



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON FREE COMMERCIAL ZONE

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CONTENTS

INTRODUCTION.....	1
Overview of Goods and Services Tax (GST).....	1
GENERAL OPERATIONS OF FREE ZONE.....	1
Free Zone for Commercial Activities (FCZ)	2
GST TREATMENT FOR FCZ	2
Importation and Deposition of Goods into FCZ.....	2
Supply of Services into FCZ	4
Supply of Goods and Services within FCZ	5
Movement of Goods and Supply of Services between FCZ	5
Removal of Goods and Supply of Services from FCZ	5
KEEPING RECORDS	6
DISPOSAL OF RAW MATERIALS, COMPONENTS, WASTAGE AND FINISHED GOODS.....	7
MACHINES FOR REPAIR	8
FREQUENTLY ASKED QUESTIONS	9
INQUIRY	14
FURTHER ASSISTANCE AND INFORMATION ON GST	14

INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regard to GST treatment on Free Zone for Commercial Activities (FCZ).

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 (GSTA) 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 FREE ZONE

5. A free zone is a designated, secured area in which commercial and industrial activities are carried out and gazetted by the Minister of Finance as stated under section 3(1) Free Zones Act 1990 (Act 438). There are two types of free zone that is the free zone for commercial activities (FCZ) and free zone for industrial activities (FIZ). Customs control at the free zone is at the minimum and basically only at the exit point. Free Zone Authority is appointed by the Minister under section 3(2) Free Zones Act 1990 to administer, maintain and operate the free zone.

Free Zone for Commercial Activities (FCZ)

6. In accordance with section 10(1) of the Free Zones Act 1990, the Minister allows commercial activities specified under First Schedule Free Zones Act 1990 to be carried out in FCZ. Commercial activities approved by the Minister under section 2 of the same act such as trading (excluding retail trade), break-bulking, grading, relabelling, repacking and other value-added activities.

7. Under section 6A of the Free Zones Act 1990, the Minister may approve retail trade activities to be conducted in certain FCZ such as in Rantau Panjang Free Zone in Kelantan, Bukit Kayu Hitam Free Zone in Kedah and Stulang Laut Free Zone in Johor.

8. This guide only covers GST treatment relating to commercial and retail activities in a FCZ. For further information relating to GST treatment in Free Zones for Industrial Activities (FIZ), please refer to Guide on Free Industrial Zone (FIZ) and Licensed Manufacturing Warehouse (LMW).

GST TREATMENT FOR FCZ

9. Under Part XV of the GSTA, FCZ is regarded as a place outside the Principal Customs Area (PCA). Generally all FCZs are located at ports and airports. However, a few FCZs are not located at ports and airports such as Stulang Laut Free Zone in Johor Bahru, Bukit Kayu Hitam Free Zone in Kedah and Rantau Panjang Free Zone in Kelantan.

Importation and Deposition of Goods into FCZ

10. Pursuant to subsection 162(a) of the GSTA, no GST shall be due and payable upon any importation of goods into a FCZ, irrespective of whether the free zone is located at ports/ airports or not, provided such goods are for commercial or retail trade activities approved under the Free Zones Act 1990.

11. In addition, GST is suspended on any imported goods **under the Warehousing Scheme** where the goods are later removed from any 'qualifying warehouse' under this scheme e.g. bonded warehouse, inland clearance depot or duty free shop into a

FCZ or deposited into a FCZ from a designated area e.g. Langkawi, Labuan or Tioman.

12. Any supply of goods from a company operating in the PCA to a company operating in a FCZ is a taxable supply and subject to GST at a standard rate.

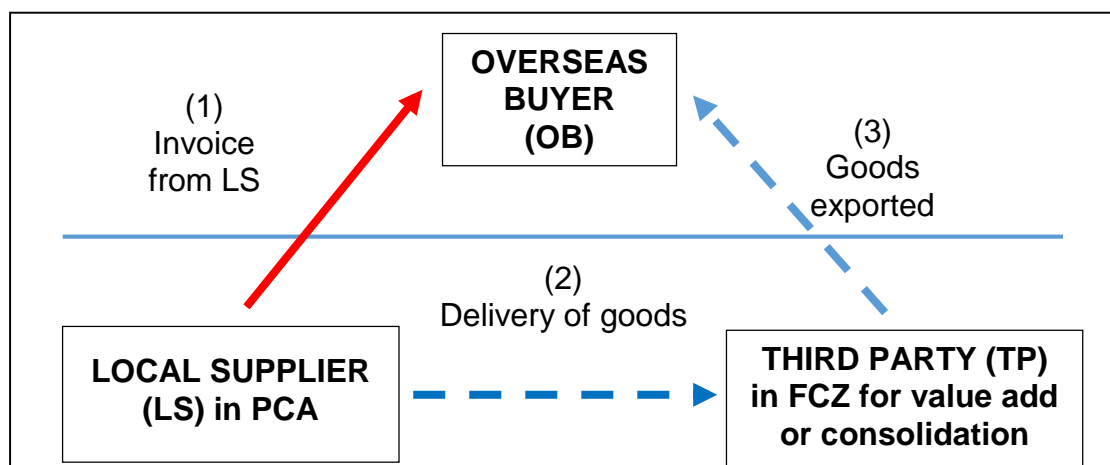
13. When goods are deposited into a FCZ for **outright export** to a foreign country, it must be declared in the customs export declaration form (Customs No.2/Customs No.8 form etc.). If there is a supply of goods, it is a taxable supply and subject to GST at a zero rate.

14. However, when goods are deposited into a FCZ for **purposes other than outright export**, these goods must also be declared in the customs export declaration form (Customs No.2/Customs No.8 form etc.). If there is a supply of goods, it is a taxable supply and subject to GST at standard rate. When the goods are finally physically exported, the supply of goods is subject to GST at a zero rate. Documentary proof of export (free zone export declaration form) must be preserved for auditing purposes.

The extension of the definition of export for GST purposes under Item 4 of the DG's Decision 4/2015

15. Local supplier (LS) sell goods to overseas buyer (OB) and OB requests the goods to be delivered to a third party (TP) in FCZ for value added activity or consolidation. The third party refers to any agent appointed by OB. Please refer to Figure 1 below;

Figure 1:



16. Such supply of goods to the OB will qualify for a zero rate subject to compliance with the following conditions –

- (a) The supply is related to goods other than wine, spirit, beer, intoxicating liquor, malt liquor, tobacco and tobacco products;
- (b) LS must prove that the goods is physically removed into FCZ and sent to TP;
- (c) LS must keep and maintain the following documents –
 - (i) Invoice issued to the overseas buyer;
 - (ii) Export, transit and other related documents such as customs forms and shipping documents as required under the customs legislation; and
 - (iii) Written instruction/ agreement by the overseas buyer to send the goods to a third party in the FCZ for value added activity or consolidation.
- (d) TP must keep and maintain the following documents –
 - (i) Export documents such as invoices, customs forms, free zone forms and shipping documents to prove that the goods have been physically exported overseas; and
 - (ii) Other related documents received from the supplier.
- (e) Any other necessary conditions as the Director General may require from time to time.

17. If the goods are not exported physically overseas, TP is liable to account the GST at a standard rate.

Supply of Services into FCZ

18. Any supply of services from a company in PCA to a company operating in a FCZ is a taxable supply and subject to GST at standard rate.

19. Supply of imported services into the FCZ is subject to GST at standard rate. The recipient of imported services is liable to account the output tax and claim input tax relating to that imported services (reverse charge mechanism).

Supply of Goods and Services within FCZ

20. Any supply of goods relating to **commercial activities** within FCZ is a taxable supply and subject to GST. However this supply of goods is **relieved from payment** of GST by Minister in Relief by Minister 1/2015 with effect from 23 March 2015. In the case of a free zone which is approved to carry out **retail activities**, the supply of goods is **not subject to GST** in accordance with section 163 GST Act 2014.

21. Any goods either for the purpose of commercial or retail trade activities, **used or consumed** in the FCZ is subject to GST. In this case, if the imported goods are **meant for other than commercial or retail trade activities** for example the importation of rack, office furniture, forklift, tyre and construction items, then the importer has to declare the goods in the customs import declaration form and pay any customs duty (if any) and GST.

22. GST is chargeable on the supply of services made within the FCZ irrespective of whether the FCZ is located at ports/airports or not. Generally the services are standard rated except for some services supplied in the FCZ located at ports/airports which are listed under the Goods and Services Tax (Zero Rated Supplies) Order 2014. Such supply of services is a zero rated supply.

Movement of Goods and Supply of Services between FCZ

23. GST on the movement of goods between FCZ is suspended irrespective of whether the FCZ are located at ports/airports or not. However, any supply of services made between the FCZ is subject to GST.

Removal of Goods and Supply of Services from FCZ

24. Generally, any goods removed from FCZ to a company in PCA including a company operating in FIZ or having LMW status is subject to GST on importation. Thus, customs duties (if any) and GST must be paid at the point of importation in customs import declaration form.

25. However, for **imported goods**, if a registered person in PCA has an approval under Approved Trader Scheme (ATS), payment of GST on such removal of imported goods is suspended. Similar treatment applies to GST on removal of imported goods from a FCZ to a company operating in FIZ or having LMW status.

26. GST on removal of **imported goods** from a FCZ to a designated area or to a warehouse under section 70 of the GST Act 2014 is also suspended. Customs import declaration form, Customs No.8 form is required for such removal of goods.

27. Supply of services provided to a company in the PCA from a service provider located in the FCZ is treated as a local supply. Thus, the service is a taxable supply and subject to GST. A tax invoice is required to be issued by a registered service provider. Similar GST treatment is accorded for services supplied by any company operating in FCZ to a company in designated area or a warehouse under section 70 of the GSTA.

KEEPING RECORDS

28. Every company operating inside FCZ has to keep full, true and up-to-date records relating to all GST transactions which affect or may affect his liability to tax. Records and documents must be kept in either the National Language or English. Amongst the documents or records are as follows:

- (a) all records of all goods and services supplied by or to that taxable person including tax invoices, invoices, receipts, debit and credit notes and export declaration forms;
- (b) all records on importation of goods;
- (c) any other records that may be required by the proper customs officer;
- (d) other businesses and accounting records to be kept if maintained by a taxable person;
- (e) ledgers, cash books and journals and all other books of account;
- (f) financial statements;

- (g) documentary proof to support zero rate supply (including export documentation);
- (h) particulars of any agents acting on behalf and transactions concluded through agents;
- (i) bank deposits slips, bank statements and other related payment document;
- (j) data in electronic form, including computer printouts;
- (k) accounting charts, access codes, program documentation and system instruction manuals; and
- (l) contracts / sales agreements.

29. Records must be properly filed and kept at the approved premise and made available at any time to be audited by any customs officers. Any records shall be preserved for a period of seven (7) years from the latest date to which such records relate.

DISPOSAL OF RAW MATERIALS, COMPONENTS, WASTAGE AND FINISHED GOODS

30. Disposal of raw materials, components, wastage and finished goods must be supervised by the officer from the Zone Authority (ZA) and the ZA will issue a certificate signed by the ZA officer and the owner of the goods.

31. Wastage and scrap which have commercial value are subject to GST on importation when it is removed to PCA. Thus, customs duties (if any) and GST must be paid at the point of importation in customs import declaration form.

32. Any disposal of raw materials, components, wastage and finished goods done outside the FCZ, should obtain approval from the ZA and the DG; and supervised by the senior officer of customs and witnessed by the owner.

MACHINES FOR REPAIR

33. A machine to be exported overseas from the FCZ requires an approval (ZB Form) from the ZA.

34. If the movement of the machine for repair overseas is via the PCA, a transit procedure will apply.

35. If the repair is done in the PCA, a bank guarantee shall be furnished as required by the Director General and subject to the conditions stipulated in the Goods and Services Tax (Relief) Order 2014.

FREQUENTLY ASKED QUESTIONS

Importation and Deposition of Goods into FCZ

Q1. What is GST treatment on importation of goods from overseas into the free zone by a company operating inside Tanjung Pelepas Free Zone?

A1. If the importation of goods is for the purpose of commercial activities in the free zone, no GST shall be due and payable upon any importation of such goods. This in accordance with section 162 of the GSTA.

Q2. As a retailer registered for GST in the Rantau Panjang Free Zone, what is the GST treatment on goods that I purchased from a registered person in the PCA?

A2. The supply of goods from a registered person in a PCA is a taxable supply and subject to GST. As you are a registered person, the GST incurred is claimable. However, if the goods are imported goods under the warehousing scheme section 70 GSTA, and removed from a bonded warehouse, duty free shop or inland clearance depot, then GST for that supply of goods is suspended.

Q3. Is GST chargeable if a company operating inside the Port Klang Free Zone purchases goods from a company in PCA for export?

A3. The supply of goods from a company in PCA to a company operating inside FCZ is a taxable supply and subject to GST at standard rate. If the company operating inside FCZ is a registered person, the GST incurred is claimable. Subsequently when this company export the goods, this supply of goods qualifies for zero rating provided that this company is the exporter of record in the export declaration form.

Q4. A company operating inside the Pasir Gudang Free Zone sent its goods for further processing to its subcontractor in the PCA. Is there any GST liability when the goods are sent back into FCZ?

A4. Goods sent by a company operating in the Pasir Gudang Free Zone for further processing is not a supply as there is no transfer of ownership. However, the

removal of such goods from this free zone to PCA is considered as importation and requires an import declaration (Customs No.1 form). This importation is subject to customs duties (if any) and GST.

Similarly, for goods that are returned to the Pasir Gudang Free Zone after further processing, the deposition of such goods from the PCA to the free zone is considered as an export of goods and requires an export declaration to be made (Customs No.2 form). However, GST needs to be charged by the subcontractors on the value added services performed on such goods, if he is a GST registered person.

Supply of Services into FCZ

Q5. What is the treatment of GST on services rendered by a company in PCA to a company operating inside FCZ?

A5. Services rendered by a company in PCA to a company operating inside FCZ are taxable supply and subject to GST at standard rate regardless of whether the FCZ is located at port/ airport or not.

Q6. What is the treatment of GST on services imported by a registered person operating in Penang International Airport Free Zone?

A6. GST is chargeable at a standard rate on imported services into Penang Airport Free Zone. The recipient is liable to account the output tax and claim input tax relating to that imported services (reverse charge mechanism).

Supply of Goods and Services within FCZ

Q7. AB Sdn Bhd is a retailer registered for GST and operating in Stulang Laut Free Zone in Johor. Does it have to charge GST on its retail sale?

A7. Stulang Laut Free Zone is approved under the Free Zones Act 1990 to conduct retail trade activities. Pursuant to section 163 of the GSTA, AB Sdn Bhd does not have to charge GST on his retail sale.

Q8. Pursuant to Q7, CD Hotel (registered person) operating in Stulang Laut Free Zone acquires goods from AB Sdn Bhd for provision of food and

beverages by his restaurant in the hotel. What is the treatment of GST on the provision of food and beverages by the hotel?

A8. Although AB Sdn Bhd didn't charge GST on his acquisition of goods, CD Hotel must charge GST on the provision of food and beverages because such supply of services is a taxable supply and subject to GST at a standard rate.

Q9. XX Sdn Bhd is a registered for GST and operating at the Kuala Lumpur International Airport Free Zone. XX makes supply of goods to YY Trader operating in the same free zone. Is there any GST implication on the supply of goods by XX Sdn Bhd to YY Trader?

A9. Any supply of goods relating to commercial activities within Kuala Lumpur International Airport Free Zone is a taxable supply but is given relief from payment of GST by the Minister (Please refer to Relief by Minister 1/2015).

Q10. GG Sdn Bhd provides rental services in the Port Klang Free Zone. If GG Sdn Bhd is a registered for GST, does he have to charge GST for the rental of space?

A10. Yes, the supply of services is a taxable supply and subject to GST at a standard rate.

Q11. Some of the services provided by an operator in the Pasir Gudang Free Zone are outsourced to another operator in the same free zone. What is the treatment of GST on such services?

A11. Supply of services provided within Pasir Gudang Free Zone by the zone operators is a taxable supply subject to GST at a standard rate.

Movement of Goods and Supply of Services between FCZ

Q12. Is transportation of goods from Kuala Lumpur International Airport Free Zone to Penang International Airport Free Zone subject to GST?

A12. Transportation of goods from one FCZ to another FCZ is a supply of services. This supply of services is a taxable supply and subject to GST at standard rate.

Q13. Pursuant to Q12, what document is required for the movement of goods from Kuala Lumpur International Airport Free Zone to Penang International Airport Free Zone?

A13. Movement of goods from Kuala Lumpur International Airport Free Zone to Penang International Airport Free Zone by air (without passing through PCA) requires approval from ZA in the form of free zone declaration form (ZB1). However, movement of goods through PCA requires customs approval in Customs No.8 form.

Removal of Goods and Supply of Services from FCZ

Q14. What is the treatment of GST on supplies of goods from a company operating inside Port Klang Free Zone to a company in PCA?

A14. Any supply of goods relating to commercial activities within Port Klang Free Zone is a taxable supply but is relieved from payment of GST by Minister in Relief by Minister 1/2015. However, any goods removed from Port Klang Free Zone to a company in PCA are subject to GST on importation. Thus, customs duties (if any) and GST must be paid at the point of importation in customs import declaration form e.g. Customs No.1 form.

Though, for supply of imported goods, if the registered person in PCA has an approval under Approved Trader Scheme (ATS), payment of GST on such removal of imported goods is suspended.

Q15. What is the implication of GST on a supply of goods made by an operator in the FCZ to an operator in the FIZ?

A15. Any goods removed from the FCZ to **an operator** in FIZ is subject to GST on importation. However, the payment of GST on importation is suspended if the operator in the FIZ is an approved person under the Approved Trader Scheme.

Q16. What is the GST implication if a LMW status company wants to take back its locally manufactured goods meant for export from the FCZ back to its premise due to reason such as cancelled order, repair, etc.?

A16. Any goods removed from FCZ to PCA is an importation of goods. Hence, the LMW status company is subject to GST on importation (custom duties is exempted for importer with LMW status) when it removes its locally manufactured goods back to its own premises.

If the reason for removing is due to repair or recalibration of such goods, this importation is eligible for relief under item 15 of the GST (Relief) Order 2014 subject to compliance of the conditions stipulated.

Q17. What is the GST treatment on goods exported from a FCZ?

A17. The export of goods is subject to GST at a zero rate. Documentary proof of export (free zone export declaration form) must be preserved for auditing purposes.

Q18. What is the GST treatment on services provided by a company operating in a FCZ to overseas company?

A18. Any supply of services provided by a company operating in a FCZ to overseas company relating to goods which are in Malaysia at the time the services is performed is a taxable supply and subject to GST at a standard rate.

Responsibilities of the free zone operator

Q19. As a GST registered person who carries out a business in a FCZ, do I need to know more about other aspects of GST?

A19. The following guides may be of interest to you;

- (a) Guide on Import;
- (b) Guide on Export;
- (c) Guide on Free Industrial Zone (FIZ) and Licensed Manufacturing Warehouse (LMW).

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