



ROYAL MALAYSIAN CUSTOMS

GOODS AND SERVICES TAX

GUIDE ON TERTIARY EDUCATION

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INTRODUCTION

1. This guide is prepared to assist businesses in understanding matters with regards to GST treatment on tertiary education services.

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 2014 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.

BACKGROUND TERTIARY/ HIGHER EDUCATION IN MALAYSIA

Tertiary Education

5. Tertiary education, also known as higher education, comprises of post-secondary education right up to higher education and includes technical education and vocational training. Tertiary or higher educational institutions in Malaysia are divided into public and private higher educational institutions.

6. “Higher education” under the Education Act 1996 means education provided by a higher educational institution which includes university and university college education while the Private Higher Educational Institutions Act 1996 defines “higher education” as instruction or training on or teaching of a course of study leading to the

award of certificate, diploma or degree upon the successful completion thereof. The National Council on Higher Education Act 1996 (known as Akta Majlis Pendidikan Tinggi Negara 1996) defines “higher education institutions” as an educational institution whether or not established under any written law and including a private educational institution providing higher education leading to the award of a certificate, diploma, degree or the equivalent thereof which also includes technical and vocational education and training (TVET). This Act oversees both the public and private higher educational institutions.

7. The management and administration of tertiary education in Malaysia is governed by the following legislations :

- (a) University and University Colleges Act 1971 (Act 30);
- (b) Private Higher Education Act 1996 (Act 555);
- (c) Education Act 1996 (Act 550);
- (d) Malaysian Qualification Agency Act 2007 (Act 679);
- (e) National Council on Higher Education Act 1996 (Act 546);
- (f) National Higher Education Fund Act 1997 (Act 566);
- (g) Statutory Bodies Act (Discipline and Surcharge) 2000 (Act 605);
- (h) Companies Act 1965 (Act 125); and
- (i) National Development of Skills Development Act 2006 (Act 652).

8. To monitor and assure the standard and quality of all educational programs offered by the private higher educational institutions (PrHEIs), the National Accreditation Board referred to as LAN (Lembaga Akreditasi Negara) was established. LAN had two primary functions, namely:

- (a) to ensure that all programs offered by the PrHEIs meet the minimum standards as determined by the Board; and

- (b) to award certificate of accreditation to the certificates, diplomas and degrees conferred by PrHEIs.

9. LAN was later replaced by the Malaysian Qualifications Agency (MQA) which is responsible for the quality assurance of higher education in both the public and private sectors. The MQA accredits higher education programs, carries out institutional audits, as well as rates higher education institutions in Malaysia.

10. The Malaysian Qualifications Framework (MQF) was formulated to streamline all the national qualifications awarded by certified higher education providers. An online Malaysian Qualifications Register (MQR) was developed to provide information to the public regarding all accredited programs and qualifications of higher education providers in Malaysia. The Malaysian Qualifications Framework (MQF) and Malaysian Qualifications Register (MQR) is administered by the Malaysian Qualification Agency.

11. The establishment of public and PrHEI is exclusively under the jurisdiction of the Government that is under the Department of Higher Education, Ministry of Education (MOE) and their comparison is as in Table 1.

Table 1: Comparison between Public and Private Higher Educational Institutions

| | Public Higher Educational Institution | Private Higher Educational Institution |
|-------|--|---|
| TYPES | <p>1. Categories of public (HEI) :</p> <ul style="list-style-type: none"> a. Matriculation; b. Polytechnics; c. Community Colleges and d. Universities. <p>2. Funding :</p> <ul style="list-style-type: none"> - Matriculation, Polytechnics and Community Colleges are fully funded by Government directly under the Ministry of Education. - Universities – statutory bodies which are self-managed institutions and heavily subsidised by the government. - Students entitled to apply for the PTPTN student loan <p>3. Public universities to provide development funds for new programs and expensive capital goods.</p> | <p>1. Two categories of private higher education institution :</p> <ul style="list-style-type: none"> (a) Private colleges - without University or University College status. They offer O-level and A level programs from UK and matriculation examinations from Australia and Canada, as well as entrance examinations to American universities such as SAT, GMAT and GRE and Diploma; (b) Private universities - .with University or University College status. They are allowed to confer degrees. <p>2. Funding :</p> <ul style="list-style-type: none"> - Established by companies, commercially driven, maintained and funded by private sector - Students entitled to apply for the PTPTN student loan. |

| | | |
|---------------------------|---|---|
| | | <p>3. The Private Higher Education Institution Act 1996 defines the government's regulatory control over all private HEIs. Under this Act, approval must be obtained from the Minister of Education before a PrHEIs can be set up, or before any program can be offered in any particular institution.</p> <p>4. Private universities can only be established at the invitation of the Minister.</p> <p>5. Foreign universities are allowed to set up branch campuses in the country but they can only do so at the invitation of the Minister.</p> |
| LEGISLATIONS | <p>Governed by :</p> <ul style="list-style-type: none"> - Matriculation, Polytechnics and Community Colleges – Education Act 1996 - Universities - The Universities and University Colleges Act, 1971 (UUCA). | <p>Governed by :</p> <ul style="list-style-type: none"> - Colleges – The Universities and University Colleges Act, 1971 (UUCA) and - The Private Higher Education Institutions Act 1996 |
| PROGRAM / COURSE OF STUDY | <p>1. Categories of educational programs :</p> <p>(a) Matriculation, Polytechnics and Community Colleges offer certificate and Diploma;</p> <p>(b) Universities offer Diploma and Degrees.</p> <p>2. All courses must be conducted in the national language but with the approval of the Minister some courses may be taught in English or Arabic.</p> <p>3. Compulsory subjects to be taught :</p> <ul style="list-style-type: none"> - Malaysian Studies (including Islamic and Asian civilisations), - Islamic Studies (for Muslim students) and - Moral Education (for non-Muslim students). | <p>1. Categories of educational programs:</p> <p>(i) internal program,</p> <p>(ii) transnational education programs,</p> <ul style="list-style-type: none"> - Twinning programs; - Franchise programs; - Double or joint degrees between Malaysia and other countries and local universities - E-learning and distance learning. <p>(c) Programs leading to qualifications awarded by external examination bodies.</p> <p>2. All courses must be conducted in the national language but with the approval of the Minister some courses may be taught in English or Arabic.</p> <p>3. Compulsory subjects to be taught :</p> <ul style="list-style-type: none"> - Malaysian Studies (including Islamic and Asian civilisations), - Islamic Studies (for Muslim students) and - Moral Education (for non-Muslim students). |
| MANAGEMENT | <ul style="list-style-type: none"> - Managed by the Vice Chancellor and his central management team. - As corporatization, they are free from government bureaucratic control. - They run like business corporations. | <ul style="list-style-type: none"> - Managed by boards of governors or directors, usually comprising of representations from stakeholders or by public corporations. |
| EXAMINATIONS | <p>1. The examination bodies set the syllabi and examinations as well as award qualifications to students upon successful completion. The public higher educational institutions conduct the programs of the examination bodies.</p> | <p>1. The examination bodies set the syllabi and examinations as well as award qualifications to students upon successful completion. The PrHEIs only conduct the programs on behalf of the examination bodies.</p> |

| | | |
|--|--|--|
| | <p>2. Public higher educational institutions too handled examinations with the qualifying examination bodies of professional associations such as qualifications relating to specific trade or skills such as accountancy, engineering and management.</p> <p><i>Examples of professional associations are:</i> Association of Chartered and Certified Accountants in UK (ACCA) and Institute of Chartered Secretaries and Administrators in UK (ICSA) and others.</p> <p>3. Public higher educational institutions offer a wide range of courses which provide practical, employment training in technical, trade and craft areas. Many of these courses lead to formal awards of certificates, diplomas and higher education diplomas and degrees.</p> | <p>2. Generally, there are two types of examination bodies, namely :</p> <p>(i) qualifying examination bodies of professional associations such as qualifications relating to specific trade or skills such as accountancy, engineering and management, and</p> <p>(ii) academic examination bodies which are examination bodies of international standing which set syllabi, examinations and confer the qualifications at the levels of certificate, diploma, pre-university, semi-professional or at other equivalent levels.</p> <p><i>Examples of professional associations are:</i> Association of Chartered and Certified Accountants in UK (ACCA) and Institute of Chartered Secretaries and Administrators in UK (ICSA) and others.</p> <p>3. Private colleges offer a wide range of courses which provide practical, employment training in technical, trade and craft areas. Many of these courses lead to formal awards of certificates, diplomas and higher education diplomas from foreign examination bodies such as Business Technology Education in UK (BTEC), Technical and Further Education in Australia (TAFE), National Computer Centre in UK (NCC), City and Guilds of London Institute (C&G) and others.</p> |
|--|--|--|

GST TREATMENT FOR TERTIARY EDUCATION

Public higher education

12. Public higher educational institutions are established under various acts for example Institute Technology MARA Act 1967 or University Malaya 1961. As such, they are considered as statutory bodies. However, under section 5A of the University and University Colleges Act 1971, the Yang di-Pertuan Agong may authorise the establishment of a university under a treaty, agreement or convention between the Federation and an international organisation. An example of this establishment is the International Islamic University Malaysia (IIUM). The establishment of this university was between Malaysia and the Organisation of Islamic Corporation (OIC). IIUM is categorised as one of the public higher educational institution by virtue of Section 5A of the Act.

13. The GST Act does not apply to supply of goods and services made by the Federal or States government. Please refer to the GST Guide on Government, Local Government and Statutory Body. It is considered out of scope supply and not subject to GST. Example the Ministry of Education as a Federal government supplies educational services directly to the students. It is considered an out of scope supply. Polytechnics are directly managed by Ministry of Education (MOE). The supply of education services by Polytechnics are also out of scope supplies.

Private higher education

14. The establishment of private universities and university colleges are specified under the Private Higher Educational Institutions Act 1996 and it includes locally established private universities and branch campuses of foreign universities. This Act is the main legislation governing the establishment of private higher educational institutions in the country.

15. There are two categories of private higher education institutions established under the Private Higher Educational Institutions Act 1996 those :

- (a) without University or University College status, popularly known as private colleges;
- (b) with University or University College status, which are referred to as private universities. Under the act, only institutions with the University or University College status are allowed to confer degrees.

16. There are two different types of programs offered by private higher educational institutions namely internal programs and transnational programs leading to qualifications awarded by the external universities or bodies. Internal programs are home-grown programs whereby students are conferred a certificate or diploma by the private higher educational institutions. A wide range of fields of studies are offered at certificate and diploma levels. For transnational programs, IPTS conduct courses leading to bachelor degrees within an inter-institutional arrangement through special linkage programs with either overseas or local public universities.

17. Courses offered by private colleges can be divided into three main categories:

- (a) private colleges that conduct courses to prepare students to sit for external examinations leading to professional and semi-professional qualifications in the area of accounting, business management, engineering, law and internal programs at certificate and diploma level;
- (b) private colleges is those that confer the qualifications based on their own curricula and examinations; and
- (c) the bachelor degree programs offered through arrangements with overseas or local public universities. Private colleges are also allowed to conduct their programs by way of distance learning.

18. Every private higher educational institution must ensure that the quality of courses of study to be conducted complies with the standards set by MQA and approved by MQA. The courses offered by private educational institutions are validated by reputable overseas higher educational institutions and accepted by foreign universities as entry qualifications of their degree programs. In addition, graduates from private colleges with internal qualifications are also given certain exemptions by many established external professional examination bodies, both local and foreign.

GST TREATMENT ON SUPPLIES MADE BY PUBLIC HIGHER EDUCATIONAL INSTITUTIONS

19. The tertiary education by public higher educational institutions are divided into three categories :

- (a) Ministry of Education –

The tertiary education that are established under the Education Act 1996 and fully maintained by the Ministry of Education. The tertiary education are provided directly by Ministry of Education to the students. It includes matriculation, technical education and vocational training through polytechnics and community college;

- (b) Other ministries –

Tertiary education on technical education and vocational training provided by Ministry of Human Resource and Development under Department of Skills and National Vocational Training Council (NVTC) for example Industrial Training Institutes; and Ministry of Youth and Sports under the National Youth Skills Institute (IKBN).

Tertiary education provided directly by Ministry of Education or other ministries and State government is **out of scope** supply. The term “out of scope” means that the supplies made are not within the ambit of the GST Act and are therefore not subject to GST.

- (c) Tertiary education provided by public universities which are statutory bodies is not considered as an **out of scope** supply under GST. The supply of higher education provided by public universities is treated as an **exempt supply** for GST purpose. (Refer to item 14(b) of the Goods and Services Tax (Exempt Supply) Order 2014).

20. Although public universities are agencies under the Ministry of Education but they are established as statutory bodies. They do not carrying out **regulatory and enforcement** functions like the Federal and the State governments. Therefore their supplies are not treated as out of scope supplies. Instead, their supplies fall under the category of exempt supplies. The supply of tertiary education made by public universities as specified under item 14, 15 and 16, Second Schedule of the Goods and Services Tax (Exempt Supply) Order 2014 is an exempt supply.

Example 1:

Ahmad was offered a Degree course in architecture at a public university, University A. Ahmad refused and did not register at the University A on the registration day. Instead of taking the course in University A he chose to study music at Lim Kok Wing University. Failure of Ahmad from registering the course offered to him at University A is not an offence and University A cannot force Ahmad to study there. Neither can University A take an enforcement action against him. This means University A does not have regulatory and enforcement functions as stated under section 64 of the GST Act 2014. Therefore, the GST treatment is not an out of scope supply.

21. To qualify for the exempt supply status, the public universities must fulfill the following requirements specified under the Second Schedule item 14 (b) and item 16 (c) (iv) of the GST (Exempt Supply) Order 2014:

- (a) The tertiary education must be provided by approved higher educational institutions under the Education Act 1996, Universities and University Colleges Act 1971, or the University Technology MARA Act 1976, or the National Skills Development Act 2006; and
- (b) The courses of studies are accredited by the Malaysian Qualification Agency or for technical education and vocational training are accredited by the Department of Skills Development under the National Development of Skills Development Act 2006, Ministry of Human Resource and Development.

22. An exempt supply means no GST is chargeable and the GST paid on the purchases that relate to the supply of higher education cannot be claimed as input tax credit.

GST TREATMENT ON SUPPLIES MADE BY PRIVATE HIGHER EDUCATIONAL INSTITUTIONS

23. The GST treatment on educational services made by private higher educational institutions is the same as that provided by the public higher educational institutions item 14(b) and item 16(c)(iv), the Second Schedule of the GST (Exempt Supply) Order 2014. As an exempt supplier, the private higher educational institutions cannot charge GST on the educational services and cannot claim input tax credit on the purchases for making that supply.

24. To qualify for the exempt supply status, the private higher educational institutions must fulfill the following requirements specified under the Second Schedule item 14(b) and item 16(c)(iv) of the GST (Exempt Supply) Order 2014 :

- (a) The tertiary education must be provided by approved higher educational institutions under the Private Higher Educational Institutions Act 1996,

Universities and University Colleges Act 1971 or the National Development of Skills Development Act 2006; and

- (b) The courses of studies are accredited by the Malaysian Qualification Agency or for technical education and vocational training are accredited by the Department of Skills Development under the National Development of Skills Development Act 2006, Ministry of Human Resource and Development.

GST TREATMENT ON SUPPLIES MADE TO PUBLIC HIGHER EDUCATIONAL INSTITUTIONS MATRICULATION, POLYTECHNICS, COMMUNITY COLLEGES AND OTHERS

25. The Federal or State government higher educational institutions mentioned under paragraph 18 (a) and (b) above are given relief on the acquisition of all goods excluding petroleum and imported motor cars, subject to the conditions prescribed under Item 3, First Schedule, GST (Relief) Order 2014. The same GST implication as mentioned under paragraph 22 of the Pre-Tertiary Guide will apply to the supply made to the public higher educational institutions administered directly by the Higher Education Department, Ministry of Education. Please refer to the Pre Tertiary Guide. Matriculation, Polytechnics and Community Colleges and other public higher educational institutions administered directly by other Ministries are given relief from payment of GST on the acquisition of all goods excluding petroleum and imported cars, under Item 3, First Schedule, GST (Relief) Order 2014. Please refer to Guide on GST (Relief) Order 2014, Item 3 First Schedule – Federal and State Government and Guide on GST Relief for Acquisition of Services by Government.

Public Universities

26. Public universities are given relief from payment of GST on the acquisition of **equipment and materials** directly used for the purpose of providing tertiary education under Item 4, First Schedule, GST (Relief) Order 2014 subject to conditions as specified in the order. The public universities have to issue a certificate to claim relief from the payment of GST in accordance with the Third Schedule, GST (Relief) Order 2014 to the supplier. The supplier need to issue a tax invoice and state in the tax

invoice that he is relief from charging GST for a supply to the public educational institution given relief under the GST (Relief) Order 2014. (Please refer to para 22 of the GST Pre Tertiary Guide).

27. If the purchases of such goods (equipment and materials) are for recreational purpose or hobbies, they do not qualify for relief from payment of GST. Therefore, public universities must pay GST on these purchases.

28. Relief from the payment of GST given to the public universities is only for equipment and materials but not for services acquired in providing tertiary educational services and GST has to be paid for any services such as consultancy, security, computer repairs, maintenance and cleaning services. For further information, please refer to the GST Guides on the implementation of item 4, First Schedule of the Goods and Services Tax (Relief) Order 2014.

GST TREATMENT ON SUPPLIES MADE TO PRIVATE HIGHER EDUCATIONAL INSTITUTIONS

29. The private higher educational institutions are given relief from payment of GST on certain goods subject to conditions as specified under Item 5(c), First Schedule, GST (Relief) Order 2014. The following goods which are given relief are to be directly used for the purpose to provide tertiary education courses as approved by the MQA :

- (a) Multimedia equipment directly used as a teaching aid;
- (b) Equipment for science and linguistic laboratory;
- (c) Tools and equipment for technical and vocational studies; and
- (d) Chemical, solution and gas for the use in science laboratory.

30. The private higher educational institutions have to submit a certificate to claim relief from payment of GST in accordance with the Third Schedule, GST (Relief) Order 2014 to the supplier. The list of goods as in para 28(a) to (d) which are given relief from payment of GST are as approved by Ministry of Finance. Please refer to the Customs GST Websites for the list of the approved items.

31. The supplier need to issue a tax invoice and state in the tax invoice that he is relief from charging GST for a supply to the private higher educational institution given relief under the GST (Relief) Order 2014. Goods which are not listed under this list are subject to GST including services. For further information, please refer to the GST Guides on the implementation of item 5, First Schedule of the Goods and Services Tax (Relief) Order 2014.

GST TREATMENT ON THE VARIOUS TYPES OF EDUCATIONAL AND RELATED EDUCATIONAL SERVICES.

32. The supply of course of study consists of tuition, facilities, curriculum and other related educational services. The consideration for the supplies are the fees charged by the higher educational institutions. The fees are not subject to GST as these are exempt supplies. The tertiary educational institution must clearly distinguish the different types of supplies (standard rated, zero-rated and exempt supply) and amount of fees charge for each supply. Examples :-

- (a) A supply of a membership to a student organization – standard rate
- (b) A supply by way of sale, lease of hire of goods other than course materials – standard rate and for books zero rate
- (c) A supply of accommodation to tertiary students by education provider - exempt
- (d) A supply of food as part of accommodation provided by education provider – exempt
- (e) A supply of food, accommodation as part of an excursion or field trips by the education provider – exempt.

Fees charged

33. The tuition fees are for tertiary education services of instructing individuals or administering examinations in respect of the course of study taken by the students. The GST treatment on tuition fees charged for by the three categories of higher educational institutions are as follows:

- (a) Matriculation, Polytechnics, Community College under the Ministry of Education or Ministry of Human Resource are *out of scope* supply by virtue of Section 64, GST Act 2014. This means no GST is charged on the fees;
- (b) Public universities established as statutory bodies or under section 5A of the Universities and Universities Colleges Act 1971 are exempt supplies. The tuition fees charged to the students are not subject to GST;
- (c) Private higher educational institutions established under the Private Higher Educational Institutions 1996 are also exempt supplies. The tuition fees charged to the students are not subject to GST.

34. Tuition fees charged to students for using multimedia equipment which form part of the course of study for tertiary, Masters or Doctoral course educational services is an exempt supply.

Example 2:

Yusuf attends Open University of Malaysia one of the private higher educational institution (IPTS). He is undertaking a Bachelor of Information Technology program. The university makes available lectures and tutorials for subjects undertaken by Yusuf, as part of his course of study in the form of folders submitted online by lecturers to students using websites. The supply of the lecture notes is considered as the provision of tuition. The fees charged for both the lectures and the online submission of the notes are exempt supplies and not subject to GST.

35. Fees paid for membership of student organizations example National Union of Malaysian Student (NUMS), students' representative councils and sports associations are not treated as part of higher education services. Therefore, are subject to GST.

36. Higher educational institutions charge miscellaneous fees for various reasons. To determine the GST treatment on such fees paid by the students, the higher educational institutions must identify the various supplies for which fees are charged.

The higher educational institutions must themselves provide the supplies of facilities, administrative services related to the course of study taken by the students to be considered as an exempt supply. Students are also charged miscellaneous activity fees in order to help fund the infrastructure of the educational institutions. If these fees are used to make facilities available for every student, it is treated as an exempt supply.

Example 3:

Each year students who enrolled at University A are required to pay miscellaneous fees. This compulsory fee does not confer any membership to the students but the fee is levied to provide facilities and services for the direct benefit of the students. This fees is not subject to GST as it relates to the course taken (exempt supply) by the students.

Example 4:

Desmond College requires students to pay RM50.00 miscellaneous fee for each year. In return for this fee, the student is given a photocopy card at a value of RM50.00. He uses this card for making photocopy. The supply of photocopying is a supply of right to use the facility (photocopy machine) which is a taxable supply.

Example 5:

Facilities provided by Tankque University includes plant and equipment, building, lockers and services such as printing and laminating, childcare and parking facilities. Jamilah, a student at the university, uses the parking and childcare facilities and pays for these facilities on a monthly basis. The usage of these facilities is not related to the course of study taken by her. The facilities provided by the university are taxable supplies which are subject to GST at 6%.

37. Supply of facilities that are required for the delivery of tertiary education which are provided by public universities or private tertiary educational institutions are exempt supplies. Examples of such facilities are:

- (a) The provision of maintenance of plant, equipment, buildings and the grounds;
- (b) Access to the libraries including the access to library books, periodicals and manuals;
- (c) Access to computers, science and language laboratories; and
- (d) Access to computers, online resources including off-campus dial up internet services.

38. The method of charging the fees for the facilities provided depends on the universities. Some will include the charges in the amount of the fees for the course taken and some charge it separately. Fees charged to the students must be separately stated according to the type of supply that is taxable or exempt supply. Please refer to the GST Guide on Tax Invoice and Records Keeping for further details.

Course of study

39. "Course of study" under the Private Higher Educational Institutions Act 1996 is defined as either a single course or a set of related courses leading to the award of a certificate, diploma or degree upon the successful completion. Malaysian Qualification Agency Act 2007 (Act 679) defines "course of study" as a single or a set of related courses and includes short or long term courses leading to an award of a higher education qualification. The general meaning of a *course of study* is a prescribed number of lessons, lectures, etc., covered in an educational curriculum.

40. The course of study includes preparatory courses for tertiary education, an accredited higher education course or accredited vocational education and training, an associate degree course, combined courses and twinning courses. Course of study also includes the transcript which is an official report that lists completed classes, grades and Grade Point Average (GPA) or Cumulative Grade Point Average (CGPA), credits earned, class rank, test results, upcoming class schedule, graduation requirement checklist, list of extracurricular options and requirements. The course of study must be clearly stated by the tertiary educational institutions. An example of a

complete course of study offered by Dossby University for LLB (Hons.) of Legal Studies is as shown in **Table 2**:

Table 2: An example of a Complete Course of Study

| First Year | Credit hrs | 2 nd Year | Credit hrs | 3 rd year | Credit hrs | 4 th year | Credit hrs |
|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|-----------------------|------------|
| 1. Malaysian Legal System | 3 | 1. The Family Law | 3 | 1. Law of Criminology | 3 | 1. Criminal Advocacy | 3 |
| 2. The Law of Torts | 3 | 2. Jurisprudence | 3 | 2. Evidence Law | 3 | 2. Civil Advocacy | 3 |
| 3. The Law of Contract | 3 | 3. Land Law | 3 | 3. Company Law | 3 | 3. Magisterial Skills | 3 |
| 4. The Administrative Law | 3 | 4. The Commercial Law | 3 | 4. Revenue Law | 3 | 4. Equity and Trust | 3 |
| 5. English 1 & 2 | 2 | 5. English 3 & 4 | 2 | 5. Civil Law | 3 | 1 & 2 | 3 |
| 6. Islamic Study | 2 | 6. Islamic Study 3 & 4 | 2 | 6. Intellectual Property Rights | 3 | 5. Law of Succession | 3 |
| 7. Accounting 1 & 2 | 2 | 7. Accounting 3 & 4 | 2 | | | 6. Thesis | 3 |
| 8. Information Technology 1 & 2 | 2 | 8. Information Technology 3 & 4 | 2 | | | | |

Table 3 is an example of a course of study which cannot be considered as a complete course of study since the specifications are not clearly stated.

Table 3: An example of an Incomplete Course of Study

| |
|---|
| <p>Vision of employment : Electrical Engineer</p> <p>Course offered : Degree in Electrical Engineering</p> |
| <p>First year : will take courses necessary to graduate</p> <p>Second year : will take courses necessary to graduate</p> <p>Third year : will take courses necessary to graduate</p> <p>Fourth year : will take courses necessary to graduate</p> |

41. The course of study for tertiary education consists of component parts according to the subject, module or course offered and taken by the students. If the supply consists of one course and the student enrolled to study this course, it is an exempt supply. Any fee charged to a student taking one or more subjects of these courses is not subject to GST.

Course of study that is subject to GST

42. Tertiary education services which do not fall under the GST (Exempt Supplies) Order 2014 are standard rated supplies such as hobby and personal recreational courses, short occupational courses to maintain skills knowledge leading to only certificate of attendance, a course for a qualification which may be required by a particular employer for example a motor vehicle driving license and continuing professional development courses to maintain membership of a professional body. Workshop, seminar and other short courses not accredited by MQA or Jabatan Pembangunan Kemahiran (JPK) which are not related to education services or course taken by students are taxable supplies.

Example 6:

Kampong SaToo Association invited a well-known police officer from the Royal Malaysian Police to give a talk on “Security at Home” at the Teega University lecture hall. The Association is not the provider of the education services. Therefore, the fees for the talk charged to the students is subject to GST if the association is a registered person because the talk is not related to the course of study taken by the students even though it was held at the university.

43. Professional or trade courses that lead to a qualifications which are essential to the specific profession imposed by the relevant profession or trade association and administered by the specific association are subject to GST. Such courses are not considered as exempt supplies as specified under the Item 14(b)(ii), Second Schedule, GST (Exempt Supply) Order 2014.

Example 7:

Moni who is working as a bank executive enroll for Credit Certified Professional (CCP) courses developed by Institut Bank-Bank Malaysia (IBBM). It is a specialist professional certification that demonstrates achievement of the minimum professional standard of core competency for credit personnel in the banking and finance industry. The courses and

examinations are being conducted by IBBM. The fee will be subjected to GST.

44. Any course of study offered by any higher educational institution that is not approved or accredited by MQA is a standard rated supply and therefore subject to GST.

Course materials

45. Materials which are required for a programs of study are exempt supplies. Program materials such as course outline, reading lists, tutorials or seminar topics and problems, assignment and essay questions, requirements and guidelines for presentation of work will determine the course materials required for the course of study taken by the students. Please refer to para 26 to 29 of the Pre Tertiary Guide for the explanation on course materials.

46. Learning materials which form part of the course of study but purchased by the students from a third party are subject to GST. To qualify for exempt supply, the learning materials are to be provided directly by the higher educational institutions. The materials must be essential or fundamental for the course of study and must be used, utilized and expended by usage, by students undertaking the course of study. The effective life of the course materials is limited only to the duration of the course of study of the students.

47. The course materials must be used, utilized and expended by usage and to be converted into classwork. Examples of materials provided by the tertiary educational institutions to students undertaking the subject such as cooking ingredients, fabric in fashion design course, materials used to create house models in an architecture course of study, chemicals used to develop photographic films, are exempt supplies. Only those course materials that are required to undertake the course of study and listed on a book list are exempt or any replacement of the item listed will also be exempt.

Example 8:

Students at Moon Nash University Malaysia are undertaking second year Economics. They are required to purchase a study guide (book) as part of course materials for the course of study. The study guide is a collection of previously published works from journals, thesis and other resource materials and contributions of lecturers. The effective life of the materials is limited to the duration of the course. If this study guide is supplied by Moon Nash University to its students and included in the fees paid by them, then the GST treatment is an exempt supply.

Example 9:

Amy is taking Sports Science course at Star Sports University. Included in the tuition fees for semester 2 is a charge of tracksuit provided by the university. Although the tracksuit was provided to Amy by the university supplying the course of study, the tracksuit is not used, utilized and expended by usage for the course of study she is taking. The tracksuit can be used for some other purposes. The sale of the tracksuit is a taxable supply and subject to GST.

48. When there is a charge to students for goods or services that are not part of the supply of tertiary education, the charge is subject to GST. A supply of goods by way of a sale, lease or hire to students are subject to GST at standard rate although they may be materials for the course of study taken by students.

49. Equipment regarded as a “*tool of the trade*” which students would take with them at the completion of the course of study and own the property for example, musical instruments, apron, protective clothing or footwear, stethoscopes and dancing shoes are considered sales to students and subject to GST.

Excursions or field trips

50. Higher educational institutions may coordinate various elements (entry fees, charges for equipment and activities, transport costs, food and accommodation etc.) for supply of excursion or field trip to the students. If the supply of the excursion or

field trip that is provided by the higher educational institution is directly related to the curriculum of the course of study and not for recreational purpose, it is an exempt supply.

51. If the higher educational institutions engage a third party to provide all or part of the excursion or field trip and the third party is a registered person, GST will be charged to the higher educational institutions and the GST paid are not claimable as input tax credits by the higher educational institutions. The subsequent supply by the higher educational institutions to the students is exempt if it is :

- (a) Directly related to the curriculum of the course of study taken by the students; and
- (b) Not for recreational purpose.

52. In order to be considered as exempt supplies, the supply of education services must be provided by the higher educational institutions as specified under Item 14(b), Second Schedule, GST (Exempt Supplies) Order 2014. Where a third party supplies any part of the excursion or field trip directly to students then the supply is a taxable supply and subject to GST.

Provisions of accommodation

53. Item 2, First Schedule, GST (Exempt Supply) Order 2014 specifies that building use for residential purpose is an exempt supply. In Malaysia, higher educational institutions provide accommodation to students at university colleges' hostel, university sponsored flats, off campus residential rental accommodation. If the higher educational institution rents a commercial property from a registered person for the purpose of accommodation to students, the supply of the accommodation to the students is an exempt supply. The supply of commercial property for students' accommodation which was renovated by the educational institution has changed the usage from being commercial purpose to that of residential purpose. The supply of such accommodation to the students is also an exempt supply. Any GST incurred on the acquisition of the commercial property or construction services and materials is not claimable as input tax credit.

54. The supply of accommodation by the educational institutions is a right to occupy the premise which includes all or any of the following:

- a. Cleaning and maintenance;
- b. Electricity, gas, air condition; and
- c. Access to a telephone line.

55. The supplies of the above services will depend on the GST status of the supplier. If the supplier of cleaning and maintenance is a third party and a registered person, GST is charged on the supply to the education provider. The subsequent supply by the education provider to the students is an exempt supply and not subject to GST.

56. Accommodation that is usually provided to tertiary students, is made available to a person other than a student such as staff, which is intended to be used as hotel, inn, boarding house etc will be subjected to GST. Rental of such accommodation is a taxable supply and subject to GST (Item 19(a), Second Schedule, GST (Exempt Supply) Order 2014).

Provision of food and accommodation

57. When a tertiary education provider supplies food to students staying at accommodation provided to tertiary students, the supply is an exempt supply. However, if the food is not provided by the provider of tertiary education where it engages a third party, GST will be charged by the third party if he is a registered person. The subsequent supply of food by the education provider to the students is an exempt supply and not subject to GST (Item 16(c)(vii), Second Schedule, GST (Exempt Supply) Order 2014). Any GST paid on the acquisition that relates to the provision of food and accommodation by the tertiary education provider is not claimable as input tax credit.

Transportation of students

58. Transportation provided to students is an exempt supply if it relates to the provision of tertiary education made in accordance with the course of study specified

under item 16(c)(iv), Second Schedule, GST (Exempt Supply) Order 2014. If a tertiary education provider provides transportation to students as part of an excursion or field trip which is related to the curriculum of the course of study, then it is an exempt supply.

59. If the tertiary education provider arranges transportation to students by engaging the services from a third party (bus and the driver) for the excursion, the tertiary education provider will pay the GST on the charges of the rental of the bus to the third party (if he is a registered person). Please refer to the GST Guide on Transportation: paragraph on Passenger Transportation- Exempt Supply. The education provider is not entitled to claim input tax credit for the GST charged on rental by the third party. The subsequent supply to students on the fees charged for the excursion is not subject to GST as it is an exempt supply.

60. In a case where the students pay the transportation costs directly to the provider (e.g. the Rapid Bus Sdn. Bhd.), as passenger, no GST will be charged to the student because public transportation is an exempt supply. Please refer to the GST Guide on Transportation: paragraph on Passenger Transportation- Exempt Supply.

61. If a tertiary education provider provides transportation under the university's name as a transport facility to students, then it is considered as passenger transportation, which is an exempt supply. Please refer to the GST Guide on Transportation. The acquisition of the university bus by the tertiary education provider is subject to GST and the GST paid is not claimable as input tax as this is related to the supply of education services to the students which is an exempt supply.

Administrative services

62. The administrative services must be provided by the provider of the education services himself, which are directly related to the supply of educational services to enable the supply to be considered as an exempt supply. Some examples of administrative services are as follows :

- (a) Program changes;
- (b) Enrolment fees including late enrolment processing;

- (c) Issue or replacement of students cards;
- (d) Examination arrangements and assessments and reassessment;
- (e) Processing academic result and duplicate copies;
- (f) Late payment or overdue charges (tuition fees);
- (g) Administration of supply of course materials;
- (h) Record keeping;
- (i) Administration of library;
- (j) Graduation certificates.

Example 10:

Ranjit attends National University and part of the fees charged by the university include internet access and lease of iPad. Ranjit is allowed to use the equipment (iPad) for 250 hours for internet use in order for him to complete his thesis for his final year project paper. The usage of the internet is not only for his thesis. He used the internet too for viewing the latest Hindi movies, Tamil movies, and the latest K-pop artist concert for 50 hours. The internet access is exempt if it relates to the course of study taken by him. In this case, the 200 hours is exempt and not subject to GST but the 50 hours used up for other viewing is subject to GST because they are not related to the course of study.

63. Administrative services provided by:

- (a) educational institutions
 - (i) related to educational services is an exempt supply;
 - (ii) not related to educational services is a taxable supply;
- (b) other suppliers (third party)
 - (i) related to educational services is a taxable supply;

- (ii) not related to educational services is a taxable supply.
- (c) Administrative charges not related to tertiary education such as renting of hall, building, field, facilities, tools and equipment are standard rated supplies.
- (d) In cases rental of academic dress such as lab coats, graduation dress are subject to GST if the fees are divided into category of supplies in a single receipt.

Example 11:

University Malaysia Sabah charged graduation fees of RM300.00 as a whole for final year student 2015/2016 inclusive of graduation dinner, rental of graduation gown, transportation and graduation photos. The fees charged are the total amount for graduation fees and this is considered as an exempt supply.

Example 12:

Sheenang University Technology Malaysia (SUTM) charged graduation fees separately for the coming graduation event in October 2015/2016. The graduation dinner will be held at Shangrila Hotel Kuala Lumpur and the hotel will charge GST to the organizer which is the university. As an organizer of the event when the Hotel charge SUTM it will be subjected to GST at 6% and the subsequent supply by SUTM to students will be exempt because the graduation is part of the education course taken by the students.

Example 13:

During orientation week, University Shah Alam (USA) charged orientation fees of RM200.00 to the new students. The orientation week is a compulsory activity to new students registering for the course of study offered by the university. This orientation fees include payment for batik shirt or baju kurung and hijab. The university purchased the shirt, baju kurung and the hijab from ABC Sdn Bhd, a registered person manufacturer. As a registered person, ABC Sdn Bhd will charge GST to USA. As an exempt

supplier USA cannot claim the GST paid to ABC Sdn Bhd because the orientation week is related to education services, an exempt supply provided by USA to students. The subsequent supply of the goods to students is not subject to GST and GST paid is not claimable as input tax by USA.

64. Supply by higher educational institutions which does not form part of educational services is subject to GST. A supply by way of sale, rental, hire or lease to students is subject to GST. A sale occurs when the transaction involves transfer of property for consideration.

Example 14:

Mohammad Masqawiyah, a student in Morzadd University Technical Malaysia, Malacca who is undertaking a Degree in Air-conditioning is required to purchase tools to facilitate various mechanical operations for the workshop classes held five days a week. The complete tools can be purchased at the Faculty of Mechanical Engineering bookshop owned by the University. The supply of the tools is a taxable supply because it is an act of sale and is subject to GST at 6% even though the tools are related to the supply of educational services. This tools are not considered as course materials as it is not used, utilized and expended by usage.

Examinations services

65. Examinations services include setting examination, marking examinations papers, setting educational or training standards, making assessments, other services provided with a view to ensure that educational and training standards are maintained, course accreditation services and validation and certification and registering candidates. The supplies of examination services which are generally managed and conducted by tertiary education providers are exempt. No GST is charged to students taking the examinations and the acquisition of any goods or services related to the examinations is subject to GST and not claimable as input tax credits by the higher educational institutions.

OTHER SUPPLIES OF GOODS AND SERVICES TO OR BY HIGHER EDUCATIONAL INSTITUTIONS

Grants, Donations and Appropriations

66. Public or private universities have to raise funds for their operating costs and adopt strategic plans to generate revenue from other sources such as having full fee paying foreign students, research grants and consultancy services, franchising educational programs, fees from rental of university facilities and interest or dividends from investments. It is a normal practice for public universities to establish their own private holding companies to generate income for the universities concerned through the sales of consultancy services, medical and health services and joint venture activities with other industries.

67. Universities are places where certain inventions, research and findings are done either by way of financial assistance (grants) from a government body or from a private company or any other interested party.

68. Payments in terms of grant or subsidies are generally funded to the higher educational institutions by the federal government, individuals or private companies. Government grants which are given without any conditions and benefit in return is not subject to GST. If the grant given to the higher educational institution is for a specific purpose, conditions are attached and there are benefit in return to the grantor then it is subject to GST at standard rate. If a contract agreement or Memorandum of Understanding (MOU) indicates that the grant is given for a benefit in return, then the grant is subject to GST. The grant is the consideration for the benefit and it is inclusive of GST. However, each grant needs to be reviewed on the merits and intention of the provision of the grant to determine its GST treatment.

Research

69. Research activities will generally attract GST. When considering research activities, there are two separate transactions for GST purposes i.e. the grant income or the grant expenditure. The research grant received from either government or private bodies will generally attract GST where the granting body receives some benefit in return. There may be occasions where research participants are paid a

nominal amount for their time such as allowance. Such payment is considered as remuneration or honorarium and not subject to GST.

70. Research involves funding, grants or financial assistance. In order to identify whether the funding or the financial assistance received is a consideration for the supply and subject to GST, the requirements for making taxable supply must be met. In this instance, it normally involves at least two parties who have agreed on the terms and conditions regardless whether they are in writing or not, that something is done for a consideration and for furtherance of business. This means that there must be a direct link between the service supplied (in this case research) and the consideration (financial assistance) or grant received which is subject to GST. If direct link exist, then the supply of research is subject to GST. Research funding is generally supplied to a researcher for a specific purpose or with certain conditions governing how the funding is to be used and the expected outcomes. This arrangement constitutes a taxable supply and is subject to GST.

71. For example in some arrangements the payer obtains a material benefit in return for the financial assistance given. This may occur where the sponsor is provided with the right to commercially exploit the results of the research work in return for the financial assistance. In this circumstance, the payment has a sufficient link with the supply of the right because the payment is made in connection with the supply of the right and therefore it is subject to GST at standard rate.

72. Usually the funding or grant or financial assistance is dependent on the outcome of a particular activity for which the grantor provides the funding. In the case where there is a successful outcome (discovery of new product/research findings), the funding, grant or financial assistance is the consideration for the supply of the new product and subject to GST. On the other hand, where there is no successful outcome of the research project, the funding or grant or financial assistance received is just a supply of money. Money is neither a supply of goods nor a supply of services.

Example 15:

For the year 2015 to 2017, Mewah University plan to conduct various research projects involving psoriasis and eczema skin diseases in Malaysia. In order to fund its future projects, the University sells the right to

use the results of its completed study to the sponsors. For instance, the university carried out a study into the psychological impacts of certain chronic skin illness. The Subang Jaya Medical Center (SJMC) pays the university to acquire the rights to use the research findings. The right to use the research findings is a supply for the payment received (consideration). This supply is subject to GST. The act of selling the rights constitute a taxable supply made by the university to SJMC and as a registered healthcare facility the GST paid by SJMC is not claimable as input tax as healthcare service is an exempt supply.

73. Grants provided by government to a university to conduct feasibility study. The result of the research (report) is submitted to government in return for the grant. Such a grant is a consideration for the research activities. Therefore, the right to use the report or the research findings is subject to GST and it is a taxable supply. The university has to account for the GST.

Grants from overseas

74. The financial assistance receives from overseas company for the tertiary education provider in Malaysia to do research will be zero-rated under Item 12, GST (Zero-Rated Supply) Order 2014 in the following cases:

- (a) Where the findings of the research is supplied under a contract with a person who belongs in a country other than Malaysia;
- (b) Where the findings of the research are made to a person directly benefit a person who belongs in a country other than Malaysia and who is outside Malaysia when the services are performed.

75. If a foreign company has a branch in Malaysia and the supply of the findings of the research is provided to the branch, then the supply made is subject to GST at standard rate. Any expenses incurred by the tertiary education provider in Malaysia is subject to GST and paid through the funding receives by the tertiary education provider.

Scholarships and sponsorships

76. Scholarships payment made by the higher educational institutions to students are not subject to GST. Scholarship funds received by the higher education institutions from a third party are not subject to GST where the funds are provided on an unconditional basis and there is no expectation by the third party of receiving any benefit.

77. Sponsorships are generally payments for certain supplies. For example the sponsor will receive a material benefit or right in exchange for the benefit for the sponsorship such as advertising or promotion of their products.

78. Sponsorship (in money) is not subject to GST. Mere recognition of a sponsorship does not constitute a material benefit and the sponsorship is considered to be a gift which would not be subjected to GST. Where advertising or promotion of the sponsor's name or product is provided in return for the sponsorship fund and this will result in material benefit and GST would therefore apply in such transaction.

79. Consultancy services refer to the provision of expertise to external entities at a commercial rate. The consultancy services are subject to GST and may include :

- (a) Honorariums earned by professors or paid to the higher educational institutions;
- (b) Contract for research;
- (c) Short courses training provided to organizations (other than students);
- (d) Hiring out staff to perform and tour with orchestra of cultural performance;
- (e) Production of web pages;
- (f) Sale of information and statistics.

80. Donations in cash or in kind that are made without any benefit in return is not subject to GST. This is because there is no benefit in return to the donor and the donation does not give material advantage to the person.

81. An appropriation is an allocation of money made for a specific purpose under a statute. A payment made by the Federal or State government to the higher educational institutions are specifically meant to run the specific function of providing higher education to the students. Therefore, such appropriation is not a taxable supply.

GST on Non Reviewable Contracts

82. Section 187, GST Act 2014 provides a provision for specific consideration on GST liability where it involves non reviewable contracts. Due to the fact that tertiary educational institutions are providing exempt supplies and therefore they are considered as mixed suppliers, Section 187 cannot be applied. The requirements specified under Section 187 are as follows:

- (a) There must be a written contract signed between the two parties - the supplier and the higher educational institutions;
- (b) The terms and conditions of the contract has no opportunity to review and entered two years before the effective date of 1st April, 2015.

83. Other requirements that need to be fulfilled to qualify under Section 187 are:

- (a) Both parties, the supplier and the higher educational institutions must be registered persons;
- (b) The supply is a taxable supply; and
- (c) The recipient, i.e. the higher educational institution must be making a wholly taxable supply.

84. Section 187 does not apply to the higher educational institutions relating to the Private Finance Initiative (PFI). The contract signed under PFI is a long term contract. Even though there is no opportunity to review the contract and most of the requirements are fulfilled, the supplies made by higher educational institutions cannot be zero-rated because they are mixed suppliers. They are not making wholly taxable supplies.

Conferences/ Seminars/ Workshops etc.

85. All services supplied to external customers, including associated entities, are subject to GST and it includes:

- (a) Workshop, seminar, conference, symposium (not related to education services provided by higher educational institutions) attendance fees;
- (b) Functions, reunion, presentation fees;
- (c) Venue hire charges;
- (d) Facility hire charges;
- (e) Booking fees;
- (f) Sale of drinks and refreshments including sales to students and staff;
and
- (g) Meals charged as part of a conference, seminar or workshop.

Providing education services outside Malaysia

86. GST is primarily a tax on the consumption of goods and services in Malaysia and exports are generally zero-rated. Goods and services that are exported are therefore zero-rated as it is not provided or consumed in Malaysia. Input tax credit is claimable on any GST paid in provision of export of goods or services. Examples:

- (a) Providing consulting education services offshore;
- (b) Conducting short courses overseas.

Management fees/ commissions

87. Management fees and commissions received or paid for any services are subject to GST.

FREQUENTLY ASKED QUESTIONS

Q1. Are bookstore, sport shops and cafeteria situated inside the higher educational institutions required to register and charge GST on sales of goods and services to students and staff?

A1. Sales made by the bookstore, sport shops and cafeteria are subject to GST. If the supply made formed part of the higher educational institutions activities and the taxable supply has reached the threshold limit of RM500,000 the higher educational institutions must register with GST. Generally, higher educational institutions rent the premise to these entities and collect rental income from them.

If the bookstore, sport shops and cafeteria made taxable supply more than RM500,000 and registered as a GST registrant, GST must therefore be collected on the taxable supply. Input tax incurred for furtherance of business can be claimed. However, if their taxable supply is less than threshold, they are not liable to be registered and therefore no GST will be charged.

Q2. If a university sells books, computers and musical instruments to the students, does the supply made subject to GST?

A2. Yes, if the university is a registered person, it must charge GST on any taxable supply made such as sales of computers and musical instruments whilst books is zero rate item. If the university retains the ownership of the items and merely lends the goods for free to the students, no GST is chargeable. Renting out goods is a taxable supply and subject to GST. If the university charge a renting fee to the students for the use of these items, the fees is subject to GST.

Q3. What is the GST treatment on the acquisition of good by the university?

A3. Acquisition of all goods except petroleum and imported motor cars by public higher educational institutions (Matriculation, Polytechnics, and Community Colleges) under the administration of Ministry of Education or other Ministries administering higher education will fall under item 3, First Schedule, GST

(Relief) Order, 2014. Acquisition of equipment and materials by public universities are given relief from payment of GST under Item 4, First Schedule, GST (Relief) Order, 2014.

Private higher educational institutions are given relief from payment of GST under Item 5(c), First Schedule, GST (Relief) Order 2014 for the acquisition of multimedia equipment, equipment for linguistic and science laboratory, tools and equipment for technical and vocational studies, and chemical, solution and gas subject to conditions as stated in the order.

These institutions have to submit the certificate of relief from the payment of GST in accordance with the Third Schedule, of the GST (Relief) Order 2014.

Please refer to Relief Guide on Item 4, First Schedule, GST (Relief) Order 2014 and Relief Guide on Item 5, First Schedule, GST (Relief) Order 2014.

Q4. What is the GST treatment on provision of accommodation to staff and hostel to students by higher educational institutions?

A4. Residential accommodation for student is an exempt supply and not subject to GST. The same also applies to accommodation to staff as the accommodation is for residential purpose and the GST treatment is an exempt supply.

Q5. What is the GST treatment if accommodation to students includes food supplied by the higher educational institutions?

A5. Provision of accommodation which includes food to the students by the provider of education services, is an exempt supply. However, if the food is provided by a third party, and the third party is a registered person, he will charge GST to the higher educational institutions. The educational institutions will not be able to claim the input tax incurred in making the subsequent supply to the students because it is an exempt supply. The provision of food and accommodation for education services is specified under Item 16(c)(vii), GST (Exempt Supply) Order 2014.

If the third party is a GST registrant and he provide the food directly to students in a higher educational institutions is a taxable supply. They will charge GST at standard rate to students.

Q6. Is GST chargeable on field trip by higher educational institutions?

A6. If the field trip is a necessary component within the course taken by the students, any fees for the excursions or field trips will be exempt. The visit must be related to the curriculum and not recreational purpose. If the visit is directly related to the curriculum of the course of study, no GST will be imposed on the visits.

If the educational institutions engage a third party to provide all or part of the field trip, the GST treatment will be different. If the third party supplies the excursion and he is a registered person, he will charge GST to the educational institutions. As a provider of the education services, the subsequent supply by the higher educational institutions to the students relating to the field trips will be not subjected to GST. If the third party supplies any part of the field trip directly to students he will charge GST on the supply to the students as it is a taxable supply and he is liable to charge GST to its customers.

If food, rental of accommodation and transportation is charged in a single receipt by the third party to the educational institutions for the field trip, the supply is a mixed supply and the higher educational institutions must apportion between the taxable supply and the exempt supply to claim the input tax.

Q7. DNE University Sdn. Bhd. offered 10 courses to the students. What is the GST implication of courses which are not approved by MQA or Department of Skills Development?

A7. Acquisition of goods for courses of study which are not approved by Ministry of Education and the Malaysian Qualification Agency (MQA) or Department of Skills Development, Ministry of Human Resource are not eligible for relief under the GST (Relief) Order, 2014. Such courses are standard rated supplies and input tax credit is claimable on acquisition of goods. Any courses offered

to students with provisional accreditation of MQA or Department of Skills Development will also be an exempt supply.

Q8. Should the higher educational institutions consider the treatment of GST when determining fees for the students?

A8. Yes, every higher educational institution must consider GST. Tuition fees are exempt but some items in the bill which are not directly linked to the curriculum and course of study may be subjected to GST. This could include fees charged for rental of musical instruments or computers and membership fees for associations unrelated to the curriculum of the courses taken by the students.

Q9. Is sponsoring of scholarships by third parties to excellent students subject to GST?

A9. Yes. There is usually some benefit to the sponsor in the form of advertising but if it can be shown that the sponsor does not gain any benefit in return, then no GST is payable.

Q10. Will GST be levied on education services?

A10. Education services which relate to the education courses and curriculum or course of study is an exempt supply and not subject to GST. Therefore, the provider of the supply must not charge GST on education services.

Q11. What type of supply by higher educational institution is subject to GST?

A11. A supply by higher educational institution which is not related to education services is subject to GST.

Example 16:

University Putra-Putri Malaysia sells its agricultural products such as fruits to the public, renting, or leasing of its hall.

Q12. Are private colleges wholly owned by Ministry of finance (MOF) considered as private educational institutions? (Example: TPM Technology)

A12. All private colleges must be registered under the Private Higher Education Act 1996. Therefore, private colleges owned by MOF are not directly operated by Ministry of Education but it is registered as a separate entity for business purposes. The college is treated as a normal private college. Therefore, the supply of goods and services by this private educational institution is an exempt supply.

Q13. What types of supplies by government educational institutions are subject to GST?

A13. Supplies made by government educational institutions which are not related to educational services and in competition with other businesses are subject to GST e.g. renting or leasing premises, selling universities' products such as fruits, small plants, seeds, flower plants and vegetables to the market, consultancy services and research findings sold to the public at large.

Q14. What is the GST treatment for students' fees which are fully paid to local institution on educational services for twinning programs where studies are partly conducted in Malaysia and partly overseas?

| A14. | Description | Condition | GST Liability |
|------|---|---|---------------|
| | Fully paid student fee for education services to educational institutions in Malaysia | Partly supplied in Malaysia by private educational institutions | Exempt |
| | | Partly supplied in overseas university | Zero rate |

Q15. How do you treat payment by local students to overseas university for twinning programs such as payment for subject, examination fees and payment for registration?

A15. Payment for subject, examination fees and payment for registration made by local students to overseas universities is a zero rated supply if the services

performed overseas. If the services are performed in Malaysia, then it will be considered as imported services.

Q16. Should GST be charged on renting or leasing of university facilities or educational institutions facilities e.g. hall, sport facilities, accommodation to public?

A16.

| Supplies | Condition | GST Liability |
|-----------------------|--|------------------------------------|
| Renting or leasing by | Public higher educational institutions | GST is chargeable at standard rate |
| | private educational institutions | GST is chargeable at standard rate |

Q17. How do you treat research done other than for the purpose of education by Universiti Putra-Putri Malaysia on the instruction of Ministry of Agriculture or private company?

A17.

| Supplies | Condition | GST Liability |
|-------------------|----------------------------|---------------|
| Research services | To Ministry of Agriculture | Standard rate |
| | To private company | Standard rate |

Q18. Are fees for education course material subject to GST?

A18. Education course materials are materials supplied by the educational institutions related to the subject undertaken that are necessarily consumed by the students undertaking the course e.g. such as photocopied or printed educational materials related to the course, paints, sketchpads or chalk, carpentry and chemicals used in the chemistry or related courses. GST treatment on fees charged for educational course materials as follows:-

| Supplies | Condition | GST Liability |
|------------------|--|----------------------|
| Course materials | Fees charged by educational institutions under Ministry of Education | Out of scope |
| | Fees charged by public universities | Exempt |
| | Fees charged by private educational institutions | Exempt |

Q19. What is the GST treatment on supply of entertainment services performed by university cultural club e.g. musical band, gamelan group, cultural dance etc?

A19.

| Supply | Condition | GST Liability |
|--------------------------------|------------------|---|
| Entertainment or cultural show | Free supply | Not subject to GST |
| | Imposed charge | Subject to GST as the supply of services does not form part of education services |

Q20. Is GST chargeable for supply of educational services provided by overseas lecturers e.g. employed lecturers from overseas universities give lectures in Malaysia under twinning programs whose salaries are being paid by the overseas university partner?

| A20. | Supply | Condition | GST Liability |
|------|---|--------------------------------|---|
| | Lecturers employed from overseas deliver lectures in local university | Supply to private institutions | Imported services subject to GST. The recipient accounts for GST. Reverse charge mechanism does not apply to exempt supply. Therefore, GST paid is not claimable. |

Q21. What is the GST treatment on student's fee paid if the student terminates the course taken?

A21. As an education service is an exempt supply, the fees are not subject to GST.

Q22. Can ITC be claimed for GST incurred on all inputs for operating courses, administration, and rental or acquisition of capital goods for providing education services by educational institutions?

A22. All input tax incurred under education services are not claimable if it is directly related to exempt supplies. However, any input tax incurred which is directly related in providing taxable supplies is claimable. Any input tax incurred related in making both exempt supplies and taxable supplies must be apportioned accordingly.

Q23. Is ITC allowed to be claimed by higher educational institutions where the supplies made involve mixed supplies?

A23. There will be instances when the higher educational institutions supply taxable supplies such as sales of goods and rental of their buildings where ITC is claimable. In normal GST treatment an entity which makes an exempt supply does not enjoy the ability to claim input tax.

Q24. How should an educational institution claim ITC on the purchases of second hand goods?

A24. Input tax credit is claimable on GST paid for second hand goods purchased by any business making taxable supplies in the course of furtherance of business. However, if the second hand good purchased is a motor car, ITC is blocked and no ITC is allowable under Regulation 36 of the GST Regulations 2014.

As providers of education services (exempt supply), educational institutions are not able to claim any input tax incurred in making exempt supplies.

Q25. How do you treat education loan given by the bank to students? Is GST chargeable on the loan taken by students? Is GST chargeable on the interest imposed on the loan?

A25. Education loan given by the banks or any other organization is an exempt supply. No GST is chargeable on the loan. Interest is not a supply under GST and it is not subject to GST.

Q26. Is GST chargeable on career guidance fee and pre-enrolment consultancy fee charged to students by universities/colleges?

A26. Career guidance and pre enrolment consultancy are consultancy services. Any consultancy service is a taxable supply and subject to GST.

Q27. Is transcript fees charged by a college or university subject to GST?

| A27. | Supplies | Condition | GST liability |
|------|-----------------|---|----------------------|
| | Transcript fees | by educational institutions under Ministry of Education | Out of scope |
| | | By public universities as statutory bodies | Exempt |
| | | by private educational institutions | Exempt |

Q28. Is transportation supplied by educational Institution subject to GST?

| A28. | Supplies | Condition | GST liability |
|------|---|---|---|
| | Transportation | Supplied free by educational institutions | Not a supply – not subject to GST |
| | | Supplied by third party | Exempt – no GST |
| | Transportation and rental of bus to higher education provider | Exempt or standard rate | Public transportation is exempt if directly provided by transportation company to students |
| | | | Rental of bus is subject to GST by the transport company to the education provider. GST paid is not claimable by the education provider |
| | | | The subsequent supply by the education provider to students is exempt |

Q29. Is food and drink supplied by vending machine which is placed at the educational institution subjected to GST?

A29. Vending machine supplied to educational institution by the vending machine business entity is a taxable supply and subject to GST.

Q30. How do you treat distance learning?

| A30. | Supplies | Condition | GST Liability |
|------|----------------------------|--|----------------------|
| | Distance learning programs | by educational institutions directly under Ministry of Education | Out of scope supply |
| | | by public universities | Exempt |
| | | By private educational institutions | Exempt |

Q31. Is GST chargeable on education seminar, motivation seminar, counseling seminar or workshop related to education e.g. education seminar related to enhancement of career provided by education consultant company to staff and employees of higher education provider?

A31. The above activities are not education services as it is not provided to students but to the staff or employees of the higher education provider. Courses provided by the consultant is subject to GST at standard rate if the company is a registered person.

Q32. What is GST treatment on insurance policies for education?

A32. Under GST, education insurance policies are treated as life insurance and therefore it is an exempt supply and no GST is chargeable.

Q33. What are course materials and the GST treatment on course materials?

A33. Course materials are materials that are directly used, utilised and expended by students undertaking the course of study. If the higher educational institutions provide the course materials directly to students then the GST treatment is exempt for both public and private higher educational institutions.

Sales of course materials directly to the students by third party even those materials are necessarily used up by the students in undertaking the course of study will be subject to GST.

Q34. What is the GST treatment on restaurants or haircuts run by a university for student training that attract public as customers?

A34. Supplies of food by a university restaurant or haircut at a saloon are subject to GST at standard rate. The supply is not an exempt supply and the normal GST treatment applies. If the taxable supplies made is more than the threshold limit of RM500,000 the university must register under GST and charge GST on its taxable supplies.

Q35. ABC University offers accredited courses for overseas students to study in Malaysia. Many universities set up a policy of requiring payment of the 1st semesters fees to reserve a place for the student and also prior to the student applying for his visa. If the student does not arrive in Malaysia without sufficient notice of cancellation, what is the GST implication to the provider of the tertiary education?

A35. The payment of fees is conditional upon the student receiving a visa, the fee therefore does not create a confirmation that he is studying in Malaysia. The payment is consider as deposit. Failure to arrive without sufficient notice and any amount forfeited by the university is subject to GST and the university have to account for GST. The forfeited amount is a consideration for the payment of services by the university.

Q36. A subsidiary company of a tertiary education provider recruits international students and market its services all over the world. The university paid a fee to the subsidiary company as an agent. The student pay a fee to the college to cover course delivery and college administration costs for services incurred. Are the fees paid by the overseas students subject to GST? Is the commission received by the subsidiary subject to GST?

A36. The fees paid by the overseas students is not subject to GST as it is for an exempt supply relating to the tertiary education course of study in Malaysia.

The commission received by the subsidiary company for providing services to the university is subject to GST as it is a consideration for the supply of services provided to the university.

Q37. Doolen University rents a bus with the driver from Sanam Transport Company Sdn Bhd. What is the GST treatment on this supply of service (transportation of students)?

A37. Where the University engages the service of Sanam Transport Company Sdn Bhd (bus and the driver) to provide the transportation for the excursion, it is subject to GST at 6% and the university pays GST on the rental to the transport company. Dooleen University is not entitled to claim input tax credit for the GST charged by Sanam Transport Company. The transportation provided by the university to the student is an exempt supply.

INQUIRY

1. For any inquiries for this guide please contact:

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GST Division

Royal Malaysian Customs Department

Level 3 – 7, Block A, Menara Tulus,

No. 22, Persiaran Perdana, Presint 3,

62100 Putrajaya.

Email: gstsector1@customs.gov.my.

FURTHER ASSISTANCE AND INFORMATION ON GST

2. Further information on GST can be obtained from :

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

(b) Customs Call Center :

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