



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON SHIPPING INDUSTRIES

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INTRODUCTION

1. This Industry Guide is prepared to assist you in understanding the Goods and Services Tax and its implications on the shipping industries.

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, it is ultimately passed on to the final consumer. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 201X 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. Thus, this mechanism would avoid double taxation and only the value added at each stage is taxed.

OVERVIEW OF SHIPPING INDUSTRIES

5. The Merchant Shipping Ordinance, 1952 provides that a ‘ship’ includes every description of vessel used in navigation not propelled by oars. However for the purposes of this guide, the following items are considered as a ‘ship’:

- (a) barge;
- (b) ferry;
- (c) trawler excluding fishermen boat;
- (d) tugboat;

- (e) dredger;
- (f) cable layer;
- (g) RORO vessel;
- (h) tanker;
- (i) liner;
- (j) submarine; and
- (k) conventional cargo vessel.

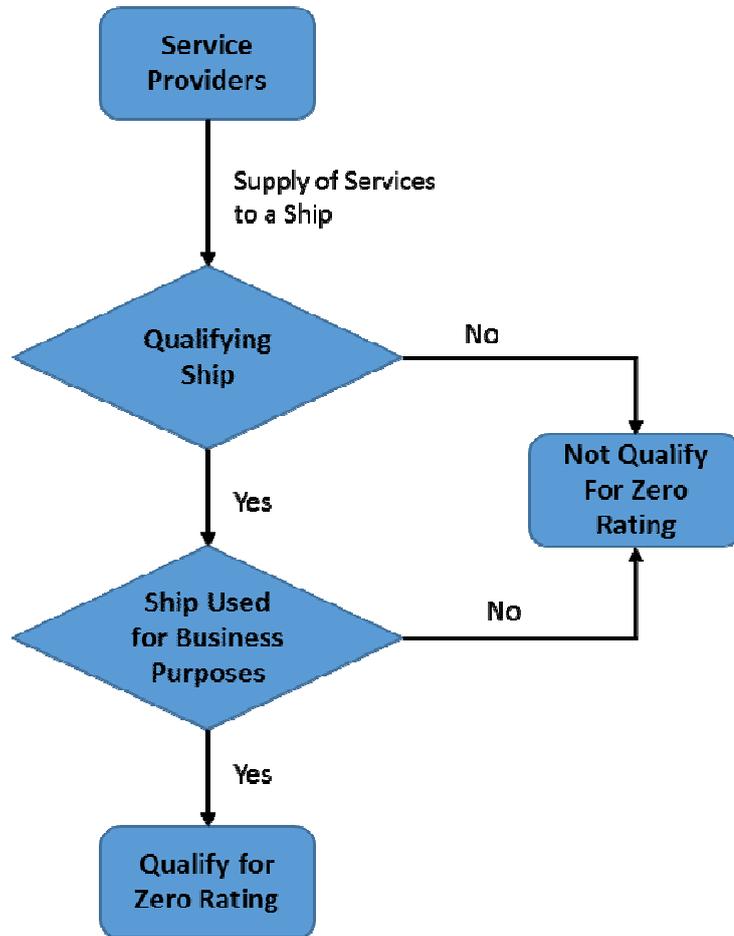
6. 'Ship' in this guide does not include:

- (a) off-shore oil or gas installations that are floating structures e.g. FPSO vessels (Floating Production, Storage and Offloading);
- (b) vessels that are permanently moored as attractions e.g. floating ship museum;
- (c) vessels which are designed or adapted for recreation or pleasure e.g. powerboats or yachts but excluding passenger liners;
- (d) boats or barges propelled by oars e.g. lifeboats, decorative traditional boats;
- (e) tin mine dredgers; and
- (f) government vessels.

OVERVIEW OF GST TREATMENT ON SHIPPING INDUSTRIES

7. Generally, in shipping industry, any service supplied in Malaysia is subject to GST at either standard rated or zero rated. Supply of services to a ship can only be zero rated if the ship is used for business purposes.

Diagram 1: Eligibility for zero rating.



Sale of a Ship

8. The sale of a ship is treated as a supply of goods. The supply of a ship whether or not it is an onward trading of a whole ship or building the whole ship is standard rated if made in Malaysia by a business registered for GST.
9. If the contractor engages a sub-contractor to build the ship, the subcontractor will have to charge the main contractor GST.
10. The supply is zero rated if the ship is exported.

Example 1:

Johan Shipping Sdn Bhd (JSB) which is located in Lumut Perak sells a RORO vessel built at a shipyard in Sabah to a local automobile dealer. The sale of the RORO vessel is a standard rated supply.

Example 2:

JSB sells a vessel to another buyer which JSB has contracted with a Japanese shipping company to have the vessel built in Yokohama.

- There is no GST on the sale of the vessel because the vessel is outside Malaysia at the time of the sale, and therefore the sale is an out of scope supply. However, the buyer will have to pay GST on the vessel when the vessel is imported into Malaysia to be registered under the Malaysian flag.

Example 3:

JSB sells a tanker to a foreign company which does not have an establishment in Malaysia. Later, the tanker is registered in Singapore. The tanker is used to provide transportation of chemicals between Malaysian ports.

- The sale is subject to GST at a standard rate. A supply of ship can only be zero rated if the ship is to be exported.

Chartering Services

11. If only part of the cargo space or seating capacity in any ship is being supplied, that is not a supply of the ship but a supply of charter for freight or passenger transport. For further information, please refer to GST guides for Passenger Transportation and Freight Transportation.

12. The charter of a ship must relate to the whole ship. The two parties may also agree that their contract (charter party) provides that the hiring of the vessel is without crew and provisions, and this arrangement is called a bareboat charter.

13. A lease or hire of a ship under a bareboat charter is a standard rated supply. If the ship is being leased from a foreign company who does not have an

establishment in Malaysia, the lessee will have to account for GST through reverse charge mechanism.

Example 4:

AET Sdn Bhd. has chartered a ship under a bareboat charter from an owner who is overseas. Payments made by AET to the foreign ship owner are payments for a supply of imported services. AET will have to apply the reverse charge mechanism when accounting for GST in its GST return.

14. Any ship which is leased to be used wholly outside Malaysia is a zero rated supply.

Example 5:

HM Berhad chartered out a ship to a foreign business on a bareboat charter basis for 5 years for the transport of cargo between destinations outside Malaysia. After two years, the charterer informs HM Berhad that the ship is to ply between Malaysian ports and obtains a Domestic Shipping License from the Marine Department.

- the supply of charter is zero rated for the first two years.

- once the ship is used in Malaysian waters, HM Berhad will have to charge the charterer GST at a standard rate.

Navigation and Ship Handling Services

15. Every ship arriving at a port will receive services such as navigation services and ship handling services from the port authority or port operator appointed by the relevant authority. Some examples are pilotage, towage, berthing, wharfage, etc. Please refer to glossary for more details.

16. Navigation and ship handling services supplied in a port to any ship are zero rated. However, if the services are provided by the government i.e. the Marine Department of Malaysia for providing light house services, it is then an out of scope supply on which GST is not chargeable.

17. Services provided in the designated area are disregarded for GST purposes not only to eligible ships but also to structures and vessels described in para 6.

Example 6:

CSCCL Hong Kong is a ship which belongs to China Shipping and is not registered in Malaysia. Upon arriving at Port Klang, the shipping agent appointed by China Shipping will have to declare the arrival of the ship to the Marine Department and pays light dues. The ship will also be charged services used while in the port such as pilotage, wharfage and mooring.

- *There is no GST on light dues since it is an out of scope supply.*

- *The other supply of services is zero rated.*

Example 7:

MMM Sdn Bhd provides towage services from Langkawi Port to Kuala Muda Port. The services are standard rated supply because it is provided outside the port area.

Ship Stores

18. For the purposes of this guide, ship stores means goods intended for consumption by the crew and passengers on board ships or vessels but excluding spare parts and equipment.

19. Goods brought on board by the crew or passengers as their personal belongings or for private use, are not stores. For further information please refer to glossary.

20. Supplies of goods that are provided for use as stores on a non-private voyage to or from a destination outside Malaysia are zero rated. The stores must be used on board ships intended for international travel of fare-paying passengers.

21. The supply is not zero rated for ships which are not for international voyage. This includes ships confined to operate at port limits, tugboats, domestic travel ferries and yachts.

22. However, supplies of ship stores are also zero rated for ships that ply between ports of Peninsular Malaysia and East Malaysia which make stops in Singapore or Indonesia in between the journey.

23. The supplies of ship stores are zero rated only if the goods are supplied directly to a ship.

Example 8:

EE Co. has a contract to supply ship stores for all Star Cruise ships.

- *Supplies of ship stores intended for journey outside Malaysia are to be considered as export. Therefore, the supplies are zero rated supplies.*
- *Supplies to a ship plying between Port Klang and Penang, and subsequently continues its journey to Singapore is standard rated supplies.*

Example 9:

At the same time, EE Co. also supplies ship stores to a private-owned boat for a round the world trip.

- *This supply is standard rated because it is made to a private boat.*
- *Supplies of stores from another supplier to EE Co. is standard rated supplies.*

Bunker Oil

24. For the purposes of this guide, bunker oil is any fuel and lubricant required for the operation and maintenance of a vessel.

25. The supplies of bunker oil to the following ships are zero rated:

- (a) ships on international voyages
- (b) ships that ply between ports of Peninsular Malaysia and East Malaysia but make stops in Singapore or Indonesia in between the journeys

26. Domestic travel ships such as ferries, cruises and non-cargo vessels like tugboats and dredgers are not entitled for zero rated supplies of bunker oil.

Repair and Maintenance Services

27. For the purposes of this guide, repair means fixing a ship for any damage excluding the parts, while maintenance services are the services provided to a ship in order to maintain the ship in good condition. Maintenance services include:

- (a) survey and classification;
- (b) testing of parts and components;
- (c) cleaning; and
- (d) fumigation

28. The supply of services for the repair and maintenance of a ship is zero rated.

29. However, if the contractor engages a sub-contractor to do the repair work, the sub-contractor will have to charge the main contractor GST. The main contractor can then claim back the GST paid as input tax credit.

30. All ship repair and maintenance services will be disregarded if the services are performed in a designated area.

Parts Replaced

31. Spare parts are parts or components of a ship which are intended to be used for replacing defective or worn out parts or components. The supply of spare parts for use on ships intended for international journey is zero rated. Please refer to glossary for more details on parts and equipment qualified for zero rating.

32. Where parts or component of a ship is being replaced while repair and maintenance services are performed, the supply of such parts or component is also zero rated.

Modification and Conversion Services

33. It is not considered as repair or maintenance services. Modification or conversion is the act of changing or altering the structural design and size of a ship. All modification or conversion services are subject to GST at standard rate.

Intermediaries Services

34. Intermediaries are those who are acting in the name or on behalf of ship owners. They can be shipping agents, ship managers or ship brokers. Services provided by shipping intermediaries are zero rated supplies.

35. Their services include :

- (a) liaisons with parties involved in the import/export of cargo, and other ancillary activities to ensure the smooth movement of cargo;
- (b) supervision of the maintenance, survey and repair of ship;
- (c) engagement and replacement of crew;
- (d) receiving on behalf of ship owner all hire and freight monies;
- (e) arranging for loading and discharging of cargo;
- (f) providing for victualling (supply of food) and ship stores;
- (g) negotiating bunker fuel and lubricants contract;
- (h) payment on behalf of ship owner of all expenses incurred in the provision of services or in relation to the efficient management of ship;
- (i) the entry of a ship in a protection or indemnity association;
- (j) dealing with insurance average, salvage and other claims;
- (k) arranging of insurance in connection with a ship;
- (l) provision of technical services, for example, the arrangement and supervision of dry-docking and repair of vessel;
- (m) arrangement of salvage and towage of vessel;
- (n) arrangement and supervision of the operations of vessel;
- (o) arrangement for the employment of vessel; or
- (p) construction supervision services, for example, to ensure a vessel is constructed according to specifications.

Classification Services

36. Classification is a procedure involving:
- (a) the development of standard of a vessel
 - (b) technical plan review and design analysis
 - (c) survey during contraction and source inspection of material, equipment and machinery
 - (d) subsequent periodic survey for maintenance of class
 - (e) survey of damage, repairs and modification
37. The supply of classification services for ships is zero rated.

Salvage Services

38. Marine salvage is the process of rescuing a ship, its cargo and sometimes the crew from peril. Situations of vessel in peril are when it is aground or in danger of going aground. Salvage encompasses rescue towing, refloating a grounded ship or patching or repairing a ship.
39. All salvage services rendered in relation to ships are zero rated supplies. This is regardless of whether the salvage services are rendered within Malaysian or international waters and whether the services are supplied to local or foreign ship owners.

Container Services

40. Sea containers are an essential part of transporting goods either locally or internationally. The same container can be used over and over for local and international journey. The supply of sea containers, by way of sale or leased, is zero rated.
41. In addition, the containers must
- (a) be used for transporting goods; and

- (b) conform to the standards defined by the International Organization for Standardization, the Institution of International Container Lessors or any other equivalent organization.

FREQUENTLY ASKED QUESTIONS

Q1: I am a tugboat operator in Kota Kinabalu Port. I bought a tugboat from a supplier in Labuan. Will I be charged GST by my supplier?

A1: No, your supplier will not charge you GST, however you need to pay GST for the importation of the tugboat. Please refer Guide on Designated Area for more information.

Q2: I own a powerboat and it is leased to a hotel in Langkawi. The guest of the hotel will charter my boat for sightseeing around Langkawi. As a GST registered person do I need to charge GST on the leasing of the powerboat?

A2: No GST is chargeable for any supply made in the designated area.

Q3: Is handling services provided to a foreign owned yacht subject to GST?

A3: Yes, yacht is not a qualifying ship therefore it is not entitled for zero rating.

Q4: I operate a fishery jetty which is under the purview of the Fishery Development Authority of Malaysia (LKIM). I will charge handling services to the fishermen which includes mooring charges and provision of ice to the fishermen. If I am GST registered person, do I need to charge GST for my services?

A4: A trawler is a qualifying ship, therefore it qualifies for zero rating treatment for the handling services provided by you. As a GST registered person you need to charge the fishermen zero rate for the handling services.

Q5: A powerboat operator sends its boat to me for repair and maintenance services. As a GST registered person do I need to charge GST?

A5: Yes, you need to charge GST because powerboat is not a qualifying ship.

Q6: I have a company in Port Dickson which manages powerboats belonging to a few individuals. I charge the owners of the powerboats for the services of managing the powerboats. Can I zero rate my services?

- A6: No. Powerboats which are used for recreational purposes do not qualify for zero rating.
- Q7: My company is appointed by a Malaysian shipping company to issue classification certificate for a ship which is built in Japan. Do I need to charge GST for the classification service if I am a GST registered person?
- A7: Although the classification service is performed in Japan, for GST purposes it is considered as a supply of service made in Malaysia and the supply is treated as zero rated. Please refer to Guide on Supply for further information regarding “place of supply”.
- Q8: My company is engaged to afloat a sunken boat in a river. As a GST registered person do I need to charge GST?
- A8: No. Salvage services is subject to GST at zero rate.
- Q9: I own a few containers which are not registered with any standardization organization. Currently, the containers are used for transportation of cargo by land. As a GST registered person, do I have to charge GST if I sell the containers?
- A9: Yes. The sale of the containers is subject to GST at standard rate because the containers do not adhere to the standardization requirement.

FEEDBACK OR COMMENTS

42. 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

43. Further information can be obtained from:

- (a) GST Website: www.gst.customs.gov.my
- (b) GST Hotline: 03-8882 2111

(c) Customs Call Centre:

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

APPENDIX 1:

Glossary

Navigation services include:

- pilotage
- tugboat
- towage

Ship handling services include:

- port and harbour dues
- dock and berth charges
- conservancy charges (including provision of local lights, buoys and beacons)
- graving dock charges
- mooring charges
- demurrage (where this is a charge for failure to load or discharge a ship within specified time)
- security and fire services
- supply of crew members and the day-to-day management of a ship

Ship stores

Ship stores are any consumable goods intended for consumption on board ship by passengers or crew, and any goods taken on board to be sold. These items must not be brought on board personally by passengers or crew. Some examples of ship stores are:-

- foods
- beverages
- water

- toiletries
- souvenirs
- confectionery
- tobacco products

Parts and equipment which qualify for zero rating. However, this list is not exhaustive. Please refer to Customs before zero rating any other parts.

- anchors
- industrial catering equipment
- industrial laundering equipment
- cranes
- fishing nets and equipment
- lifeboats and life rafts
- propellers and rudders
- radar and navigation equipment
- safety equipment (eg. life jackets)
- nuts, bolts, hoses, oil seals and rivets
- communication equipment used for the operation of the ship
- sanitary fixtures

Parts and equipment which are excluded from zero rating. However, this list is not exhaustive.

- raw materials (e.g. fibre board, plastics, specialist metals)
- bulk materials (e.g. adhesives, chemicals, fabrics, inhibitors, metals, oils, paints, solvents and thinners)
- partly processed parts or equipment
- non specialist goods or appliances

- binoculars
- domestic catering equipment
- domestic laundering equipment
- crockery and cutlery
- diving equipment
- unfixed furniture and soft furnishings
- missiles
- telephones
- televisions
- tools
- underwater cameras
- video tapes, video games and similar entertainment equipment
- tooling and equipment used for manufacturing parts or equipment