



SERVICE TAX 2018

**GUIDE ON :
FOOD & BEVERAGES**

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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 food and beverages (F&B).

IMPOSITION AND SCOPE OF TAX

5. Effective 1st September 2018, under Group B, First Schedule of the Service Tax Regulations 2018, the provision of F&B under prescribed circumstances is subject to service tax.
6. For the purposes of this Guide, F&B Operator is any person operating restaurant, bar, snack-bar, canteen, coffee house or any place which provides F&B whether wholly or partly eat-in or take-away excluding;
 - (i) A canteen located in an educational institution;
 - (ii) A canteen operated by a religious institution or body.
7. The operator may also be any person providing catering services or any person operating food court.
8. “Taxable Services” means provision by an F&B operator of –
 - (i) All services including prepared or served food or drinks and
 - (ii) Sale of tobacco products, and

(iii) Sale of alcoholic and non-alcoholic beverages.

9. An F&B Operator whose total value of taxable services exceeds the threshold is required to be a registered person and service tax shall be charged by him.

10. The value of service tax is to be calculated on the value of actual price excluding service charge.

11. The service tax chargeable shall be due at the time when payment is received.

THRESHOLD AND RATE OF TAX

12. The threshold is the total value of taxable services which exceeds RM1,000,000.

13. Rate of tax is at 6% and effective from 1 September 2018 as prescribed and gazetted in accordance to Service Tax Regulations 2018.

GENERAL OPERATIONS OF THE INDUSTRY

14. The F&B operators who has reached the prescribed threshold and provide taxable services at places described below are required to charge service tax:

(i) **Restaurant**

A place where people acquire services for meals that are prepared, cooked and served on premises or takeaway. The services that provided may include taking orders, preparing or retrieving items when ready, filling cups with beverages, and accepting customers' payments.

(ii) **Bar**

A place where alcoholic drinks are served. This includes pub, bistro, etc.

(iii) **Cafeteria**

A restaurant in which customers serve themselves (self service) from a counter and pay before eating. This includes coffee house, canteen, café, etc.

(iv) **Catering**

Business of providing F&B services at any event or venue or to another business or person.

(v) **Drive Thru**

This service may include drive through service where they allows customers to purchase products without leaving their cars/vehicles.

(vi) **Food Truck**

A vehicle equipped to cook and sell F&B that moves from place to place. The food may be prepared from scratch and pre-packaged food.

(vii) **Retail Outlet/ Snack Bar/ Kiosk**

A small store, informal restaurant or kiosk that sells and prepare smaller quantities of product for dining in or takeaway ie. light meals or snacks.

(viii) **Hawkers/ Push-Cart**

A vendor of merchandise that can be easily transported that sells a variety of food. The stall may be moveable or immoveable. The food may be prepared from scratch and pre-packaged food.

(ix) **Food Court**

A food court is generally a common area within a facility that is set apart for food concessions. It may consist of a number of vendors at food stalls or service counters.

(x) **Canteen**

A restaurant provided by an organisation such as in school for its students, factory for its staff, etc.

(xi) **Vending Machine**

It is an automated machine that provides items such as snacks, beverages or cigarettes to customers after money is inserted into the machine.

(xii) **Online F&B Business**

A business that operates from home or any premises that prepares and sells F&B via online platform.

Related services

15. Related services which may also be provided by the F&B operator that attract service tax are as follows:

(i) **Parking Facility**

Any parking provided by the F&B operator is subject to service tax excluding free parking.

(ii) **Events/ Conferences/ Meetings/ Seminar Packages**

Any part of the premises that is offered as avenue to hold events/ conferences/ meetings/ seminar (e.g. rental of premises, any equipment or facilities to be used, etc) are subject to service tax.

(iii) **Celebration Packages**

Celebration packages offered by F&B operator at any premises include buffet meals and ancillary services such as floral decorations and service of toastmaster, etc are subject to service tax.

(iv) ***Other services that attract service tax:**

- (a) Space for rental situated in the F&B operator premise;
- (b) Hire of a hall for any events;
- (c) Hire of a sports, games or recreational room;

- (d) Car jockey services.

**NOTE: The list above is not exhaustive.*

REGISTRATION AND RESPONSIBILITIES OF A REGISTERED PERSON

16. A service provider ie F&B Operator 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*.

17. A registered person is responsible to:

- (a) charge service tax on taxable services;
- (b) issue invoices and receipts with specific particulars;
- (c) submit service tax return SST-02 electronically and pay service tax before due date; and
- (d) 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

1. Q : I am a restaurant owner and provide parking facilities for my customers without any charges as they dine-in at my restaurant. Am I required to account for service tax on the parking facilities which are provided free of charge to the customers and if there is a charge imposed, how do I account for the service tax?

A : Parking facilities provided to the customers for free are not subject to service tax. If there is a charge imposed, it is subject to service tax.

2. Q : I am a restaurant owner who received a customer request to organize a birthday celebration. However, the F&B was outsourced to a caterer. What is the treatment for this situation?

A : F&B by the caterer which was charged to restaurant owner is subject to service tax of 6%. Birthday celebration that is charged as a package by the restaurant owner is subject to service tax with the value of F&B included.

3. Q : I cater food at a wedding event together with waiter services. Does the cost of waiter services subject to service tax?

A : The cost of waiter services is part of the wedding package. Therefore, it is subject to service tax.

4. Q : A customer ordered catering services for an event in December 2018. The deposit was received in October 2018. When and how should I account for service tax?

A : Deposit received in October 2018 (considering his bi-monthly taxable period is October and November) should be accounted for not later than the last day of the month following the end of each taxable period i.e. December 2018.

5. **Q : What is the service tax treatment for a wedding package by F&B operator where the package is inclusive of wedding planner, tent, catering services, makeup, photographer, DJ, etc?**
- A : All services in the wedding package provided by F&B operator is subject to service tax.
6. **Q : What is the tax treatment for F&B sold on-board via air, land and sea?**
- A : F&B that is sold on-board via air, land and sea for domestic routes except Rural Air Service is subject to service tax.
7. **Q : We cater in-flight food and beverage for airline services. What is the tax treatment for the in-flight F&B services?**
- A : The in-flight catering services are subject to service tax.
8. **Q : Is service charge subject to service tax?**
- A : No, service charge is not subject to service tax.
9. **Q : Are tips given by customer voluntarily subject to service tax?**
- A : Tips given voluntarily by a customer to a restaurant's staff is considered as token of appreciation for the services rendered by him. Tips are not subject to service tax.
10. **Q : Are the sales from vending machines located in the F&B operator's premise subject to service tax?**
- A : Yes, all sales through any vending machines owned by F&B operator is subject to service tax. Service tax is to be accounted as inclusive of the sales value.
11. **Q : What is the tax treatment for coupon/ voucher purchased online and redeemed at the F&B operator?**
- A : Coupon/ voucher purchased online and redeemed at the F&B operator is subject to service tax. The coupon/ voucher value shall

be accounted for by F&B operator. The value to impose service tax is the value of actual price.

12. Q : Is promotion campaign by the F&B operator e.g. buy 1 free 1 is subject to service tax?

A : Yes, it is subject to service tax.

13. Q : Is rental of space in the F&B operator's premise subject to service tax?

A : Yes, rental of space is considered as one of the services provided by the service provider. Hence, it is subject to service tax.

14. Q : ABC restaurant also sells non-food merchandise such as stationery, newspaper, toys, etc in his restaurant. Are the merchandise subject to service tax?

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

15. Q : An F&B operator also sells tit-bits and snacks such as sweets, ice cream, banana chips, etc in his restaurant. Are the tit-bits and snacks subject to service tax?

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

16. Q : A walk-in customer came to my restaurant with his catch. He requested for the fish to be cooked for him to dine in with his family. Is the request made by the customer subject to service tax?

A : Yes, it is subject to service tax.

17. Q : Are cigarettes and canned beer (alcoholic drinks) sold subject to service tax?

A : Yes, in accordance with Group B, First Schedule of the Service Tax Regulations 2018.

18. Q : A restaurant based in Langkawi provides catering services in Alor Setar, Kedah. Are the services subject to service tax?

A : Services provided within or between Designated Areas are not subject to service tax. However, service tax shall be charged by any person whose principal place of business is located in a Designated Area on any taxable service provided by him within Malaysia.

In the scenario above, services provided by the restaurant whose principle place of business situated in Langkawi, which is gazetted as Designated Area, to Alor Setar, Kedah is subject to service tax.

19. Q : Other than F&B services, my restaurant also provides karaoke session and dance performance throughout the dining experience. Does those services subject to service tax?

A : Yes, they are subject to service tax.

20. Q : I am an F&B operator. I also have assets such as land and building for rent. Are those rentals subject to service tax? What if the assets were located away from the F&B premise, for example F&B premise in Jalan Pudu but the building rented out were in Selayang?

A : The provision of any services provided by a registered F&B operator is subject to service tax when the service is provided in or within the premise or when the service is a prescribed taxable service. In this example, where the land is not within the premise of the F&B operator, the rental is not subject to service tax. Meanwhile a rental of a building or a part of the building within the premise is subject to service tax.

21. Q : I owned a 3-storey shophot. My restaurant is on the ground floor and the two units above are rented out. What is the service tax treatment for this scenario?

A : The restaurant is a prescribed service provider and liable to be registered. The rented units are a part of the building within the

premise provided by the registered F&B operator is subject to service tax.

22. Q : What is the tax treatment for fishing activities in the pond owned by the restaurant?

A : Fishing activities at the pond owned by the restaurant is considered as a service provided by the restaurant. Hence, it is subject to service tax.

23. Q : Are the delivery services by F&B operator subject to service tax?

A : Yes, the delivery services by F&B operator are subject to service tax.

24. Q : What is the service tax treatment on deposit for reservation?

A : Service tax is payable upon payment received. Therefore, deposit for reservation is subject to service tax.

25. Q : A customer was charged cost for breaking a tableware. Is the charge subject to service tax?

A : No, the customer does not have to pay service tax for the broken tableware.

26. Q : Are free meals for staff by F&B operator subject to service tax?

A : Yes, they are subject to service tax.

27. Q : A convenience store at petrol station provides a facility for its customers to prepare food and beverages themselves (eg. microwave, water heater, hot drink vending machine, etc). Are the food and beverages purchased by the customer is subject to service tax?

A : Food purchased and consumed on self service basis is not subject to service tax. For example, hot cup instant noodle. However, all

sale of tobacco product, alcoholic and non-alcoholic beverages are subject to service tax.

28. Q : I am the owner of a petrol station. Apart from selling petrol and diesel, I also have self service counter which sells ready packed variety of food such as ready-to-eat nasi lemak and fried noodle. We also have frozen food like curry puff, roti canai, etc as well as a small kiosk that sells snacks e.g. waffle, corn-in-cup and hotdog. Are the food above subject to service tax?

A : Ready packed food is not subject to service tax. However, the food sold at kiosk which is prepared by staff is subject to service tax, provided the petrol station operator is a registered person.

29. Q : Is service tax chargeable for food served at lounges in airports?

A : Generally, service tax is chargeable for F&B served at lounges in airports. For passengers who receive complimentary meals at lounges, the service tax is deemed inclusive in the passenger ticket, e.g. Business class and First class. For walk-in customers who pay for the meals, the service tax is chargeable.

30. Q : I am a vending machine operator who has vending machines in public places such as shopping mall, airport, etc. Should I register under Service Tax Act 2018?

A : A vending machine operator is not a service provider. Therefore, vending machine operator is not liable to be registered.

31. Q : Cinemas have snack bars/ counters or kiosks selling hot, light meals or snacks (e.g. waffles, pop corn, nuggets, etc) and beverages to its customers. Do cinemas required to be registered under Service Tax Act 2018? Are the F&B sold taxable?

- A : Since cinemas have snack bars/ counters, a cinema can be considered as having a place which provides food and beverages. Therefore, it is liable to be registered provided the value of taxable services exceeds the prescribed threshold.

INQUIRY

For any inquiries for this guide please contact:

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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