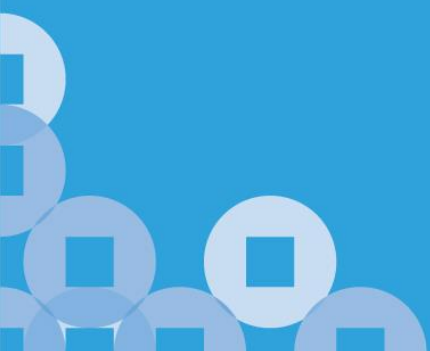




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IRAS e-Tax Guide

GST: Advance Ruling System (Sixth Edition)



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1 Aim

- 1.1 This e-Tax Guide explains the GST advance ruling system and the application procedures¹.

2 At a Glance

- 2.1 If you wish to seek greater clarity and certainty on how specific provisions of the GST Act will apply for a particular business arrangement or a specific transaction, you may make an application to the Comptroller of GST (“CGST”) for an advance ruling in accordance with section 90A and the Fifth Schedule to the GST Act.
- 2.2 An advance ruling issued in accordance with these provisions will bind the CGST on the ruling made.

3 Features of the GST Advance Ruling System

3.1 Definition Of Advance Ruling

- 3.1.1 An advance ruling is a written interpretation the CGST gives to a specific person, stating how specific provisions² of the GST Act will apply for a particular business arrangement³ or a specific transaction. An advance ruling request relates to the interpretation of the law for a given set of issues; it is not about information or clarification on what is already provided clearly in the law. Some examples are:

- (a) Whether a specific transfer of business qualifies as a Transfer of Business As A Going Concern (“TOGC”) under the GST (Excluded Transactions) Order;
- (b) Whether the place of supply of services provided by an overseas company to a Singapore customer in a specific set of business and contractual arrangements is considered to be made in Singapore; and

¹ This e-Tax guide replaces the e-Tax guide “GST: Advance Ruling System” published on 2 Apr 2012.

² Under paragraph 1(2) of Part I of the Fifth Schedule of the GST Act, the CGST may make an advance ruling on how any provision of the GST Act applies to the arrangement described in an application, whether or not reference was made to that provision in the application. Where there is other relevant provision but not referred to in the application, the CGST will notify you before issuing the advance ruling. You will then decide whether to proceed or withdraw your application. If you withdraw your application, you will still be liable under paragraph 2 of Part II of the Fifth Schedule of the GST Act for the fees payable. If you decide to proceed or fail to withdraw within a stipulated timeframe, the CGST will issue an advance ruling, including those other relevant provisions. The advance ruling is legally binding on the CGST once issued.

³ An arrangement is any contract, agreement, plan or understanding (whether enforceable or unenforceable), including all the steps and transactions that carry it into effect.

- (c) Whether an exempt supply of financial services made together with a specific and defined set of taxable supplies is considered incidental to the business of a taxable person under regulation 29(3) of the GST (General) Regulations⁴.

3.1.2 Enquiries on export/ import documentation, refunds, payments, returns, penalties and issues on tax policy such as seeking remission of GST under section 89 would generally not be ruled via advance ruling. Some examples are:

- (a) Whether a transferee is allowed to claim input tax on tax invoices issued to the transferor;
- (b) Whether supplies/purchases made by a GST-registered person can be reported in the GST returns of another GST-registered person;
- (c) Whether input tax incurred in a tripartite transfer of non-residential property is claimable by the purchaser of the property; and
- (d) Whether certain particulars required to be shown in a tax invoice can be dispensed with.

3.1.3 The CGST may decline to rule if the application falls within any of the provisions stated in paragraph 2 of Part I of the Fifth Schedule to the GST Act.

3.2 Circumstances under which CGST will not Rule

3.2.1 The CGST will not rule if your application falls within any of the provisions stated in paragraphs 1(3) and 3 of Part I of the Fifth Schedule to the GST Act. The details can be found in the GST F19 application form⁵.

3.2.2 For example, the CGST cannot make an advance ruling if your application is made less than 1 month before the filing deadline of the relevant GST return⁶, except where the CGST agrees to your request for an express advance ruling (see paragraph 4.2). This is to ensure that you have sufficient time to prepare and file your GST return correctly after you obtain an advance ruling from the CGST. The CGST is also not able to issue an advance ruling on a hypothetical scenario or an arrangement which, in the CGST's view, is not being seriously contemplated or which is contingent on the occurrence of another unconfirmed event⁷.

⁴ The CGST has set out the conditions and examples of qualifying incidental exempt supplies in the e-Tax Guide on "GST: Partial Exemption and Input Tax Recovery". You may apply for an advance ruling only if your scenario falls outside those specified conditions and examples.

⁵ The application form can be downloaded from www.iras.gov.sg > Quick Links > Forms > GST > Others > Application for GST Advance Ruling GST F19.

⁶ Paragraph 3(a) of Part I of the Fifth Schedule to the GST Act.

⁷ Paragraph 3(b) of Part I of the Fifth Schedule to the GST Act.

3.3 Scope and Binding Nature Of Advance Rulings

- 3.3.1 A GST advance ruling applies only to the applicant and for the particular arrangement that is the subject of the ruling request. Therefore, you cannot rely on an advance ruling issued to you for a different arrangement even if the circumstances are similar. You also cannot rely on an advance ruling given to someone else (for example, your related company) for a similar transaction.
- 3.3.2 An advance ruling issued to any person who is registered under a GST Group generally applies only to the person(s) stated in the ruling. However, if a new member is subsequently registered under the same GST Group registration number and that member enters into the same arrangement as stated in the ruling, the ruling may also apply to the new member. The new member is required to seek prior approval from the CGST before the ruling can apply to him. The new member is not required to pay additional fees for the ruling to apply to him.
- 3.3.3 The GST advance ruling issued to you binds the CGST to apply those statutory provisions in the manner set out in the ruling issued.
- 3.3.4 The application for an advance ruling will not affect your obligation to submit your GST returns, make payment or perform any other obligations as required under the GST Act. Similarly, it will not affect the CGST's power to raise any tax assessment on you.

3.4 Disagreement with Advance Rulings

- 3.4.1 An advance ruling once issued is final. If you decide not to comply with the ruling, you have to disclose to the CGST in writing that you have not complied with the ruling and provide the following information:
- (a) Date and reference number of the advance ruling obtained;
 - (b) Period covered by the GST return(s) affected by the ruling;
 - (c) Reason(s) for not complying with the ruling; and
 - (d) Explain and quantify the difference(s) between the amount(s) reported in the GST return(s) mentioned in (b) and the amount(s) that should have been reported had you complied with the ruling.
- 3.4.2 Where you have not complied with the ruling in completing your return, the CGST may disagree with the return filed and raise an assessment accordingly. You may appeal against the assessment raised in accordance with the objection provisions in section 51 of the GST Act.

3.5 Validity Period of Advance Rulings

3.5.1 All advance rulings issued are valid for 3 years from the date of issue of the ruling unless the CGST decides otherwise⁸. If you require a different validity period for the ruling, you should include the request when submitting your application (see paragraph 4.2.3(e)). An advance ruling may also be issued with the condition that if the arrangement stipulated in the ruling is not carried out by the end of the time period stated in the ruling, the ruling lapses automatically.

3.6 Invalid and Revoked Advance Rulings

3.6.1 An advance ruling ceases to apply from the date a provision of the GST Act is repealed or amended to the extent that the repeal or amendment changes the way the provision applies in the ruling. The CGST will inform you in writing of the cessation of the advance ruling.

3.6.2 An advance ruling may also cease to apply prior to the expiry of its validity period under the following circumstances:

- (a) The arrangement that takes place is materially different from the arrangement identified in the ruling;
- (b) There is material omission or misrepresentation in, or in connection with, the application for the ruling;
- (c) The CGST makes an assumption about a future event or another matter that is material to the ruling, and the assumption subsequently proves to be incorrect; or
- (d) The CGST stipulates a condition that is not satisfied.

3.6.3 An advance ruling may also be withdrawn. The CGST will inform you of the reasons for and the effective date of the withdrawal. However, the ruling continues to apply to any arrangement entered into before the date of withdrawal.

3.6.4 An example where a withdrawal may occur is when there is a change in the interpretation or application of a provision in the GST legislation arising from a decision taken by the Courts or the GST Board of Review.

3.7 Publishing of Advance Rulings

3.7.1 To enhance taxpayers' understanding of IRAS' interpretation and application of tax laws in specific scenarios, the CGST will publish a summary of the advance ruling (i.e. a summary of the background, facts and issues as well as the ruling given) on IRAS' website in respect of

⁸ Paragraph 6(b) of Part I of the Fifth Schedule to the GST Act.

advance ruling applications made on or after 1 May 2019, if you have given your consent for the publication of a summary of the ruling in section E of the application form. You do not need to give consent if the subject of your ruling request relates to whether a transaction qualifies as a TOGC under the GST (Excluded Transactions) Order as rulings on TOGC will not be published.

3.7.2 The summary of the ruling will be published in a form that does not set out the identity of the applicant, the arrangement or any other parties to the arrangement in the ruling, date of transactions or transaction values. Please refer to Appendix 1 for an example of a published summary of a ruling.

3.8 Timeline for Publication of Advance Rulings (with effect from 1 May 2019)

3.8.1 The summary of the ruling will be published on IRAS' website at least 6 months after the ruling has been issued.

3.8.2 Prior to publication, the CGST will provide you with a draft copy of the summary of the ruling for your comments within 2 months from the date of the ruling letter. You should review the draft summary carefully and inform the CGST of any proposed edits (with reasons) within 6 weeks. The CGST will consider any comments and proposed changes made by you before the publication of the summary. No fee is chargeable for the time spent by the CGST in preparing the summary of the ruling for publication.

3.8.3 The expected timeline for the publication of advance ruling is as follows:

Activity		Timeline
1	The CGST issues ruling to applicant	
2	The CGST sends first draft summary of ruling to applicant for review and agreement	Within 2 months from date of ruling letter
3	Applicant to reply to the CGST with proposed edits and reasons for the edits, or confirmation that no edit is required ^[1]	Within 6 weeks from the date the CGST sends the first summary ^{[2] [3]}
4	The CGST sends second draft summary of ruling to applicant for review and agreement	Within 6 weeks from the receipt of applicant's reply on the first summary

Activity		Timeline
5	Applicant to reply to the CGST with proposed edits and reasons for the edits, or confirmation that no edit is required	Within 6 weeks from the date the CGST sends the second summary ^[2] ^[3]
6	The CGST publishes the summary of ruling on IRAS' website	At least 6 months after the ruling is issued to the applicant

^[1] If no edit is required, proceed to activity no. 6.

^[2] If a reply is not received by the timeline mentioned, the CGST may proceed to publish the ruling summary on IRAS' website after 6 months from the date of the ruling.

^[3] The CGST may consider requests for extension of time to reply on the summary on a case-by-case basis.

4 Application Procedures

4.1 Persons who can Apply for Advance Ruling

4.1.1 A person may apply for an advance ruling in his own right or on behalf of a person or persons who has or have yet to come into legal existence. Two or more persons may also jointly apply for an advance ruling.

4.1.2 For persons who are registered under a single GST Group registration number, the application can be made by any member of the GST Group.

4.1.3 As a rule of thumb, it is the supplier who should ask for an advance ruling on the tax liability of a supply of goods or services. Alternatively, the supplier may submit a joint application with his customer.

4.2 How to Apply for an Advance Ruling

4.2.1 You should complete an application form (GST F19) and submit it together with complete information at least 1 month⁹ before the filing deadline of the relevant GST return. If you wish to receive the ruling before the transaction date, you have to submit the application form and provide complete information at least one month before the transaction date.

4.2.2 For an express ruling, the application should be submitted at least 15 working days before the filing deadline of the relevant GST return. Additional fees are payable for express rulings (refer to paragraphs 5.2 and

⁹ You may make an application for an advance ruling even if the transaction has already taken place. However, the application must be made within the timeframe stated in paragraph 4.2.1 (or paragraph 4.2.2, for an express ruling).

6.2). If you wish to receive the express ruling before the transaction date, you have to submit the application form and provide complete information at least 15 days before the transaction date.

4.2.3 The following information should be provided together with the application form:

- (a) full particulars of the arrangement, i.e.:
 - (i) comprehensive description of the arrangement and the period concerned,
 - (ii) business reasons for the arrangement (if applicable), and
 - (iii) copies of all relevant documents with the relevant parts or passages identified;
- (b) the issue(s) to be considered;
- (c) the propositions of the law, i.e.
 - (i) relevant sections of the GST Act;
 - (ii) relevant case laws (if any) and legal basis supporting your interpretation; and
 - (iii) contrary arguments, legal reasons and authoritative support;
- (d) whether a previous request has been made on the same or a similar arrangement. If so, the outcome of the request and reference of the ruling issued¹⁰;
- (e) the requested validity period for the ruling (only if it is different from the default validity period of 3 years) and the reason(s) for requiring the different validity period. Please note that the requested validity period will take effect from the date of issue of the ruling; and
- (f) a draft ruling (i.e. your views and recommended GST treatment with reasons).

4.2.4 The CGST may waive the requirement for any of the information stated in paragraphs 4.2.3(c) to 4.2.3(f).

4.2.5 If you wish to appoint an agent to act on your behalf, you are required to complete and sign the declaration in section E of the application form. The authorized agent may then provide the information specified in paragraph 4.2.3 on your behalf together with the application form.

4.2.6 In addition, you must make payment for the application fee (refer to paragraph 5) when submitting the application form.

¹⁰ This includes an advance ruling and any other written advice on the same or a similar arrangement given by the CGST to you within the past 2 years.

4.2.7 You must submit the application form to Assistant Commissioner (Goods and Services Tax Division), IRAS. Please email the form and the supporting documents to GST@iras.gov.sg.

5 Fees Payable

5.1 The fee for the provision of an advance ruling is based on cost recovery and payable as follows:

- (a) Application fee of \$620 (inclusive of GST), or \$660 (inclusive of GST) for applications made on or after 1 May 2019, is payable upon application and is non-refundable even if the ruling request is rejected by the CGST (e.g. where the arrangement is hypothetical) or subsequently withdrawn by the applicant (regardless of the reasons for withdrawal). This is to deter frivolous requests and it takes into account the time the CGST spent on considering whether to accept the request;
- (b) Further time-based fee of \$155 (inclusive of GST), or \$165 (inclusive of GST) for applications made on or after 1 May 2019, for each or part hour subsequent to the first four hours taken to provide the ruling¹¹; and
- (c) Reimbursement fee for any costs and reasonable disbursements the CGST incurred for the advance ruling, and any fees paid by the CGST for external professional advice (see paragraph 5.3).

5.2 The fees for express ruling are as follows:

- (a) Where the application is received by the CGST 10 to 14 working days before the filing deadline, you have to pay 3 times the aggregate of the application fee and the further time-based fee;
- (b) Where the application is received by the CGST 15 working days to less than 1 month before the filing deadline, you have to pay 2 times the aggregate of the application fee and the further time-based fee.

5.3 The CGST may require the advice of an external adviser with the relevant expertise or professional knowledge. The CGST will inform you before engaging any external adviser and on the fees involved, if any. You can then decide whether you wish to withdraw or proceed with your request.

5.4 Once the CGST accepts an application for advance ruling, he will inform you of the estimated completion time and the estimated fees payable. You are required to confirm in writing your acceptance of the terms; otherwise the application would be treated as withdrawn. To facilitate timely collection

¹¹ The CGST will round off the fees to the nearest hour taken to issue the advance ruling i.e. round down if the time taken is less than half an hour and round up if the time taken is equal to or more than half an hour.

of fees, for an application made on or after 1 May 2019, you will also have to pay the estimated further time-based fee and any estimated additional fee payable for an express ruling, **upon your acceptance** of the terms.

- 5.5 If you withdraw your request subsequently, you will be required to pay the fees chargeable for the time incurred by the CGST in dealing with your request up to when he receives your letter of withdrawal.
- 5.6 When the ruling is issued to you or when the application is withdrawn, where the actual fees are more than the estimated fees paid, IRAS will issue an invoice to collect the difference. Payment must be made within 30 days from the date of IRAS' invoice. Where the actual fees are less than the estimated fees paid, IRAS will refund you the difference within 15 working days after IRAS informs you of the actual fees, provided that the following information required for a refund via interbank transfer has been given to IRAS:

Name of Payee
Bank Account Number
Bank / Branch Code
Bank Swift Code

- 5.7 You may seek further clarifications subsequent to the issue of the ruling. If the clarification relates to the contents of the ruling, no additional fees will be imposed. For example, if the CGST imposes a condition that requires you to maintain records to substantiate the physical delivery of goods, a clarification on the type of records to be maintained will not attract additional fee. However, if the enquiry exceeds the scope of the ruling request made, the CGST may require you to submit a fresh ruling application. For example, if you wish to restructure the physical delivery flow of goods in your proposed arrangement, the GST treatment may differ and you may be required to submit a fresh application.
- 5.8 The CGST will undertake to minimize the fees payable for the advance ruling. All fees should be paid via Internet Banking Fund Transfer to Inland Revenue Authority of Singapore's bank account as follows:

Payee	Inland Revenue Authority of Singapore
DBS Current Account Number	0010516000 - SGD
DBS Bank / Branch Code	7171 / 001
DBS Bank Swift Code	DBSSSGSG

- 5.9 If you are not in Singapore or only maintain an overseas bank account, you may make the payment by Telegraphic Transfer (TT).
- 5.10 When making payment, you must adhere to the following:
- (a) Remit the payment in Singapore dollars so that the amount is not affected by exchange differences and it can fully settle the fee;

- (b) Notify your bank that all charges and fees imposed by the overseas and intermediary banks are to be borne by you and not the beneficiary; and
- (c) Indicate your Unique Entity Number (UEN) and/or name under Beneficiary Reference/ Purpose of Payment/ Remittance Information/ Payment Details field to avoid delay in the processing of the application. IRAS will match these details to your application form, and you need not separately inform IRAS of your payment.

6 Processing Time

- 6.1 An advance ruling is issued within 1 month from the date of receipt of complete information. However, if the request is a complex one, the CGST will inform you of the time required when your application is accepted.
- 6.2 Where the CGST accedes to your request to give priority to your application (i.e. an express advance ruling), the CGST will issue the advance ruling within:
 - 10 working days from the date of receipt of complete information (for 3 times the fees¹²); or
 - 15 working days from the date of receipt of complete information (for 2 times the fees).

7 Contact Information

- 7.1 For enquiries on this e-Tax Guide, please contact the Goods and Services Tax Division at www.iras.gov.sg (select "Contact Us").

¹² Refer to paragraph 5.2 for the fees payable.

8 Updates and Amendments

	Date of amendment	Amendments made
1	1 Jul 2016	Amended the application fee and further time-based fee
2	11 Oct 2018	<ul style="list-style-type: none"> (i) Amended/inserted paragraphs 5.7 to 5.9 on payment instructions (ii) Amended paragraph 7 on contact information (iii) Removed Appendix 1 as the application form can be downloaded from www.iras.gov.sg > Quick Links > Forms > GST > Others > Application for GST Advance Ruling GST F19 (iv) Editorial changes to improve clarity
3	5 Apr 2019	<ul style="list-style-type: none"> (i) Inserted paragraphs 3.7 and 3.8 and Appendix 1 on publishing of advance rulings for applications made on or after 1 May 2019 (ii) Amended paragraphs 5.1(a) and 5.1(b) due to the increase in the application fee and further time-based fee for applications made on or after 1 May 2019 (iii) Amended paragraph 5.4 and inserted paragraph 5.6 due to the requirement to pay estimated fees upon acceptance of terms for applications made on or after 1 May 2019
4	11 Jun 2019	Amended paragraph 4.2.7 on mode of submission via email
5	13 Nov 2019	Amended paragraph 5.8 on change in IRAS' bank account

Advance Ruling Summary No. XX/YYYY

1. Subject:

Whether the value of the supply of property management services, for which the Manager receives its fees in the form of real estate investment trust (REIT) units can be based on the cash value of the fees agreed between the Trustee and the Manager, and not on the market value of the REIT units.

2. Relevant background and facts:

The Manager is appointed by a GST-registered REIT to provide management services including setting the strategic direction and giving recommendations on the acquisition, divestment, development and/or enhancement of the REIT's assets.

In return for its services, the Manager is paid fees of which he may opt to be paid in cash or in REIT units, or a combination of both. The cash value of the fees is computed in a manner agreed upon between the Trustee of the REIT and the Manager. The fees payable are also benchmarked to market prices and similar arrangements between unrelated parties.

3. Relevant legislative provisions:

Goods and Services Tax Act (Chapter 117A) ("GSTA") – Section 17.

4. The ruling:

The value of the supply, for which the Manager is paid in REIT units, can be based on the cash value of the fee as agreed between the Trustee and the Manager.

5. Reasons for the decision:

Section 17(3) of the GST Act states that if the supply is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be its open market value. Section 17(5) provides that the open market value of a supply is the monetary equivalent “if the supply were for such consideration in money as would be payable by a person who has no relationship with any person which would affect that consideration”.

The Manager is not connected to the REIT/Trustee¹³ and the fees are benchmarked to market prices and similar arrangements between unrelated parties. Therefore, where the Manager is paid in REIT units, the open market value of his supply of services can be taken as the cash value of the fees as agreed between himself and the Trustee.

Disclaimer

The published summary of the advance ruling is for general reference only. It is binding only in respect of the applicant of the advance ruling and the specified transaction under consideration of the advance ruling. All taxpayers should exercise caution in relying upon the published summary of the advance ruling, as the Comptroller is not bound to apply the same tax treatment to a transaction that is similar to the specified transaction.

Please note that IRAS will not update the published ruling to reflect changes in the tax laws or our interpretations of the tax laws.

¹³ The REIT is personified by the Trustee and under paragraph 3(3) of the Third Schedule to the GST Act, a person in his capacity as trustee of a settlement, is connected with any individual in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which is connected with that settlement.