



# Tax Whiz

**Tax highlights from your advisers**

## **Guide on Disbursement and Reimbursement**

*As at 15 September 2020*

KPMG in Malaysia

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# Guide on Disbursement and Reimbursement



The Royal Malaysian Customs Department (“Customs”) has issued a Guide to provide clarifications on one of the most contentious issues i.e. Service Tax treatment on disbursement vs reimbursement.

Please click [here](#) for a copy of the Guide at the MySST portal. Set out below are some of the salient points:-

- **Disbursement** means the recovery of a payment made on behalf of the customer by a claimant who is acting as an agent.
- **Reimbursement** means the recovery of an expense from the customer that a claimant incurs as a principal from another party.
- The agent and principal relationship may be established with reference to a written contractual agreement between the service provider and the claimant. In the event the contractual relationship cannot be clearly identified, the status of the claimant shall be determined as follows:-



Criteria	Disbursement	Reimbursement
Contractual liability and assumption of responsibilities and risks	The claimant is not a party to the contract	The claimant contracted in his own name/ capacity
Legal obligations to make payment or payment arrangement	The claimant is not obliged to pay but authorized by his customer to make payment	The claimant is obliged to make payment (e.g. invoice is in his name)
Alteration to the nature and value of expenses	The claimant is not able to alter the nature or value of services	The claimant can alter the nature or decide on the value of expenses to recover
Identities of parties and transaction involved	The customer is known to the service provider and the customer knows the cost incurred by the claimant	Only the claimant is known to the service provider and the customer does not know the cost incurred by the claimant



**Not subject to Service Tax**



**Subject to Service Tax  
(generally depending on  
the primary service)**

- To be treated as **disbursement**, all of the following criteria must be fulfilled:-
  - a) The customer knew the services is made by the service provider and not by the claimant;
  - b) The exact amount is claimed from the customer and the claimant shall not alter the nature of the services or add on the value of the services; and
  - c) The copy of invoice from the service provider is attached together with the invoice issued by the claimant to the customer as a supporting document.
- The recovery of expenses with a mark-up cannot qualify as disbursement, however only the mark-up will be subject to Service Tax, if the invoice from the supplier is attached to the claimant's invoice to its customers and the disbursement portion is separately itemized in the claimant's invoice.
- For **reimbursement**, where the recovery of expenses forms part of the overall price the claimant charged to his customer, the Service Tax treatment will generally follow that of the primary service.
- **Out of pocket expenses ("OPE")** are generally treated as part of the value of taxable service provided by the service provider. However, OPE which is charged separately is not a taxable service provided by the claimant to his customers if it fulfills all of the conditions below:
  - a) It is stated in the contract that the customer will bear the OPE costs;
  - b) It is paid on a back to back basis (without any mark-up); and
  - c) The claimant provides the original supporting documents when making the claim from the customer.

Whilst RMCD attempted to provide clarity on the Service Tax treatment between disbursement and reimbursement, it is noted from the Guide that the application and interpretation is not straightforward. There are various permutations and conditions, which if interpreted wrongly, could lead to wrong Service Tax treatments and worse attract penalties.

Hence, businesses should look into their business arrangements to re-assess the Service Tax implications and there may be a need to renegotiate the contracts to avoid ambiguity on the Service Tax treatment on recovery of expenses. In the event of uncertainty, businesses may consider writing in to RMCD to seek written confirmation to avoid dispute.



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