



GST Treatment For Specific Industry



GST Treatment On Hospitality Industry (Tourist Refund Scheme, Hotel Industry and Travel Industry)

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Overview On Tourism

Tourism/Hospitality Industry

- ✓ Tourist Refund Scheme (TRS)
- ✓ Hotel Accommodation / Hotel Industry
- ✓ Travel Industry
- ✓ Related Tourism Issues
- ✓ Transitional Tourism Issues
- ✓ Other Related Issues

Definition Of Tourism (Travel)

✓ **Traditional definition of tourism (travel)**

Involves the travel of people to destinations away from their usual dwelling or working places and the provision of facilities created to cater for the needs arising along this travel (Matheson and Wall 1982)

✓ **Latest definition of tourism**

Widens the scope of tourism, defining it as the set of activities performed by people who travel and stay in places outside their usual environment for not more than one consecutive year, for leisure, business and other purposes

(The European Commission 2002)

Types Of Tourism

Examples:

- ✓ Sports and recreation tourism
- ✓ Cruise tourism
- ✓ Eco-tourism, Agro-tourism and home stay programmes
- ✓ Leisure tourism
- ✓ Thematic Events
- ✓ Cultural and heritage tourism
- ✓ Education, Student and Health tourism
- ✓ Meetings, Incentives, Conventions and Exhibition Tourism (MICE)

Special Scheme
(Under the tourism industry)
Tourist Refund Scheme

Tourist Refund Scheme (TRS)

Rationale For Introducing TRS In Malaysia

(To Promote Tourism and tourism shopping)

- ✓ **TRS is introduced to encourage spending by foreign tourist in Malaysia**
- ✓ **To develop Malaysia as an attractive tourist shopping destination**

Definition

Section 61 GST Act 2014

- ✓ **Tourist Refund Scheme** is a scheme that allows any eligible tourist who qualifies to claim a refund of GST paid on certain goods purchased in Malaysia from an Approved Outlet/Store
- ✓ Applicable to air mode travellers only

Who is eligible for TRS

- ✓ Foreign/outbound tourist
- ✓ Diplomats (after completion of their service)

Definition

Reg 82- GST Regulations 2014

1. **Approved Outlet**

any business establishment operated by a registered person and approved by the Director General for the purpose of the TRS.

2. **Approved Refund Agent**

any agent appointed by the Minister to refund tax to a tourist under the Tourist Refund Scheme (referred to in this part as TRS)

Duty Free Shopping For International Tourist

Duty Free Shop

- ✓ Are licensed premises allowed to store and sell duty free goods to qualified buyers
- ✓ Established under Section 65D of the Customs Act 1967
- ✓ To cater to the necessities and requirements of international tourists

Basically, there are five types of Duty Free Shops

- ✓ International Airport Duty Free Shops
- ✓ Port Duty Free Shops
- ✓ Downtown Duty Free Shops
- ✓ Border Duty Free Shops
- ✓ Domestic Duty Free Shops (closed down)

(Padang Besar Railway Station)

Downtown Duty Free Shops can (are to) be replaced by Tourist Refund Scheme.

Current Tax Treatment-Duty Free Shop

Duty Free Shops are allowed to sell duty free goods to:

- ✓ International tourists leaving Malaysia after entering the country using international passports or legal travelling documents, for Downtown Duty Free Shops
- ✓ Passengers and cabin crew arriving from or departing for abroad, for Duty Free Shops at airports and ports
- ✓ Anyone, for Duty Free Shops at the border
- ✓ International tourists, border country pass holder and cabin crew (foreign citizen) leaving for a foreign country, for Domestic Duty Free Shops.

Tourist Refund Scheme (TRS)

- ✓ **Downtown Duty Free Shops** can apply to be in the Tourist Refund Scheme.
- ✓ During the GST regime/era, no **Downtown Duty Free Shops** license will be issued.
- ✓ **Tourist Refund Scheme** is a voluntary scheme. Any GST registered person who wishes to operate the Approved Outlet need to apply to RMC for approval subject to certain conditions.

GST Treatment On Duty Free Shop

- ✓ **Duty Free Shops (DFS)** at the border, ports and airports to be retained under the GST regime
- ✓ Goods brought into **Duty Free Shop (DFSs)** are to be relieved of GST
- ✓ Goods sold in **DFSs** are not subject to GST
- ✓ Services supplied to or consumed in **DFSs** are subject to GST
- ✓ **Downtown Duty Free Shops** can apply to become Approved Outlets subject to certain conditions

Tourist Refund Scheme (TRS)

Qualifying conditions of Tourist Refund Scheme

- ✓ the tourist is neither a citizen nor a permanent resident of Malaysia and he is holding a valid international passport;
- ✓ the tourist has not, in the 3 months immediately preceding the date of purchase of the goods, been at any time employed in Malaysia;
- ✓ the tourist depart Malaysia by means of air transportation;
- ✓ the tourist is not a member of the cabin or flight crew of the aircraft on which he is departing out of Malaysia

Tourist Refund Scheme (TRS)

Qualifying Conditions of Tourist Refund Scheme (cont)

- ✓ The tourist has to spend a minimum of RM300 (GST inclusive) or more at any Approved Outlets. Purchases must be made from the same TRS Outlets/Shops on the same or different days (for accumulation of RM300 purchases)
- ✓ The goods are to be brought out of Malaysia to another country within 3 months from date of purchase
- ✓ A foreign diplomat leaving the country after completion of service in Malaysia and he is in possession of a document from the relevant diplomatic or consular mission
- ✓ The goods must be taken out of Malaysia in a hand carried luggage (accompanied) or unaccompanied luggage on the same flight in which the tourist is travelling.

Goods Not Eligible For Refund Under TRS

- ✓ Wine, spirits, beer and malt liquor
- ✓ Tobacco and tobacco products
- ✓ Precious metal and gems stone
- ✓ Goods which are wholly or partially consumed in Malaysia
- ✓ Goods which are prohibited from export under any written law;
- ✓ Goods which are not taken out as an accompanied or unaccompanied luggage.

Tourist Refund Scheme (TRS)

Conditions of Approved Outlet

- ✓ Must be a GST registered persons
- ✓ Registered user of electronic service (e services)
- ✓ To be linked electronically with Approved Refund Agent/Customs Verification Counter (*GST Refund Verification Counter*)
- ✓ Has paid up capital of at least RM1,000,000
- ✓ Not wholly selling non taxable goods/non tax refundable goods like liquor, cigarettes, tobaccos, tobacco products, precious metal and gems stone
- ✓ Must account for tax on a monthly taxable period
- ✓ To be registered with Approved Refund Agent. Approved Refund Agent will be appointed by the government to refund the GST paid by tourist through tender.

Tourist Refund Scheme (TRS)

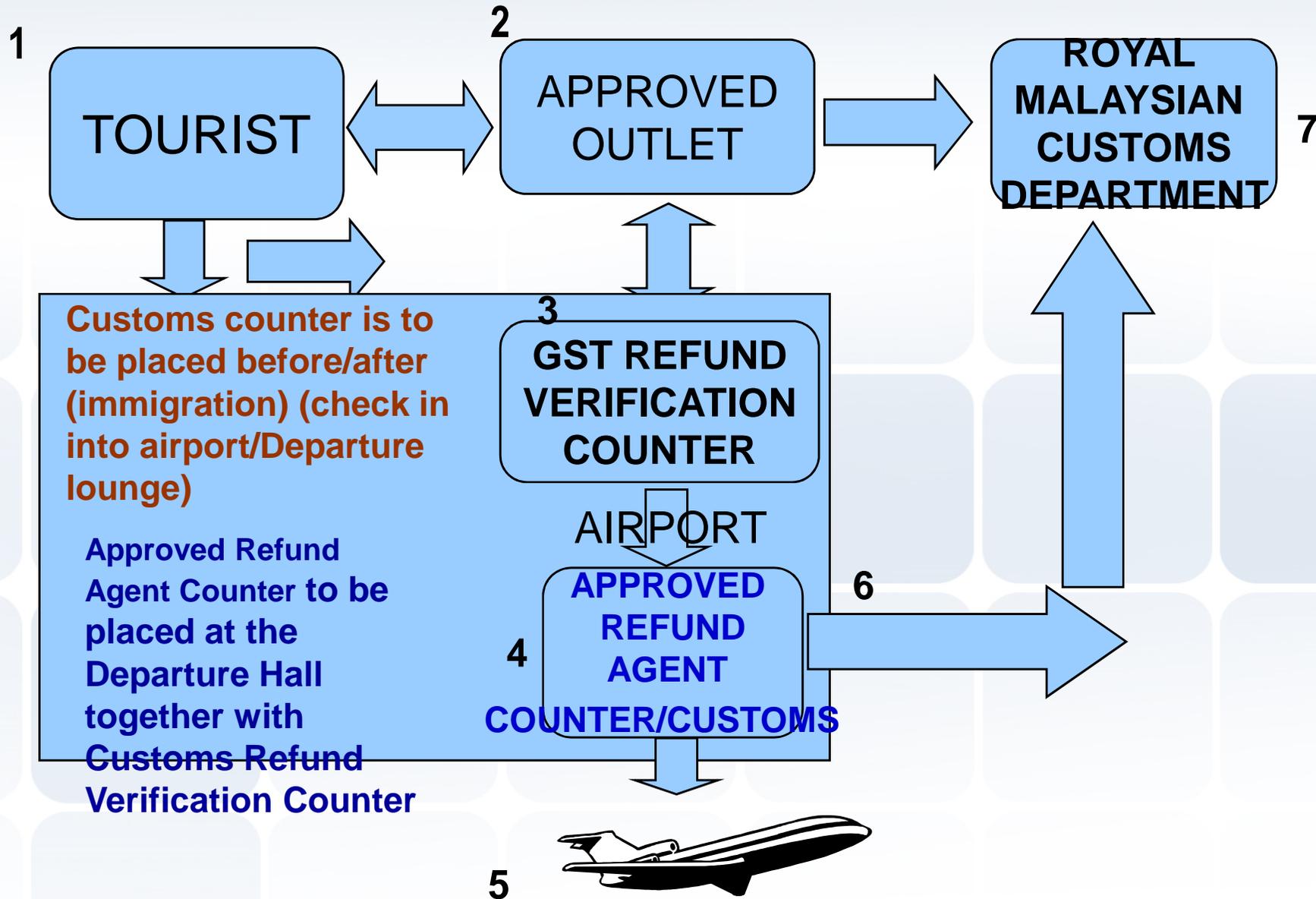
TRS Refund Mechanism

- ✓ Approved Outlet check eligibility of refund under TRS by tourist via international passport
- ✓ Approved Outlet collects GST from tourist and issues a tax invoice when making sales
- ✓ Refund form provided by Approved Outlets operators to be completed and signed by the Approved Outlet Operator and the tourist
- ✓ Refund form to be presented to customs for verification and endorsement and must be presented together with the goods, passport, tax invoice, confirmed air ticket or boarding pass
- ✓ Endorsed refund form to be used to claim GST refund from Approved Refund Agent at the airport or by way of mail within 2 months from date of RMCD endorsement.

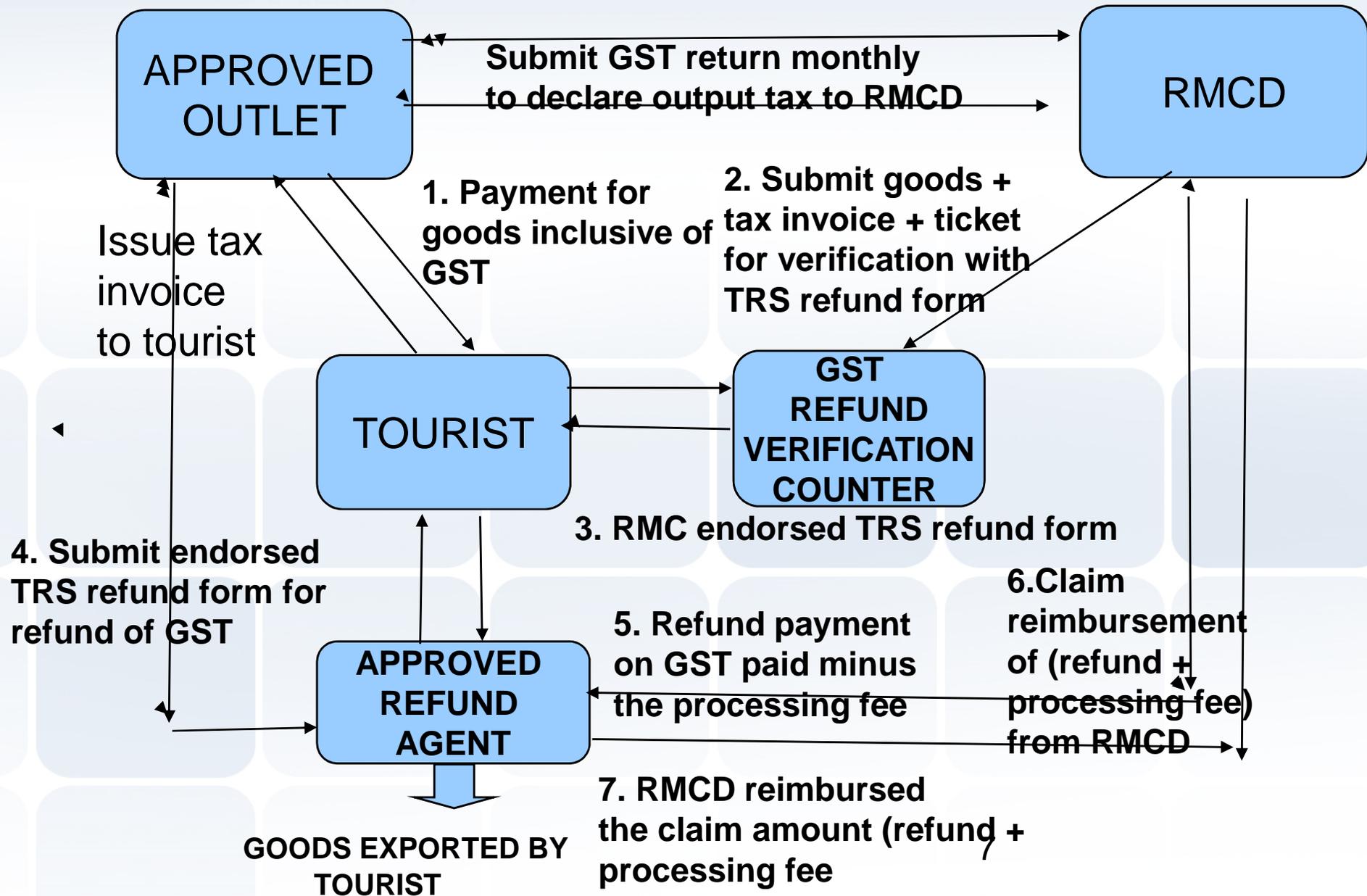
TRS Refund Mechanism (cont)

- ✓ Refund can be made by cash (not exceeding RM300), through bank account (cheque /bank draft) and through credit card account after RMCD verification/endorsement
- ✓ Approved Refund Agent will use the original copy of endorsed refund form to claim reimbursement of GST paid to tourists from the government (Royal Malaysian Customs Department).

Tourist Refund Scheme (TRS)



Flow Chart-Tourist Refund Scheme



Offences/Penalty Relating To TRS

GST Regulations –Reg. 85

- ✓ Any person who is not entitled under the TRS who knowingly possesses, acquires or deals with any goods where the application form has been endorsed shall be guilty of an offence;
- ✓ Any person who without reasonable excuse brings any goods out of the premises of the International Airport Check In Hall, after the application form has been endorsed by the officer of goods and services tax shall be guilty of an offence.

GST Act 2014- section 96 (General Penalty)

- ✓ Any person who commits an offence under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding two years or both.

Hotel Accommodation/ Hotel Industry

GST Treatment on Letting of Rooms

Complimentary rooms

- Not subject to GST

Rooms at nominal rate

- Subject to GST at nominal rate provided not between connected persons

Rooms put to private use

- Subject to GST
- GST is chargeable based on the open market value

Rooms for staff

- Not subject to GST (if provided free)
- Staff rate – subject to GST

GST Treatment On Rental

Rental of hotel rooms

- Subject to GST at standard rate

Complimentary rooms offered as a package

- Not subject to GST

Example,

Complimentary room given under loyalty programme, or as an offer for group package such as one complimentary room for every 20 rooms booked and is open to all is not subject to GST.

- GST is chargeable on the actual amount paid, if charged at a discounted rate

Example,

A person book for the hotel with 20% discount. The actual room rate is RM100 and he pays amount of RM80 after discount so GST chargeable is based on the amount paid RM80.

Accounting for GST

- Value of hotel rooms should include service charge for the purpose of accounting for GST

Example,

Room rate is RM150 and service charge is 10% RM15 so the value of the hotel room (include service charge) is RM165. So, GST 6% is charge on RM165.

GST Treatment On Wedding Package

Wedding package offered by hotel

- **Breakfast, buffet, meals**
- **Ancillary services such as floral decorations**
- **Services of toast master**
- **Room for ceremony and bridal party**

Package is treated as a single taxable supply

- **Subject to GST at standard rate on the whole wedding package**

GST Treatment On Hotel Facilities

Hotel Club members

- Hotel's club membership fees are subject to GST
 - ✓ **Joining fees and subscription fees**
- Additional charges imposed subject to GST

Non Members

- Any charge or fee is subject to GST

Hotel guests

Any charges or fees subject to GST

GST Treatment On Gift Provided To Hotel Guest

Purchase of gift on behalf of hotel's guest at their request:

- **The hotel will include this cost as a separate charge**
- **The gift provided is a taxable supply**
- **Subject to GST**

Example

Hotel guest request the hotel to purchase a flower bouquet .The hotel purchase a flower bouquet from a shop outside and send to the guest. The cost of the flower bouquet will be charged to the hotel guest. Flower bouquet price is RM100 and tax invoice must be issued RM100 and GST 6% that is RM106.

GST Treatment On Promoters And Hotel Brokers

- Hotel brokers and promoters are marketing agent for the hotel industry
- The service of the agent is a taxable supply and the agent must account for GST if he is a GST registered person
- GST on the commission is claimable as Input Tax Credit (ITC)

Example

Agodex is an agent of hotel ABC and hotel booking is done directly with Agodex where Agodex will charge hotel ABC for the services rendered. The commission received by Agodex is subject to GST and he has to account for GST if he is a registered person.

Entertainment Expenses By Hotel

- **Hotels are in a business of providing entertainment and are allowed to claim entertainment expenses since it is not blocked.**
- **Input tax can be claimed even though entertainment provided to potential clients or suppliers**

GST Treatment On Other Services Provided By Hotel

Taxable Supplies

- **F&B**
- **Sale of towel, linen, etc.**
- **Supplies of spaces for display cabinets and advertising panels**
- **Rental of hotel's premises**
- **Hire of sports equipment and providing coaching sessions**
- **Usage of facilities**
- **Parking/Car jockey services**
- **Etc.**

(The list is not exhaustive- anything being charged by the hotel is subject to GST)

Charges on no show cost

- **one full day room rate charged as no show cost is subject to GST**
- **if only charged a certain percentage of the room rate as no show cost, not subject to GST (punitive)**

GST Treatment On Deposit/Booking Fees

Deposit/Booking Fees

- If it is a part payment- consideration
 - ✓ **Subject to GST**
- If it is not part payment- not a consideration
 - ✓ **Not subject to GST**

EXAMPLE

If the deposit paid for hotel stay and refunded fully after checked out, it is not part of consideration so it is not subject to GST.

Forfeited deposits/booking fees

- ✓ To be treated as penalty
- ✓ Not a supply
- ✓ Not subject to GST

GST Treatment On Retention Fees/ Cancellation Fees

Retention fees/ Cancellation fees

- **Retention fees** are paid to reserve an accommodation for future use and considered as advance payment (part of payment)
- Subject to GST at standard rate
- **Cancellation fees** is regarded as compensation (penalty) and not subject to GST

Exempt Supplies Under The Hotel Industry

- **Deposit of money**
- **Currency exchange**
 - ✓ **Input Tax on this supply is attributable to taxable supply (Incidental Financial Supplies)**
 - **ITC is claimable**
 - ✓ **To regard these exempt supplies as taxable supplies for the purpose of group registration**

Designated Area (DA)

Hotel room in DA sold to residents in Malaysia

➤ **No GST**

Travel Industry

Main Key Players

- Travel Agents
- Tour Operators
- Tourists Guides
- Hotel Operators
- Transport Providers
- Retailers

Scope of Travel Industry

- Ticketing
- Inbound Tours (Domestic)
- Outbound Tours (International)

Travel Industry

- **Tourism (Travel) involves acquisition and supply of goods and services such as**
 - ✓ **tour package**
 - ✓ **transportation**
 - ✓ **accommodation**
 - ✓ **car hire**
 - ✓ **restaurants meals**
 - ✓ **tickets for entry to exhibitions, entertainment venues**
 - ✓ **hospitality (spas and resort)**
 - ✓ **other similar tourism services other than air transport**
- **Acquisition of goods/services-**input****
- **Supply of tour package/hospitality products-**output****

GST Treatment On Travel Industry Includes:

Transport (Passenger)

- **Air Transport**
- **Land Transport**
- **Sea Transport**

Agent

- **Agent acting on its own name**
- **Agent acting on behalf of Principal Who is a Taxable Person**

Tour (Tour Package)

- **Air Ticketing/Ticketing**
- **Inbound Tour (Domestic)**
- **Outbound Tour (International)**

GST Treatment On Transportation Of Passengers

GST Treatment On International Transportation

➤ **To be zero rated**

- ✓ **Domestic leg, if it is part of the international carriage and provided by the same supplier is to be zero rated**

GST Treatment- Domestic transportation

➤ **Air Transport**

- ✓ **To be standard-rated**

GST Treatment On Passenger Transportation

➤ Land Transport

- ✓ Transportation of passengers by land or rail to be exempted (such as services by Rapid KL, Plusliner, KTM, LRT, ERL and MONORAIL) (**Mass Transportation**)
- ✓ Taxi/hired car to be exempted
- ✓ Excursion bus for domestic tour to be standard rated
- ✓ Limousine and airport taxi to be standard rated
- ✓ Hire and drive car to be standard rated

➤ Sea Transport

- ✓ Transportation of passengers by ships, boats and ferries to be exempted (excluding cruise to be standard rated)

GST Treatment On Agent (eg. Travel Agent)

➤ **Agent Acting on its Own Name**

- ✓ supply is treated as normal supply by agent
- ✓ Input tax can be claimed by the agent
- ✓ agent to account for output tax

➤ **Agent Acting on Behalf of Principal Who is a Taxable Person**

- ✓ supply shall be deemed to be made by and to the principal and not by the agent
- ✓ principal allowed to claim input tax and account for output tax
- ✓ agent can claim input tax on his services and account for output tax on his commission

GST Treatment On Air Ticketing/Tour Package

➤ **Air Ticketing**

- ✓ **Service fees charged for domestic and international flight to be standard rated**

➤ **Inbound Tour**

- ✓ **Local Travel Agent (LTA) selling/arranging of inbound tour package irrespective of selling to local or foreign tourists to be standard-rated**
- ✓ **Commission received by LTA from hotels for sales of hotel rooms to be standard rated**
- ✓ **LTA assisting another LTA to sell inbound tour package, receives commission from the agent acting as principal**
 - **The commission received to be standard-rated**

GST Treatment On Air Ticketing/Tour Package

➤ Outbound Tour

- ✓ **Sale of outbound tour package (including haj/ umrah) to be zero rated**
- ✓ **Any service fees/commission charged by LTA to another LTA for arranging outbound tour to be standard rated**
- ✓ **LTA assisting FTA to sell outbound tour package for a commission. The commission received by LTA from FTA to be zero rated**

GST Treatment On Government Services Related To Travel Industry

The following transactions are out of scope

- ✓ **Issuance of licenses and permit by Ministry of Tourism/Ministry of Domestic Trade, Cooperative and Consumerism**
 - ❖ **travel agency**
 - ❖ **tourist guide**
 - ❖ **excursion bus/hire and drive car**
 - ❖ **training institution**
 - ❖ **Fair Price Shop**
- ✓ **Enforcement and regulatory functions by Malaysia Tourism Promotion Board (MTPB)**

Related Tourism Issues

GST Treatment On Air Ticketing/Tour Package

Deposit/ Booking fees

- **Part payment- consideration**
 - ✓ subject to GST
- **Not part payment- not a consideration**
 - ✓ not subject to GST
- **Forfeited deposits/booking fees to be treated as penalty-out of scope**

Cancellation of Air Ticket/Tour Package

- ✓ Credit note is allowed to be issued (Supplier issues CN)
- ✓ GST must be adjusted accordingly (Recipient in GST return)

GST Treatment On Air Ticketing/Tour Package

Arranging for Visa

- ✓ **The service/ administrative fee imposed to be standard rated**

Travel Insurance

- ✓ **Premium for outbound tour to be zero rated and standard rated for inbound tour**
- ✓ **Commission for arranging travel insurance for inbound or outbound tour to be standard rated**

Transitional Tourism Issues/ Other Issues

Sales of Air Ticket/Tour Package before GST Implementation Date

- ✓ **Air ticket/Tour package sold before GST but consumed after GST implementation date is subject to GST**
 - **GST is to be accounted based on total consideration received (GST inclusive)**
 - **GST is to be accounted for during the first taxable period**
 - **If part of the tour package is consumed after GST implementation date, that portion/part of the package need to be accounted for GST**

Sales of Air Ticket/Tour Package before GST Implementation Date

- ✓ **Air Ticket/Tour Package sold before GST but not consumed after GST implementation date**
 - ✓ **GST that has been accounted can be set off against output tax payable provided credit note is issued to the customer**

Booking of hotel rooms before GST Implementation Date

✓ **Hotel room booked and paid before GST but occupied after GST implementation date is subject to GST**

- **GST is to be accounted based on total consideration received (GST inclusive)**
- **GST is to be accounted for during the first taxable period**
- **If part (certain days) of the hotel rooms is occupied after GST implementation date, that portion/part need to be accounted for GST**
- **booked and pay later (partially paid) (If hotel room to be occupied after ED should be subject to GST)**
- **Booked without payment (if booking of room to be occupied after AD, subject to GST)**

Booking of Hotel Rooms before GST Implementation Date

- ✓ **Hotel booked before GST but not occupied after GST implementation date (Full payment has been made)**
- ✓ **GST that has been accounted can be set off against output tax payable provided credit note is issued to the customer**

Hotel Industry (Transitional)

GST treatment on supply spanning ED (1.4.2015)

Before and after Effective Date (ED)

29.03.2015 check in

03.04.2015 check out (Rooms occupied on or after ED should be subject to GST from 1.4.15 to 3.4.15)

31.03.2015 check in

01.04.2015 check out (1.4.15 subject to GST)

Hotel Industry (Transitional)

Tickets sold before GST implementation but services perform after effective date (ED) eg. admission tickets to theme park

➤ **Subject to GST**

- ✓ amount paid GST inclusive

End of
Presentation