

IRAS e-Tax Guide

**GST: Guide on the Use of Business Premises by
Third Party for Free
(Second Edition)**



INLAND REVENUE
AUTHORITY
OF SINGAPORE

Published by
Inland Revenue Authority of Singapore

Published on 19 Jun 2017

First Edition: 31 Mar 2014

Disclaimers: IRAS shall not be responsible or held accountable in any way for any damage, loss or expense whatsoever, arising directly or indirectly from any inaccuracy or incompleteness in the Contents of this e-Tax Guide, or errors or omissions in the transmission of the Contents. IRAS shall not be responsible or held accountable in any way for any decision made or action taken by you or any third party in reliance upon the Contents in this e-Tax Guide. This information aims to provide a better general understanding of taxpayers' tax obligations and is not intended to comprehensively address all possible tax issues that may arise. While every effort has been made to ensure that this information is consistent with existing law and practice, should there be any changes, IRAS reserves the right to vary our position accordingly.

© Inland Revenue Authority of Singapore

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, including photocopying and recording without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

Table of Contents

1	Aim	1
2	At a glance.....	1
3	Deemed supply of services.....	1
4	Value of the deemed supply of services	3
5	Common operating expenses	4
6	GST rate	4
7	GST reporting.....	4
8	Illustration.....	5
9	Contact information	5
10	Updates and Amendments.....	6

GST: Guide on the Use of Business Premises by Third Party for Free

1 Aim

1.1 The guide explains:

- a) the GST treatment when you (a GST-registered person) allow your business premises to be occupied free by another party; and
- b) the methods that you may use for determining the “cost” of the supply when the sharing of business premises results in a deemed supply.

2 At a glance

2.1 There are instances when you, as a GST-registered person may allow part of your business premises to be occupied and used by another party including related parties or associates (referred to as “third party” in this guide) for free.

2.2 The business premises may be owned or leased by you and you may have claimed input tax on the purchase or rental of premises and related expenses such as maintenance fees and utilities charges. Hence, when you subsequently allow a third party to occupy a part of the premises free of charge, you are required to deem a supply and account for output tax.

3 Deemed supply of services

3.1 Generally, the Comptroller of Goods and Services Tax considers the free use of the business premises by a third party to be unconnected with the business of the taxable person, that is, it is not for the purpose of the taxable person’s business.

3.2 Paragraph 5(3) of the Second Schedule to the GST Act provides that there is a supply of services if goods¹ held or used for the purposes of the business are put into non-business or private use, whether or not for a consideration. Where no consideration is received, you are deemed to have made a supply if you have been allowed any input tax on the purchase or lease of the goods².

3.3 Hence, if you have allowed a third party to occupy your premises without any consideration, you are considered to have made a deemed supply of service to that third party and you will need to account for output tax on that deemed supply if you have been allowed any input tax on your purchase or lease of the premises. However, if you did not claim any input tax credit for the GST incurred on the property, you need not account for output tax when you subsequently put the property to non-business or private use.

¹ Goods include property owned or leased by the business as provided under paragraph 8(1) of the Second Schedule to the GST Act, which deems the land held or used for the purposes of a business to be goods held or used for the purposes of a business.

² This is provided under paragraph 5(4) of the Second Schedule to the GST Act.

- 3.4 The Comptroller shall consider the free use or occupation of a property under circumstances stated in paragraphs 3.5 and 3.6 to be for the purpose of your business and hence, no deeming is required in such instances.

Ad-hoc and Temporary Usage of Common Area³

- 3.5 Where you are the owner or the master lessee of a property and you have allowed a third party to use the common area for free on a temporary basis, such usage shall be considered as for the purpose of your business if it promotes your business activities. There is no deemed supply of services on the free usage of the property.

Example 1- Free Occupation by Existing Tenants

- 3.5.1 The owner of a shopping mall allowed a key tenant to set up counters displaying sales items in the atrium free of charge. During the period of sale by the key tenant, customers to the shopping mall increased. The usage will be considered for business purpose as it promotes the business of the shopping mall. Hence, the owner need not deem a supply.

Example 2 – Free Occupation by Parties Engaged to Promote Business

- 3.5.2 The owner of a hotel cum convention centre invited accounting software companies to set up booths outside a ballroom where a 3-day conference for SMEs was held. Allowing the software companies to be on the premises was to promote the convention business. Hence, the owner need not deem a supply.

Example 3 – Free Occupation by Other parties

- 3.5.3 The owner of a shopping mall specializing in sports apparel and equipment allowed a sports event organizer to set up booth to promote the event and register interested participants during the month leading to the event. The owner did not charge the organizer any rental for space occupied. The occupation by the organizer is considered for the business purpose of the owner. Hence, the owner need not deem a supply.

Example 4 – Free Occupation by Canteen Operator Engaged to Provide Canteen Catering Services

- 3.5.4 A company has engaged a canteen operator to provide canteen catering services at its premises (i.e. in-house canteen) under a service agreement and pays a fee to the canteen operator in return for his services. The contract does not grant or assign any lease or license or any right to occupy land to the canteen operator. The operating hours, type of food and drinks to be served in the canteen and the food pricing are generally fixed in the contract.

Where the operations of the company's business make it necessary⁴ for the company to provide an in-house canteen to its employees and the canteen

³ Common area refers to the area which is not owned by individual owners but is shared by all owners and tenants, including corridors, passageways, recreational facilities, atrium, foyer and all other jointly used space. For shopping malls, common areas include the area in front of the individual stores.

⁴ The Comptroller would regard an in-house canteen to be necessary for business operations in circumstances where:

operator is merely occupying the canteen space for the purpose of providing his contracted services to the company, the company need not deem a supply on the free use of canteen space.

Ad-hoc and Temporary Usage of Premises for Corporate Events Held for Employees

- 3.6 Where you allowed the use of your business premises by third parties as part of a corporate event held for your employees, you need not deem a supply of service.

Example

- 3.6.1 Company A allowed hotels and restaurants to set up stalls in its multipurpose hall to sell mooncakes to its employees for 2 days in the fortnight before the mid-autumn festival.

4 Value of the deemed supply of services

- 4.1 For deemed supply of services (without consideration) under paragraph 5(3) of the Second Schedule to the GST Act, the value of such services is taken to be the full cost to you of providing the services⁵.

4.2 Property Owned by Taxable Person

- 4.2.1 If you purchased the property for business use and subsequently put the property into non-business or private use, you may use the Annual Value⁶ (AV) of the property as a proxy for determining the full cost of providing the deemed supply of service.

- 4.2.2 If the third party occupies only a part of the business premises, the apportionment of the Annual Value is in proportion to the Gross Floor Area (GFA) occupied by the third party (see illustration in paragraph 8 below).

- 4.2.3 Notwithstanding this, the Comptroller is prepared to consider alternative reasonable basis for determining the value of the deemed supply of service.

4.3 Property Rented by Taxable Person

- 4.3.1 If you rent a property with the intention of using it partly as your business premises and partly for use by a third party free of charge, you are required to apportion the input tax under section 19(4) of the GST Act. You can only claim the portion of input tax attributable to your use of the premises. To arrive at

(i) There is limited or no eateries located within walking distance from the workplace;
(ii) It is impractical for the employees to travel out for meals and to return within the lunch duration;
(iii) It is impractical to transport all employees out for meals from a costing perspective; and
(iv) Business circumstances require a canteen at the workplace for easy access to meals (e.g. employees are required to work graveyard shifts).

⁵ This is provided under paragraph 9(b) of the Third Schedule to the GST Act.

⁶ The Annual Value of a property is determined by the Chief Assessor for the Property Tax Act purposes.

the value of input tax claimable, you may apportion the input tax incurred on the actual rental based on the Gross Floor Area occupied by you or any other reasonable basis.

- 4.3.2 In a case where you rented a property with the intention of using it fully as your business premises but subsequently lets a third party use it free of charge, you may claim the input tax incurred on the rental in full. However, you shall account for output tax when the deemed supply is made. You may apportion the actual rental (excluding GST) in proportion to the Gross Floor Area occupied by the third party to arrive at the value of the deemed supply.

5 Common operating expenses

- 5.1 You may also incur operating expenses such as utilities, telephone and maintenance services etc., and for which you do not re-bill or seek reimbursement of the expenses from the third party.
- 5.2 For such instances, you should not claim the input tax in full but apportion the input tax under Section 19(4) of the GST Act, and claim only the portion of the input tax attributable to taxable supplies made by you in the course or furtherance of your business.
- 5.3 To determine the value of input tax claimable by you, you may apportion the input tax based on the Gross Floor Area occupied by you or any other reasonable basis.

6 GST rate

- 6.1 The GST tax rate to be applied should be the prevailing rate at the time the deemed supply is made, that is, the last day of the prescribed accounting period for each period in which the property is allowed to be occupied⁷.

7 GST reporting

- 7.1 The value of the deemed supply of services and output tax should be reported in your GST return under Total value of standard-rated supplies (Box 1) and Output tax due (Box 6) respectively.

⁷ This is provided under Regulation 15 of the GST (General) Regulations.

8 Illustration

- 8.1 You allow Company B to occupy half of the business premises you purchased without any consideration. You have claimed input tax on the purchase of the property and also incur input tax on some common expenses such as utilities and maintenance services on the whole premises. You do not re-bill Company B for its share of the expenses incurred.

AV of the property	= \$50,400
GFA occupied by you	= 500 Sq M
GFA occupied by Company B	= 500 Sq M
Total input tax incurred on common expenses (per month)	= \$800
Value of Deemed Supply (per month)	= \$50,400 * (1/12) * (500/1,000) = \$2,100
Output Tax to be accounted by you (per month)	= \$2,100 * 7% = \$147
Amount of input tax claimable on common expenses (per month)	= \$800 * (500/1000) = \$400

9 Contact information

- 9.1 For enquiries on this e-Tax Guide, please contact:

Goods & Services Tax Division
Inland Revenue Authority of Singapore
55 Newton Road
Singapore 307987

Tel: 1800 356 8633
Fax: (+65) 6351 3553
Email: gst@iras.gov.sg

10 Updates and Amendments

	Date of amendment	Amendments made
1	19 Jun 2017	<ul style="list-style-type: none">• Editorial changes made to paragraphs 3.2 to 3.4• Added a new example in paragraph 3.5.4