



SERVICE TAX 2018

GUIDE ON : INSURANCE AND TAKAFUL

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CONTENTS

INTRODUCTION	1
OVERVIEW - GENERAL OPERATIONS OF THE INDUSTRY	1
IMPOSITION AND SCOPE OF TAX	2
Rate of Tax	2
Determination of Value of Taxable Service	2
Service Tax Due	2
Threshold	2
SERVICE TAX IMPLICATIONS ON INSURANCE AND TAKAFUL	3
Takaful Fund	3
Life Insurance Contracts	3
General Insurance Contracts	3
Reinsurance Contracts	4
Insurance/ Takaful on International Transportation of Goods and Passengers	4
Provision of Insurance or Takaful Contracts Relating to Designated Area	5
Marketing and Co-Location Office in Malaysia other than the Designated Areas	6
Insurance or Takaful Intermediaries	6
Syariah Advisory Services	7
REGISTRATION AND RESPONSIBILITIES OF A REGISTERED PERSON	7
FREQUENTLY ASKED QUESTIONS (FAQs)	8
Insurance Products, Premiums and Fee	8
Fees and Commissions by Agents and Brokers	10
Transitional issues	11
INQUIRY	12
FURTHER ASSISTANCE AND INFORMATION ON SST	12

INTRODUCTION

1. Service Tax is a consumption tax governed by the Service Tax Act 2018 and its subsidiary legislation. The effective date of the Service Tax Act 2018 is 1 September 2018.
2. Service tax is imposed on prescribed services called “taxable services”.
3. A person who provides taxable services exceeding a specified threshold is required to be registered under the Services Tax Act 2018 and is known as a “registered person” who is required to charge service tax on his taxable services made to his customers.
4. The Guide is prepared to assist in understanding the service tax treatment on provision of insurance and takaful.

OVERVIEW - GENERAL OPERATIONS OF THE INDUSTRY

5. Any reference to the insurance business in this guide shall apply, mutatis mutandis, to any reference involving transactions conducted in accordance with the principles of Syariah.
6. The overall policy approach is to align the tax treatment of Islamic contracts with the conventional insurance contracts that they are economically equivalent to.
7. General insurance or general takaful provides short-term protection of properties and liabilities against any loss or damage. For service tax purposes, general insurance means an insurance contract assigned to the general insurance fund designed by Bank Negara Malaysia. Generally, the provisions of general insurance or general takaful products are taxable which attracts service tax. The treatment of general reinsurance and general retakaful is not subject to service tax.
8. Life insurance or family takaful provides a combination of long-term savings and protection for policyholders or participants and their dependents arising from death, disability or survival. For service tax purposes, life insurance means an insurance contract assigned to the life insurance fund designed by Bank Negara Malaysia.

9. This guide covers all insurance or takaful contracts under the Financial Services Act 2013, the Islamic Financial Services Act 2013, Labuan Financial Services and Securities Act 2010 and Labuan Islamic Financial Services and Securities Act 2010 and other insurance business not for the purpose of the above said acts. It also covers insurance business, which are exempted under the Financial Services Act 2013 and the takaful business which are exempted under the Islamic Financial Services Act 2013.

10. However, this guide does not cover warranty in respect of the quality, fitness or performance of a tangible property, SOCSO, reserve funds set aside by companies to cover future losses, provident funds for employees, and pension funds or trust funds.

IMPOSITION AND SCOPE OF TAX

Rate of Tax

11. The rate of service tax shall be charged at the rate of six (6) %.

Determination of Value of Taxable Service

12. In the case of the provision of insurance contract or takaful certificate which is a taxable service provided by an insurer or takaful operator who is a registered person, the value of the taxable service for the charging of service tax is the actual premium or contribution paid.

Service Tax Due

13. The service tax chargeable shall be due at the time when payment is received for the taxable services provided to the customer by the registered insurer or takaful operator.

Threshold

14. The total value of taxable services prescribed by the Minister under the Service Tax (Amount of Value of Taxable Service) Order 2018 for the purpose of registration of insurers and takaful operators is RM 500,000.

SERVICE TAX IMPLICATIONS ON INSURANCE AND TAKAFUL

Takaful Fund

15. In Malaysia, the agreement to enter into a takaful scheme between the participant and the takaful operator is based on different types of takaful operations for example the *al-Mudharabah* structure or *al-Wakalah* structure.

16. In an *al-Mudharabah* structure, fees or charges deducted from the takaful fund will not be subject to service tax e.g. investment performance fee and surplus administration charges. Investment income and the fees charged will be deposited into the takaful operator's fund that is called the Shareholders Fund.

17. In a *Wakalah* structure, the *Wakalah* fee (management fees) deducted by the takaful operator from the participant's account (contributions paid by the participants) and paid to the shareholders fund is not subject to service tax.

18. The following inter-fund transfers will not be subject to service tax:

- (i) Participant and operator share of income – profit sharing arrangement;
- (ii) Interest free loan from shareholders fund to takaful fund in the event of actuarial deficit in the takaful fund;
- (iii) Transfer of actuarial surplus between shareholders fund and takaful fund;
or
- (iv) Transfer of funds in compliance with the Takaful Act 1984.

Life Insurance Contracts

19. The provision of all types of life insurance contract or family takaful certificate to cover any risks incurred to an individual or business organization is not a taxable service and is not subject to service tax.

General Insurance Contracts

20. The provision of all types of general insurance contract or general takaful certificate to cover any risks incurred in Malaysia to an individual or business organisation is a

taxable service and subject to service tax except medical insurance contracts to cover against any risks incurred to an individual is not subject to service tax.

Reinsurance Contracts

21. The provision of all types of life reinsurance, family retakaful, general reinsurance or general retakaful contracts is not a taxable service and not subject to service tax.

Insurance/ Takaful on International Transportation of Goods and Passengers

22. Generally, premiums or contributions charged for insuring the transportation of passengers or goods against risks relating to the international transportation is not subject to service tax as specified below:

- (i) The insuring or takaful coverage of risks relating to the transport of passengers or goods :
 - (a) From a place outside Malaysia to another place outside Malaysia ;
 - (b) From the last exit point in Malaysia to any place in other country ; or
 - (c) From a place outside Malaysia to the first entry point in Malaysia.

and includes the insuring or takaful coverage of risks relating to the transportation of goods within Malaysia that forms part of the transportations referred to in paragraphs (b) and (c) where the coverage is provided by the same person.

Example 1

Where the service of insurance coverage is from a point outside Malaysia (e.g. London) to a point inside Malaysia (e.g. Ipoh) in a single insurance contract, which covers both international and domestic movement of goods, the domestic insurance coverage is not subject to service tax.

Example 2

There are two separate insurance contracts i.e. a marine cargo insurance contract to cover movement of goods from London to Port Klang and Goods in Transit (GIT) insurance contract to cover movement of goods from Port Klang to

Melaka. The provision of marine cargo insurance contract is not subject to service tax while the GIT insurance contract will be subject to service tax.

Example 3

The provision of general insurance contract is subject to service tax if it covers a risk of transportation of goods from a place in Malaysia to another place in Malaysia.

Example 4

The provision of insurance contracts involving international journeys is not subject to service tax includes marine or aviation cargo insurance, marine or aviation hull insurance and travel insurance, etc.

23. For goods transported into Malaysia from overseas, the insuring of those goods irrespective of whether the policyholder is in Malaysia or overseas, the provision of insurance services is not subject to service tax.
24. The provision of all types of insurance contract, takaful certificate to cover against any risks incurred in insuring educational institution and religious organization registered under any written law is not subject to service tax.
25. The provision of all types of insurance contract or takaful certificate to cover against any risks incurred in the making of advances or the granting of credit directly relating to the export of goods, services or investments outside Malaysia is not subject to service tax.
26. The provision of all types of insurance contract or takaful certificate to cover against any risks outside Malaysia is not subject to service tax.

Provision of Insurance or Takaful Contracts Relating to Designated Area

27. Generally, provision of general insurance by an insurer or takaful operator located in the Principal Customs Area (PCA) to a business organization covering risk in a designated area is subject to service tax. Similarly, if the provision is made from the

designated area to the PCA, it is also subject to service tax.

28. However, if the insurer or takaful operator has his principal place of business in the designated area and he provides such taxable services in the designated area to cover against any risk in the designated area to a policy holder located in the designated area, such services is not subject to service tax.

29. In addition, the provision of insurance contracts related to cargo for export, or aircraft and ships leaving the designated area to a place outside Malaysia is not subject to service tax.

Marketing and Co-Location Office in Malaysia other than the Designated Areas

30. A Labuan insurance and takaful company licensed under the Labuan Financial Services and Securities Act 2010 (LFSSA) or Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA) may have a marketing office or co-location office in Malaysia (Kuala Lumpur) which is outside the designated area. The co-location office may conduct activities such as underwriting, risk management, claims adjustment, assessment, treasury including investment, accounting, administration and human resources, sales and marketing.

31. The provision of general insurance contracts or takaful certificate from the co-location office situated in Malaysia to a company in Malaysia is subject to service tax at 6% and the provision of such similar services from the co-location office situated in Malaysia to a company in designated area is also subject to service tax.

Insurance or Takaful Intermediaries

32. The provision of insurance or takaful agency services by any person who is an insurance or takaful agent registered under the Life Insurance Association of Malaysia (LIAM) or General Insurance Association of Malaysia (PIAM) is not providing a taxable service for the purpose of service tax. Hence, the fee or commission charged is not subject to service tax.

33. The provision of services by insurance or takaful brokers to their clients such as advisory or consultancy services where a charge is in the form of a commission or brokerage is not subject to service tax.

Syariah Advisory Services

34. The provision of Syariah advisory services for takaful products is categorized as the provision of consultancy services and is subject to service tax

REGISTRATION AND RESPONSIBILITIES OF A REGISTERED PERSON

35. A service provider reaching prescribed threshold of taxable services is required to be registered. For further guidance and details on registration including an auto-registration exercise, please refer *Service Tax Registration Guide*.

36. A registered person is responsible to:

- (i) Charge service tax on taxable services;
- (ii) Issue invoices and receipts with specific particulars;
- (iii) Submit service tax return sst-02 electronically and pay service tax before due date; and
- (iv) Keep proper records.

For further information with regards to the responsibilities of a registered person, please refer to *General Guide* and relevant *Specific Guides*.

FREQUENTLY ASKED QUESTIONS (FAQs)

Insurance Products, Premiums and Fee

1. **Q : How is service tax calculated on a general policy premium sold to a registered person?**

A : The service tax incurred is as shown in the following example:

Example 1:

<i>Basic premium</i>		<i>780.00</i>
<i>Loading</i>		<i>300.00</i>
<i>Total</i>		<i><u>1080.00</u></i>
<i>NCD</i>	<i>(-)450.00</i>	
<i>Gross premium</i>		<i>630.00</i>
<i>Rebate</i>	<i>(-) 40.00</i>	<i>590.00</i>
<i>Service tax (6%)</i>		<i>35.40</i>
<i>Stamp duty</i>		<i>10.00</i>
<i>Premium payable</i>		<i><u>635.40</u></i>

2. **Q : An insurer or takaful operator sell a liability insurance policy plan covering all phases of the work done including towing, hook up, installation and commissioning process to a shipbuilder. The shipbuilder carries out vessel conversion services at a local shipyard for a foreign ship owner and eventually tows the vessel out to international waters for the benefit of the foreign ship owner. What is the service tax treatment on the single premium on the insurance plan where the plan is renewable annually?**

A : The shipbuilder's liability insurance policy will be subject to service tax.

3. **Q : What is the service tax implication on the personal accident policies (PA) sold to students in public or private schools, colleges, universities and other institutions of higher learning?**

A : The insurance policies sold to students in educational institutions will be subject to service tax.

4. **Q : What is the service tax implication on the PA policies purchased by an Educational Institution from Indonesia from a registered insurer or takaful operator in Malaysia to insure their scholars studying in universities and other institutions of higher learning in Malaysia?**

A : The supply of a group PA to the Educational Institution from Indonesia for its scholars in Malaysia will be subject to service tax.

5. **Q : What is the service tax implication on a life policy plan sold to an individual?**

A : Life policy is not subject to service tax as it is not a taxable service.

6. **Q : What is the service tax implication on the premium for general insurance to cover a property outside of Malaysia?**

A : Since the property is located outside Malaysia, the premium is not subject to service tax.

7. **Q : What is the service tax implication on the premium for general insurance to cover a property in Malaysia owned by a foreigner who is not in Malaysia at the time the insurance coverage takes place?**

A : The premium charged is subject to service tax

8. Q : Under a superannuation scheme, a member to the scheme contributes to the life insurer or takaful operator administering the scheme. At the time of maturity of the scheme, the insurer or takaful operator will pay the member of the scheme monies accumulated together with the interest earned in one lump sum or in a series of payments. Are the contribution and the payout subject to service tax?

A : The contribution made by a member of a superannuation scheme and the payout by the insurer or takaful operator is not subject to service tax.

9. Q : What are the service tax implications in the event of a cancellation of a general insurance contract which entails a refund of premium to the policyholder?

A : The insurer or takaful operator needs to raise a credit note when he refunds the premium to the policy holder. Subsequently he is required to adjust his accounts and his service tax return for the taxable period in which the credit note was issued.

10. Q : What is the service tax implication on the provision of life insurance contracts where the coverage is worldwide or global?

A : The supply of life insurance is not subject to service tax.

Fees and Commissions by Agents and Brokers

11. Q : Are commissions and brokerage charged by insurance agents and brokers relating to life insurance subject to service tax?

A : No, they are not subject to service tax whether it relates to a contract of general or life insurance.

12. Q : Are the value added services such as fees for arranging insurance for specific projects and liability exposure provided by insurance brokers subject to service tax?

A : No, it is not subject to service tax.

13. Q : An insurance company can fund an insurance agent's expenses in recognition of the volume of business generated by him. The funding is subject to certain criteria and approval by the insurance company. This funding is known as soft commission. Is soft commission subject to service tax?

A : Soft commission is not subject to service tax.

14. Q : When my insurance company makes a certain amount of profit, I share the profits with my insurance agents. This profit commission is only shared with the agents who meet certain targets. Is profit commission subject to service tax?

A : Profit commission is not subject to service tax irrespective whether it relates to a life or general insurance contracts.

Transitional issues

15. Q : Mr. Rahman has purchased a motor vehicle insurance policy on 25 July 2018 amounting to RM1,000 where the insurance coverage is for the period from 1 August 2018 to 31 July 2019. What is the service tax implication for the above scenario?

A : The supply of insurance services needs to be apportioned whereby for the month of August 2018, it is subject to GST at 0% and for the period from 1 September 2018 to 31 July 2019 it is subject to service tax at 6%.

16. Q : Insurance commission was paid to the insurance agent by Insurer A on 7 September 2018 for the policies incepted in the month of August 2018. What is the service tax treatment for the above scenario?

A ; Insurance commission is subject to GST at 0% since the policies are incepted in the month of August 2018. However, there is no service tax implication because agency services are not subject to service tax.

INQUIRY

For any inquiries for this guide please contact:

Internal Tax Division
Royal Malaysian Customs Department
Level 3 - 7, Block A, Menara Tulus,
No. 22, Persiaran Perdana, Presint 3,
62100 Putrajaya.

FURTHER ASSISTANCE AND INFORMATION ON SST

Further information on can be obtained from :

- (i) SST website : <https://mysst.customs.gov.my>
- (ii) Customs Call Center:
 - Tel : 03-7806 7200 / 1-300-888-500
 - Fax : 03-7806 7599
 - Email: ccc@customs.gov.my