

## GST FREQUENTLY ASKED ISSUES (FAI)

BIL.	ISSUES	DECISION
1.	<p><b>Supply by Societies and Similar Organizations (Including Charitable Entities)</b></p> <p>How to determine whether the value of supply is nominal or not?</p>	<p>(i) Paragraph 3(a) Schedule 2 of the GSTA (Goods and Services Tax Act 2014), provides that supply of goods or services by any society or similar organization registered under any written law shall be treated as not a supply where the supply to its members relates to its aims and objectives and available without payment other than a membership subscription and the value of such supply is nominal.</p> <p>(ii) The value of supply is treated as nominal when the cost of supply made by the society or similar organizations to each of its member in a year <b>does not exceed RM100</b> (one hundred ringgit Malaysia).</p>
2.	<p><b>Issuing tax invoice before effective date.</b></p> <p>Whether businesses can issue tax invoice with GST NIL to their customers before effective date on the trial basis?</p>	<p>(i) Section 183 GSTA provides that, tax shall not be charged and levied on any supply of goods or services or importation of goods made before the effective date.</p> <p>(ii) Businesses can issue tax invoice with the words '<b>GST NIL</b>' to their customers <b>one (1) week</b> before effective date on the trial basis and it must indicate that it is for trial only.</p>
3.	<p><b>Issuing tax invoice for exempt supply.</b></p> <p>For the purpose of reducing compliance cost, can a mixed supplier who is GST registered, instead of issuing normal invoice, issue a tax invoice when making only exempt supply?</p> <p>.</p> <p>.</p>	<p>(i) Every registered person who makes any taxable supply in the course of his business shall issue a tax invoice containing the prescribed particulars (section 33(1) GSTA).</p> <p>(ii) A non-registered person shall not issue invoice showing an amount which purports to be a tax.(section 33(10) GSTA)</p> <p>(iii) No person shall issue invoice showing an amount which purports to be a tax on non-taxable supply. (section 33(10)GSTA)</p> <p>(iv) To avoid confusion to the consumer, the GST registered supplier must not issue tax invoice when only making only exempt supply (non-taxable supply).</p>

		<p>(v) Every registered person who makes any taxable supply in the course of his business shall issue a tax invoice containing the prescribed particulars (section 33(1) GSTA).</p> <p>(vi) A non- registered person shall not issue invoice showing an amount which purports to be a tax.(section 33(10) GSTA)</p> <p>(vii) No person shall issue invoice showing an amount which purports to be a tax on non-taxable supply. (section 33(10)GSTA)</p> <p>(viii) To avoid confusion to the consumer, the GST registered supplier must not issue tax invoice when only making only exempt supply (non-taxable supply).</p>
4.	<p><b>Registration of receiver or liquidator</b></p> <p>(i) How the receiver or liquidators need to register GST during GST era?</p> <p>(ii) Who should apply for registration, in the case where a company has been wound up before 1.4.2014 but the business operations of making taxable supply were taken over and run by the Receiver and the thresholds after 1.4.2014 is expected to exceed RM500,000?</p>	<p>(i) Registration –</p> <p>(a) If the receiver or liquidator is acting under employment of a company and his services are paid to the company, the company will have to apply for the registration.</p> <p>(b) If the receiver or liquidator is acting on his private capacity, he himself will have to apply for the registration.</p> <p>(ii) In the case where a company has been wound up before 1.4.2014 but the business operations of making taxable supply were taken over and run by the Receiver and the thresholds after 1.4.2014 is expected to exceed RM500,000, the receiver or liquidator will have to apply for the registration.</p>
5.	<p><b>Supply of goods under lease agreement from Designated Area (DA) to Principal Customs Area (PCA).</b></p> <p>(i) Whether supply of goods under lease agreement from DA to PCA subject to GST?</p>	<p>(i) Tax shall be due and payable upon all goods including any goods under any lease agreement supplied from a DA to PCA to all intents as if the supply were importation into Malaysia (section 156(a) GSTA).</p> <p>(ii) Tax shall be charged on taxable supply of services made by any taxable person from a DA to PCA or from PCA to a DA but excluding a supply of services which comprises the use of goods under any lease agreement from a DA to Malaysia (section 156(b) GSTA).</p>

	<p>(ii) What if the goods supplied from DA to PCA are not return back to DA after the expiry of the lease agreement but are supplied to another person in PCA under a new lease agreement?</p> <p>(iii) If such goods under lease agreement are supplied from DA to PCA before 1.4.2014 and the agreement ends on or after 1.4.2014 is subjected to GST?</p> <p>Note:          (a) PCA refers to Malaysia other than DA.          (b) DA refers to Labuan, Langkawi and Tioman.</p>	<p>(iii) Section 157 GSTA provides that notwithstanding any provision of this Act, tax shall be charged on all goods or services supplied within Malaysia by a taxable person whose principal place of business is located in a DA.</p> <p>(iv) Importation of goods under lease agreement supplied from DA to PCA is subjected to GST as if the supply were importation into PCA and the collection of tax due and payable shall be made in a DA.</p> <p>(v) If the goods supplied from DA to PCA are not return back to DA after the expiry of the lease agreement but are supplied to another person in PCA under a new lease agreement, such supply of leasing services is subjected to GST.</p> <p>(vi) If goods under lease agreement are supplied from DA to PCA before 1.4.2014 and the agreement ends on or after 1.4.2014, the proportion of the supply as leasing services on or after 1.4.2014 shall be subjected to GST.</p> <p>(vii) Supplier in DA shall register if his threshold of supply for the leasing services to PCA is more than RM500,000 and will have to charge GST.</p>
<p><b>6.</b></p>	<p><b>Individual supply commercial property</b></p> <p>Whether an individual has to charge GST when making a supply of his commercial property?</p>	<p>(i) GST shall be charged by a taxable person in the course or furtherance of business on any taxable supply of goods or services made in Malaysia (section 9 GSTA).</p> <p>(ii) Taxable person means any person who is or is liable to be registered under the GSTA (section 2 GSTA). A person is liable to be registered if his total taxable supply of the current month and the next eleven months exceeds RM500,000.</p> <p>(iii) Any individual owning commercial property at any one time –</p> <p>a) make a supply of two commercial properties or commercial land not exceeding 1 acre would be treated as not carrying out business even if the sale is more than RM500,000 in a 12 months period;</p>

		<ul style="list-style-type: none"> <li>b) would also be treated as not carrying out business if there is no intention of making a supply;</li> <li>c) make a supply of rental services on such property is liable to be registered when the turnover for such supply exceeded the threshold amount of RM500,000.</li> </ul>
7.	<p><b>Land Development Agreement between a land owner and a developer.</b></p> <p>When there is a land development agreement between a land owner and a developer to develop a land, can the developer issue invoice to the buyer under the developer's own name and account for output tax?</p>	<p>When there is a land development agreement between a land owner and a developer –</p> <ul style="list-style-type: none"> <li>(i) The land owner (if registered) must charge GST to the developer on the supply of right to use the land or on the supply of land and account the GST;</li> <li>(ii) The developer must – <ul style="list-style-type: none"> <li>(a) charge GST to the land owner on the construction services and other services supplied to the land owner and account the GST; and</li> <li>(b) issue a tax invoice on the supply of the completed property in his name or on behalf of the land owner to the buyer and account the GST.</li> </ul> </li> </ul>

8.

**Supply of land or property during transitional period.**

I have sold a shop lot worth RM1 million. I have made the full payment and S&P signed before 1<sup>st</sup> April 2015 but the key is handed over on the 5<sup>th</sup> April 2015? Is the property subject to GST?

Supply of land or property made:

- i) under agreement for a period or progressively over a period, whether or not at regular intervals and that period begins before the effective date and ends on or after the effective date the proportion of the supply which is attributed to the part of the period on or after the effective date shall be chargeable to tax. (refer s.188 GSTA);

**Example (a):**

1/1/14 Agreement for supply of building value at RM700,000 (progressive payment start from 1/3/14 and full payment is on 1/12/14)	1/3/14 1 <sup>st</sup> payment (RM200,000)	1/8/14 2 <sup>nd</sup> payment (RM200,000)	1/3/15 Full payment (RM300,000)	1/4/2015	Handover vacant possession/key
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This portion is not subject to GST as the full payment before effective date is made based on the agreement

**Example (b):**

1/1/14 Agreement for supply of building value at RM600,000 (Progressive payment start from 1/2/14 and full payment is by 1/5/15)	1/2/14 1 <sup>st</sup> payment (RM100, 000)	1/7/14 2 <sup>nd</sup> payme nt RM100, 000)	1/12/14 3 <sup>rd</sup> payment – RM100,000  (instead of paying RM100,000 the buyer make full payment of RM400,000 )	1/4/2015	1/5/15 4 <sup>th</sup> payme nt RM 300,00 0	Handover vacant possessio n/key
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RM300,000 paid on 1/12/14 is subject to GST because according to the agreement the full payment should be made on 1/5/15.

**Example (c):**

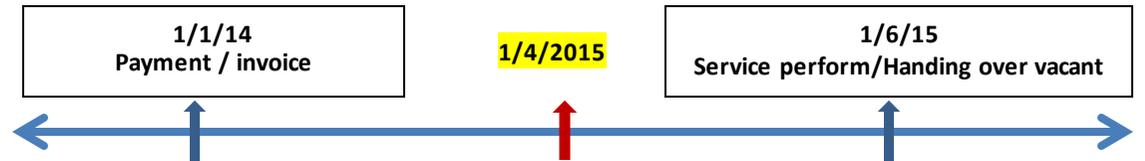
<p>1/1/14 Agreement for supply of building value at RM800,000 (Progressive payment start from 1/6/14 and full payment is by 1/6/15)</p>	<p>1/6/14 1<sup>st</sup> payment (RM200,000)</p>	<p>1/12/14 2<sup>nd</sup> payment (RM200,000)</p>	<p>1/4/2015</p>	<p>1/6/15 full payment (400,000)</p>	<p>Handover vacant possession/ key</p>
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 This proportion of supply is subject to GST

- ii) under agreement but not for a period or progressively over a period or not under agreement, where any payment received or invoice issued before effective date and the supply is on or after effective date, GST is chargeable as if the payment or invoice is received or issued on the effective date (s.183 GSTA).

**Example:**



GST is chargeable **as if** the payment or invoice is received or is issued on the effective date.