

Recent developments in Singapore's GST guidelines



The Inland Revenue Authority of Singapore (IRAS) has recently updated its goods and services tax (GST) guidelines, providing new guidance on eligible GST claims and incidental exempt supplies. In this issue, we highlight 3 key changes and how they may impact your business.

GST treatment for termination expenses

In the wake of the COVID-19 pandemic and circuit breaker measures, businesses in certain sectors, such as food and beverage, retail, entertainment and travel, have been severely affected and faced challenges keeping afloat.

In view of the spate of business closures during this difficult period, the IRAS has provided further guidance on GST that can be claimed on expenses incurred in the termination and winding up of businesses. This can be found in the IRAS e-Tax Guide, [GST Guide on Attribution of Input Tax \(7th Edition\)](#), as revised on 9 July 2021.

Section 3(5) of the GST Act provides that anything done in connection with the termination or intended termination of

a business is treated as being done in the course or furtherance of that business. Hence, expenses relating to the termination of your business would be regarded as business expenses.

If a GST-registered business is making only taxable supplies before the winding up, it would be allowed to claim full input tax on termination expenses since they are attributable to that fully taxable business. While the IRAS takes the view that GST on termination expenses is not directly attributable to past supplies, it is residual in nature and is thus fully claimable pursuant to section 3(5) of the GST Act.

On the other hand, if the business makes both taxable and exempt supplies ("partially exempt business") before its closure, and no taxable supply in the prescribed accounting period where termination expenses are incurred, the business is able to claim such input tax as residual input tax based on its input tax recovery formula.

For instance, if you are a bank, you would be able to claim the GST on the termination expenses based on the fixed input tax recovery rate, according to the banking license issued by the Monetary Authority of Singapore. However, if you are claiming GST based on the standard formula, no input tax on termination expenses is claimable if there was no taxable supply made during the prescribed accounting period in which the expenses were incurred.

The IRAS highlighted liquidation fees as an example of termination expenses, but clarified that rent and utilities are not.

The IRAS has further clarified that GST for non-termination expenses is not claimable unless they are directly attributable to the making of taxable supplies. For instance, repair expenses incurred for the sale of an equipment would be claimable. Rent and utilities are not directly attributable to the making of taxable supplies, which means GST on these expenses is not claimable, even if taxable supplies (such as the sale of equipment) are made in the prescribed accounting period.

It would also suggest that audit services for the period when taxable supplies were made would not be claimable if the invoice for the audit fee was received subsequently and in the prescribed accounting period when no supply was made.

Our comments

The IRAS states that a business must be making fully taxable supplies to fully claim GST on termination expenses. In our view, this should include a business making only exempt supplies listed in regulation 33 of the GST (General) Regulations or making exempt supplies that meet the de minimis rule pursuant to regulation 28 of the GST (General) Regulations.

As regards a partially exempt business, which claims GST based on the standard formula, no GST on termination expenses is claimable in the prescribed period where no taxable supply is made. Such a business is worse off compared with one that can claim GST on termination expenses based on the special input tax recovery formula. This creates an unlevel playing field.

As termination expenses can include professional fees apart from liquidators' fees and data storage expenses, it begs the question if GST incurred on such expenses is claimable or treated as non-termination expenses and thus excluded from the claim. It would be useful if the IRAS can provide more examples.

If you have incurred termination expenses prior to business closure, you may wish to clarify if these are considered termination expenses and we would be pleased to assist you in this process.

The table below summarises the IRAS' position on claiming of input tax on termination expenses.



Supplies made before the winding up of business	Is input tax on the termination expenses claimable?
<ul style="list-style-type: none"> • Taxable supplies only 	<ul style="list-style-type: none"> • Can claim in full, even if the expenses are incurred in a subsequent period where no taxable supply is made
<ul style="list-style-type: none"> • Both taxable and exempt supplies that use input tax recovery formula (e.g. fixed input tax recovery rate) 	<ul style="list-style-type: none"> • Can claim, based on the formula, as residual input tax, even if the expenses are incurred in a subsequent period where no taxable supply is made
<ul style="list-style-type: none"> • Both taxable and exempt supplies that use standard input tax recovery formula 	<ul style="list-style-type: none"> • Not claimable if no taxable supply made in the prescribed accounting period where termination expenses are incurred • Can claim as residual input tax if both taxable and exempt supplies are made in the prescribed accounting period where termination expenses are incurred

Provision of loans as incidental exempt supply

Another notable update is on the restriction of situations where exempt supply, arising from the provision of loans, can be regarded as incidental exempt supply, as revised in the [IRAS e-Tax Guide on Partial Exemption and Input Tax Recovery \(7th Edition\)](#) on 22 June 2021.

Prior to the revision, a company was able to regard interest earned from loans as incidental exempt supply if it met the following conditions:

- a) It is in the business of making predominantly taxable supplies
- b) The making of the exempt supply does not amount to a separate business. This would require the following conditions to be satisfied:
 - i. The exempt supply occurs infrequently or ceases when the main taxable activities of the business cease; and
 - ii. Minimal resources are incurred to make the exempt supply

A supply is considered as occurring infrequently if there are not more than 4 occurrences of the **same nature of exempt supply** over a longer period. This used to exclude loans to overseas borrowers since these are zero-rated supplies pursuant to section 21(2) where zero-rating overrides exemption.

From 22 June 2021, the IRAS has tightened this condition to include loans to overseas persons when determining the number of loans by revising the condition to “no more than 4 occurrences of the **same nature of supply**”. With this revision, the GST-registered business would need to include all interest-bearing loans to local and overseas borrowers, but it need not include interest-free loans nor loans to companies within the GST group.

COVID-19 GST Guidance

The IRAS has updated the GST Guidance on GST that can be claimed for certain employee expenses during COVID-19, as summarised below.

Expenses	Is input tax claimable?
COVID-19 tests	<p>Not claimable under regulation 26 unless obligatory under Work Injury Compensation Act (WICA).</p> <p>For employees required to undergo Rostered Routine Testing (RRT), the Government will fund the cost of the tests until 30 Sep 2021.</p>
COVID-19 hospitalisation charges for employees	<p>Not claimable under regulation 26 unless obligatory under WICA.</p>
Accommodation provided to Malaysian workers due to the Movement Control Order (MCO)	<p>Claimable on the understanding that the workers normally reside overseas and are required to reside in Singapore to ensure continuity of business during the MCO period.</p>
Personal protective equipment (e.g. masks, hand sanitiser, etc.)	<p>Claimable</p>
Office equipment for home use (e.g. printer, monitor, chair) to facilitate employees working from home (WFH)	<p><u>Company does not own the office equipment:</u> Not claimable as the purchase is primarily incurred for private purposes and the employee can continue to use the asset at home after the WFH period or sell it.</p> <p><u>Company owns the office equipment:</u> Claimable</p>
Monthly subscription fees for mobile phone and broadband incurred while the employees WFH	<p>Claimable on the business portion of the expense incurred. The supply should be contracted in the employee's name.</p> <p>If the mobile phone subscription or broadband subscription was used for both business and private purposes, the following input tax is claimable:</p> <ol style="list-style-type: none">For full reimbursement, based on 4/7 of the GST incurred on the expensesFor partial reimbursement, based on 7/107 of the amount reimbursed or 4/7 of the GST incurred on the expenses, whichever is lower

How we can help

The tax clarifications provided by the IRAS may impact you. Please contact us if you need assistance in understanding the implications of the e-Tax Guide revisions and clarifications on your business, or seek the IRAS' advice on your specific case.

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To uncover more insights on the global tax implications of COVID-19, read our [COVID-19 Global Tax Developments Summary](#)
Read more of our insights and perspectives at the [KPMG in Singapore Webpage](#)

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