SERVICE TAX 2018

FREQUENTLY ASKED QUESTIONS (FAQs):

CONSTRUCTION WORK SERVICES

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FREQUENTLY ASKED QUESTIONS (FAQs)

1. **Q : How to become a registered person?**

   A : Anyone who provides construction work services, excluding residential building construction and public areas related to that residential building, and where the value of the service exceeds the threshold value of RM1,500,000, must apply for registration online via the link: www.mysst.customs.gov.my.

2. **Q : How to submit the return and make tax payment?**

   A : A registered person must submit the SST-02 service tax return through the electronic service (MySST), by post, or courier service to the Customs Processing Centre in Kelana Jaya. Payment methods include electronic banking, cheque, or bank draft. For payments using cheques or bank drafts, they must be sent by post or courier service to the Customs Processing Centre in Kelana Jaya. For more detailed, please refer to the Return and Payment Guide.

3. **Q : Is a registered person required to issue an invoice for construction work services provided?**

   A : Yes. A registered person must issue an invoice for all construction work services performed. Please refer to the General Guide for further details.

4. **Q : What services are not subject to service tax under construction work services?**

   A : Construction work services for residential buildings and public facilities related to those residential buildings are not subject to service tax.

5. **Q : Who is exempted from paying service tax under construction work services?**

   A : Those who are exempted from paying service tax under construction

work services are the Federal Government, the State Governments and the Local Authorities.

6. **Q : What is the rate of service tax imposed on construction work services?**

A : Construction work services are subject to a 6% service tax rate.

7. **Q : How is the value of construction work services determined?**

A : The value of construction work services is determined based on the actual value of the services provided, including the value of goods or raw materials used in providing the construction work services.

8. **Q : What charges are subject to service tax in the construction industry?**

A : Charges subject to service tax include the value of all works and materials that are permanently constructed or installed at the building site or construction project and are billed by the contractor to the client.

Example:

ASM Sdn Bhd awards a contract to LTM Construction Sdn Bhd to construct a commercial building. Based on the contract agreement, the value of the construction services, including the value of materials and work performed, is RM6,000,000.

The service tax imposed is RM360,000 (RM6,000,000 × 6%).

9. **Q : If I purchase the raw materials myself and appoint a contractor to construct a commercial building, is the value of construction work services inclusive of those raw materials?**

A : The value of construction work services is based on the contract between the developer and the contractor. If the contract between the developer and the contractor specifies the payment as the construction

work service fee, only the construction service fee will be subject to service tax.

10. **Q** : **When do I need to account for service tax?**

A : You need to account for service tax on construction services at the time payment is received for taxable services provided by a registered person to the customer. However, if you have been approved by the Director General of Customs to use invoices as the basis of accounting, you must account for the service tax at the time the invoice is issued.

11. **Q** : **When do I need to submit the service tax return and make payment to Customs?**

A : The service tax return and payment must be submitted to Customs every two months according to the prescribed taxable period.

12. **Q** : **I am a contractor providing full construction services for a residential building. Do I need to register?**

A : No, you do not need to register because construction services for residential buildings are not taxable services.

13. **Q : Are construction work services that receive B2B exemption and exemptions for construction services to the Federal or State Government included in the threshold calculation for construction work services?**

A : Yes. Construction work services that being exempted are still considered taxable services, and those exemptions must be taken into account when calculating the threshold.

14. **Q** : **I am a contractor in Kuala Lumpur providing construction work services to build a commercial building in a Designated Area (Langkawi Island, Tioman Island, Pangkor Island, or Labuan) and Special Areas (Free Zones, Licensed Warehouses, Licensed**

Manufacturing Warehouses, Joint Development Areas, and Petroleum Terminals). Do I need to charge service tax?

A : Yes, you are required to charge service tax on those construction work services. The provision of construction work services in the Designated Areas (DA) — Langkawi, Tioman, Pangkor, Labuan, or Pulau 1 — and Special Areas (Free Zones, Licensed Warehouses, Licensed Manufacturing Warehouses, Joint Development Areas, and Petroleum Terminals) by any contractor whose principal place of business is located in Malaysia is subject to service tax.

15. **Q** : **Are contractors located in the Designated Areas and Special Areas who provide construction services in Malaysia liable to register and charge service tax to their customers?**

A : Yes, any contractor whose principal place of business is located in the Designated Areas and Special Areas who provides construction services in Malaysia is liable to register under Section 12 of the Service Tax Act 2018 if the taxable services provided exceed the prescribed threshold value. Once the contractor is registered, they must charge and account for service tax on the construction work services provided to their customers in Malaysia.

16. **Q** : **When and how should I account for service tax for progressive payment contracts involving the issuance of certificates related to work completed?**

A : Service tax for construction work services related to progressive payments involving the issuance of certificates for work completed must be charged and accounted for at the time the payment is received. If payment is not received within 12 months from the date the service was provided, the service tax becomes due and must be paid on the day following the end of the 12-month period.

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17. **Q** : **Construction contracts allow customers such as developers or individuals to withhold a percentage from each progressive payment until the entire contract is satisfactorily completed. Is the retention money subject to service tax?**

A : Yes, retention sum is subject to service tax. Therefore, the contractor must charge service tax on the retention sum payments.

18. **Q** : **What is the service tax treatment for compensation and out-of-court settlements?**

A : Compensation and out-of-court settlements paid due to breach of warranty or delay in completing a contract are considered damages. Therefore, service tax is not imposed on such compensation and out-of-court settlements.

19. **Q** : **Is compensation charged for delays in completing work subject to service tax?**

A : No, compensation charged due to delays in completing a construction project is not subject to service tax.

20. **Q** : **What is the service tax treatment on progressive payments for any construction contract made before the effective date?**

A : Service tax must be imposed on construction services provided on or after the effective date. The value of construction work done before the effective date is not subject to service tax.

21. **Q** : **What is the service tax treatment on retention money involving construction work services spanning two periods, i.e., before and after the effective date?**

A : The portion of retention sum under a construction contract related to construction work services provided before the effective date is not subject to service tax. However, if the provision of construction work

services extends beyond the effective date, service tax must be imposed on the portion of the retention sum related to construction services after the effective date, based on Regulation 3A of the Service Tax Regulations 2018.

22. **Q** : **Engineering, Procurement, Construction, and Commissioning (EPCC) projects are a procurement model used in large and complex projects such as industrial plant construction, power stations, and other public infrastructure, where the main contractor is responsible for all aspects (design, procurement, construction, and testing) and delivers a completed project to the project owner. Are EPCC projects subject to service tax under construction work services?**

A : Yes, EPCC projects are considered construction work services and are subject to service tax under Group L, First Schedule, Service Tax Regulations 2018 – Construction Work Services.

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INQUIRY

For any inquiries related to this guide, please contact:

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Jalan Tun Abdul Razak, Presint 2
62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION RELATED TO SST

Further information can be obtained from:

(i) SST Website: https://mysst.customs.gov.my

(ii) Customs Call Center:

- Hotline : 1 300 88 8500
- Tel : 03-8882 2100/ 2300/ 2500
- Email : ccc@customs.gov.my

