



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON PROPERTY MANAGEMENT: JOINT MANAGEMENT BODIES (JMBs) & MANAGEMENT CORPORATIONS (MCs)

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to GST treatment on property management: Joint Management Bodies and Management Corporations.

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.

GST TREATMENT FOR THE INDUSTRY

5. Property management is the management of personal property, equipment, tooling and physical capital assets that are acquired and used to build, repair and maintain end item deliverables. Property management involves the processes, systems and manpower required to manage the life cycle of all acquired property as defined above including acquisition, control, accountability, responsibility, maintenance, utilization and disposition. Property manager is the person who manages the property so that the objectives and goals of the property management can be achieved to create the optimum net return.

Property management will provide the proper maintenance of the building, common area and the facilities of the property so as to create a safe and functional living environment for the occupants. For the purpose of this guide, the term “Joint Management Body (JMB) or Management Corporation (MC)” includes property manager in the strata building.

GENERAL OPERATION OF THE INDUSTRY

6. Property Management in Malaysia is enforced under several acts such as National Land Code 1965, Strata Title Act 1985, Housing Development Act 1966 & Regulations, Strata Management Act 2013 and Valuers, Appraisals and Estate Agents Act 1981. Most of the Acts describe the legal requirements and procedures of property management. In addition it covers the proper maintenance and management of buildings and common properties besides other matters incidental thereof. Basically, there are different type of management companies that specialize in one or more categories and normally involves four areas of management specialties: retail, office, apartments and miscellaneous areas.

(a) Retail Management

Within this category there are sub-categories that include: strip, neighbourhood, community and regional shopping centres. The management of a ten-store strip centre would not be comparable with the management of a 100 store regional centre with large anchor stores and national tenants. The management of shopping centres requires specialized accounting skills and programs to handle common area maintenance, billings, as well as leasing talents in many instances.

(b) Office Building Management

There are four grade of office buildings; A, B, C and D, with A being the best location, most prestigious and commanding the highest rents. Class D buildings, on the other hand, are the older buildings in less desirable locations with the lowest rents. The management of large office buildings requires special engineering, administration and leasing talents. The JMB or MC who provides

the management services need to know if the building meets the local authority's requirements for restrooms, elevators, fire escape plan, building safely plan, etc.

(c) Apartments & Condominiums Management

In Malaysia, management of residential properties is the largest segment of the real estate management business. The management of larger apartment or condominium complexes requires onsite managers, maintenance personnel, payroll, etc. JMB or MC must have the professional property management computer system, thus allowing better tracking of delinquencies, units account and cash flow. Management fees charged are normally based on a percentage of income collected with a minimum monthly base fee. Fees are negotiated on a per property basis and depend on many factors including condition, location and size of the property, etc. Leasing and other auxiliary service fees are separate and in addition to the management fee.

(d) Miscellaneous Areas Management

Miscellaneous areas of management includes industrial, self-storage facilities, motels, car parks, etc. These properties require specialized knowledge particular to their market and knowledge of state laws that apply. The management company should have a track record within the specific area.

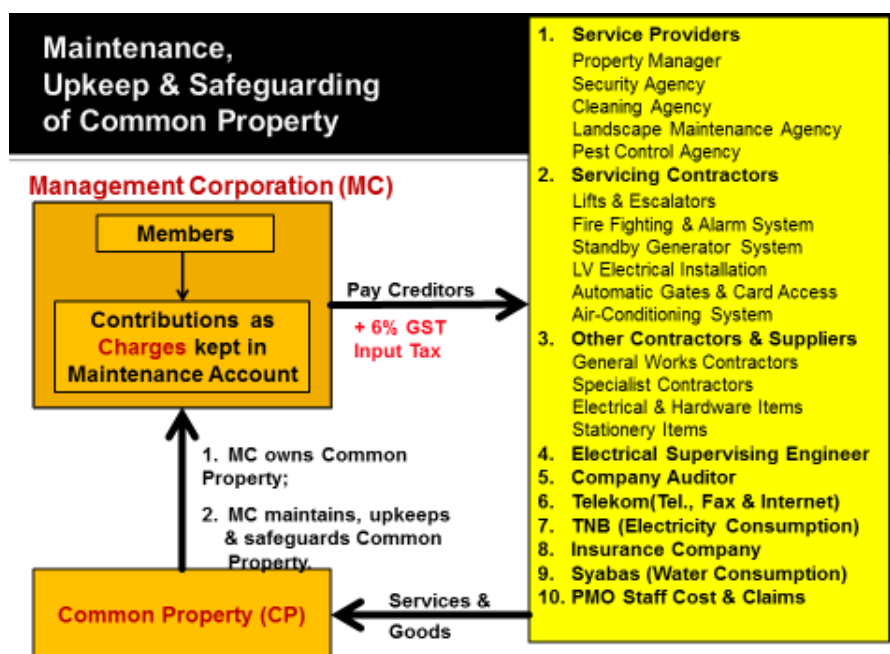
Hence, property management includes the management of all types of properties, including apartments and condominiums, shopping centers, high rise offices and other buildings. Normally, the retail management, office building management or miscellaneous areas management services are supplied by the JMB or MC in the commercial property where as apartment and condominium management be supplied in the residential property.

Duties and Power

7. There are wide functions for the JMBs or MCs. Firstly, the maintenance management which includes management of the maintenance work and supervision of work in the property. Secondly, the financial management which is maintenance of

the financial and accounts of the property. Thirdly, the ownership or tenancy management which include maintaining the assessment list, rental and tenancy period. Fourthly, managing the marketing and promotional aspects. These include marketing of units that need to be rented out, promotional activities to create interest in the units by the target market. Lastly, general management which is managing and interacting with the service providers. Below is the example of the services provided by JMB or MC:

Example 1:



Scope of Tax and Liability to Be Registered

8. For GST purposes:

- any provision of management services by the provider of the property management to the commercial parcel owner; and
- any provision of management services by the provider of the property management to any person other than residential parcel owner in the residential

are subject to GST.

9. However, provision of management and maintenance services by the provider of the property management to the residential parcel owner in the residential building is **exempted from GST** as provided for by the Goods and Services Tax (Exempt Supply) Order 2014.

10. In the case where JMB or MC is a mixed supplier (making both exempt and standard rate supplies), the GST legislation requires them to register if their annual turnover involving taxable supplies exceeds the GST threshold in the past 12 months or within the future 12 months. Any consideration received by the registered JMBs or MCs on the taxable supplied of goods or services are subject to GST.

11. Hence, for commercial property, contributions from such parcel owners in the form of maintenance fees is subject to GST. The registered JMBs or MCs under Section 20 of the GSTA would impose certain fee for their services in performing their management services to the commercial parcel owners or to any person not being the parcel owner but the recipient of the supply of the goods of services in the residential property. The GST registered JMBs or MCs have to charge GST on the fee or commission that they receive and be able to claim input tax on expenses incurred such as audit fee, utilities, cleaning and maintenance services, printing and stationery and other inputs acquired.

12. The supply of management services by the JMBs or MCs ordinarily regarded as a business under Section 3(2) of the GSTA. Such supply of services by the JMBs or MCs is a taxable supply as long as their supply of services relates to the management of non-residential (commercial) property. The exceptions from the imposition of GST is to any supplies of services by the JMBs or MCs who manage all type of residential property to the residential parcel owner. Item 20 of the Goods and Services Tax (Exempt Supply) Order 2014 exempts any supply of goods or services by such JMBs or MCs in the residential property to the residential parcel owner. Hence, if such JMBs or MCs supply the management services only to the residential parcel owner, they are not required to register for GST, even if the annual turnover exceeds the prescribed threshold. Since contributions from parcel owners in residential buildings is not subject to GST, the input tax incurred by the JMBs or MCs is not recoverable.

13. However, for the JMBs or MCs who is making both taxable and exempt supply (mix supply) as in Paragraph 10 of this guide, input tax incurred on the taxable supply portion is claimable in full while input tax incurred on the exempt supply is fully non-recoverable. However, he must apply the apportionment method in order to recover his residual input tax incurred in the course or furtherance of his business. In summary, for the purpose of GST, such JMBs or MCs:

- (a) Charge GST on the taxable supply and claim ITC attributable to such taxable supply.
- (b) Do not charge GST on the exempt supply and not entitled to claim ITC attributable to that supply.
- (c) apportion accordingly to recover partial of his residual input tax.

Types of Supply

Contribution to Maintenance Fund and Sinking Fund

14. The owners of strata-titled properties collectively own common property such as lifts, staircase, carpark, playground, clubhouse, swimming pool and tennis court. There are two types of contribution that is imposed on these owners for the purpose of maintaining the common property; firstly, the contribution to the Maintenance Fund which is commonly known as maintenance or service charge and secondly contribution to the Sinking Fund.

(a) Maintenance Fund (MF)

Maintenance Fund are fees that are paid on a monthly basis in order to cover general costs and management costs in relation to keeping intact the common areas and the facilities of the building. MF is intended for the regular day-to-day activity of keeping the common property in good condition.

(b) Sinking Fund (SF)

Sinking fund is used to build up a fund of money for longer term expenditure on building such as replacement windows, repairs and

replacements to the building structure. SF is normally set aside for future major building works such as painting, roof repair and replacement of lifts.

Time of Supply

15. Section 11 of the GSTA determine the time of supply of goods or services. Basically, the time of supply is the time at which supplies made by the JMBs or MCs is treated as having taken place. However, the rules below determine when output tax is to be accounted on the consideration. Where fee or the contribution for the fund is paid in a lump sum or paid periodically, the time of supply is at the earliest of or output tax will be accounted based on the earlier of:

- (a) the date when you receive the payments; or
- (b) the date when you issue a tax invoice.

Value of Supply

16. The value of a supply is the value on which GST is chargeable. The amount of GST is the value chargeable multiplied by the tax rate. Subject to Section 15 of the GSTA and the Third Schedule of the GSTA, the value of supply depends on whether there is a consideration or not. A consideration is any form of payment in money or in kind, including anything which is itself a supply.

17. Supply of services with no consideration is implied as not a supply. Nevertheless, it is a supply of services if the service is rendered with no consideration to a connected person as stipulated under Paragraph 6 First Schedule of the GSTA. The value of the supply is the open market value as indicated under the Third Schedule of the GSTA.

18. When a GST registered professional publishes, displays, advertises or quotes in any manner the price of his services, it shall be inclusive of GST as required under Section 9(5) of the GSTA. Otherwise, he is required to apply to the Director General for approval if he intends not to published the price inclusive of GST as required under Section 9(6) and (7) of the same act. If he contravence the provision, he commits an offence. Please refer to specific Guide on Valuation.

Tax Invoice

19. The Strata Management Act requires a notice to be issued by JMBs or MCs to the parcel owner. The notice will itemize the list of expenses or charges the parcel owner is required to pay and the contribution to the sinking fund for services procured from the JMBs or MCs as determine by the JMBs or MCs from time to time in proportion of allocated share units of each parcel. It can have varying level of details, and should describe the nature of work done by them for the parcel owner, and any other expenses incurred.

20. For the purpose of GST, Section 33 of the GSTA requires every registered person who makes any taxable supply of goods or services in the course or furtherance of any business in Malaysia to issue a tax invoice. A tax invoice is a document containing certain information about the supply that has been made and is similar to a commercial invoice except for some additional details. This document is important as it is an essential evidence to support a customer's claim for deduction of input tax. A tax invoice must be issued within twenty one (21) days from the time of supply. The supplier must keep a copy and the original copy should be retained by the recipient. Only a GST registered person can issue tax invoices. Tax invoices can be in the following forms:

- (a) Full tax invoice
- (b) Simplified tax invoice

Such invoice can only be treated as a tax invoice under Section 33 of the GSTA if it has certain characteristics and particulars of the tax invoice.

For further information on tax invoice, please refer to the Guide on Tax Invoice and Record Keeping.

Input Tax

21. Section 39 of the GSTA allows the registered person to claim the input incurred in any taxable period in the course or furtherance of business in Malaysia. Basically, JMBs or MCs will incur GST on the purchase of goods or services and this input tax is claimable if the JMBs or MCs are GST registered.

22. The input tax claimable includes the GST incurred on the marketing and promotional of the strata building, insurance, electricity and water on the common area of the strata building, office stationeries, utilities, equipment, etc. See also Paragraph 13 of this guide for treatment of mixed supply by JMBs or MCs.

FREQUENTLY ASKED QUESTIONS

Registration

Q1. Who is required to be registered for GST?

A1. All JMBs and MCs who manage commercial properties are liable to register if their annual turnover involving taxable supplies exceeds the GST threshold in the past 12 months or within the future 12 months. JMBs and MCs in the residential buildings are exempted from GST registration as stipulated in Paragraph 20 of the Goods and Services Tax (Exempt Supply) Order 2014. However, such JMBs or MCs are required to register if he:

- (a) makes a taxable supply of goods or services to the any person who is not the parcel owner of such residential property; and
- (b) his annual turnover involving taxable supply exceeds the GST threshold in the past 12 months or within the future 12 months .

For a mixed property, such JMBs or MCs are required to be registered only if his supply of commercial property exceeds the threshold in the past 12 months or within the future 12 months.

Q2. What is the GST treatment for taxable supply of goods or service made to any person who is not the parcel owner of the residential property?

A2. Taxable supply of goods or services means a supply of goods or services which are standard-rated supply and zero-rated supply and does not include an exempt supply. The term “exempt supply” means an exempt supply determined under Section 18 of the GSTA. Such provision allows the Minister to determine such exempt supply of goods or services in the Goods and Services Tax (Exempt Supply) Order 2014. For this exempt supply, such supply of goods or services are not be subjected to the imposition of tax under Section 9 of the GSTA. Since the Item 20 of the Goods and Services Tax (Exempt Supply) Order 2014 only exempt for any taxable supplies of goods or services made by the JMBs or MCs to residential parcel owner, therefore any supplies of goods

or services in the residential property supplied to other person **not** being the residential parcel owner are subject to GST.

Example 2:

Mutiara Murni Management Corporation signed a contract with PK Telecommunication Sdn Bhd to lease the space for their telecommunication transmitters. According to the contract, Mutiara Murni Management Corporation will charge PK Telecommunication Sdn Bhd RM7,000 monthly as service charge for provision of the above services. Such supply of leasing services are taxable supply and subject to GST.

If such taxable supply and the value of any other taxable supplies in the 12-month period are expected to exceed the prescribed threshold, Mutiara Murni Management Corporation have to register for GST.

Q3. What constitutes the taxable supply?

A3. Taxable supply includes all fees and charges imposed by JMBs and MCs for the services. It includes management fees, service charge and maintenance, promotional and other charges for services made available to owners of commercial property. These services may include building maintenance/housekeeping, security management, car park management, promotions and marketing, financial, accounting and administration. Provisions of these services are liable for GST because these services are standard rated supplies.

Q4. If my annual turnover of taxable supplies does not exceed the GST threshold, can I apply to be registered?

A4. Yes, you may apply for voluntary registration, but once registered you must remain registered for a minimum of 2 years.

Q5. Supplies of residential properties are exempt supply and supplies of commercial properties are taxable. Are services provided by JMBs and MCs to residential property owners subject to GST?

A5. Supply of services by JMBs and MCs to the all type of residential property owner are not subject to GST. However, such exceptions from the imposition of GST is only applicable to supply of goods or services made by JMBs or MC to the residential parcel owner only. For wholly exempt supplier, they are not liable to register and such JMBs or MCs are not entitled to claim input tax incurred on their acquisitions.

Q6. What is the GST treatment on the supply of management services by the JMBs or MCs in the gated residential properties? Whether such maintenance fee imposed for the management of the common area and security is subject to GST?

A6. Supply of management services by such JMBs or MCs of the residential property to the residential parcel owner is exempt supplies. However, the service providers for services such as security & cleaning (if registered) may impose GST on their supply of services but such input tax on these services is not recoverable by the JMBs or MCs. Hence, JMBs or MCs on the gated residential property are not required to be registered for GST if they are providing only these management services. However, they are required to be registered if they do supply other taxable supplies such as rental of halls etc. for which these supply of services or goods to any person being the residential parcel owner exceed the prescribed threshold.

Place of Supply

Q7. If I am a JMB or MC registered in the designated area (Langkawi, Labuan or Tioman), and provide property management services inside the designated area, do I have to account for GST?

A7. No tax is chargeable on the provision of such services inside the designated area and therefore such JMB or MC is not liable for GST.

Q8. If I am a JMB or MC registered in the free zone and provide property management services inside the free zone, do I have to account for GST?

- A8. Yes, if the GST registered JMB or MC provides property management services to parcel owners of commercial stratified building inside the free zone, the services is subject to GST at standard rate.

Time of Supply and Accounting Period

Q9. When do I have to account for GST?

- A9. The time of supply is the time at which supplies made by the JMB or MC is treated as having taken place. However, the rules below determines when output tax is to be accounted on the consideration. Where fee or the contribution for the fund are paid in a lump sum or paid periodically, the time of supply is at the earliest of the following and as such output tax will be accounted based on the earlier of:

- (a) the date when you receive the payments; or
- (b) the date when you issue a tax invoice.

Example 3:

DC Sdn Bhd issues an invoice for 3 monthly billing amounting to RM4,770 (RM4,500 plus GST of RM270) to an owner of a building, XYZ on 1 April 2015 for which payment was only made by XYZ on 15 May 2015. DC Sdn Bhd has to account for GST in his April 2015 GST return.

Q10. When do I have to submit GST payment to Customs?

- A10. On or before the last working day of the month subsequent to the taxable period.

Example 4:

Based on the above example, the last day to submit the April GST returns and to pay the GST due is on the last working day of May.

Q11. How do I account GST on charges received?

- A11. GST on fees must be exclusive.

Example 5:

Fee : RM 1,500

GST : 6%

GST amount RM90 [RM1,500 (fees) X 6% (GST rate)]

Total amount payable is RM 1590 [RM1500 + RM90].

Supplies, Charges and Contributions to Management and Sinking Funds

Q12. Is the service/maintenance charge imposed by JMB or MC to the commercial parcel owner subject to GST?

A12. Yes, the service/maintenance charge imposed by such JMB or MC is subject to GST. This is because such maintenance charge is consideration received by them for the provision of maintenance, upkeep and safeguarding of the common area of the commercial property i.e. operational, security, maintenance and other services.

Q13. As the JMB or MC, my duties include preparation of tenancy agreements, administration of rental collection, initiating lease renewals and negotiating of terms. Whether such tenancy or leasing services is subject to GST?

A13. Rental of commercial and industrial building is taxable supply and subject to GST at standard rated. However the rental of residential housing (including apartments and condominiums) are exempt supply and not subject to GST as stipulated in Paragraph 1 and 2 of the Goods and Services Tax (Exempt Supply) Order 2014.

Q14. What happens if I fail to impose GST on the services I charge?

A14. You have to charge GST every time you impose a charge for providing taxable services. If you fail to charge GST on such services, the fee receive will be

treated as inclusive of GST. You have to account for the GST based on the value of the services charged.

Example 6:

Fee = RM1,000

Value of GST (inclusive) = $RM1,000 \times [6/106]$

GST amount inclusive = RM56.60

Marketing and Promotional, Insurance, Electricity and Water

Q15. What is the GST treatment for marketing service and promotional services supplied in the commercial property by the JMBs or MC?

A15. Supply of marketing services or promotional services supplied by the JMB or MC to the parcel owner are subject to GST.

Example 7:

JMB/MC organize and provide a promotional events inside the commercial complex and KRU Entertainment is invited by the JMB / MC to perform in such promotional events.

The GST treatment is as follows:

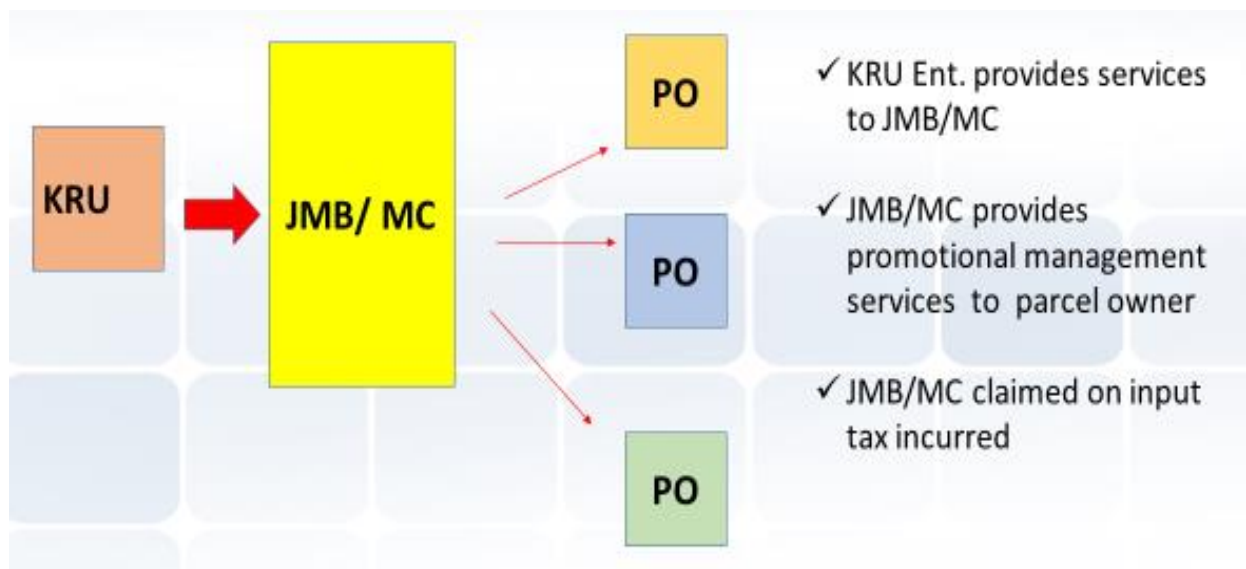
(a) GST on the supply of services by KRU Entertainment to the JMB / MC

KRU Entertainment is supplying a taxable service to JMB / MC and as such it is subject to GST. KRU Entertainment will issue tax invoice to the JMB or MC on such supply and account for tax. As such input is incurred by the JMB / MC in the course of furtherance of its business of a commercial property, the JMB / MC as the recipient of the services are entitled for ITC.

(b) GST on the supply of promotional services by JMB or MC to the commercial parcel owner

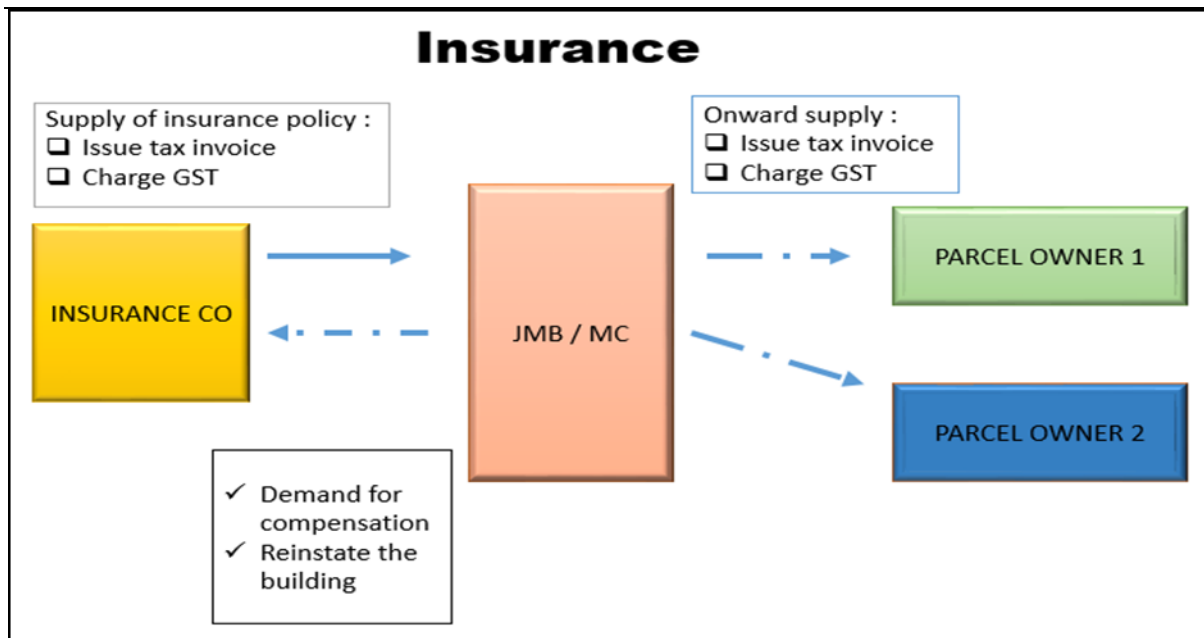
Since the JMB or MC is responsible for managing and marketing such commercial property, they are actually providing a taxable supply of service to the commercial parcel owner. Therefore, any charge or contribution for this supply of services are subject to GST. The commercial parcel owners are allowed to claim ITC on such supply if they are also GST registered.

Basically, the illustration below shows that JMBs or MCs or the commercial parcel owner can claim GST incurred in relation to any taxable supply of goods or services as their input tax, so long as the taxable supply of goods or services is used for the purpose of business. The business must be involved in the making of taxable supplies upon which you collect the GST and account it as your output tax.



Q16. Is Fire Insurance Policy required to be charged GST? If yes, how to charge the parcel owner because the master Fire Insurance Policy is issued to the JMB or MC?

A16. For the purpose of GST, only supply of Life Insurance is an exempt supply. Hence, any supply of General Insurance such as Fire Insurance Policy is a standard rated supply. Below is the illustration for easy understanding.



The GST treatment is as follows:-

(a) GST on the supply of services by Insurance Co to the JMBs or MCs

Insurance Co is supplying services to JMBs or MCs and such services are taxable supply and is subject to GST. Insurance Co will issue tax invoice to the JMBs or MCs on such supply and account for tax. For such input tax incurred in the course of furtherance of the business, the JMBs or MCs as the recipient of the services is entitled for ITC.

(b) GST on the supply of services by JMBs or MCs to the commercial parcel owner

Since JMBs or MCs is responsible for managing the maintenance and safeguard the commercial property, their duties involves insuring the building and applying the insurance money for rebuilding and reinstatement of the building. Therefore, any charge or contribution for this supply of insurance policy is subject to GST. As this input incurred in the course of the business, such commercial parcel owner as the taxable person are allow to claim ITC on such supply of insurance policy if he is GST registered.

Q17. Based on the above example, what is the GST treatment on the supply of insurance policy in the residential property?

A17. Similarly, the Insurance Co will issue tax invoice to the JMBs or MCs on such supply of insurance policy and account for tax. As supply of services by the JMBs or MCs to the residential parcel owner is an exempt supply, such input tax incurred is not claimable. The JMBs or MCs as the person who is responsible to insure the building and apply insurance money for rebuilding and reinstatement of the building cannot imposed any GST on their supply of services to the residential parcel owner and thus residential parcel owner is also not entitle to claim ITC on such input.

Q18. What is the GST treatment for electricity services?

A18. Generally, supply of the first 300 units of electricity to domestic consumers is zero rated. Supply of electricity to parcel owner in the strata title buildings have 2 scenarios as below:

Senario 1: Bulk meters in the Commercial Properties

Electricity provider issued bill to the JMB or MC

- (a) The treatment is standard rated since zero rating for the first 300kw is not applicable if the usage of the property is for commercial.
- (b) TNB will issue a tax invoice to JMB or MC.
- (c) JMB or MC subsequently will issue tax invoice to the parcel owner separately. JMB have to account the GST on the output.
- (d) ITC on supply of electricity used in the course of business is claimable. Parcel owner will account this as his input tax.
- (e) Since JMB or MC managed the common areas, ITC on supply of electricity for the common area is claimable.

Senario 2: Split Meters in the Commercial Properties

- (a) The treatment is standard rated since zero rating for the first 300kw is not applicable if the usage of the property is for commercial.
- (b) TNB will issue the tax invoice to the parcel owner and account for tax. For common area, tax invoice will be issued to JMB or MC.
- (c) Parcel owner will claim ITC if he is registered. Similarly on the common area, ITC will be claimable by JMB or MC.

Senario 3: Bulk Meters in Residential Properties

Electricity provider issued bill to the JMB or MC

- (a) TNB will issue a tax invoice to the JMB or MC and charge GST at standard rate. No zero rating of 300kw is allowable since JMB or MC is not the domestic user of the electricity.
- (b) JMB or MC will issue a tax invoice to the parcel owner. The parcel owner is entitle for zero rating for the first 300 kw of electricity supply and will charge GST at standard rate for supply exceeding 300 kw.

Senario 4: Split Meters in Residential Properties

Electricity provider issued bill to the parcel owner of the residential

- (a) The treatment is standard rated to the residential parcel owner after zero rating of the first 300 kW. The treatment is fully standard rated for the supply of electricity for the common area.
- (b) TNB will issue the tax invoice to the parcel owner and JMB or MC for the common area supply and TNB will account for the output tax.

Q19. What is the GST treatment for water bill in the strata title building?

A19. Supply of water to commercial property and to the common area of both residential and commercial property is standard rated. For the residential

property, such supply of water will be zero rate if the tax invoice is issued by the supplier of treated water to the domestic consumers.

However, such supply is standard rated if the provider of treated water invoice the bill to the JMBs or MCs. JMBs or MCs will subsequently invoice the residential parcel owner and charge GST at the standard rate for the onward supply of the water. The service of arranging the water supply for the residential parcel owner by the JMB or MC is a taxable supply. The zero rating provided in the Zero Rated Supply Order 2014 is only applicable to supply of treated water by a person who is licensed under the Water Services Industry Act 2006.

Input Tax Credit

Q20. As a registered person under section 20 of GST Act, what can the JMB or MC claim as its input tax?

A20. The input tax claimable includes the GST incurred on the marketing and promotional of the strata building, insurance, electricity and water on the common area of the strata building, office stationeries, utilities, equipment, etc. Running expenses of vehicle (passenger motor car) such as repair, maintenance and refurbishment are not claimable as they are disallowed (blocked inputs) by virtue of Regulation 36 of the Goods and Services Tax Regulations 2014 (GSTR).

Q21. I incur GST on inputs such as security, cleaning, utilities and maintenance services. Can I recover the GST incurred?

A21. Yes, you can recover the GST incurred by claiming it as your input tax.

Q22. How do I claim input tax?

A22. JMBs or MCs will incur GST on the purchase of goods or services. The GST incurred is called input tax. The input tax claimable may include the GST incurred on the advertisement, office stationeries, utilities, equipment's, etc. GST will be charged on the services performed. The GST charged is called output tax. The GST payable to Customs Department will be output tax minus

input tax. If output tax is greater than input tax, then the difference will have to be remitted to the Royal Malaysian Customs Department (RMCD).

Example 8:

Assuming your output is management fees and your inputs are maintenance bills.

Output Management fee : RM3,000

Inputs Maintenance bills : RM1,000

Output tax RM3,000 x 6% : RM 180

Input tax RM1,000 x 6% : RM 60

The difference (output tax minus input tax) to be remitted to RMCD is RM120 (RM180 – RM60).

Q23. I am the Management Corporation in the mixed development, how can I claim ITC on my supply of services?

A23. No, GST is exclusive of stamp duty. For JMBs or MCs who managed mixed development comprising of both residential and non-residential parcel units, you have to segregate your supplies of services into the following categories:

- (a) Those directly for the making of taxable supplies (e.g. maintenance or up keeping of non-residential areas and common areas);
- (b) Those directly for the making of exempt supplies (e.g. maintenance or up keeping of residential areas); and
- (c) Those for the making of both taxable and exempt supplies (e.g. fire insurance that covers both the bare apartment and the contents within).
Such costs are termed as common costs.

The GST incurred in category (a) is claimable in full while the GST incurred in category (b) is fully non-claimable. The GST incurred in category (c) is termed

as residual input tax. Such JMBs or MCs will have to apportion the residual input tax and claim only the portion attributable to taxable supply.

Bad Debts

Q24. What will happen if my customer does not pay me after I have billed him and paid the relevant GST to RMCD?

A24. You can claim bad debt relief on the GST output tax paid in respect of any taxable supplies. The GST portion of the bad debt can be recovered subject to certain conditions;

- (a) The tax is already paid to the government;
- (b) you have not received any payment six months from the date of supply or the debtor has become insolvent before the period of six months has elapsed; and
- (c) Sufficient efforts have been made to recover the debt.

Q25. Do I have to make a formal claim to RMCD to recover GST due to bad debts?

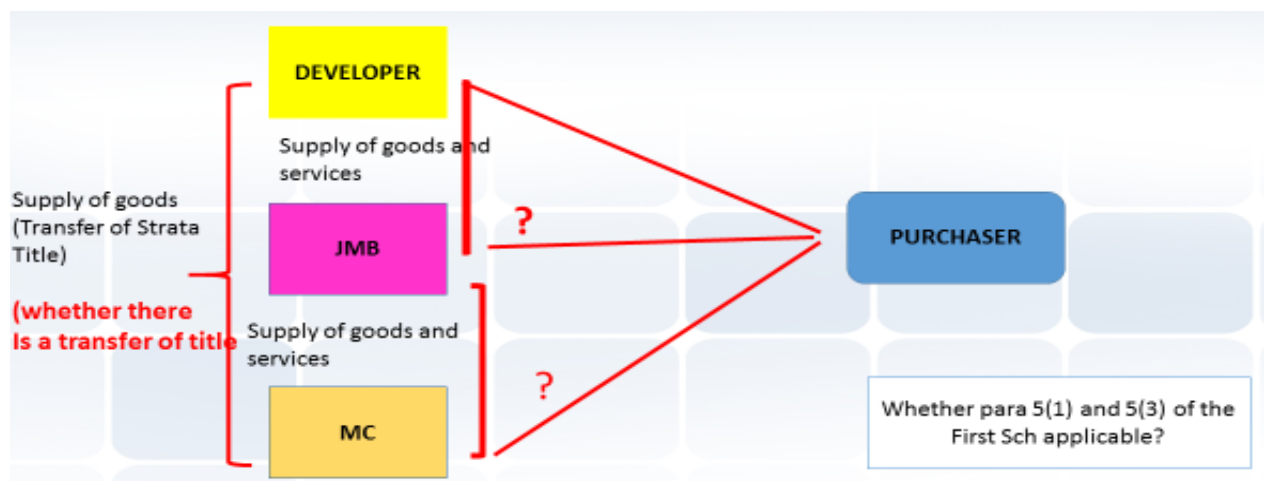
A25. No, you only need to make adjustment by increasing your input tax in your GST returns after you have satisfied all the conditions for bad debts relief.

Other Related Issues

Q26. Section 9 of the Strata Management Act 2013 requires the developer be responsible to maintain and manage properly any building or land and the common area during the developer's management period (from the date of the delivery of the vacant possession of a parcel to a purchaser by the developer until one month after the establishment of the JMBs or any such time as may be extended by the commissioner). What is the GST treatment on this interim JMBs and did developer or his agent need to register under Section 20 of the GSTA?

A26. No, during such period, the management of the building has to be undertaken by the developer since no JMB has been established as yet. The GST law does not require such developer who have the responsibility to maintain and manage the building during the developer's management period to be registered regardless of whether such supply of services is to be performed for a commercial property or not. Hence, supply of such management and maintenance services by the developer during developer's management period is to be treated as a non-supply.

Q27. The Strata Management Act also requires the goods (moveable and immoveable) and fund be transferred from the developer to the JMBs and MCs, whether such transfer be regarded as a supply under Para 5(1) and 5(3) of the first schedule of GST and subject to GST?



A27. Based on above illustration, it clearly shows that such goods and the fund are supplied for the benefit and usage of the parcel owner and the JMB or MC is only managing such goods and services. Hence, supplies of goods or services by developers to the JMBs or MCs is a non-supply and not subjected to GST.

Q28. What is the GST treatment for the handover of balance of "building maintenance fund and sinking fund" from developer to JMBs or JMBs to MCs?

A28. GST will not be charged because the handover of balance of "building maintenance fund and sinking fund" is not a supply.

Transitional Issues and Contracts

Q29. Can I claim input tax on goods that were subject to sales tax?

A29. Yes, if you are registered under GST, you may claim sales tax refund on these goods if they are reflected in your balance sheet and if you have records / documentation such as invoices and customs documentation to show sales tax have been paid.

Q30. I incurred service tax on services procured before the GST commencement date. Can I claim input tax on these services?

A30. No, you cannot claim input tax on service tax incurred before the GST commencement date because the services are regarded as consumed before GST commencement date.

Q31. What is the GST treatment if the parties' i.e. the JMBs or MCs and the cleaning provider enters into a contract before the GST is subject to GST?

A31. Property management services provided after the GST commencement date is subject to GST even though the contracts for the services were signed before the GST commencement date.

Example 9:

PK Sdn Bhd signed a contract with Mutiara Murni Management Corporation to provide cleaning and maintenance services of a complex. The contract is valid for a year from 1 January 2015 to 31 December 2015. According to the contract, PK Sdn Bhd will charge the Mutiara Murni Management Corporation RM36,000 service charge for provision of the above services. GST implementation date is 1 April 2015. PK Sdn Bhd is liable to account for GST for services provided after 1 April 2015. Therefore, PK Sdn Bhd has to account for GST of the 9 months out of the total of 12 months of the services provided. GST to be accounted is:

$$9/12 \times \text{RM}36,000 \times 6\% \text{ GST} = \text{RM}1,620$$

PK Sdn Bhd is liable to pay a GST of RM1,620.

Q32. What are the consequences if I do not make a provision to include the element of GST in my contract?

A32. Failure to include the GST provision may make the property manager unable to recover the GST from the client. Therefore, the amount of GST incurred will be paid by you.

Q33. How do I account for GST on the supplies of the services provided by the property managers if such services were performed spanning GST implementation?

A33. Generally, GST is payable on supplies of services made on or after 1 April 2015. However if there is a continuous supply of services spanning the GST commencement, only the portion of supply made after 1 April 2015 is subject to GST. JMBs or MCs supplying their services in the mixed development and commercial property must apportion their services and charge accordingly. GST is only chargeable for such services rendered after GST implementation. Apportionment can be by way of time spent or transactions of the services.

INQUIRY

1. For any inquiries for this guide please contact :

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GST Division

Royal Malaysian Customs Department

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No. 22, Persiaran Perdana, Presint 3,

62100 Putrajaya.

Email: gstsector3@customs.gov.my.

FURTHER ASSISTANCE AND INFORMATION ON GST

2. Further information can be obtained from:

(a) GST Website : www.gst.customs.gov.my

(b) Customs Call Centre:

- Tel : 03-7806 7200 / 1-300-888-500
- Fax : 03-7806 7599
- E-mail : ccc@customs.gov.my