ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE
ON
HIRE PURCHASE
AND
CREDIT SALE

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INTRODUCTION

1. This industry guide is prepared to assist businesses in understanding matters with regards to Goods and Services Tax (GST) treatment on hire purchase (HP) and credit sale.

Overview of Goods and Services Tax (GST)

2. Goods and Services Tax (GST) is a multi-stage tax on domestic consumption. GST is charged on all taxable supplies of goods and services in Malaysia except those specifically exempted. GST is also charged on importation of goods and services into Malaysia.

3. Payment of tax is made in stages by the intermediaries in the production and distribution process. Although the tax would be paid throughout the production and distribution chain, only the value added at each stage is taxed thus avoiding double taxation.

4. In Malaysia, a person who is registered under the Goods and Services Tax Act 20XX is known as a "registered person". A registered person is required to charge GST (output tax) on his taxable supply of goods and services made to his customers. He is allowed to claim back any GST incurred on his purchases (input tax) which are inputs to his business. Therefore, the tax itself is not a cost to the intermediaries and does not appear as an expense item in their financial statements.

OVERVIEW – GENERAL OPERATIONS OF HP AND CREDIT SALE

Credit Arrangement

5. Generally, there are two common methods of supplying goods under a credit agreement:

(a) HP Agreement

(b) Credit Sale Agreement

Credit Sale Agreement

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6. These are agreements for the sale of goods which immediately become the property of the customer and is payable by installments. Under this type of agreement, the supply is usually financed by a credit service provider. The credit service provider pays the supplier for the goods and the customer owes a sum of money (unsecured loan) to the credit service provider. The credit service provider cannot repossess the goods if the customer fails to keep up the installment payments. Normally the credit service provider will charge higher interest rate to cover the risk.

7. Please refer to GST Guide on Islamic Banking for the tax implication on the underlying sale and purchase agreement between Islamic bank and customer for the purpose of providing financing.

HP Agreement

8. The Director General treats HP as a system of acquiring goods on credit by way of periodic payment or installment whereby the seller of the goods is known as the dealer and the purchaser is known as the hirer. Supplies made through a HP arrangement usually involve a financial institution (FI). The ownership of the hire purchased goods does not pass to the hirer at the time of the HP agreement or upon delivery of the goods until the hirer has exercise the option to purchase or fully settled the price agreed upon in the HP agreement.

9. The legislation governing the HP transactions in Malaysia is the Hire Purchase Act 1967. However, there are also HP agreements used by businesses on goods which are not in the First Schedule of the Hire Purchase Act 1967 (non-Act goods) e.g. machineries and equipment but for GST purposes the tax treatment is the same.

GST Liability and Input Tax Allowable

10. Under a HP agreement or credit sale there are two (2) types of supplies: a financial supply and a taxable supply. The liability for GST on the taxable supply arises at the commencement of the HP agreement or credit sale and not continually throughout the period of the agreement. There is no liability for GST on the financial supply component of that hire purchase or credit sale as it is an exempt supply.

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11. To the extent that the consideration refers to the sale of the asset, this component of a hire purchase is a taxable supply. The supplier of the asset is liable for GST on this component, and is entitled to input tax credits for GST costs referable to the supply of the asset. The provision of credit under a hire purchase agreement is a financial supply, and therefore not entitled to input tax, where the credit is provided for by way of a separate charge and the separate charge is disclosed to the customer.

12. However, if under the agreements where no separate credit charge is disclosed to the customer, the agreements will be treated as a taxable supply. That is, the supplier is liable for GST on all charges under the agreement, and will be entitled to input tax credits in relation to all acquisitions required to make that supply.

13. GST is due to be accounted by the supplier on the full value of the goods on the issuance of an invoice or when payment is received whichever is the earlier in a HP or a credit sale agreement because ownership will subsequently be transferred sometime in the future for a HP and transferred at the time of sale for a credit sale. This means that the same GST rules apply as they would for any sale and purchase of goods under an ordinary sale agreement.

14. Where the hire purchase agreement is terminated early and the goods are handed back to the supplier then the supplier can claim relief in respect of the GST element of the outstanding payments.

Accounting on Payment Basis

15. The attribution rules for hire purchase will be made the same for both payment and non-payment registered persons or hirers.

16. An approved person accounting for GST on payment basis must account for output tax on invoice basis or accrual basis when he supplies goods under a hire purchase agreement. Then he attributes all the GST in the taxable period in which the agreement is entered into, as a deposit is typically paid or invoice issued at that time.

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17. Input tax credits on acquisitions made under a hire purchase agreement are available to payment basis hirers as if they had accounted on a non-payment basis for that transaction. This means that input tax credits are available upfront to the hirer.

Example 1:

May owns a pharmaceutical business and the business is registered for GST and accounts on a payment basis. On 20 July 2013, she enters into another hire purchase agreement with Stevie to purchase a delivery vehicle for her business for RM130,000 (not including any financing charges). May is able to claim a full input tax credit of RM7,358.49 (6/106 X RM130,000) for the tax period she provides any of the consideration or receives a tax invoice, whichever is the earlier, irrespective of whether May accounts for GST on a payment or non-payment basis.

GST TREATMENT ON CREDIT SALE

Credit Sale

18. Credit sales may involve two types of transactions where a retailer makes a supply of goods and a supply of credit under an agreement for the sale of the goods to the purchaser.

19. The value of the goods and installment payments are calculated as follows:

(a) supply of goods and credit where the credit or interest component is shown separately and disclosed to the recipient, the interest component is not subject to GST but the principal payments are subject to GST at a rate of 6%. Refer to Table 1.

Table 1:

Calculation of 1st installment payment	
Value of goods	RM1,200
GST @ 6%	RM72

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Value + GST	RM1,272
Installment @12 months	RM100
GST @ 6%	RM72
Interest @ 5% per annum	RM5
Total 1st installment	RM177

Calculation of subsequent installment payment	
Installment	RM100
Interest @ 5% per annum	RM5
Total installment	RM105

The retailer is required to charge and account RM72 as his output tax in the taxable period in which the supply takes place.

(b) supply of goods and credit where the credit or interest component is not shown separately and not disclosed to the recipient, the entire agreement is subject to GST at a rate of 6%.Refer to Table 2.

Table 2:

Calculation of 1st installment payment	
Value of goods	RM1,200
Interest @ 5% per annum	RM60
Subtotal	RM1,260
Installment payments*	RM105
GST @ 6%	RM75.60
Total 1st installment	RM180.60
Subsequent installment	RM105

(c) If the retailer charges any processing fee, then such fee is subject to GST.

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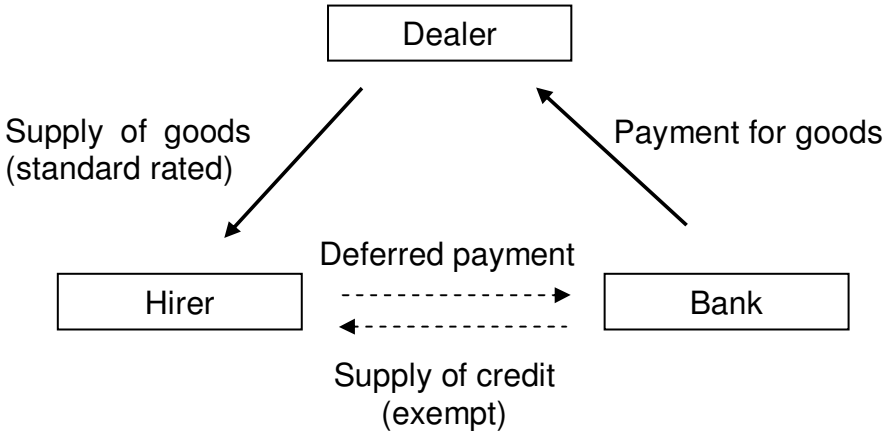
GST TREATMENT ON HP

Conventional HP and Islamic HP

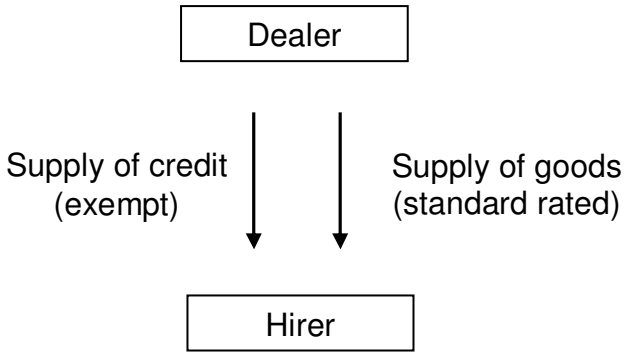
20. The GST implications are as follows:

(a) Where a HP involves a financial institution (FI), the FI is making a supply of credit which is an exempt supply and is not subject to GST.

(b) The dealer of the goods is making a supply of goods which is a taxable supply which attracts GST at a rate of 6% i.e. a standard rate. The dealer issues a tax invoice to the hirer charging GST on the supply of goods.



(c) Where a HP agreement does not involve a financier, the supplier is making two supplies i.e. a supply of goods and the other supply being a supply of credit. The consideration for the taxable supply of goods is the cash price stated in the agreement before any deposit is paid.



(d) If the purchaser or hirer is registered for GST and the goods are used for making another taxable supply, he is entitled to claim the GST

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incurred on the inputs except where the inputs are not allowed to be claimed as it relates to a list of goods and services acquired where the input tax is not recoverable e.g. purchase of a passenger motorcar by a registrant for business use.

(e) The dealer is entitled to input tax incurred in the making of the supply of goods.

(f) For Islamic HP (Ijarah) transactions or product structures such as Al Ijarah Thumma Al Bai' (AITAB) and Al Ijarah Muntahiah Bit Tamlik (IMBT), the tax treatment may be found in the public ruling on Islamic financial products.

(g) Insurance

The financier of the vehicle acts as an agent on behalf of the insurer when he obtains insurance cover for the hirer and earns a commission which he charges to the insurer. The insurer will charge GST on the supply of insurance services to the hirer. Please refer to GST Guide on Insurance and Takaful for further details.

(h) Vehicle Registration

The vehicle registration fee charged by JPJ is for an out of scope supply as JPJ is a government body and not subject to GST.

(i) Interest

The interest charged for financing by the FI which is an exempt supply is also not subject to GST.

21. Please refer to Appendix 1 for more details on the GST treatment on other related charges.

HP Transaction And GST Liability

22. Following from the written statement prepared by the dealer of the goods required in Part I of the Second Schedule of the HP Act 1967, the value of the goods which will be subject to GST is as illustrated in the example below:

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Example 2:

Azam, a registered person, visits a motor vehicle dealer to purchase a car valued at RM100,000 through HP financing and the vehicle is to be used in his driving school. Azam puts up the minimum deposit of 10% of the cash price of the motor vehicle to the dealer. Then he finances the balance 90% through a HP agreement. The HP agreement is for a period of 60 months. The GST rate is 6%.

Table 3 shows the cash value of a vehicle RM100,000 on the road upon GST implementation. The cash value is exclusive of GST but includes excise duty.

Table 3

ITEMIZED CHARGES	***AMOUNT (RM)***
Deposit 10% cash value	*10,000*
Balance 90% cash value	*90,000*
Total cash value of motor vehicle	*100,000*
GST @ 6%	*6,000*
On the Road (OTR) Price*	***106,000***

* *The vehicle registration fee and insurance already incorporated in the OTR price.*

(a) The transactions leading to a HP agreement and the GST liability incurred is calculated as follows:

(i) Dealer collects 10% deposit from hirer:

Deposit 10%	*RM10,000*
GST @ 6%	*RM600*
Total	*RM10,600*

Dealer issues tax invoice (receipt to the hirer) of RM 10,600 and accounts for output tax RM 600.

(ii) Sale of car by dealer to hirer for the balance 90% of the cash price of the car

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Balance 90%	*RM90,000*
GST @ 6%	*RM5,400*
Total	***RM95,400***

Dealer issues a tax invoice to the hirer (issues a receipt to the hirer) of RM95,400 and accounts for output tax RM5,400.

(iii) Azam is entitled to a credit of RM 6000 as the car is used exclusively (100%) for business purposes i.e. a car for his driving school.

(iv) Sale of car by dealer to hirer for the balance 90% may be through HP financing where payment by the hirer is in installment payments to the financier. HP financing by a financier is an exempt supply and is not subject to GST.

(v) No GST liability arises for the FI at the time the installments are received by the FI during the term of the hire purchase agreement. The GST will have been accounted for by the dealer when the goods were handed over to the customer.

(vi) Any associated fees and charges, such as late payment fees incurred under the terms of the hire purchase arrangement is subject to GST.

Input Tax Credit

23. An input tax credit cannot be claimed unless the hirer is holding a tax invoice. The hire purchase agreement does not constitute a tax invoice. He is entitled to an input tax credit for the supply of goods under through HP financing (i.e. vehicle).

Aborted Deals After Booking Fee Paid

24. When a booking fee is paid by a hirer, he incurs GST on the amount he pays to the dealer and the dealer accounts for output tax. If the booking fee is forfeited as a result of a cancellation, the forfeited amount by the dealer is not further subject to GST as it is not a supply for GST purposes. Hence, the dealer does not have to make any tax adjustments to his accounts.

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25. If the amount is not forfeited and returned to the customer, the dealer who has accounted for output tax on the booking fee may make adjustments by reducing his output tax in his return. This is addressed in the GST Accounting Guide.

Transfer of Agreements

26. If the owner of the goods assigns his rights, interests and ownership under a HP to a FI under a block discounting, the transfer is not subject to GST.

Transfer of Ownership at The End of The Hire Purchase Agreement

27. The transfer of legal ownership of the goods from the FI to the customer at the end of the hire purchase agreement is not a supply for GST purposes.

Fees Including Handling Fees

28. A handling fee of RM600 charged by the dealer to the FI is subject to GST at a standard rate and the dealer accounts for output tax on that supply.

Commission

29. Commissions received by the suppliers of goods for introducing his client to FIs that eventually provide them with credit, is subject to GST although the supplier is providing intermediary services.

30. The provision of services by suppliers of the goods to the FI is a taxable supply subject to GST at a standard rate. Hence, such suppliers must issue a tax invoice (if they are registered persons) to the FI for the commission earned and subsequently accounts for output tax on the supply.

Terms Charges and Hiring Charges

31. The charges for late payment and interest / terms charges are not subject to GST for a supply of hire purchase financing.

Trade In Vehicle Transaction

32. When an owner has agreed that any part of the hire-purchase price may be discharged otherwise than by the payment of money i.e. trade-in vehicle for a new

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vehicle, it is deemed to be a part of the payment of the hire-purchase price. In such a transaction the HP price for the purpose of GST is as follows:

Example 3:

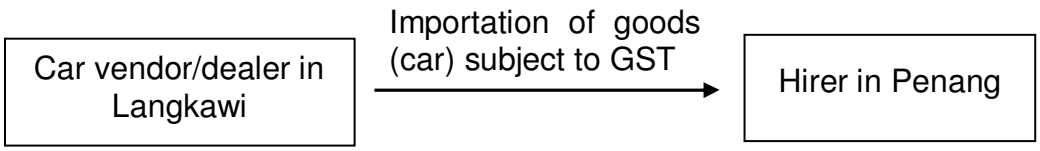
Hashim (not a registered person) trades in his old car at open market value of RM75,000 to Hap Leng Car Dealer (registered person) for a new car valued at RM100,000. The amount of GST is calculated as follows:

Item	***Value (RM)***
Price of new car	*100,000*
GST @ 6%	*6000*
Price of new car + GST	*106,000*
Trade in car	*75,000*
Cash value required from Hashim	*31,000*

Hap Leng Car dealer has to account for output tax of RM6,000 when he sells the new car to Hashim. When Hashim trades in his car, he has to pay a cash value of RM31,000 (106,000 – 75,000) for the new car.

Supply of HP in A Designated Area

33. The supply of goods from a supplier in the designated area to a customer in the Malaysia other than the designated area e.g. Penang is deemed as imported into Malaysia. The hirer will import the goods into Malaysia from the designated area and pay the taxes due including GST at the entry point into Malaysia. The supplier in the designated area will not charge GST on the sale of the goods to the hirer.



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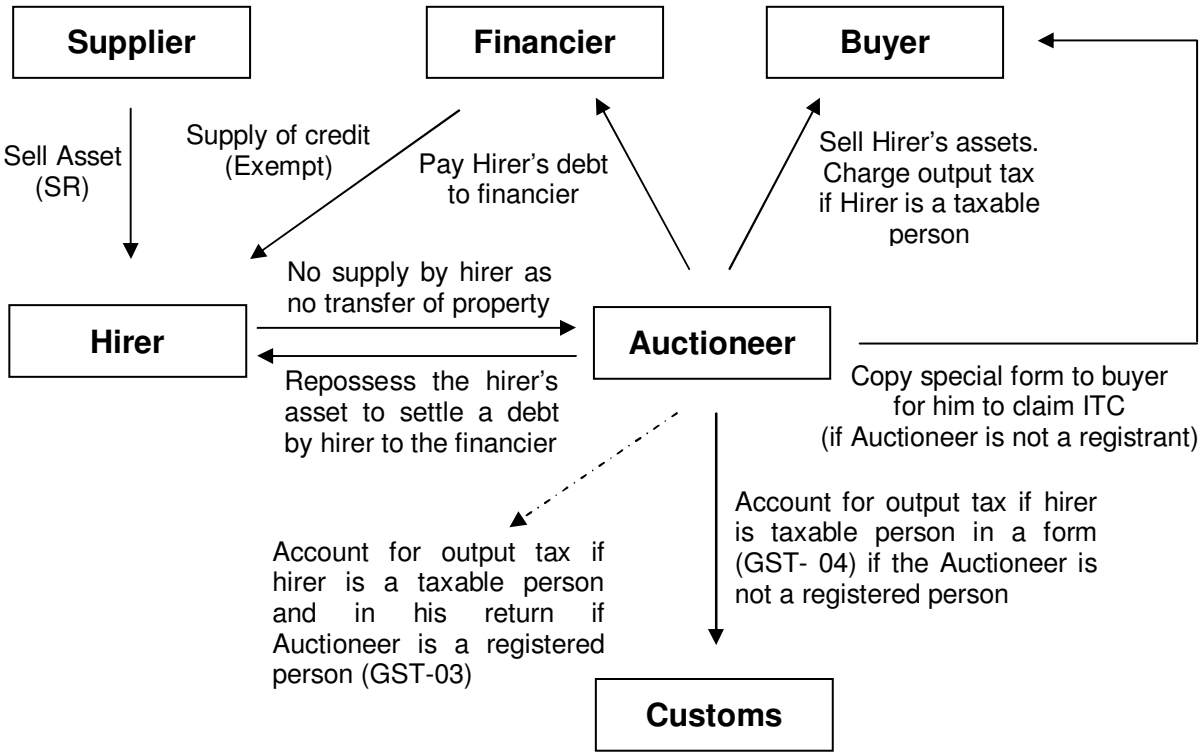
Repossession / Auction by A Financier in Satisfaction Of A Debt

34. When a FI repossesses goods under a HP financing contract which is terminated early, or where the hirer defaults, the hirer is not making a taxable supply to the FI.

35. If the financier auctions the assets repossessed, the GST implication depends on whether the hirer is a taxable person (registered for GST) or not. If the hirer is a taxable person, the sale of the said asset by the financier will be a taxable supply made by the hirer and the financier is liable to account for GST. If the hirer is not a taxable person, then the subsequent sale of the asset by the financier is not a taxable supply and not subject to GST.

36. If the auctioneer is other than the financier, the same GST treatment applies. However, the auctioneer may charge a fee for the auction services rendered to the financier and this is subject to GST at a standard rate. For further details on the repossession and auctioning transactions and the corresponding GST implications, please refer to the GST *Guide on Repossessed Goods*.

Diagram 1: Illustration of The Repossess And Auction Exercise



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37. If the auctioneer incurs input taxes when he supply auction services and he is not registered for GST, he cannot claim the input taxes although he charges output tax on the sale of goods auctioned by him on behalf of a taxable person.

Transitional Rules

38. A hire purchase agreement is not treated as a progressive or periodic supply. Hence, do not treat a hire purchase agreement as a sale or purchase you make on a progressive or periodic basis. Treat a hire purchase agreement as a stand-alone sale or purchase of goods under an ordinary sale agreement.

39. Generally, GST is imposed when the sale is made and delivery of the motor vehicle made to the hirer. GST is not imposed if the motor vehicle is delivered before the implementation of GST. Hence, there will be no GST consequences for hire purchase contract entered in to prior to the appointed date. However, GST will be imposed if it is delivered or made available to the hirer on or after the implementation date.

40. On the other hand, if the motor vehicle is delivered or made available to the hirer on or after the implementation date and full payment has been made before such date where sales tax has been paid for in full, no GST will be further imposed on that transaction.

41. The GST implication on a HP sale is as follows:

Before 1 April 2015	On or after 1 April 2015	GST treatment
Deposit/Booking fee of 10% cash value paid after signing HP agreement	Balance 90% of cash value on financing Delivery of car	Full cash value subject to GST
Deposit/Booking fee of 10% cash value paid after signing HP agreement.	Balance 90% of cash value on financing	Not subject to GST

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Delivery of car		
Part payment and delivery of goods		Not subject to GST
Before GST	**On or after GST implementation**	**GST treatment**
Full payment / Sales tax paid in full	Delivery of car	No GST as sales tax has been paid in full.
Postage charges, repossession fees , storage fees, legal fees, etc., that may be incurred on a HP agreement signed before the implementation of GST		Not subject to GST
	Postage charges, repossession fees , storage fees, legal fees, etc., incurred on a HP agreement signed after the implementation of GST	Subject to GST

Example 4:

Ali purchased a car on hire purchase financing and signed the HP agreement with the financier on 30 March 2015. However, he was not able to collect the car until 2 April 2015 as it was not yet made available to him by the dealer. Since the car was only made available on 2 April 2015, the sale of the car is a taxable supply subject to GST at the standard rate. The dealer will have to account for GST on the sale.

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Change in Rate Spanning A HP Agreement

42. GST is accounted for in the taxable period when the supply of goods is made and that may include the date the hire purchase agreement is signed. In the case where it is assumed that a change in rate from 6% to 7% takes place on 1 June 2017, the rate of tax to be imposed is as follows:

If the HP agreement is signed…	The GST rate is ….
before and on 31 May 2017	6%
on and after 1 June 2017	7%

43. The installments payments in a HP agreement is not affected by a change in the tax rate as the full amount of GST had already been accounted by the dealer / vendor after he issues a tax invoice to the hirer.

FREQUENTLY ASKED QUESTIONS

Registration

Q1: I am a car dealer and I sell cars through HP agreements. Do I need to be registered under GST?

A1: As a car dealer, you are making a taxable supply when you sell cars to customers. Hence, you are required to be registered under GST if your annual taxable turnover from the sale of cars has exceeded the threshold of RM500,000.

Entitlement to Input Tax

Q2: I understand that input tax on passenger cars is excluded from any input tax credit. If I am a car dealer, can I claim input tax on such cars which I supply to a hirer under a hire purchase agreement?

A2: You are entitled to claim GST incurred on that purchase.

Tax Invoice

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Q3: As a dealer must I issue a tax invoice on for the deposit payments made by the hirer?

A3: A tax invoice must be issued for the deposit payments by you to the hirer if you are a registered person.

Q4: As a FI, must I issue a tax invoice on the installment payments I charge to the hirer under HP financing?

A4: Tax invoices are required to be issued for the installment payments.

Sale to a Foreigner

Q5: Should I impose GST on a HP agreement to purchase a car if the hirer is a foreigner?

A5: You are required to charge GST at a standard rate to the foreigner.

Sale by HP in a Free Industrial Zone / Free Commercial Zone

Q6: What is GST implication on a sale using HP financing to customers inside free industrial zone or free commercial zone?

A6: You are required to charge GST on the supply at a standard rate.

Early Settlement

Q7: What is the GST treatment when the hirer makes an early settlement of the HP agreement?

A7: There is no GST implication when there is an early settlement by the hirer as financing is an exempt supply

Q8: When a hirer settles a balance outstanding under a HP agreement, he is entitled to a rebate by the company financing the goods. Is this rebate subject to GST?

A8: No, the rebate is not subject to GST as the rebate is calculated from the interest element which is an exempt supply.

Repossessed Asset

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Q9: What is the GST treatment when the FI repossess the asset and subsequently returns the asset to the hirer?

A9: If the asset is repossessed by the FI, there is no supply of goods made by the hirer to the FI. Similarly, if the FI repossess and subsequently returns the asset of the hirer, there is no supply of assets made by the FI to the hirer. The FI is merely recovering the debts owed and the asset is the security for the debts owed.

Q10: I am a second hand car dealer and will be selling used cars on HP agreement. Is there any tax relief on my sales and how do I account for GST on such sales?

A10: Used motor vehicles are given tax relief when sold by an approved person (granted approval by the Director General). The relief given is in the form of a reduced tax charged whereby the tax is charged on the margin of sale i.e. by deducting the resale value of the vehicle from the purchase value.

Example 5:

Purchase price of used car A by second-hand car dealer	*RM30,000.00*
Subsequent sale price of car A by second-hand car dealer	*RM44,300.00*
Margin / Excess	*RM14,300.00*
GST chargeable (6%)	*RM809.43*

Hence, even though the sale of Car A is made through a hire purchase agreement, the GST chargeable (RM809.43) has to be account by the dealer following the normal time of supply rules.

If car A is sold by a vehicle manufacturer, he may also enjoy a similar relief if given prior approval by the Director General. Further details about the scheme may be obtained from the GST Guide on Relief for Second-hand Goods.

Transitional Issues

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Q11: Is a dealer allowed to claim sales tax that he had paid on the purchase of an asset which he subsequently sold on HP terms before the implementation of GST?

A11: No, he cannot claim the sales tax paid on the asset as he does not hold the asset on the date of implementation of GST.

Q12: My HP agreement is a non-reviewable agreement and it spans over the GST implementation date. Do I need to account for GST on the credit installments payments I make after GST is implemented?

A12: No, as the supply of goods was made before the implementation of GST.

Q13: I purchased a bus to be used as a tour bus under a HP agreement with a FI before the implementation of GST. Can I claim a special refund on this bus?

A13: You may not be eligible to claim a special refund if the bus has been capitalised under generally accepted accounting principles.

Q14: I supply cars to car dealers whom I had invoiced before the implementation of GST and the cars are made available to them. However, the car dealers choose not to collect the cars until there is a sale and delivery to their client. If they pick up the cars after the implementation of GST, are the cars subject to GST?

A14: No, as the supply of goods was made available before the implementation of GST.

Miscellaneous

Q15: Is the HP ownership claim of RM50 subject to GST?

A15: No, as it is a regulatory requirement under the Road Transport Act 1987.

FEEDBACKS OR COMMENTS

44. Any feedbacks or comments will be greatly appreciated. Please email your feedbacks or comments to either Mohd Hisham B. Mohd Nor

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(*m_hisham.nor@customs.gov.my*) or Aminul Izmeer B. Mohd Sohaimi (*izmeer.msohaimi@customs.gov.my*).

FURTHER INFORMATION

45. Further information can be obtained from:

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

(b) Customs Call Centre :

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

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APPENDIX 1

GST Treatment on Other Charges Related to HP

FEES	PURPOSE	CATEGORY	GST
1. Postage	Mailing of document and notices inclusive of postages, cost to generate notice and intercity changes.	Miscellaneous charges	Standard Rated
2. IBT Charges	Charges on inter branch payment	Service charge	Standard Rated
3. Inland Exchange Commission	Bank Charges on cheque clearing for payment made by cheques	Service charge	Standard Rated
4. Repossession	• Professional fees charge by appointed repossessor, • Expenses incurred to trace vehicle of defaulted customers • Cost to repair/ upkeep repossession vehicle	• Repossession cost • Costs incidental to repossession • Cost of re-delivery • Cost of repair and maintenance	Standard Rated
5. Storage	Fees charged by store yard owner to keep the repossessed vehicle	Storage/ Maintenance	Standard Rated
6. Late/ overdue interest	Penalty on late payment	Overdue interest	Out of Scope Supply

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FEES	PURPOSE	CATEGORY	GST
7. Stamping	Stamp duty imposed on HP Agreement and Guarantee Agreement(Revenue)	Miscellaneous charge (*Disbursement*)	Out of Scope Supply
8. Legal	Professional fees imposed by lawyer for litigation	Miscellaneous charge	Standard Rated
9. Advertisement	Advertising cost on untraceable and disposal of vehicle	Miscellaneous charge	Standard Rated
10. Auction	Fees imposed by the auctioneer to sell repossessed vehicle	Miscellaneous charge	Standard Rated
11. Photo	Expenses incurred on photo taken on repossessed vehicle	Miscellaneous charge	Standard Rated
12. Search	Fees imposed by JPJ to search for vehicle history	Miscellaneous charge (*Disbursement*)	Out of Scope Supply
13. Runner	Fees imposed by runner to perform JPJ related transactions	Miscellaneous charge	Standard Rated

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