



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON INSURANCE AND TAKAFUL

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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 insurance and takaful industry.

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 output tax on his taxable supply of goods and services made to his customers. He is allowed to claim input tax credit on any GST incurred on his purchases which are inputs to his business. Thus, this mechanism would avoid double taxation and only the value added at each stage is taxed.

OVERVIEW – GENERAL OPERATIONS OF THE INDUSTRY

5. Any reference to the insurance business in this guide shall apply, mutatis mutandis, to any reference involving transactions conducted in accordance with the principles of Syariah.

6. The overall policy approach is to align the tax treatment of Islamic contracts with the conventional insurance contracts that they are economically equivalent to.

7. General insurance or general takaful provides short-term protection of properties and liabilities against any loss or damage. For GST purposes, general

insurance is taken to mean the insurance contract assigned to the general insurance fund designated by Bank Negara. Generally, supply of general insurance or general takaful products are taxable supplies which attracts GST at a standard rate i.e. a rate of 6%. Likewise, the treatment on general reinsurance and general retakaful is also standard rated.

8. Life insurance or family takaful provides a combination of long-term savings and protection for policyholders or participants and their dependents arising from death, disability or survival. For GST purposes, life insurance is taken to mean the insurance contract assigned to the life insurance fund designated by Bank Negara. Generally, there is no GST on life insurance, life reinsurance, family takaful or family retakaful products as they are exempt supplies. The supply of Shariah advisory services for takaful products is also not subject to GST.

9. This guide covers all insurance / takaful contracts under the Financial Services Act 2013 and the Islamic Financial Services Act 2013 and other insurance business not for the purpose of the above said acts. It also covers insurance business, which are exempted under the Financial Services Act 2013. For example, insurance business conducted by Exim Bank, which is exempted under the Financial Services Act 2013, is considered insurance business for GST purposes. Some examples of GST treatment on the industry are shown in Appendix 1.

10. However, this guide does not cover warranty in respect of the quality, fitness or performance of a tangible property, SOCSO, reserve funds set aside by companies to cover future losses, provident funds for employees, and pension funds or trust funds.

GST TREATMENTS ON INSURANCE AND TAKAFUL

Takaful Fund

11. In Malaysia, the agreement to enter into a takaful scheme between the participant and the takaful operator is based on different types of takaful operations for example the *al-Mudharabah* structure or *al-Wakalah* structure.

12. In an *al-Mudharabah* structure, fees or charges deducted from the takaful fund will not be subject to GST e.g. investment performance fee and surplus administrations charges. Investment income and the fees charged are deposited into the takaful operator's fund that is called the Shareholders Fund.

13. In a *Wakalah* structure, the wakalah fee (management fees) deducted by the takaful operator from the participants account (contributions paid by the participants) and paid to the shareholders fund is not subject to GST.

14. The following inter-fund transfers will not be subject to GST as it is not a supply for GST purposes:

- (a) Participant and operator share of income – profit sharing arrangement
- (b) Interest free loan from Shareholders fund to Takaful fund in the event of actuarial deficit in the takaful fund
- (c) Transfer of actual surplus between shareholders fund and takaful fund
- (d) Transfers of funds in compliance with the Takaful Act 1984.

Insurance Fund

15. Management services arising from managing the general or life insurance fund provided by the insurer/takaful operator (refers to the funds managed in-house) is not subject to GST. However, such services outsourced to an external party will attract GST at 6%.

16. Investment activities such as trading of shares, money market instruments are not subject to GST.

17. Input taxes incurred on acquisition of goods and services in managing the general insurance fund, which is attributable to the issuance of the general insurance policy, are claimable. However, input taxes incurred in managing the life insurance fund, which is attributable to the issuance of the life insurance policy, are not claimable.

Loans

18. Most life policies will have a loan clause that will allow a loan to be taken against it for as much as a percentage of the policy's cash value. Policy loans and automatic premium loans given by insurer/takaful operators where the consideration is in the form of an interest, is an exempt supply and not subject to GST.

Indemnity Payments and Settlements

19. When an insurer/takaful operator issues an insurance policy, he is liable to indemnify the insured in the event of a financial or personal loss. The payment made by the insurer/takaful operator in respect of an insurance settlement claim can be in the form of cash or other than cash (replacement or repair of damaged property). The cash indemnity payment excludes any payment made under a separate supply of service or goods contracted by the insurer/takaful operator from third party suppliers such as fees paid to surveyors, adjustors, investigators and other specialists.

Deemed Input Tax Credit in Relation to Cash Payment

20. The cash payment by the insurer/takaful operator in respect of an insurance settlement claim does not represent a supply by the insurer/takaful operator nor does it represent consideration for a supply made by the insured. Hence, indemnity payments or settlements are not subject to GST. However, the insurer/takaful operator is entitled to a credit of input tax deemed incurred known as "deemed input tax credit" subject to all of the following conditions:

- (a) Where cash payment is made in pursuant to an insurance policy that attracts GST at a rate of 6%;

Explanation:

Where no GST is collected on premiums for insurance policies that are zero-rated or exempt, the insurer/takaful operator is not entitled to a deemed input tax credit. Examples of a zero rated insurance policy are marine and aviation cargo insurance, marine hull insurance and travel

insurance. Examples of an exempt insurance policy are endowment policy, investment linked policy and term policy.

- (b) Where cash payment is made to the insured who is not registered for GST on the effective date of the insurance policy;

Explanation:

Where the insured is not a registered person, the insurer/takaful operator is entitled to a deemed input tax credit if there is a cash payment made by the insurer/takaful operator on any insured event. However, if the insured subsequently becomes a registered person after that payout, the insurer/takaful operator is not required to account for that credit. Henceforth, any insured event occurring after the insured becomes a registered person where the insurer makes a cash payout, the insurer is no longer entitled to a deemed input tax credit.

The reference point to determine the insured registration status is at the effective date of the insurance policy. Consequently, even if the insured is not a registered person on the effective date but later becomes a registered person, he still does not satisfy condition (b) i.e. not categorised as not a registered person. Hence, the insurer needs to ascertain the registration status of the insured at the effective date of the insurance policy. The registration status of the insured may be obtained at the GST Portal maintained by the Royal Malaysian Customs.

- (b) Where cash payment is made pursuant to an insurance policy where the input tax is excluded from any credit such as medical insurance policy or personal accident insurance policy and the insured is a registered person.

Explanation:

Generally, when an insured (registered for GST) purchases medical insurance policy or personal accident insurance policy, he is not entitled to claim the input tax incurred on the policy. Given that situation, when there is a cash settlement on that policy, the insurer/takaful operator is entitled to a deemed input tax credit.

- (c) Where cash payment is made pursuant to an insurance policy to an insured who is a GST registered sole proprietor and he uses the insurance policy other than for the purpose of carrying on his business (personal use).

Example 1:

Ms. Betty Lim is a GST registered sole proprietor. She purchases a fire insurance policy for her residence at Jalan Ampang, Kuala Lumpur. Since the insurance coverage is not for the purpose of any business carried on by her, the insurer/takaful operator can claim deemed input tax credit incurred on any cash payments made out to her in respect of a loss pursuant to her fire insurance policy.

- (d) Computation of deemed input tax credit

To determine the amount of deemed input tax credit, the insurer/takaful operator must apply the tax fraction to the amount of cash payment made by the insurer/takaful operator in accordance to the formula given below.

$$\text{Deemed input tax credit} = \frac{\text{GST rate}}{100 + \text{GST rate}} \times \text{cash payment}$$

Example 2:

An insurer/takaful operator made a cash payment of RM10,500 on 1 May 2013 to a motor insurance policyholder who is not a registered person. The premium for this policy was subject to a GST rate of 6% at the time of purchase on 1 December 2015 (GST implementation date 1 June 2015) for an insurance cover period of one year.

$$\text{Deemed input tax credit} = \frac{6}{100 + 6} \times \text{RM10,500} = \text{RM500}$$

- (e) Manner to claim deemed input tax credit

An insurer/takaful operator making any cash payment under an insurance contract to an insured in the course of settling a claim under

the contract, and he intends to claim deemed input tax credit, he must hold a document showing that he has made the cash payment e.g. discharge vouchers, payment advice, etc.

Compulsory Third Party (CTP) Motor Vehicle Insurance

21. In the case of insurance policies where the insured is insured against third party liabilities, when the insurer/takaful operator makes a cash payment in settlement of a claim by the third party, his entitlement to a deemed input tax would still depend on the GST registration status of the insured (subject to condition in paragraph 20(b)) and not the recipient (third party) of the cash payment.

Example 3:

Supply to a CTP insurer/takaful operator.

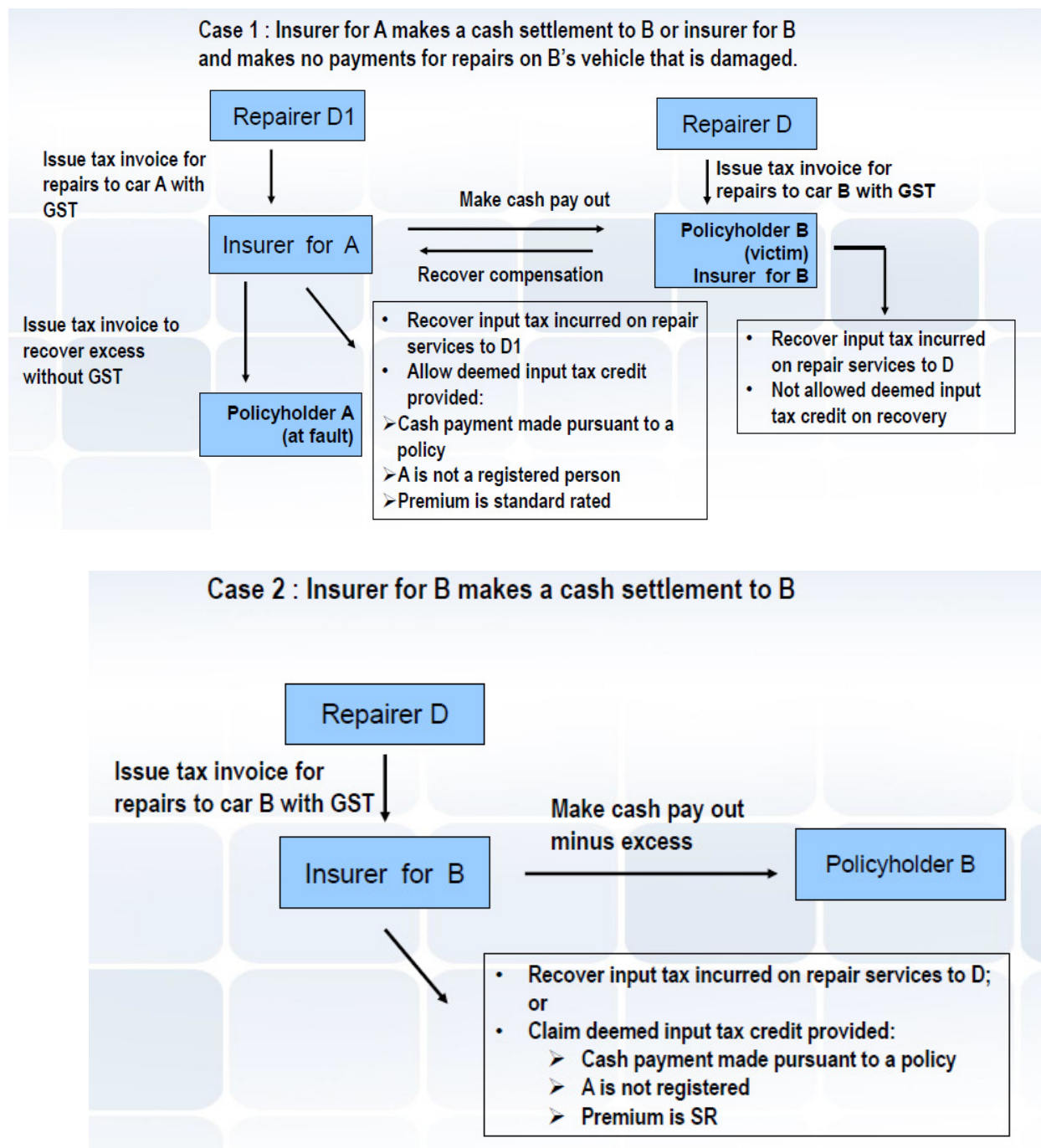
At a junction, Steven hit Ramli's car. Ramli sustains a minor leg injury and makes a claim against Steven's CTP insurer/takaful operator as Steven is at fault. Steven is not a registered person. The CTP insurer/takaful operator refers Ramli to a medical practitioner for a medical assessment. The CTP insurer/takaful operator and the medical practitioner have a binding obligation for the examination and medical assessment of Ramli. In this case, the medical practitioner is making a supply of medical services to the CTP insurer/takaful operator which is an exempt supply

If the CTP insurer/takaful operator makes a cash settlement to Ramli, the CTP insurer/takaful operator is entitled to a deemed input tax if he meets the following conditions:

- (a) Cash payment was made pursuant to an insurance policy*
- (b) Steven (insured) is not a registered person at the effective date of the policy*
- (c) Premium for CTP policy is standard rated*
- (d) Supporting documents are maintained*

If Ramli is also an insured person, his registration status will not affect the eligibility of Steven's insurer to claim the deemed input tax credit.

The illustration below shows the transactions in a motor 3rd party property damaged (TPPD) claim where Knock-For-Knock is applicable and recoverable



Multiple Insured Parties

22. Some insurance contracts name more than one party as being insured under the contract and the parties insured may be based both in and outside Malaysia e.g. Malaysians or expatriates working in an overseas subsidiary. Where there is no one party insured and the insured parties are based in and outside Malaysia, the supply of insurance is treated as being received in Malaysia irrespective of who is the party who stands to be the main beneficiary and/or where the party belongs that has been most directly involved in entering into the contract.

Example 4:

A company covers its employees under a Group Personal Accident, Group Term Life or Group Hospital & Surgical policy where some of the insured parties covered are located outside Malaysia (e.g. subsidiary of the company) and some are located in Malaysia. The supply of such insurance services is a standard rated supply.

Recovery of Cash Payment

23. There are circumstances under which an insurer/takaful operator is able to recover part or whole of the cash payment made under the insurance contract like in instances of fraud or subrogation. Where there is recovery of part or whole of the cash payment made by an insurer/takaful operator in any of the circumstances above, the insurer/takaful operator should reduce his deemed input tax claims since he did not bear part or whole of the cash payment. The adjustment should be made in the period in which the recovery was received and the value to adjust is the relevant tax fraction of that amount of recovery received.

Example 5:

GST rate on premium that gave rise to the cash payment is 6%

Insurance policy begins - 1 December 2012

Amount of cash payment - RM 5,300

Cash payment made - 1 May 2013

Recoverable amount	-	RM2,000
Recovery made on	-	3 July 2013

Insurer/takaful operator claims deemed input tax of RM 300 ($6/106 \times \text{RM}5,300$) in his return for the taxable period covering 1 May 2013 when he made the cash payment of RM5,300. Subsequently, when he recovered RM2,000 of the cash payment, he has to reduce his deemed input tax claims by RM113.20 ($6/106 \times \text{RM}2,000$) for the taxable period covering 3 July 2013.

Cash Payment Involving Excess Clause

24. All claims payment made to the insured/takaful participant, repairer or third party claimant is net of the excess clause. The excess amount is exclusive of GST. In this respect, the insured/takaful participant will settle the claim amount not covered by the insurer/takaful operator with the repairer or the third party claimant. Hence, the insurer/takaful operator is making cash payment indemnifying the insured according to the insurance contract. Deemed input tax credit is allowed only on the actual amount of cash payment made by the insurer/takaful operator.

Example 6:

The GST registered supplier bills the insured for vehicle repair services if the insured is not a registered person

- *Excess clause: RM400 (exclusive of GST)*
- *Total claims by insured (repair charges): RM4,240 (GST inclusive)*

Repair charges + GST 6%

= RM4,000 + RM240

= RM4,240

- *Net settlement by insurer/takaful operator to the insured/takaful participant: RM3,816 (GST inclusive)*

Total repairs – (Excess clause + GST 6%)

= RM4,240 – (RM400 + 24)

= RM4,240 – RM424

= RM3,816

- Insured pays RM424(GST inclusive) but cannot claim RM24 as his input tax because he is not a registered person
- Insurer/takaful operator claims deemed input tax credit of RM216 (RM240 – RM24) on the amount of RM3,816
- Repairer accounts for output tax of RM240 (6/106 X 4,200) on repair charges.

Example 7:

The GST registered supplier bills the insured for vehicle repair services if the insured is a registered person

- Excess clause: RM400 (exclusive of GST)
- Total claims by insured (repair charges): RM4,240 (GST inclusive)
- Net settlement by insurer/takaful operator/takaful operator to the insured/takaful participant: RM3,600

Total Repairs – Excess Clause – GST 6%

= RM4,240 – RM400 – RM240

= RM3,600

- Insured pays RM424 as excess clause to the insurer/takaful operator and claims RM240 as his input tax for the repair charges.
- Insurer/takaful operator cannot claim input tax credit on the amount of RM3,576 cash payout because the insured is a registered person.
- Repairer accounts for output tax of RM240 on repair charges.

Example 8:

The GST registered repairer bills the insurer for vehicle repair services if the insured is not a registered person

- Excess clause: RM400 (exclusive of GST)
- Total repair charges RM4,240 (GST inclusive)
- The repairer bills the insurer for RM3,816 (minus the excess)

- *Insurer/takaful operator claims deemed input tax credit of RM216 (RM240 – RM24) on the amount of RM3,816 cash payout.*
- *The repairer bills the insured RM424 (GST inclusive) for the excess amount but the insured cannot claim RM24 as his input tax because he is not a registered person*
- *Repairer releases the vehicle to the owner/insured after collecting the excess amount*
- *Repairer accounts for output tax of RM240 on repair charges.*

Example 9:

The GST registered repairer bills the insurer for vehicle repair services if the insured is a registered person

- *Excess clause: RM400 (exclusive of GST)*
- *Total repair charges RM4,240 (GST inclusive)*
- *The repairer bills the insurer for RM3,816 (minus the excess)*
- *Insurer/takaful operator claim input tax credit of RM216 (RM240 – RM24) on the amount of RM3,816 cash paid to the repairer.*
- *The repairer bills the insured RM424 (GST inclusive) for the excess amount and the insured claims RM24 as his input tax because he is a registered person*
- *Repairer releases the vehicle to the owner/insured after collecting the excess amount*
- *Repairer accounts for output tax of RM240 on repair charges.*

Cash Payment Involving Hire Purchase Agreement

25. For vehicle theft, the insurer would pay the sum insured or the market value of the vehicle at the time of loss excluding the excess clause. However, if the vehicle is still under a hire purchase agreement, the insurer will settle the outstanding loan with the financier and make a cash payment of the balance amount to the insured or the car owner. The insurer/takaful operator is allowed to claim deemed input tax credit on the total payout to the financier and the insured. Deemed input tax credit is

allowed only on the actual amount of cash payment made by the insurer/takaful operator.

General Reinsurance Contracts

26. It is common for insurer/takaful operators to purchase reinsurance/retakaful contracts. If a claim is made against the insurer/takaful operator, he will recover his losses by making a claim against the reinsurer/retakaful operator under the reinsurance/retakaful contract. As such claims are made under a separate contract of reinsurance/retakaful for which the insurer/takaful operator is now an insured/participant, it will not be treated as a recovery of cash payment. Therefore, the insurer/takaful operator need not reduce its input tax claims if he receives any cash payment under a separate reinsurance/retakaful contract.

27. The premiums of a reinsurance contract would qualify for zero-rating if it is a supply made 'under a contract with', and which 'directly benefits' a person belonging outside Malaysia, and who is outside Malaysia when the service is performed. Hence, reinsurance premiums received from cedants belonging outside Malaysia can be zero-rated. Reinsurance cover is not treated as supplied directly in connection with goods or land.

Indemnity Related to Damaged or Stolen Property

28. In the case where an insurer/takaful operator settles a loss by repairing or replacing the property, the insurer/takaful operator may purchase repair services or replacement property directly from the supplier. The insurer/takaful operator would pay GST only if the repair services or replacement property is subject to GST. The insurer/takaful operator is entitled to claim the input tax incurred. When the insurer/takaful operator replace the goods, he is not making a supply to the insured.

Example 10:

Insurer/takaful operator supplies replacement goods.

Ramli has his camera set stolen. Ramli is not a registered person. His insurer/takaful operator buys a new camera for RM1,680 and supplies it to Ramli in settlement of the claim. The insurer/takaful operator is entitled to an

input tax credit on the purchase of the camera equal to a tax fraction of 6% of the price, that is, RM95.

When the insurer/takaful operator supplies the camera set to Ramli, the insurer/takaful operator is not making a taxable supply to Ramli.

When the insurer/takaful operator gives a replacement property to the insured, he is not making a supply of goods.

29. If the replacement property (e.g. used assets/property) was acquired from a non-registered person, no GST will be charged to the insurer/takaful operator and the insurer/takaful operator cannot claim input tax. Nevertheless, if the insurer/takaful operator contracts a supplier who is a registered person to provide replace or repair the goods services to the insured, the insurer/takaful operator is entitled to input tax on the acquisition.

Example 11:

Insurer/takaful operator has agreement with supplier to provide goods

If, in Example 10 above, the insurer/takaful operator contracts with a supplier and pays that supplier RM1,680 to provide the camera to Ramli, then the insurer/takaful operator is entitled to an input tax credit for the payment made to the supplier. The amount of the input tax credit is the tax fraction of 6% GST in the price (RM95). The entitlement only arises if the insurer/takaful operator has an agreement with the supplier establishing binding obligations to have the camera provided to Ramli.

Supply of Goods by the Insured to the Insurer/Takaful Operator (Surrender of Goods)

30. In the case where an insurer/takaful operator compensates an insured in cash for damaged goods rather than replace or repair them, the insured surrenders the damaged goods to the insurer/takaful operator and the insurer/takaful operator will be able to sell them and keep the proceeds.

31. When the insured makes a supply of goods to the insurer/takaful operator, there is no taxable supply made by the insured e.g. the disposal of a damaged

vehicle to the insurer/takaful operator or an insurer/takaful operator takes possession of damaged vehicle from an insured is not a supply of goods by the insured.

Disposals by Insurer/Takaful Operators of Goods Surrendered Under an Insurance Claim

32. When the insurer/takaful operator disposes of the surrendered goods, the insurer/takaful operator if he is a registered person shall be liable to account for GST on the sale of the goods and he is entitled to claim input tax incurred on the disposal.

33. Cars, which have been written off and received by the insurer/takaful operator as scrap metal, it should be treated the same as other goods.

34. The insurer/takaful operator is entitled to claim input tax incurred on storage charges, tow truck charges and auction fee as input tax credit e.g. pending the sale, if the insurer/takaful operator incurs storage charges to store the damaged or destroyed vehicle, he is entitled to claim input tax on that supply of services.

Life Insurance and Family Takaful Settlements

35. The cash payments (based on the total protection bought or the face amount stated in the insurance policy upon for example death, maturity or surrender of a policy) made by the insurer is not a consideration for a supply made by the insured. Hence, the settlements are not subject to GST. In the case of family takaful, such cash payments considered as benefits are deemed, as gifts given by the takaful operator to a beneficiary are also not subject to tax.

Insurance/Takaful on International Transportation of Goods and Passengers

36. Generally, premiums/contributions charged for services comprising the insuring or arranging of the insurance/takaful or the arranging of the transport of passengers or goods to cover risks relating to the international transportation is zero-rated.

37. Where the supply of insurance coverage is from a point outside Malaysia (e.g. London) to a point inside Malaysia (e.g. Ipoh) in a single insurance contract, which

covers both international and domestic movement of goods, the domestic insurance coverage will also be zero-rated.

38. However, the GST treatment is different if there are two separate insurance contracts i.e. a marine cargo insurance contract to cover movement of goods from London to Port Klang and another Goods In Transit (GIT) insurance to cover movement of goods from Port Klang to Malacca. The supply of marine cargo insurance will be subject to GST at a zero rate while the GIT insurance will be subject to GST at a standard rate.

39. For goods flown into Malaysia from overseas, zero rate the supply of insurance coverage on those goods irrespective of whether the policyholder is in Malaysia or overseas.

40. Where the supply of general insurance covers a risk from a point in Malaysia to a point in Malaysia (domestic transportation), the supply will be subject to GST at a standard rate.

41. Examples of policies that qualify for zero rating include marine or aviation cargo insurance, marine/aviation hull insurance and travel insurance, etc. that is identifiable or involved with international journeys.

Insurance/Takaful Services Relating to Designated Areas (Labuan, Langkawi or Tioman)

42. Generally, any general insurance or reinsurance service supplied by an insurer/takaful operator located in the Principal Customs Area (PCA) covering risk in a designated area is standard rated. Similarly, the same supply if made from the designated area to the PCA is subject to GST at the standard rate. Please refer to GST Guide on Designated Areas for further details.

43. However, if the insurer/takaful operator 'belongs' in the designated area (has a fixed establishment) and provides insurance/takaful services in the designated area (the risk covered is in the designated area) to a recipient in the designated area, such supply of services is not subject to GST.

Example 12:

Labuan ABE Insurance Sdn Bhd operating in Labuan provides building insurance to a client in Labuan where the building in question is located in Labuan. The supply of such services is not subject to GST

Example 13:

Labuan ABE Insurance Sdn Bhd operating in Labuan provides building insurance to a client in Labuan where the building in question is located in Kota Kinabalu, Sabah. The supply of such services is subject to GST.

Example 14:

JKM Insurance Sdn Bhd operating in Butterworth provides insurance services to a client in Langkawi and the coverage is in the designated area. The supply of such services is subject to GST at a standard rate.

Example 15:

JKM Insurance Sdn Bhd operating in Butterworth provides insurance services to a client in Langkawi where the coverage includes the designated area and the PCA. The supply of such services is subject to GST at a standard rate.

Example 16:

Labuan ABE Insurance Sdn Bhd operating in Labuan provides insurance services to a client in Kota Kinabalu where the coverage is in the designated area. The supply of such services is subject to GST at a standard rate.

Example 17:

Labuan ABE Insurance Sdn Bhd operating in Labuan provides insurance services to a client in Kota Kinabalu where the coverage includes the designated area and the PCA. The supply of such services is subject to GST at a standard rate.

44. In addition, insurance services supplied related to cargo for export, or aircraft and ships leaving the designated area to a place outside Malaysia is zero-rated.

Offshore (Labuan) Insurance/Takaful Companies

45. Offshore insurance/takaful companies need to register if:

- (a) they make supply of taxable insurance/takaful services to cover risks located in the Principal Customs Area (PCA) or outside of Malaysia; and
- (b) their annual taxable turnover exceeds the prescribed threshold.

46. An offshore insurer/takaful operator/takaful operator will be charged GST at a standard rate for taxable supplies he outsources to a supplier in the PCA. However if he outsources the taxable services to a supplier outside Malaysia, he will not be charged GST.

47. Insurance/takaful services to cover a risk located outside Malaysia is not subject to GST but input tax credits are claimable for making such a supply.

Mixed Supplies and GST Treatment

48. If an insurer/takaful operator/takaful operator sell both life products and general products each of which is separately identifiable:

- (a) Charge GST on the general product/plan and claim ITC attributable to that supply.
- (b) Do not charge GST on the life product/plan and not entitled to claim ITC attributable to that supply.

Intermediaries for Insurance or Takaful Products

49. The intermediaries to market insurance or takaful products are as follows:

- (a) Insurance/Takaful Agents

Any supply arranged by an insurance / takaful agent on behalf of a principal (insurer/takaful operator) is a supply to or by the principal. The insurance/takaful agent does not account for GST on the insurance premiums/contributions. However, he is making a separate supply of agency services to the principal for a fee or commission. This fee or commission is subject to GST at a standard rate. Agency expenses incurred and charged by the insurer/takaful operator/takaful operator is subject to tax at a standard rate.

(b) Insurance/Takaful Brokers

Services provided by insurance / takaful brokers to their clients such as advisory or consultancy services where a charge is in the form of a commission, brokerage fees or reinsurance brokerage / commission are subject to GST at a standard rate.

(c) Bancassurance/ Bancatakaful

Acting as insurance or takaful agents, the commission received by banks is subject to GST at a standard rate.

(d) Financial Advisor

The financial advice and intermediary services provided by a financial advisor is a taxable supply. Hence, the commission earned is subject to GST at a standard rate.

(e) Other intermediaries

Other intermediaries include travel agents who sell holiday insurance, mortgage lenders that sell home-related insurances, estate agents, car salesman, solicitors and retailers marketing insurance or takaful products. Hence, any commission received in the form of introductory services is subject to GST at a standard rate.

Licensing fees for insurer/takaful operators, takaful operators, brokers and adjusters regulated by the Financial Services Act 2013 and the Islamic Financial Services Act 2013 are not subject to GST.

GST treatment on disbursements relating to insurance or takaful agents

50. Certain insurance policy/certificate/cover note issued by the agent on behalf of the insurer e.g. motor insurance requires the premium to be paid within 7 working days from the date of issuance of the said document to the insurer. If the insured fails to pay by such time, the agent will normally make the payment to the insurer and subsequently recovers the amount from the insured by issuing the agent's invoice to bill the insured for the insurance premium he has paid with no mark up to the original insurance policy/certificate/cover note earlier issued.

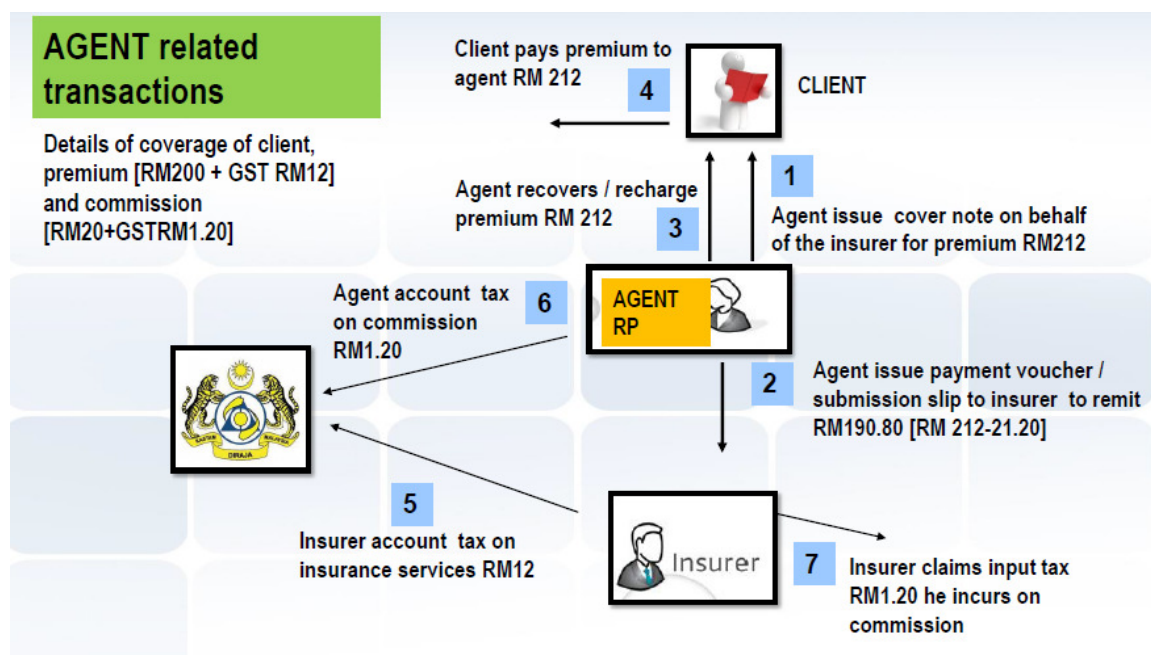
51. For GST purposes, if the party who pays the expenses is acting as a mere agent, the recovery of the expenses is termed a disbursement. The recovery of expenses does not constitute a supply made by the agent and hence will not be subject to GST. This treatment applies where the agent:

- (a) has helped arranged for the supply of goods or services and paid the premium on behalf of the insured and is not a party to the contract; and
- (b) subsequently pass on the related premium cost to the insured without a mark-up where the cost qualify as strict pass-through cost.

52. The agent may issue his invoice to the insured to recover the premium amount and it is not subject to GST. The insured may claim his input tax credit for the supply of insurance services using the insurance policy/certificate/cover note issued to him provided it contains the particulars of a tax invoice.

53. The agent is not entitled to any input tax claim since the goods or services are not supplied by the agent but by the insurer.

54. The illustration below shows the transactions relating to the GST registered insurance agents and insurers and their client where disbursement is not a supply and not subject to GST.



Other Insurance and Takaful Ancillary Service Providers

55. The ancillary service providers to the insurance and takaful business and the treatment of GST on their services are as follows:

(a) Loss Adjuster/Loss assessor

They are independent persons paid a service fee by insurance companies or an insured to assess the amount payable for a claim. Under GST, the supply of services in valuing a loss or handling a claim is subject to GST at a standard rate.

(b) Ship or Aircraft Surveyor

Surveying, inspection, examination and investigation services are subject to GST at a standard rate. However, if such services are supplied to a foreign going ship or aircraft, then such supply of services are zero-rated.

(c) Insurance Investigator

Investigation services are subject to GST at a standard rate. If an insurer/takaful operator has its own in-house investigators, GST is not chargeable on such investigation services as there is no supply. However, if the private investors or private investigation firms are supplying those services to the insurer/takaful operator, it is subject to GST at standard rate.

(d) Insurance agent acting on behalf of a principal not belonging in Malaysia

If an agent (Exim Bank) supplies export credit insurance on behalf of a principal who does not belong in Malaysia, the supply is treated as if made by the agent (Exim Bank) to the insured. The supply is a taxable supply subject to GST at a standard rate and the agent must account for tax on that supply. The agency services performed in Malaysia and charged to the foreign insurer/takaful operator is subject to GST at a standard rate.

INPUT TAX CREDITS

56. Input taxes incurred in managing the general insurance or general takaful fund, which is attributable to the issuance of the general insurance or general takaful contract, are claimable.

57. Outsourcing Activities

- (a) Examples of activities commonly outsourced by insurer/takaful operators are as follows:
 - (i) Claims handling service provided as part of an outsourcing contract for back-office functions such as settlement of claims and claims subrogation recoveries;
 - (ii) Premium administration such as collection of premiums
 - (iii) Marketing and customer services
 - (iv) Information Technology (IT) services
 - (v) Investments/fund management such as custodian services, credit control, property management, management of financial & operational risks
 - (vi) Accounting and internal audit
 - (vii) Technical consultancy services
 - (viii) General administration such as corporate services, agency administration, human resources, data processing, document processing
 - (ix) Online e-Cover portal services, auto assist programme and marine portal web.
- (b) For taxable supplies outsourced by an insurer/takaful operator, he will be charged GST at a standard rate and full ITC is recoverable if his

supplies are wholly general insurance. However, he must apply the apportionment rule if he is a mixed supplier (life and general).

58. Where an insurer/takaful operator supplies both life insurance and general insurance, he is not entitled to input tax credit in relation to provision of loan and investment related transactions where he earns some kind of an interest income or an investment income. Such transactions are exempt supplies.

CAPITAL GOODS ADJUSTMENT (CGA)

59. CGA applies to insurer or takaful operators, which make both taxable supplies (general insurance/general takaful) and exempt supplies (life insurance/family takaful). However, if they make taxable supplies only, CGA does not apply to them.

60. Insurer or takaful operators who are partially exempt suppliers or composite providers are required to attribute and allocate usage of assets based on the taxable usage of the assets. They are therefore required to:

- (a) track and monitor the usage of assets worth RM 100,000 and above in the making of taxable supplies; and
- (b) make adjustments (if any) on a yearly basis.

SELF BILLING ON COMMISSION FROM SALE OF INSURANCE CONTRACTS AND TAKAFUL CONTRACTS

61. Insurers or takaful operators may adopt self-billing subject to approval by the Director General for the supply of insurance/takaful agency services (agents commission) subject to the following conditions:

- (a) Allowable between the insurer/takaful operator and their agent where both are registered persons.
- (b) The insurer/takaful operator determines and verifies the final value of the commission paid to the agent
- (c) The insurer/takaful operator prepares the tax invoice on behalf of the agent, for services provided by the agent

- (d) The insurance/takaful agent agrees not to issue tax invoice for their services to the insurer/takaful operator.

TIME OF SUPPLY FOR PREMIUMS AND COMMISSION

62. The time of supply is the time at which supplies made by the insurer is treated as having taken place. However, the rules below determines when output tax is to be accounted on premiums and commissions.

63. Where premiums are paid in a lump sum or paid periodically (e.g. premiums paid on a specified schedule - quarterly basis), the time of supply is at the earliest of or output tax will be accounted based on the earlier of:

- (a) When a tax invoice is issued; or
- (b) When payment is received

This will facilitate large risks requiring a longer time to finalise the terms of the cover, in co-insurance, facultative/treaty reinsurance inward arrangements or marine open cover arrangement.

64. The issuance of an invoice relating to the premium charged will trigger the time of supply of services made by an insurer/takaful operator or takaful operator. The invoice may be a tax invoice or any document that serves as a bill for payment provided it contain the prescribed particulars. The GST Guide on Tax Invoice and Record Keeping provides such particulars.

65. For most transactions, output tax should be accounted on brokerage/commission (including overriding commission or other product related payment) due to broker/agent at the earliest of the following occurrence:

- (a) When an invoice is issued
- (b) When payment is received

66. The issuance of any type of invoice will be an event that triggers the time of supply which includes:

- (a) a tax invoice or any document that serves as a bill for payment for supplies made by a GST-registered supplier (e.g. debit note); or
- (b) a tax invoice by the GST registered broker/agent or the insurance company under self-billing arrangement.

67. The broker/agent may raise a debit note for the collection of the premium from the insured on behalf of the insurer/takaful operator but it does not represent a tax invoice by the insurer/takaful operator. Hence, the debit note issued by the broker/agent is not a tax invoice for GST purposes. The broker should indicate the following words on his debit note "This is not a tax invoice. The insurer/takaful operator's tax invoice will be sent to you shortly".

TRANSITIONAL RULES

Supply of Insurance / Takaful Spanning GST Implementation.

68. If a supply of general insurance/takaful that involves a periodic or progressive supply of insurance premium/contribution that spans 1 April 2015, GST is chargeable on the part of the supply made for the period on or after 1 April 2015.

Example 18:

- *Insurance premium: RM3,600*
- *Insurance policy period: 1 July 2014 to 30 June 2015*
- *Value subject to GST: RM900 (3/12 X RM3,600)*
- *GST chargeable: RM54 (6% X RM900)*

Example 19:

A life insurer sells a life policy with a personal accident as a rider before 1 April 2015 to an individual and this policy is spanning the implementation date. The life insurer has to account for GST on the rider for the period of coverage from 1 April 2015 as the rider a taxable supply to the extent covered by the premium for the rider.

69. However, if the provision of insurance/takaful has been charged service tax, the supply made on or after the appointed date, is not chargeable to GST.

70. In addition, if there are some policies where service tax has been charged, collected and remitted to Customs before the appointed date but subsequently cancelled after such date, the insurers may make a claim for a refund of the service tax remitted.

Insured Events before the Implementation Date

71. Insurance arrangements can span the date of implementation of the GST. For example, an insurance settlement claim made for an event, which occurred before 1 April 2015, but settlement may not occur until after 1 April 2015. Under these circumstances, the insurer/takaful operator is not entitled to claim a deemed input tax credit for any settlement for an event that occurred before 1 April 2015.

Relief of Tax on Specific Insurance Services Spanning Implementation Date

72. Insurance or takaful services subject to relief from tax upon the implementation of GST are as follows:

- (a) Motor vehicle insurance or motor vehicle takaful services supplied before the appointed date and the services spans the appointed date, the premium charged and paid in full or in part before the appointed date for that supply is not subject to GST.
- (b) Fire insurance or fire takaful services supplied before the appointed date and the services spans the appointed date, the premium charged and paid in full or in part before the appointed date for that supply is not subject to GST.

SPECIFIC ISSUES AFFECTING INSURANCE OR TAKAFUL

Premium refunds

73. Refunds made by insurer to insured may be used as refunds to offset premiums payable. Insurer should not reduce the value of their services and the

corresponding output tax when a refund is made upon the occurrence of an insured event, or an event other than the insured event, e.g. no claims being made, or termination of the policy plan after a specified minimum number of years, etc.

74. Refunds may be treated as discounts against the insurance premiums if the payment of refund is connected with the renewal of the insurance contract, and the refund is offset against the premium. GST on the subsequent premium may be accounted on the net premium payable.

Investment Linked Policies

75. Life insurers offer investment linked policies with a combination of protection and investment elements and for GST purposes is treated as a single supply of life policy and the premiums for the ILP is exempted from tax. Premiums received from the policyholder are typically invested in professionally managed investment linked funds. When insurers' charges fees such as fund management fees, surrender fees, redemption fees, to defray its costs of administering the investment linked policies, he is making a taxable supply of services and such charges are subject to GST at a standard rate.

Recovery of Medical Expenses from Agents / Policyholders

76. The insurer may require the potential insured to undergo medical check-ups to ascertain the risk profile of the insured and the premiums required to underwrite the policies. The insurance company would generally bear the medical costs relating to compulsory check-ups done by the insured. If the insurer recovers such cost from the insured or the agent, such recovery is treated as a taxable supply and chargeable to GST.

FREQUENTLY ASKED QUESTIONS

Insurance Products, Premiums and Fee

Q1: How is GST calculated on a general policy premium sold to a registered person?

A1: The GST incurred is as shown in the following example:

Example 20:

<i>Basic premium</i>		<i>780.00</i>
<i>Loading</i>		<i>300.00</i>
<i>Total</i>		<u><i>1080.00</i></u>
<i>NCD</i>	<i>(-) 450.00</i>	
<i>Gross premium</i>		<i>630.00</i>
<i>Rebate</i>	<i>(-) 40.00</i>	<i>590.00</i>
<i>GST (6%)</i>		<i>35.40</i>
<i>Stamp duty</i>		<i>10.00</i>
<i>Premium payable</i>		<u><i>635.40</i></u>

Q2: An insurer/takaful operator sell a liability insurance policy plan covering all phases of the work done including towing, hook up, installation and commissioning process to a shipbuilder. The shipbuilder carries out vessel conversion services at a local shipyard for a foreign ship owner and eventually tows the vessel out to international waters for the benefit of the foreign ship owner. What is the GST treatment on the single premium on the insurance plan where the plan is renewable annually?

A2: The shipbuilder's liability insurance policy will be subject to GST at the standard rate.

Q3: Under the guidelines for Islamic financial services on international currencies issued by Bank Negara, a licensed international takaful operator (ITO) incorporated as an entity/branch in Malaysia may conduct non-ringgit general and family takaful business and retakaful businesses. Presently, ITOs enjoy full income tax exemption for a period of 10 years. Are they also such similar treatment under the GST regime?

A3: There will be no GST exemption for all taxable supplies made by ITOs.

Q4: What is the GST implication on the personal accident policies (PA) sold to pupils studying in public or private schools, colleges, universities and other institutions of higher learning?

A4: The insurance policies sold to students in educational institutions will be subject to GST at a standard rate.

Q5: What is the GST implication on the PA policies purchased by MARA from a local insurer/takaful operator to insure their scholars studying in universities and other institutions of higher learning in Australia?

A5: The supply of a group PA to MARA for its scholars will be subject to GST at a zero rate.

Q6: What is the GST implication on the PA policies purchased by an Educational Institution from Indonesia from a registered insurer/takaful operator in Malaysia to insure their scholars studying in universities and other institutions of higher learning in Malaysia?

A6: The supply of a group PA to the Educational Institution from Indonesia for its scholars in Malaysia will be subject to GST at a standard rate.

Q7: What is the GST implication on a Personal Accident (PA) policy plan sold in a package with other taxable goods or services?

A7: Since the supply of goods or services and PA are all taxable supplies, the supplier need not apportion the single charge. GST is chargeable on the single charge. However, if the package consists of general insurance and an exempt supply, the supplier is required to apportion the single charge according to the proportion for exempt and taxable supplies. The proportion for the exempt supply will not be subject to GST while the proportion for general insurance will be standard rated.

Q8: What is the GST implication on a life policy plan sold in a package with other taxable goods?

A8: Since life policy is an exempt supply and goods are taxable supplies, the supplier is required to apportion the single charge. The proportion for the exempt supply will not be subject to GST while the proportion for taxable supply will be standard rated.

Q9: What is the GST implication on the premium for general insurance to cover a property outside of Malaysia?

A9: Since the property is located outside of Malaysia, the premium will not be subject to GST being a zero-rated supply.

Q10: What is the GST implication on the premium for general insurance to cover a property in Malaysia owned by a foreigner who is not in Malaysia at the time the insurance coverage takes place?

A10: The premium charged will be subject to GST at a standard rate.

Q11: Are annual registration fees imposed on insurer/takaful operators and takaful operators regulated by the Financial Services Act 2013 and the Islamic Financial Services Act 2013 subject to GST?

A11: No, such regulated fees are not subject to GST. Similarly, the licensing fee requirement on offshore insurer/takaful operators regulated by the OFFSHORE INSURANCE ACT 1990 is also not subject to GST.

Q12: What is the GST treatment on the policy surrender fee charged and the cash value paid out by the insurer/takaful operator when the policyholder surrenders a policy?

A12: The surrender fee will be subject to GST at a standard rate while the cash value paid out is not subject to GST.

Q13: What is the GST implication on stand-alone non-life policies issued by life insurer or family takaful operator?

A13: The stand-alone non-life riders will be subject to GST at the standard rate.

Q14: Are offshore insurance companies supplying life reinsurance or family retakaful services to recipients in Kuala Lumpur subject to GST?

A14: They do not have to register, as those supplies are exempt supplies. However, if they supply taxable insurance services to recipients in the Principal Customs Area (PCA) where their annual taxable turnover exceeds the required threshold, they need to register.

Q15: Under a superannuation scheme, a member to the scheme contributes to the life insurer/takaful operator administering the scheme. At the time of maturity of the scheme, the insurer/takaful operator will pay the member of the scheme monies accumulated together with the interest

earned in one lump sum or in a series of payments. Are the contribution and the payout subject to GST?

A15: The contribution made by a member of a superannuation scheme and the payout by the insurer/takaful operator is not subject to GST.

Q16: I supply investment-linked takaful or investment-linked insurance plans and charge fees such as establishment cost/initial charge (for policy issuance and marketing), monthly management fee and monthly managed portfolio fee (for managing the investments of the funds), policy fee (ongoing administration costs of the premium plan) and bank handling fees to my policyholders. Are these fees subject to GST?

A16: The fees charged are subject to GST at a standard rate.

Q17: What are the GST implications in the event of a cancellation of a general insurance policy, which entails a refund of premium to the policyholder?

A17: The insurer/takaful operator needs to raise a credit note when he refunds the premium, subsequently adjust his accounts, and reduces output tax in the return for the taxable period in which the credit note was issued.

Q18: Fees are charged for processing termination of group and individual ordinary family plans due to expiry and other causes such as switching to other plans. Are the fees subject to GST?

A18: Yes, the fees are subject to GST at a standard rate.

Q19: Is general insurance sold to nonprofit organisations or charitable organisations subject to GST?

A19: Yes, the insurance services is subject to GST at a standard rate.

Q20: I am a marine insurer registered for GST and I provide marine hull and machinery and ship insurance for my clients' ships, vessel or yacht. Are such general insurance subject to GST?

A20: The insurance services you cover on ships, vessel or yacht that are local or foreign bound is subject to GST at a standard rate. However, if the supply of such insurance coverage is for ships, vessel or yacht sailing outside Malaysian waters, the supply is zero rated e.g. the ship insurance is to cover a

ship that sails from Port Klang to ports of call outside Malaysia only and not from Port Klang to Kota Kinabalu Port and later to Muara Port, Brunei.

Time of Supply

Q21: I am a GST registered insurer and I receive premium payments from my insurance agent for various policies (life and general policies) sold but unable to match the premium payments with the type of policy sold at the time of receipt of the payments. What are my obligations as a taxpayer on the payments I have received?

A21: Your time of supply to account for tax on the supply of insurance services is the taxable period in which you receive the payments from your agent. Hence, you must identify the type of supply you are making upon receiving the premium payments.

Q22: I am a GST registered insurer; provide insurance coverage for a mega project beginning from 1 January 2015 to 31 December 2018 and issue I issue a tax invoice for the premium on 15 June 2015. The delay is due to underwriting the risk elements and coverage. When is my time of supply?

A22: Your time of supply is at the time you issue the tax invoice that is on 15 June 2015.

Q23: As a GST registered insurer, am I liable to account for tax when my insurance agent issues a cover note to the insured?

A23: Yes, as your agent is acting on your behalf, your time of supply is at the time your authorized insurance agent issues the cover note. However, should you issue a policy for the insured instead of a cover note by your insurance agent, your time of supply is at the time the policy is issued by you.

Mixed Supplies and GST Treatment

Q24: What is the GST treatment on a medical insurance plan and a PA plan?

A24: Medical insurance and PA are both taxable supplies and they are subject to GST at a standard rate. The same also applies to similar products provided by general takaful and family takaful operators.

Q25: What is the GST implication on non-life policies (personal accident, medical and health policies) attached to individual or group life insurance policies?

A25: The premium of the non-life policies will be subject to GST at standard rate while the premium for the individual or group life policy will not be subject to GST as it is an exempt supply.

Co-Insurance Plan

Q26: What is the GST implication in a co-insurance or co-takaful arrangement (joint assumption of risk between various insurer/takaful operators) involving general insurance?

A26: The GST implication will depend on the billing arrangement among the co-insurer/co-takaful operators. If the Lead insurer/takaful operator (agent for the other co-insurer/co-takaful operators) bills the customer on behalf of the other co-insurer/takaful operator, he is required to charge and account for GST on the whole premium charged. The other co-insurer/takaful operator will in turn charge and account GST on their respective share on the premium and subsequently issue a tax invoice to the Lead. The Lead will then claim GST incurred as his input tax credit.

Example 21: Lead insurer/takaful operator bills the customer

Under a co-insurance arrangement, three co-insurers/co-takaful operators supply a general insurance policy to a customer. The premium is RM200m of which the Lead takes 50% share and the other two co-insurer/co-takaful operators take 25% each. The Lead charges and accounts RM12m as his output tax. His tax invoice to the customer is as follows:

Premium RM200m

GST 6% RM 12m

Total RM212m

Subsequently, the other two co-insurer/co-takaful operators will issue a tax invoice each to the Lead as follows:

Premium RM50m

GST 6% RM 3m

Total RM53m

The two co-insurer/co-takaful operators will each account RM3m as their output tax and the Lead will claim a total of RM6m as input tax in the relevant taxable period.

Example 22: *Each co-insurer/co-takaful operator bills customer individually.*

Under such an arrangement, each co-insurer/co-takaful operator is required to charge and account GST according to their respective share.

Using the above example, the Lead will charge and account GST as follows:

Premium RM100m

GST 6% RM 6m

Total RM106m

and the other two co-insurer/co-takaful operators will each charge and account GST as follows:

Premium RM50m

GST 6% RM 3m

Total RM53m

Q27: As a Lead insurance company in a co-insurance arrangement, I am responsible for administering various aspects of the insurance policy such as handling claims and insurance documents. I subsequently levy a charge for these services to the other insurance companies sharing the risk based on percentages. Is this charge subject to GST?

A27: Such charges are subject to GST at a standard rate.

Insurance Product with Local and Overseas Coverage

Q28: What is the GST implication on policies that cover either local and overseas employment or study; and health insurance, which includes overseas medical coverage?

A28: Such supplies of global plan and worldwide coverage policies will be subject to GST. Further examples include key man, public liability insurance, and executive or corporate travel policies.

Q29: What is the GST implication on policies where the supply of general insurance services covers a domestic and an international component of the risk?

A29: There are two (2) GST treatments:

- (a) Where the single general policy covers a domestic and international component of risk, the insurance services is subject to GST.
- (b) Where there are two separate policies where one covers the international component and another covers a domestic risk, then the coverage outside Malaysia is zero-rated and the latter is standard rated.

Q30: What is the GST implication on policies where the supply of life insurance services is global where it provides coverage in and outside Malaysia to the policyholder?

A30: The supply of life insurance is an exempt supply.

Investment Activities

Q31: What is the GST treatment on investment activities undertaken by takaful operators from funds based on contributions collected from general takaful and family takaful supplies?

A31: Generally, investment activities such as trading of equities, bonds, government securities, loans and fixed deposits are not subject to GST.

However, investment in the form of buying and selling of commercial properties or rental of such properties are subject to GST at a standard rate.

Q32: What is the GST treatment on surplus sharing in the form of Ma'asyi bonus and income pay out – income derived from 'investment' made by Takaful operators for the participants?

A32: Investment income payout is not subject to GST.

Discount

Q33: How is GST calculated on the premium if an insurance agent gives a discount on the premium for a general product to a regular client?

A33: Where an insurer/takaful operator gives a discount on the premium, GST is charged on the discounted amount. However, for discounts given by agents on the premium, it will not be taken into account for purposes of GST as the agents are not regulated by Bank Negara Malaysia to give such discounts.

Registration of Insurance Intermediaries

Q34: I am an employee of an insurance company. At the same time, I act as an agent to sell my company's products. Am I required to register for GST?

A34: Yes, you are required to register for GST if your past taxable turnover for the period of twelve months has exceeded the threshold or the future taxable turnover is expected to reach the threshold. In calculating the taxable turnover, you only have to take into consideration the commission received in your role acting as an insurance agent.

Q35: If an unregistered insurance agent's annual taxable turnover fluctuates above and below the threshold from year to year, what are his liability to be registered and his eligibility to seek cancellation of registration?

A35: The insurance agent may register voluntarily to become a registered person although his annual taxable turnover is below RM500,000. However, he is required to stay in the system for a period of no less than 2 years before he may seek to deregister.

Q36: I am a resident agent for several non-resident principals and is to be registered for GST. Do I have to register separately for each principal?

A36: No, you are required to make one registration only although you may have several agencies since you deal with more than one principal.

Insurance Related Services

Q37: As a takaful operator, I provide facilities/services (free office space and utilities) to my agents and brokers for which there is no consideration for the supply. What is the GST treatment on these free facilities/services?

A37: Such supplies by the takaful operator will not be subject to GST since there is no consideration received. Similar GST rules will apply if those services are supplied by conventional insurance companies.

Q38: I employ a loss adjuster who assesses the losses of my company's insurance claims. What is the GST treatment on my employee's services?

A38: Such a supply will not be subject to GST since the person supplying the services is your employee.

Q39: What is the GST treatment on insurance policies sold by way of telephone sales services?

A39: General insurance policies will be standard rated while life insurance policies will be exempt irrespective of whether they are sold by conventional methods, through telephone sales or online. However, if the marketer at the call centre is remunerated by way of commission or flat rate fee, he is required to register for GST if his past taxable turnover for the period of twelve months has exceeded the threshold or the future taxable turnover is expected to reach the threshold.

Q40: In the course of selling insurance, some agents or brokers provide non-financial services such as advice on risk-control programs, insurance evaluation and financial or estate planning, are these services subject to GST?

A40: If non-financial services are provided by an insurance agent or broker for which there is a consideration for the services supplied, such services are subject to GST at a standard rate. However, if there is no consideration for the services then there will no GST charged accordingly.

Q41: What is the GST treatment on intermediary insurance services performed in Malaysia by insurance agents or brokers for a non-resident principal (insurer/takaful operator)?

A41: The services is a taxable supply and subject to GST at a standard rate.

Q42: What are the GST implications on expenses such as travelling and accommodation expenses incurred in the course of investigating an insurance claim by the insurer/takaful operator's employee?

A42: The insurer/takaful operator will have to pay GST on those expenses and subsequently claim GST incurred on input.

Fees and Commissions by Agents and Brokers

Q43: Are commissions and brokerage earned by insurance agents and brokers relating to life insurance exempted from GST?

A43: No, they are not exempted from GST. Commissions will be subject to GST at a standard rate irrespective of whether it relates to a contract of general or life insurance.

Q44: Q45: Are the value added services such as fees for arranging insurance for specific projects and liability exposure provided by insurance brokers subject to GST?

A44: Yes, it is subject to GST at a standard rate.

Q45: An insurance company can fund either directly or indirectly an insurance agent's expenses in recognition of the volume of business generated by him. This funding is known as soft commission. Is soft commission subject to GST?

A45: There is no supply made by the insurer/takaful operator to the agents when he funds their expenses in this situation. Hence, soft commission is not a consideration for a supply and not subject to GST.

Q46: When my insurance company makes a certain amount of profit, I share the profits with my insurance agents. Is profit commission subject to GST?

A46: There is no supply made by the insurer/takaful operator to the agents when he shares the profits with them. Hence, profit commission is not a consideration for a supply and not subject to GST.

Q47: Does the same GST treatment apply if a life insurance company provides profit and soft commissions to banks, direct marketers or insurance brokers?

A47: Yes, the GST treatment is the same.

Q48: An investment bank acting as an insurance agent purchases a general insurance for an employee and requests that the commission earned to contra off from the premium charged. How is GST calculated on such transaction?

A48: Since the supply of general insurance and commission are taxable supplies, both insurance company and investment bank have to issue tax invoices. The GST is calculated as below:

Annual premium charged - RM1,500.00

Commissioned earned - RM 100.00

Tax Invoice Issued by Insurance Company:

Annual premium RM1,500.00

GST 6% RM 90.00

Total RM1,590.00

Tax Invoice Issued by Investment Bank:

Commission RM 100.00

GST 6% RM 6.00

Total RM 106.00

Bank pays insurer RM 1,590 – RM106

= RM 1,484.00

Q49: I am an insurance agent and provide service of arranging insurance cover before the appointed date and receive my commission from the insurer/takaful operator after the appointed date. What is the GST implication on the commission paid to me?

A49: The supply of arranging insurance cover services by the agent will be performed progressively throughout the period of insurance cover and this will be spanning the appointed date. The supply of such services before the appointed date will not be subject to GST but the services performed on and after the appointed date will be subject to GST. Hence, the commission received by the agent before the appointed date will not be subject to GST and subsequent commissions paid by the insurer/takaful operator / takaful operator on or after the appointed date will be subject to GST.

Q50: I am an insurance broker and provide insurance intermediary services for the period of an insurance cover, which was entered into before the appointed date, and the cover spans the appointed date. What is the GST implication on the fee paid to me?

A50: As the supply you are making is for the duration of the cover spanning the appointed date, GST is only payable on the supply or service to the extent that it is made on or after the appointed date.

Q51: Upon the cancellation of a policy, that spans the appointed date, a percentage of the premium is refunded and following that some of the original commission is refunded. What is the GST implication on the commission refunded?

A51: If the pro rata refund is for a progressive supply or a supply made for a period of the policy, then adjustments need to be made if the refund relates to the supply on or after the appointed date.

Input Tax Credit

Q52: I am a resident insurance agent acting for a non-resident principal (insurer/takaful operator). In the course of my business, I incur GST on expenses such as office rentals, utilities and stationeries. Am I entitled to claim the GST paid as my input tax credit?

A52: Since you are making zero rated supplies that are taxable supplies, you are entitled to claim the GST paid as input tax credit (ITC).

Q53: As an insurance agent, I incur expenses such as parking charges, petrol purchases for my passenger car and mobile phone charges. Can I claim full ITC on these expenses since I am making taxable supplies?

A53: Yes, you can only claim full input tax recovery on your parking charges, petrol purchases and mobile phone charges provided that the expenses incurred are used for making taxable supplies. If the inputs are used for making taxable supplies and private use, you are required to apportion them by using the standard method.

Q54: I supply taxable supplies and at the same time offer loans to my clients and my subsidiaries. Am I eligible to claim full ITC for this supply of incidental financial services?

A54: No, you are not eligible because you are also providing loans to clients other than your subsidiaries.

Q55: As a life insurer/takaful operator, am I entitled to a fixed rate of recovery of input taxes I incur on my acquisitions?

A55: No, you are not entitled for such recovery of taxes but you may recover using the normal rules of recovery if you make taxable supplies.

Q56: As a life insurer/family takaful operator, I need to perform a medical assessment as a step or component in the processing of a claim to determine my policyholder's medical status. Am I entitled to claim input tax incurred on this acquisition?

A56: No, you are not entitled to such a recovery as you are making exempt supplies i.e. supply of life insurance.

Q57: Is an insurance broker, loss adjuster or insurance agent eligible to claim input tax credits attributable to investment activities such as holding of bonds and shares made by them?

A57: Yes, they are entitled to the input taxes incurred on the investment activities as they are treated as input taxes attributable to taxable supplies.

Tax Invoice

Q58: As an insurance agent, I submit a submission sheet from time to time to my principal insurance company. This document details the payments for the insurance products sold and my entitlement for commission. Can this document constitute a tax invoice issued by me to the principal?

A58: The submission sheet does not constitute a tax invoice for GST purposes as it does not contain particulars of a tax invoice.

Q59: Is an offer letter or quotation to a prospective insurance client treated as a tax invoice?

A59: No, this document is not treated as tax invoice because you will not know whether there will be a supply at the time when you issue the document.

Q60: What kind of invoicing arrangement should the banks comply with if they act as agents (bancassurance) in the name of their principals (insurer/takaful operator)?

A60: The agent banks who act in the name of their principals can issue tax invoices on behalf on their principals. Any tax invoice issued must in the name of the principal containing all particulars of a tax invoice.

Q61: Can I treat insurance renewal notice (automatic renewal of the insurance as per the anniversary date) as a tax invoice?

A61: You cannot treat the renewal notice as a tax invoice.

Q62: Can an insurer/takaful operator use a self-billed invoice for the commission due to GST registered agents?

A62: The insurer/takaful operator may make an application to the Director General if he chooses to use self-billing for the payment of commission to his GST registered insurance agents.

Gifts, Vouchers, Sponsorship, Etc.

Q63: An insurance company sponsored a Creative Photo competition, as it is the company's way of reaching out to the public, which includes

giveaways in the form of prize money and trophies. What is the GST treatment on this sponsorship?

A63: For trophies provided in the form of sponsorships for which there is no consideration, the company is required to account for GST if the cost of the trophies to the insurance company is more than RM500. Any sponsorship in the form of money is not subject to GST.

Q64: If my company arranges an exclusive gala dinner function and sells tables and tokens for the dinner to my insurance agents, is the sale subject to GST?

A64: Yes, the supply of tokens and arranging for dinner for a consideration by the agents will be subject to GST at the standard rate.

Q65: If I am an International Takaful Operator established as a branch in Malaysia under the Malaysia International Islamic Financial Centre (MIFC) initiative, carrying out non-ringgit (general and family) takaful business and retakaful business in Malaysia with non-residents in international currencies other than Malaysian ringgit. Are my supplies of takaful subject to GST?

A65: If you carry on takaful business with either residents or non-residents on risks related to land, buildings and goods located in Malaysia, you must charge GST on your general takaful business and you are exempted from charging tax on your family takaful business. However, if the same risk is located outside of Malaysia, then your supply of general and family takaful business is not subject to tax (zero rated supply).

Q66: Is an insurer/takaful operator or reinsurer/takaful operator allowed to apply to be a member for group registration if he is a non-entity or non-resident but have subsidiaries or branches in Malaysia?

A66: The insurer/takaful operator or reinsurer/takaful operator cannot apply for group registration.

Transitional

Q67: As a registered insurer/takaful operator, can I charge service tax on an annual life premium spanning the implementation of GST before and up to the date before 1 April 2015 and no further taxes is imposed on the premium for the period of cover from 1 April 2015 to the end of the annual cover?

A67: Yes, you may do so as the provision of life insurance is an exempt supply and not subject to GST. However, if you have charged your policy holder service tax on the annual premium for the period before and after 1 April 2015, then you are required to account for the full sum of service tax when you receive payment from your policyholder.

Miscellaneous

Q68: Insurance companies have to contribute 0.25% from the collection of (motor) insurance premiums to the Road Safety Fund managed by the Transport Ministry. Is there a GST liability on this contribution?

A68: This contribution to the Road Safety Fund is not subject to GST.

Q69: What is the GST implication on the yearly premiums that the financial institutions are required to pay to the Malaysia Deposit Insurance Corporation (MDIC) that administers the deposit insurance system?

A69: The premiums charged by the Malaysia Deposit Insurance Corporation to the insurers will not be subject to GST.

Q70: An overseas insurance expert (loss arbitrator) is engaged by a GST registered insurer/takaful operator to settle a claims appeal in the Malaysian court. Since the LA is a foreign resident, he will not charge GST on his arbitrage fees. Do I need to account GST on the arbitrage fees as an imported service?

A70: The arbitrage fees charged will be treated as a supply of imported services received by the insurer/takaful operator. The insurer/takaful operator is required to account GST on the imported services and he is entitled to claim input taxes.

Q71: Is the annual levy imposed by PIAM on its member companies subject to GST?

A71: Yes, the annual levy charged by PIAM IS subject to GST at a standard rate.

Q72: Is the supply of insurance services by Malaysian Motor Insurance Pool subject to GST?

A72: Yes, the supply is subject to GST at a standard rate.

Q73: Is the supply of management services made by MMIP Services Sdn Bhd to manage the insurance pool subject to GST?

A73: Yes the supply is subject to GST at a standard rate.

Q74: The sale of fire insurance cover for a block of condominium arranged by the joint management body (JMB) is subject to GST. How does the JMB charge the owners of the commercial lots in the condominium who which to claim input tax on the premium paid for the cover?

A74: When the JMB who is a registered person issues a tax invoice for his management fee, he can include the premium (inclusive GST) charges in that same tax invoice to the owners.

FEEDBACK OR COMMENTS

77. 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

78. Further information can be obtained from:

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

GST Tel : 03-88822111

(b) Customs Call Centre :

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

APPENDIX 1:

OTHER TREATMENT OF GST ON INSURANCE AND TAKAFUL

A. Generally, standard rated supplies are:

- Supply of general insurance and takaful products to free industrial zones, licensed manufacturing warehouses and bonded warehouses
- Supply of general reinsurance contracts by offshore financial institutions to their clients in the Principal Customs Area (PCA).
- Rental of insurer/takaful operator's premises
- Advisory and management services (relating to investment linked insurance contract) excluding shariah advisory services
- Sale of taxable business assets
- Training activities for new agent recruits and existing agents to increase their productivity as well as their service level
- Commission earned.

B. Examples of zero rated supplies are:

- Supply of General insurance or takaful, or general reinsurance or retakaful contracts issued by a Malaysian insurer/takaful operator to cover risks located outside of Malaysia.
- Supply of export credit insurance services, export financing insurance, overseas investments insurance and guarantee facilities to local exporters, banks or investor to cover risks outside Malaysia.
- Policy issued in respect of persons, who at the time when the policy is issued, is a non-resident

- Supply of life reinsurance by a GST registered life reinsurer/takaful operator to a cedant (direct insurer/takaful operator) belonging outside of Malaysia

C. Some examples of non-supplies (supply not made) or out of scope supplies are:

- Inter-fund transfers
- Supply of insurance by Protection & Indemnity Clubs (international organization) to local and foreign going Malaysian registered ships
- Supply of reinsurance contracts by offshore financial institutions in the international or global market
- A reinsurer/takaful operator or retakaful operator's deposit retained by an insurer/takaful operator or a takaful operator in the form of security for performance of reinsurance or retakaful contracts
- Technical reserves to provide for the settlement of claims
- Cash bonuses
- Withdrawals by a family takaful plan contributor from his takaful personal account