as no tax chargeable. Even though these supplies are treated as no tax chargeable, the advertiser can claim input tax incurred in providing advertisement services in the designated area.

Q11. If I am an advertising agency registered in Langkawi and provide media sales advertisement in Langkawi, do I have to account for GST?

A11. No, advertising services provided inside these islands (Langkawi, Tioman and Labuan) are not subject to GST. These islands are called designated area. Services supplies inside the designated area are treated as no tax chargeable. Even though these supplies are treated as no tax chargeable, the advertiser can claim input tax incurred in providing advertisement services in the designated area.

However, for regional circulation of media advertisement, the supply is considered to be substantially circulated outside designated area if at least 51% of the total circulation of the same media advertisement through physical or digital media is circulated outside designated area. The 51% rule applies only to publication of the same version or edition for distribution to multiple areas or countries. Magazines or newspaper with the same content printed in different

languages or with slight modifications for distribution in different countries cannot be regarded as the same version or edition.

For media sales of airtime such as through television and radio, the 51% rule applies only to the same advertisement aired simultaneously in designated area, Malaysia and oversea (if any).

Q12. What is the GST treatment for providing media sales for advertisement circulated both in Malaysia and overseas by the advertising agency registered in Malaysia?

A12. Generally, if the supplies involves a mixture of standard rated and zero-rated supplies, 51% rule circulation is applies and the entire media sales advertising can be zero rated if at least 51% of the circulation is outside Malaysia.

Q13. What are the GST implications if I am an advertising agency registered in Malaysia and provide media planning services arranging for foreign client to advertise their product?

A13. The provision of services to foreign client for arranging advertising services overseas is a zero-rated supply.

Q14. What happens if a local company advertises his products directly in overseas newspaper without using advertising agency?

A14. The supply of advertising overseas is considered out of scope. Local company getting imported services has to account for GST by way of imported services.

Q15. If an oversea advertising agency has a contract with the local client to advertise their product in a local media TV station in Malaysia. That oversea advertising agency appoint a local advertising agency in Malaysia to arrange all the advertising work, advertise the product and then bill local client directly. How should GST be accounted?

A15. The media owner must account for GST at standard rate for the advertising space provided to local advertising agency and the local advertising agency must account for GST for the production work provided to local client. However the commission charged to the oversea advertising agency by local advertising agency is not subject to GST because the supply of services by local to overseas agency is zero rated.

Q16. An overseas restaurant owner places an advertisement in local television station to promote their restaurants outside Malaysia. Is the supply of advertising space in the local television station subject to GST?

A16. Yes, the media owner must account for GST because the provision of advertising space in Malaysia is a standard rated supply even though it is related to land and building outside Malaysia.

Q17. XYZ is multinational company with branches in Asia and headquarters in Malaysia. The multinational company appoints a Malaysian advertising agency to do media planning services and to advertise in Hong Kong, Indonesia and Japan. The Malaysian advertising agency later appointed advertising agencies in Hong Kong, Indonesia and Japan to arrange the advertisements in those countries. Is the Malaysia advertising agency subject to GST when it invoices XYZ company for the services render?

A17. The provision of media planning services by the Malaysian advertising agency to XYZ is subject to GST because the services are provided to XYZ in Malaysia. Malaysian advertising agency has to charge and account GST on his supply at standard rated. However the supply of advertising in Hong Kong and Indonesia are not subject to Malaysian GST because the services are provided outside Malaysia and considered zero rated supply.

Q18. What is the GST treatment for media planning services registered in Malaysia provides a services to the overseas holding company's client?

A18. If the media planning provider have a contract with overseas holding company to do media planning to its group companies (to provide services such as market studies, choosing advertising media, time and frequency of advertising; etc), the contracting party is the immediate recipient who will directly benefit from your services. Hence media planning provider can zero rate the services.

Q19. An overseas agency, SH Agencies has a contract with a Malaysian client. SH Agencies engages a local agency KS Media to buy advertising space in Malaysia and bill directly to the Malaysian client. What is the GST treatment with regards to the above?

A19. KS Media will zero rate the service fee charged to SH Agencies for media planning. Any services provided by the Malaysian media owner to broadcast the advertisement in Malaysian is standard rated.

Q20. JL Creative Works does creative and production work for a Malaysian client, who uses the production work for use in advertising overseas such as in his overseas website, or for filming work overseas.

A20. The creative and production work is standard rated because it is provided to the client in Malaysia, even though the advertising work will be used overseas.

Q21. JL Creative Works a creative agency is appointed by ABC Sdn. Bhd as the sole agency to provide creative works for all its advertising campaigns in ASEAN countries. Most of the productions are carried in Thailand. Is GST chargeable on the creative and production costs?

A21. The services are provided contractually to Malaysian's company (ABC Sdn. Bhd). Creative works are not directly in connection with advertising media in circulation. Even, the fact that the production may take place in Thailand (outside Malaysia), this supply do not qualify for zero rating. GST is chargeable on the creative and production costs at standard rate.

Q22. What is the GST treatment on advertisements on in flight magazines and media?

A22. Such advertisements are zero rated if they are provided to be circulated outside Malaysia.

Advertising to Charities

Q23. What happen if the advertising agency is acting as a principal and provide advertising services to approved charities?

A23. When a charity uses an advertising agency to supply advertisement services, the GST liability is decided whether the advertising agency is a principal or an agent. If the advertising agency acts as a principal, the supply of advertising time or space (for example television or radio) and production work without any charge to the approved charity will be relief from GST. However the supply of

advertising time or space by media owner to the advertising agency will be standard rated.

Q24. What happen if the advertising agency is acting as an agent and provided advertising services to charities?

A24. When an advertising agency acts as an agent, the agency fees charged to the media owner is subjected to GST. However, the media owner (for example television or radio) has to issue the bill directly to charity to be eligible for the GST relief treatment.

Q25. Does advertising on a charity's web-site qualify for GST relief?

A25. No, the charity has to account for GST.

Q26. In relation with question above, how does the charity account for GST if there is no monetary consideration?

A26. You must account for GST based on open market value.

Sponsorship

Q27. What happen if a company gives me monetary sponsorships and in return I (media owner) provide advertising in my own web-site? Am I subject to GST?

A27. The supply in the form of monetary is not subject to GST. But if in return you provide advertising for your supply, you must account for GST based on open market values. In case the open market value cannot be ascertained, the media owner has to account GST based on the money the media owner receives.

Example-4

ABC company sponsors YY (charities bodies) RM5,000.00 for a concert at KS Cafe organised by YY and in return, YY provide the sponsor a free page to advertise the sponsor's name or products in the YY's web-site, YY have to account for GST based on open market value of the free page. Assume the open market value to advertise in the web site is RM500.00 for a page. So you have to account GST RM28.30 (RM 500.00 x 6/106).

Q28. If waive the pitch fee upon securing a contract, can I recover the GST portion?

A28. You may recover the GST paid by making adjustment in your GST returns after issuing a credit note to your client.

Licenses

Q29. Advertising agency or individual pay to the Land Office a fee for temporary occupation of land to be allowed to place billboard advertisement? Is this fee subject to GST?

A29. No, this Temporary Occupation License fee is imposed by the Land Office which is outside the scope of GST.

Q30. Advertising agency or individual pay a fee to local authority to get a permit for billboard advertising. Is this fee subject to GST?

A30. The fees for this permit imposed by local authority is not subject to GST because it is imposed for regulatory and enforcement purpose.

Complimentary Copies

Q31. Are complimentary copies of magazines given to readers, other persons or potential clients subject to GST?

A31. Such complimentary copies are regarded as business gifts are are not subject to GST. However, it is restricted to a value of RM500 per person per year.

Q32. If media owners give complimentary copies of current issue to an advertiser who placed an advertisement in that issue, does he have to account for GST?

A32. No, it is not subject to GST because it is part of the advertisement package supplied.

FEEDBACK OR COMMENTS

Any feedback or comments will be greatly appreciated. Please email your feedback or comments to either gstsector3@customs.gov.my

FURTHER INFORMATION

Further information can be obtained from:

- (a) GST Website : www.gst.customs.gov.my
GST Telephone: 03-8882 2111
- (b) Customs Call Centre :
 - Tel : 03-7806 7200 / 1-300-888-500
 - Fax : 03-7806 7599
 - E-mail : ccc@customs.gov.my