



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON VENTURE CAPITAL

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to Goods and Services Tax (GST) treatment on venture capital business.

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 20XX 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 AND GST IMPLICATIONS ON THE VENTURE CAPITAL BUSINESS

Investors

5. Investors are the providers of funds and they include banks, insurance companies, trustees, government agencies, and individuals. They invest their money by buying the units from the respective Venture Capital Company (VCC) and recover their investment by redeeming the units. The selling of units is an exempt supply and therefore is not subject to GST. When the investors redeem the units, it is an out of scope supply.

Venture Capital Company (VCC)

6. VCC is the party who identifies the prospective Investee Company (IC) to invest on and injects capital by buying IC shares. For the purpose of investment, VCC hires management services from Venture Capital Management Company (VCMC). VCMC then charges the VCC for management fees. VCC recoups its investment by selling the IC shares to a third party or during an IPO exercise. The selling of shares is an exempt supply and therefore not subject to GST. However, the supply of management and consultative services by VCMC to VCC is a standard rated supply.

7. In the case where VCC provides investments and management/consultative services to the IC, the VCC is making both exempt supplies (investment) and taxable supplies (management service). For the management/consultative services, VCC must charge GST to the IC if he is a registered person and claim input tax credit on inputs wholly attributable to that supply.

Venture Capital Management Company (VCMC)

8. VCMC supplies management and consultancy services to the VCC. Those services are standard rated supplies chargeable to GST. However, VCMC is allowed to claim input tax on their expenses attributable to making those supplies.

Investee Company (IC)

9. IC is the party who receives the venture capital financing. When the IC makes profit, the IC original shareholder may acquire the VCC shares in the IC or the VCC may sell the said shares in the stock market. The selling of shares by the VCC is an exempt supply. In the event the IC makes a taxable supply of goods or services, the IC is required to be registered for GST when its taxable turnover reaches the prescribed threshold.

Input Tax Credit (ITC)

10. Since a venture capital company is making both taxable supply and exempt supply, the company is entitled to claim input tax incurred on acquisitions that are

directly attributable to a taxable supply. For the residual inputs such as electricity and insurance premium, the company can claim ITC based on the apportionment rules.

Supplies made in a Venture Capital Business

11. The supplies made in a venture capital business are illustrated in Figure 1 and Figure 2 below:

Figure 1: Supplies made where the VCMC and VCC are separate entities

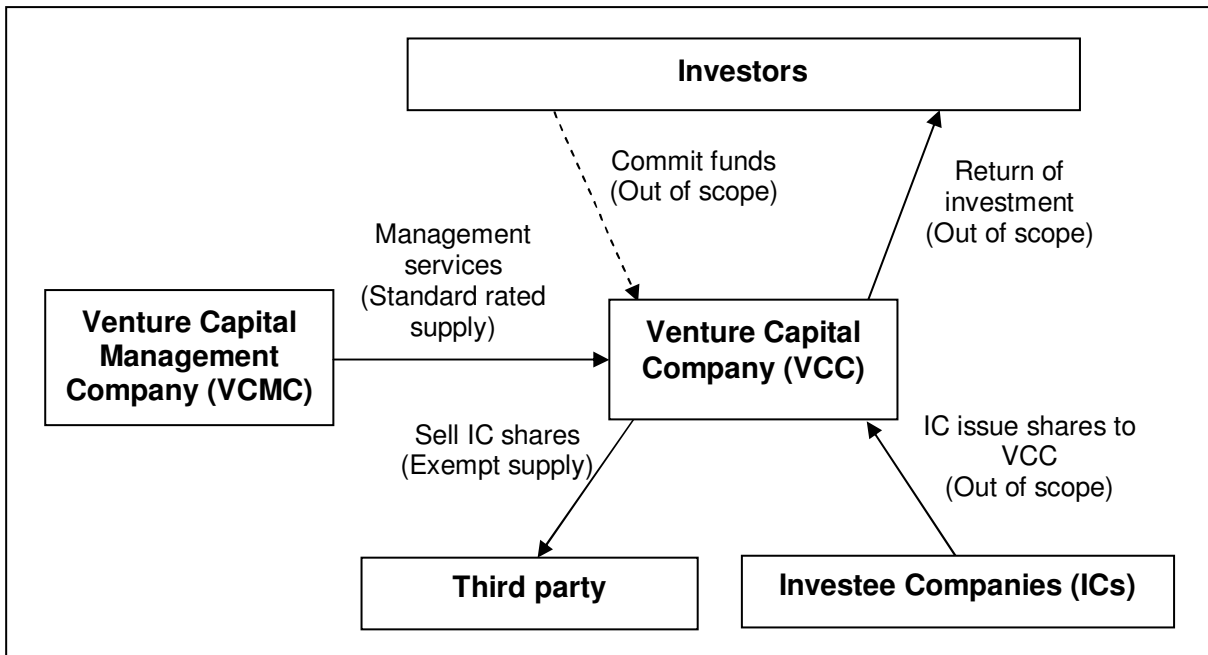
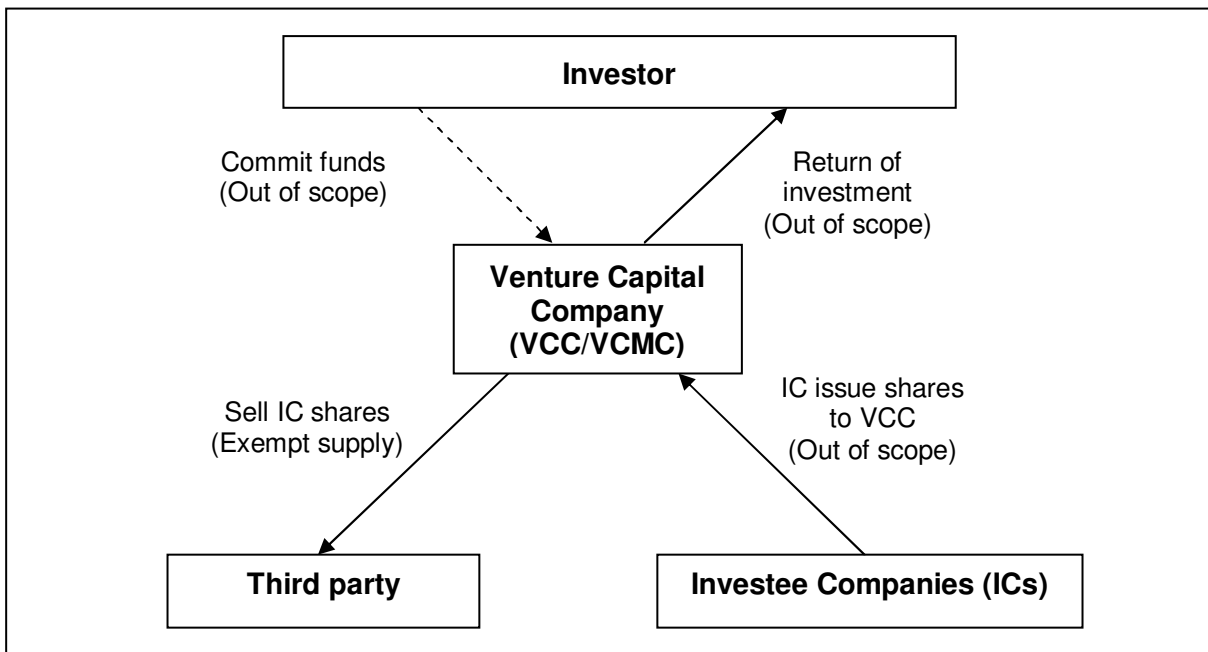


Figure 2: Supplies made where the VCMC and VCC is one entity



12. The GST implication on the supplies in Figure 1 and Figure 2 above may be summarized as follows:

- (a) Funds committed to the VCC for investment in an IC by investors is not a supply;
- (b) The sales of units / shares of an IC to the VCC to hold ownership in the IC is an exempt supply;
- (c) Supply of management / consultative services by a VCMC to manage the VCC's investment is standard rated;
- (d) The return of investment distributed by the VCC to the investors is not a supply;
- (e) The sale of VCC shares in the IC is an exempt supply.

Islamic Venture Capital Funding

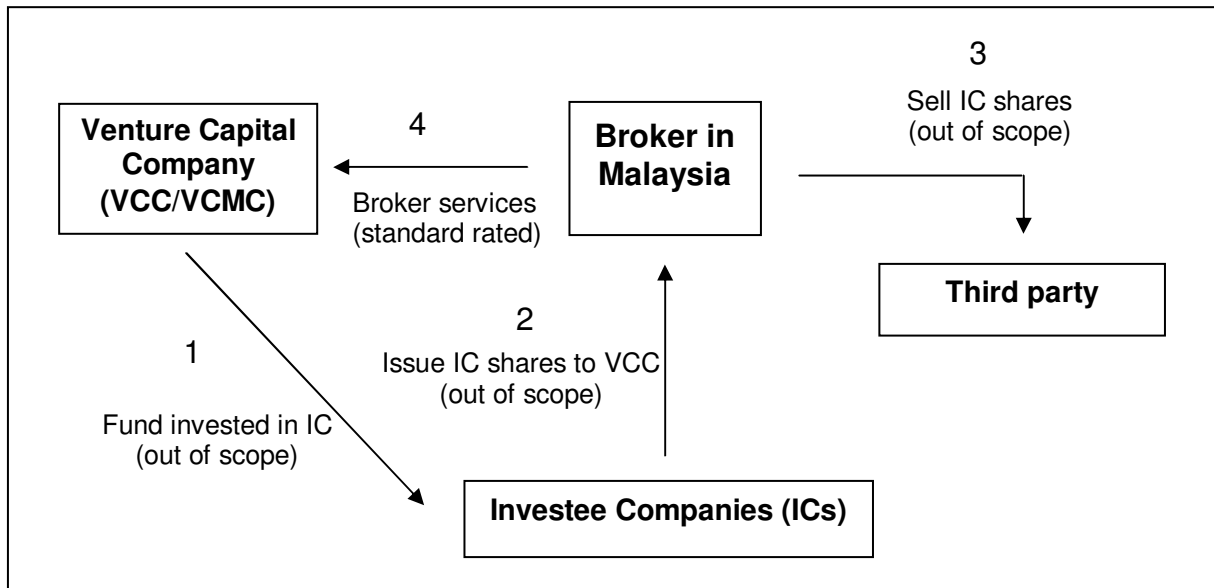
13. Generally, the Islamic structures for venture capital business are Al-Mudharabah (profit sharing) or Al-Musyarakah (joint venture). Islamic venture capital business is accorded the same tax treatment as their conventional counterpart.

Investment in Investee Company outside Malaysia

14. The GST implication on such investments are as follows:

- (a) Funds committed to the VCC for investment in an IC by investors is not a supply;
- (b) The sales of units / shares of an IC to the VCC to hold ownership in the IC is a supply not within the scope of GST;
- (c) Supply of management / consultative services by a VCMC to manage the VCC's investment is zero rated;
- (d) The sale of VCC shares in the IC is a supply not within the scope of GST;
- (e) Broker services supplied in Malaysia for business investment abroad is subject to GST at a standard rate.

Figure 3: Supplies made by the broker on behalf of the VCC on its investments in an IC located outside Malaysia



FREQUENTLY ASKED QUESTIONS

Registration

Q1: If a VCC makes only investment activities (exempt supplies), does the company need to be registered?

A1: The Company is not required to be registered.

Q2: I am a VCC which makes investment as well as management services to an investee company, should I be registered under GST?

A2: Since investment activities are exempt supplies and management services are taxable supplies, the taxable turnover for the purpose of registration will only take into account the management services. You are required to be registered if the taxable turnover exceeds the threshold. However, if your taxable turnover is below the threshold, you may apply for voluntary registration. For further details, please refer to the *General Guide*.

Group Registration

Q3: Can a VCC apply to be a member in a group registration?

A3: Group registration is only allowed for companies making wholly taxable supplies. Since a VCC is normally a mixed supplier i.e. makes taxable and exempt supplies, VCC is not eligible for group registration.

Input Tax Credit (ITC)

Q4: I incurred legal expenses in arranging for an investment venture. Can I as a registered VCC claim GST incurred on the legal services?

A4: You are only allowed to claim GST incurred on your inputs which are attributable to taxable supplies. Since the investment venture is an exempt supply, you are not eligible to claim input tax credits attributable to that supply.

Q5: I am a registered VCC and incur entertainment expenses to secure some investment from potential investors. The bill was issued under my company's name. Can I claim GST on the entertainment expenses incurred?

A5: Since the expenses incurred are attributable to an exempt supply, you are not entitled to ITC.

Q6: I am a registered VCC and I incur charges on telephone, electricity, rental and other operational expenses that relates to both exempt and taxable supplies. Can I claim ITC on such expenses?

A6: Such expenses are considered as residual charges. You are allowed to claim ITC on residual charges base on apportionment rules. For further details please refer to *Guide on Input Tax Credit*.

Q7: I as a registered VCC incurred medical expenses for my employees. Am I entitled to claim ITC on such expenses?

A7: You are not entitled to claim GST incurred on medical expenses for your employees because it is a block input. For further details please refer to *Guide on Input Tax Credit*.

Imported Services

Q8: What is the GST implication on consultancy services acquired by the registered VCC when he acquires it from overseas and can the VCC claim ITC for this supply?

A8: GST is incurred on imported services. As a recipient, he must account for GST on the imported services as output tax (known as the reverse charge mechanism) in his GST return (GST Form No.3) and pay the related taxes. He is also entitled to claim the output tax as his ITC if the imported consultancy services is attributable in the making a taxable supply, i.e. management services. However, if the imported services are attributable to an investment venture, the VCC is not entitled to claim ITC as it is an exempt supply.

Q9: Do I have to incur GST on the imported services if I am not a registered person?

A9: Yes, GST is incurred on the imported services even though you are not registered for GST. You are required to declare and pay output tax on the imported services in the GST Form No. 5. For further details, please refer to the *General Guide* on Imported Services.

FEEDBACK OR COMMENTS

15. Any feedback or comments will be greatly appreciated. Please email your feedback or comments to either Mohd Hisham B. Mohd Nor (m_hisham.nor@customs.gov.my) or Aminul Izmeer B. Mohd Sohaimi (izmeer.msohaimi@customs.gov.my).

FURTHER INFORMATION

16. Further information can be obtained from:

- (a) GST Website: www.gst.customs.gov.my
- (b) GST Hotline: 03-88822111
- (c) Customs Call Centre:

- Tel : 03-78067200/ 1-300-888-500
- Fax : 03-78067599
- E-mail : ccc@customs.gov.my