



SERVICE TAX 2018

**GUIDE ON
ACCOMMODATION
(Version 2)**

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INTRODUCTION

1. Service Tax is a consumption tax governed by the Service Tax Act 2018 and its subsidiary legislation. The effective date of the Service Tax Act 2018 is 1 September 2018.
2. Service tax is imposed on the prescribed services under the First Schedule, Service Tax Regulations 2018.
3. A person who provides taxable services exceeding a specified threshold is required to be registered under the Services Tax Act 2018 and is known as a “registered person” who is required to charge service tax on his taxable services made to his customers.
4. The Guide is to provide guidance to the service providers in the hospitality industry specifically hoteliers, and other providers of sleeping accommodations.

IMPOSITION AND SCOPE OF TAX

5. Effective 1 September 2018, under Group A, First Schedule of the Service Tax Regulations 2018, the provision of accommodation under prescribed circumstances is subject to service tax. Provision of accommodation premises is subject to service tax at the rate of 6%.
6. The provision of accommodation services in Malaysia shall be subject to service tax, except for the provision within the designated areas.

Service Tax Due

7. The service tax chargeable shall be due at the time when payment is received for the taxable services provided to the customer by the registered hotel operator.

SCOPE OF SERVICE TAX ON ACCOMMODATION

8. Under Group A, accommodation premises refer to : -
- a) Hotels;
 - b) Inns;
 - c) Lodging house;
 - d) Service apartment;
 - e) Homestay; and
 - f) Any other similar establishment.
9. However, it does not include accommodation premises:
- a) provided by:
 - (i) the Federal Government or State Government,
 - (ii) statutory body or local authority,
 - (iii) private higher educational institutions registered under the Private Higher Educational Institutions Act 1996 [Act 555]
 - b) provided by a religious or welfare body for the purpose of religious or welfare activities and not for commercial purpose and registered with the Registrar of Societies Malaysia or under any written law governing such body.
10. The provision of taxable services under group A are:-
- a) provision of accommodation premises excluding accommodation premises provided by an employer as a facility to his employees ;
 - b) provision of any other taxable service specified in other Group of taxable person stated in the First Schedule of Service Tax Regulations 2018;

- c) provision of other services within the accommodation premises such as banquet facilities, rental of space, recreational, and other services;

Example 1

The bank rents space in the hotel lobby to place ATM machines. Any customer who wants to use the ATM machines must go through the hotel lobby area. The space rental to the bank is subject to service tax.

Example 2

Telecommunication companies rent space on the exterior walls of hotel buildings to place telecommunication equipment. The rental of the space is not subject to service tax because it is located outside the accommodation premises.

- d) provision or sale of tobacco products and alcoholic and non-alcoholic beverages.

11. “Similar establishments” refer to premises which have the characteristics similar to the premises in number 8 (a) to (e) above.

Example 3

The provision of accommodation by the hospital to the families of patients in the hospital area.

Example 4

Camping ground. These premises operate differently than hotels and the like. Guests may pay to stay in a hut, or a permanent cabin on the site. Alternatively, they may pay a fee to park their own tents or vehicles on the site.

Examples of Services Which Subject To Service Tax

12. Examples of services provided by the hotel operator which subject to service tax are as follows:

- a) Admission fee to the theme park within accommodation premises

Service tax is to be levied on the net ticket price, excluding entertainment duty if the theme park is located in resort or hotel.

- b) Complimentary rooms

Complimentary rooms for private use are subject to service tax. Service tax is chargeable based on the open market value.

Example 5

If the complimentary rooms are normally sold at the rate of RM250++, the hotel should account for service tax on the value of RM250++.

- c) Complimentary rooms let out under promotional program
- (i) Complimentary rooms let out under promotional program (e.g. loyalty program) to attract customers are allowable. Complimentary rooms are to be treated as a discount and therefore not subject to service tax.
- (ii) Complimentary rooms given as part of a package charged by the service provider (e.g. hotel) in the form of wedding package, seminar, dinner and other F&B package is not subject to service tax.
- d) Events/ Conferences/ Meetings/ Seminar Package

Premises in hotels and the like are commonly offered as avenue to hold events/ conferences/ meetings/ seminars. The services are normally offered as a package (example: rental of premises, food and beverages, facilities to be used) and are subject to service tax.

e) Wedding Package

Wedding package offered by the hotel includes breakfast, buffet, meals, ancillary services such as floral decorations, emcee's, musician, entertainer, the services of the toastmaster and room for bridal ceremony and bridal party. The whole wedding package is a single taxable service and subject to service tax.

f) Hotel club facilities

Hotel's club membership fees are subject to service tax. Hotel's club facilities provided such as gymnasium and swimming pool are subject to service tax.

g) Other services that are subject to service tax include:

- (i) Rental space within the hotel for display of cabinets and advertising panels;
- (ii) Rental received from shops situated in hotel's premise;
- (iii) Rental of a sports or games room;
- (iv) Hire of sports equipment and providing coaching sessions;
- (v) Rental of rooms for trade sales and exhibitions;
- (vi) Usage of business centre;
- (vii) Usage of health centre/ spa;
- (viii) Car jockey services;
- (ix) Outdoor catering; and

- (x) Parking fees when charged separately.

Deposit or Booking Fees

13. If the deposit or booking fee forms part of payment, it is subject to service tax when payment is received. If it is not part of the payment, it is a collateral and not subject to service tax.

14. Forfeited deposits or booking fees is not considered as a payment for the service, but treated as a penalty. Therefore, it is not subject to service tax.

Cancellation Fees

15. The cancellation fees are regarded as compensation and not subject to service tax.

REGISTRATION AND RESPONSIBILITY OF REGISTERED PERSON

16. An employment service provider whose total turnover for the period of 12 months exceeds the prescribed threshold of taxable services is required to be registered under the Service Tax Act 2018.

17. A registered person is responsible to :

- a) Charge service tax on his taxable services;
- b) Issue invoices to his customers in respect of any transaction relating to the provision of taxable services;
- c) Submit service tax return SST-02 via electronic and pay service tax before due date; and
- d) Keep proper records with regards to his business.

18. For further information with regards to responsibility of a registered person, please refer to the General Guide on Service Tax.

FREQUENTLY ASKED QUESTIONS (FAQs)

1. Q : What is the service tax treatment on provision of hotel accommodation services and other services such as gymnasium manage by the hotel and laundry services which is outsourced?

A : Generally, all the services provided by the hotel operator are subject to service tax. However, the laundry services which is outsourced is subject to service tax provided that the service provider is a registered person.

2. Q : What is the service tax implication if a hotel operator manages a theme park within hotel establishment and charges an entrance fee of RM100?

A : The entrance fee of RM100 is subject to service tax as the service is provided by the hotel operator.

3. Q : A hotel operator provides telecommunication services such as facsimile, e-mail/internet and IDD phone for his guests either for consumption in his rooms or at the business centre. Is such service subject to service tax?

A : The telecommunication services charge by hotel operator are subject to service tax.

4. Q : I am a hotel operator and provide parking facilities for my guests without any charges as they are staying at my hotel. Am I required to account for service tax on the parking facilities which are provided free of charge to guests and if there is a charge imposed, how do I account for service tax?

A : Parking facilities provided to the hotel guests are not subject to service tax because it is inclusive in the guest room charges. However, letting of parking space charged separately is subject to service tax. If a discount is given, service tax will be charged on the amount after discount.

5. Q : A travel agent has made a booking for 150 rooms and it is given one complimentary room by the hotel for every 100 rooms booked. What is the service tax treatment on the complimentary room?

A : The complimentary room given by the hotel as part of the package to travel agent is not subject to service tax.

6. Q MNO is a hotel operator. He provides complimentary rooms for his staff, auditor and contractor when they do work for MNO. What is the service tax treatment on the complimentary room?

A The complimentary room provided by the hotel to his staff is not subject to service tax while complimentary room provided by the hotel to auditor and contractor whom are not employed by the hotel operator are subject to service tax.

7. Q : How is service tax calculated on a wedding package offered by a hotel, which includes room and ancillary facilities?

A : The wedding package offered may consist of the wedding breakfast, buffet and meals served in a room with ancillary services provided as part of the package (including floral decorations; the service of a toastmaster; a room for the ceremony and bridal party). The calculation of service tax must be based on the total value of this package. The service tax treatment is the same for other similar packages like conferences, seminar and gatherings with ancillary services.

8. Q : I run a hotel with less than 25 rooms. Am I required to register for service tax?

A : Yes, you are required to register for service tax if your value of taxable service for the period 12 months exceeds RM500,000 regardless of the number of rooms available.

9. Q : A hotel charges RM106.00 (inclusive of service tax) for a night stay as an annual event during the school holidays. The hotel received a booking for 10 rooms for 4 nights. What is the amount of service tax charged?

A : The amount of service tax charge is RM240.00

$$6/106 \times 106 \times 10 \times 4 = \text{RM}240.00$$

10. Q : What is the service tax treatment for the food and beverage services provided by hotel operator to his guests and also to other than hotel guest (walk-in)?

A : Provision of food and beverage services by hotel operator is subject to service tax at 6%.

11. Q : What is the service tax treatment on letting out hotel's sports facilities, such as golf course and golf driving range?

A : The letting out of such facilities is subject to service tax.

12. Q : ABC Property Sdn Bhd (ABCP) built a 15-storey hotel and the hotel is managed by ABC Hotel Management Sdn Bhd (ABCHM). ABCP receives net income from ABCHM after deduction of operational expenses incurred by ABCHM. Is ABCP making a taxable service?

A : In general, ABCP is making a taxable service as an accommodation provider while ABCHM is making a taxable service under management services on behalf of others. (Subject to contractual agreement between the two parties).

13. Q : XYZ Property Sdn Bhd (XYZP) built a 15-storey hotel building and XYZP leased the hotel building to XYZ Hotel Management Sdn Bhd (XYZHM). Is XYZP making a taxable service?

A : XYZP provides leasing services which is not a taxable service under the First Schedule of Service Tax Regulations 2018.

14. Q : We are a hotel operator and also a service apartment operator and we provide accommodation to our customers besides other facilities available at the hotel and apartment. Are we required to charge service tax for operating the hotel and the service apartment or only the hotel?

A : You are required to charge service tax for both services of operating the hotel and service apartment.

15. Q : In the promotion of the new membership recruitment campaign, the hotel offers “Stay 6 Nights Get One Night Free” program to all who wish to join. Do we have to charge service tax on the free night accommodation?

A : The free night given as a package in a promotion campaign is treated has been covered the price offered as a discount and allowable. Service tax is chargeable on the price paid for the package.

16. Q : Members of the hotel’s club enjoy certain facilities such as the gym and swimming pool at discounted rates. How do I account for service tax on these services?

A : These services are taxable services and subject to service tax. If a discount is given for using these facilities, service tax shall be accounted on the amount after discount.

17. Q : Is a timeshare programme sold by a timeshare provider subject to service tax as the programme provides its members time-share week rights to stay in participating hotels/resorts?

A : No, a timeshare programme sold by a timeshare provider is not subject to service tax. Accommodation services will be subject to service tax when timeshare is used or accommodation operators will charge a service tax on timeshare management.

18. Q : What is the service tax treatment on non-attendance charges where the hotel has already provided rooms to the customer?

A : No show charge is subject to service tax if payment has been received by the accommodation provider. It cannot be treated as a penalty since the provision of accommodation has been allocated to the customer.

19. Q : A guest was charged for breaking the hotel teapot. The hotel charges a fee of RM50 to the customer. Is the charge subject to service tax?

A : Not subject to service tax.

20. Q : A guest purchased a towel and mug from the hotel operator. Is the purchase subject to service tax?

A : No, the purchased is not subject to service tax.

21. Q : It is a common practice for a hotel to order bouquets of flowers or purchase gifts on behalf of customers at their request. The hotel will include this cost as a separate charge in the invoice issued. Is this charge for the services of providing gifts subject to service tax?

A : The supply of bouquets of flowers or gifts to the hotel operator provided by a third party is not a taxable service. However, if the hotel operator impose a service charge on the purchase, such service is subject to service tax.

22. Q : What is the service tax treatment for the provision of food and beverage services provided by a restaurant operator (other than hotel operator) within the premises of the hotel?

A : Provision of food and beverage services provided by restaurant operator in the hotel premises is subject to service tax if the operator of the restaurant is a service tax registered person.

23. Q : What is the service tax treatment on vending machines owned by hotel operators and also not owned by hotel operators in hotel premises?

A : For the purpose of service tax, if the vending machine belongs to the hotel operator, only vending machines that provide services, sell drinks and sell cigarettes are subject to service tax. If the vending machine does not belong to the hotel operator, then it is not subject to service tax.

24. Q : Are tips given by guests subject to service tax?

A : A tip given by guests or customers to a hotel's staff as a token of appreciation for services rendered is not subject to service tax.

25. Q : Is the price displayed at the hotel for accommodation, food and beverage etc. required to be inclusive or exclusive of service tax?

A : The price displayed may be inclusive or exclusive of service tax. However, the price displayed on the invoice should be display prices and taxes separately unless the registered person request in writing to the Director General not to state any of the prescribed particulars to be contained on an invoice.

26. Q : Is the catering service provided by the hotel but made outside the hotel subject to service tax?

A : Yes, it is subject to service tax.

27. Q : What is the service tax treatment related to student accommodation at Sutera Hotel where the hotel is owned by Sutera University which is a private higher education institution registered under the Private Higher Education Institutions Act 1996 [Act 555]?

A : Not subject to service tax as Sutera Hotel is owned by Sutera University which is registered under the Private Higher Education Institutions Act 1996 [Act 555] and does not fall into the category of persons subject to service tax.

28. Q : What is the service tax treatment for student accommodation in hostels provided by Private Colleges?

A : Not subject to service tax because the hostel provided to students as residential is not a taxable service.

29. Q : FiSTDubai provides a hotel room booking platform for customers. Lazfa Hotel KL uses a platform to advertise accommodation. FiSTDubai issued an invoice on behalf of Lazfa Hotel KL on the transaction. Who needs to account for the service tax to customs?

A : Lazfa Hotel KL has to account for the service tax as accommodation services are provided by Lazfa Hotel KL.

Transitional Issue

- 30.** Q : Andrew checks into a hotel on 28 August 2018 and checks out on 7 September 2018. Is the hotel operator required to issue 2 invoices for his stay before and after 1 September 2018?
- A : The hotel operator should issue an invoice for service tax imposed on accommodation for the period 1 September 2018 to 7 September 2018 (6 nights). Invoices also need to be issued to the customer where a GST of 0% charged on accommodation for the period 28 August 2018 to 31 August 2018.
- 31.** Q : Indah Hotel Sdn Bhd issued a privilege card for a fee to the members of the hotel's club for an annual programme from 1 June 2018 to 31 May 2019 to enjoy certain facilities such as the gymnasium and swimming pool at a discounted rate. The members have paid the full amount on 31 July 2018. Is the service provided on and after 01 September 2018 subject to service tax?
- A : Services provided on and after 1 September 2018 are subject to service tax.
- 32.** Q : Yusra made a hotel booking and paid the full amount of RM600 through Agoda on 20 August 2018 for a stay from 30 August 2018 until 2 September 2018. What is the tax implication on the stay?
- A : The stay from 30 August 2018 to 31 August 2018 is subject to GST at 0% but the stay from 1 September 2018 to 2 September 2018 (1 nights) is subject to service tax at 6%.

INQUIRY

For any inquiries for this guide please contact:

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62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on SST can be obtained from :

- (i) SST website : <https://mysst.customs.gov.my>
- (ii) Customs Call Center:
 - Tel : 03-7806 7200 / 1-300-888-500
 - Fax : 03-7806 7599
 - Email: ccc@customs.gov.my