

# Clarification on the Impact of GST on Stratified Development Areas

**Press Conference by:  
HBA, RISM, PEPS & MIPPM  
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## Important Terminology Act 757

- **Stratified Development Area**

A parcel of land comprising **one lot under final title** which is developed with **building or land** that is subdivided or intended to be **subdivided into parcels** with **strata titles**.

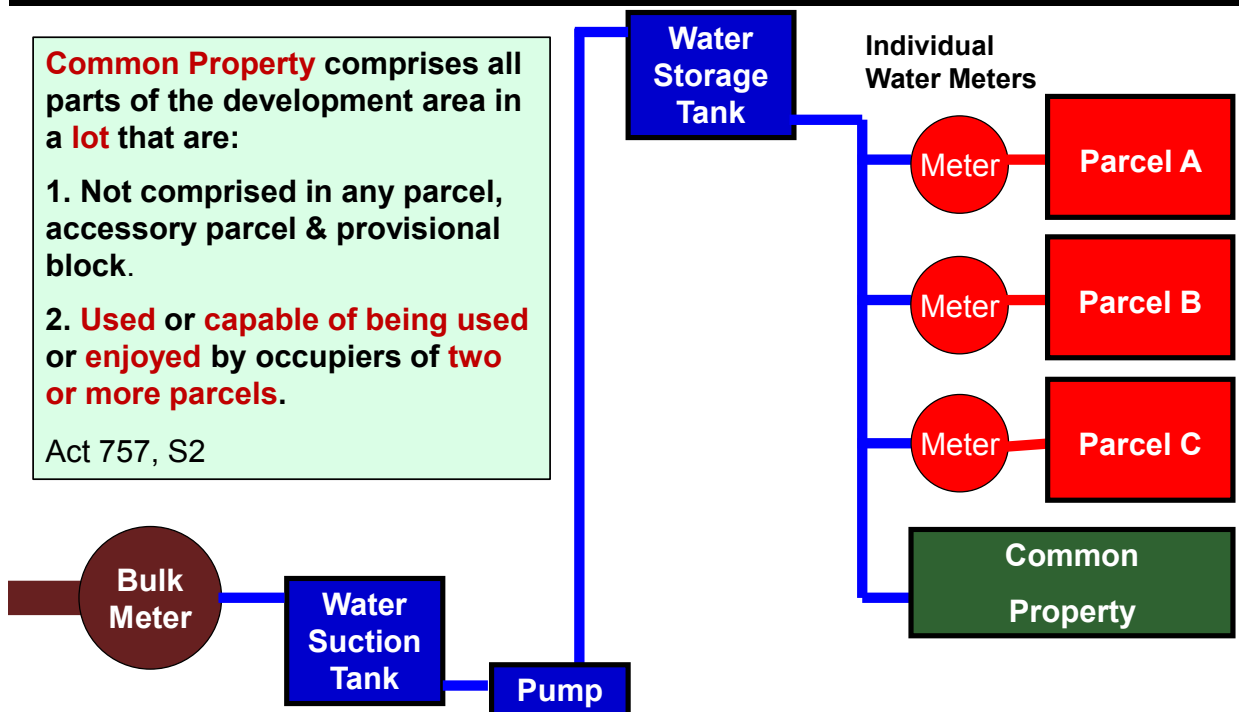
This is entirely different from gated community scheme of landed properties with individual land titles.

## Important Terminology Common Property

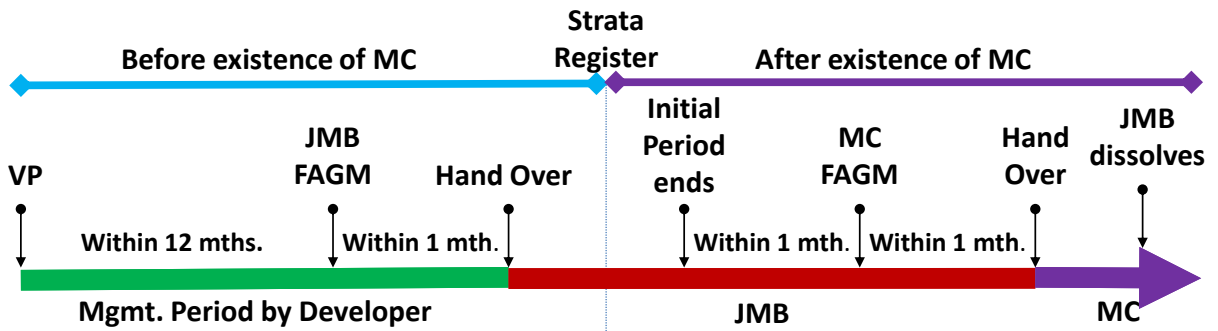
**Common Property** comprises all parts of the development area in a lot that are:

1. Not comprised in any parcel, accessory parcel & provisional block.
2. **Used or capable of being used or enjoyed** by occupiers of **two or more parcels**.

Act 757, S2



## Line Charts for Act 757



**Existing Completed Development Areas & Ongoing Development Areas under Act 757**

**Initial Period** begins on opening of Strata Register and ends when there are registered proprietors who together hold not less than 25% of the aggregate share units in the development area.

## Important Terminology Act 757

### ■ Joint Management Body

- (a) Interim caretaker body for the maintenance, upkeep and safeguarding of common property in a stratified development area;
- (b) Established upon convening of the first AGM of JMB;
- (c) Body corporate comprising the purchasers and developer;
- (d) Perpetual succession and common seal;
- (e) May sue and be sued in its name;
- (f) Automatically dissolves 3 months after the date of the first AGM of MC.

## Important Terminology Act 318

### ■ Management Corporation

- (a) Proprietor of common property in a development area;
- (b) Body corporate comprising the registered proprietors;
- (c) Established upon opening of the strata register;
- (d) Perpetual succession and common seal;
- (e) May sue and be sued in its name;
- (f) Maintains, upkeepes, refurbishes, upgrades and safeguards its own common property;
- (g) Dissolves upon the termination of subdivision of the buildings and land in the development area.

## Important Terminology Act 757

### ■ Charges & Maintenance Account

**Charges** are any money collected to be paid into the **Maintenance Account** which shall be used to pay the expenses for **maintenance, upkeep and safeguarding** of the **common property**.



**Sink, Sank, Sunk & Disappear.**  
**Sounds like Sinking Fund.**

## Important Terminology Act 757

### ■ Sinking Fund & Sinking Fund Account

**Sinking fund** is collected and kept in a separate **Sinking Fund Account** which shall be used solely for the purposes of meeting the **actual or expected capital expenditure**:-

- (a) the **painting or repainting** of any part of the common property;
- (b) the acquisition of any **movable property** for use in relation to the common property;
- (c) the renewal or replacement of any **fixture or fitting** comprised in any common property;
- (d) the **upgrading and refurbishment** of the common property;
- (e) **any other capital expenditure** as the **JMB or MC** deems necessary.



## GST

- **Goods and Services Tax (GST) Act 2014 [“Act 762”]:-**

- 1) Gazetted on **19 June 2014**;
- 2) To replace the **Sales and Service Tax (SST)**;
- 3) Implementation on **1 April 2015**.

- **GST is charged on:-**

- 1) Taxable supply of **goods** and **services**;
- 2) Made by a **taxable person**;
- 3) In the course of furtherance of **business**;
- 4) In **Malaysia**.

## GST & JMB/MC

### ■ Joint Management Body/Management Corporation :-

- 1) To **maintain, upkeep** and **safeguard** its own **Common Property** with **contributions** by its **own members** who are the **joint owners** of the common property pursuant to –
  - (a) Building and Common Property (Maintenance and Management) Act 2007;
  - (b) Strata Titles Act 1985;
  - (c) Strata Management Act 2013.
- 2) The **contributions** are recognized by LHDN as **mutual income** not subject to income tax;

### **However,**

- 3) JMB/MC is **deemed** to be **carrying on of business** whether **or not** it is for **pecuniary profit** pursuant to **S3(1)&(2)** of Goods And Services Tax Act 2014 [“Act 762”].
- 4) **GST Exempt Supply for JMB/MC of Low Cost & Low Medium Cost Stratified Development Areas.**

## GST & JMB/MC

### ■ Mandatory Registration under the GST Scheme:-

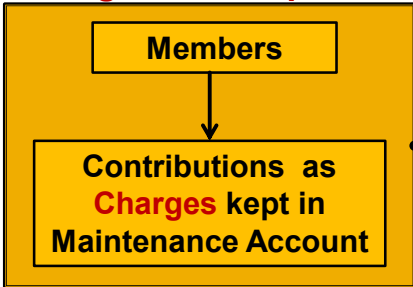
- 1) Total billing of Charges (“maintenance charges or service charge”) and Sinking Fund exceeding **RM500,000.00 per annum** (equivalent to RM41,667 per month).

Therefore, almost all the JMBs and MCs of the **15,000 stratified development areas with 6 million occupiers in Peninsular Malaysia** will become Standard Rated Tax Supply Entities. This has not taken into account for those in East Malaysia.

- 2) JMB/MC to register as **Standard Rated Tax Supply Entity** with the **Royal Malaysian Customs Department by 31 December 2014**;
- 3) Failing which, JMB/MC will be liable to pay a penalty of between **RM1,500.00 to RM20,000.00**.

# Structure for Maintenance, Upkeep & Safeguarding of Common Property

## Management Corporation



- 1. MC owns CP;
- 2. MC maintains, upkeeps & safeguards CP.



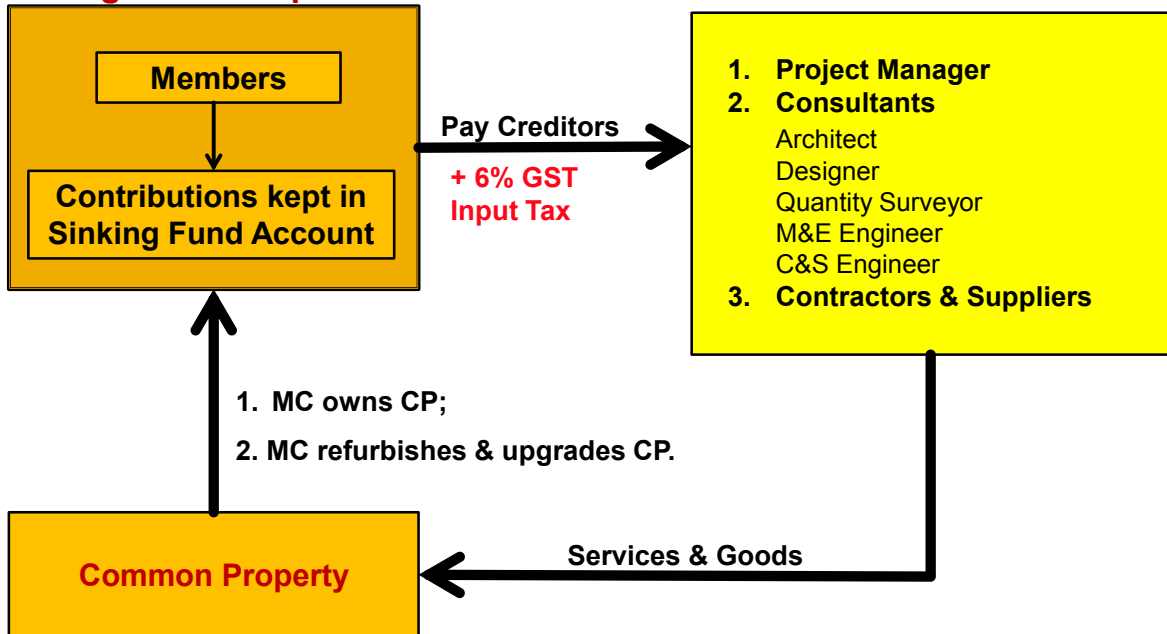
Pay Creditors  
+ 6% GST  
Input Tax

Services & Goods

- 1. Service Providers**  
Property Manager  
Security Agency  
Cleaning Agency  
Landscape Maintenance Agency  
Pest Control Agency
- 2. Servicing Contractors**  
Lifts & Escalators  
Fire Fighting & Alarm System  
Standby Generator System  
LV Electrical Installation  
Automatic Gates & Card Access  
Air-Conditioning System
- 3. Other Contractors & Suppliers**  
General Works Contractors  
Specialist Contractors  
Electrical & Hardware Items  
Stationery Items
- 4. Electrical Supervising Engineer**
- 5. Company Auditor**
- 6. Telekom(Tel., Fax & Internet)**
- 7. TNB (Electricity Consumption)**
- 8. Insurance Company**
- 9. Syabas (Water Consumption)**
- 10. PMO Staff Cost & Claims**

## Structure for Refurbishment & Upgrading of Common Property

### Management Corporation



## GST Classification of Supply

Supply Classification	Output Tax	Input Tax	Examples
<b>Standard Rated Supply</b>	<b>6%</b>	<b>Claimable</b>	<b>All Stratified Development Areas except Low Cost &amp; Low Medium Cost</b>
<b>Zero Rated Supply</b>	<b>0%</b>	<b>Claimable</b>	<b>Supply for Goods only such as essential food items.</b>
<b>Exempt Supply</b>	<b>No GST charged</b>	<b>Not Claimable</b>	<b>Low Cost &amp; Low Medium Cost Stratified Development Areas; Sales of Residential Houses; Financial Services; Health &amp; Education Services; Public Transportation, &amp; Taxis; Tolls.</b>

## GST and Characteristics of Stratified Development Area

- **No element of pecuniary profit**

In the Operating Maintenance Account,

**Charges = Expenditure**

- **No element of value added tax**

- **Almost whole Expenditure or 99% are from GST Tax Supply Entities**

In the application of GST,

**Output Tax = Input Tax = 6% of Charges**

- **Net effect of GST is the same**

Standard Rated Tax Supply JMB/MC,     **GST = 6% of Charges**

GST Exempt Tax Supply JMB/MC,     **GST = 6% of Charges**

## Impact of GST on JMB/MC: Standard Rated Tax Supply

### Operating Maintenance Account

Total Billing of Charges:	RM1,462,962 p.a.		
<b>Output Tax payable by MC to RMC</b>	<u>        6%</u>	<b>RM87,778 p.a.</b>	<b>100%</b>
Total Expenditure:	RM1,461,257 p.a.		
% GST Goods & Services	<u>        99%</u>		
Total GST Goods & Services:	RM1,443,290 p.a.		
Input Tax	<u>        @ 6%</u>		
Input Tax paid by MC to SP	<u>RM 86,597 p.a.</u>		
<b>Set off Input Tax paid by MC to SP</b>	<u>                                </u>	<b>- RM86,597 p.a.</b>	<b>99%</b>
<b>Balance of Output Tax paid by MC to RMC</b>		<b><u>RM 1,181 p.a.</u></b>	<b>1%</b>

**Net Effective GST Tax paid by MC = RM87,778 p.a. = 6% of Charges**

Abbreviations: **MC** = Management Corporation; **SP** = Service Providers  
**RMC** = Royal Malaysian Customs.

**Spreadsheet Details #1**



## Impact of GST on JMB/MC: Exempt Tax Supply

### Operating Maintenance Account

Total Billing of Charges before 1-Apr-2015	RM1,462,962 p.a.	100%
<b>Forced Increase in Charges after 1-Apr-2015</b>	<b>RM 86,597 p.a.</b>	<b>6%</b>

Total Expenditure:	RM1,461,257 p.a.
% GST Goods & Services	<u>99%</u>
Total GST Goods & Services:	RM1,443,290 p.a.
Input Tax	<u>@ 6%</u>
<b>Input Tax paid by MC to SP</b>	<b><u>RM 86,597 p.a.</u></b>

**Net Effective GST Tax paid by MC = RM86,597 p.a. = 6% of Charges**

*Abbreviations:    **MC** = Management Corporation;    **SP** = Service Providers  
**RMC** = Royal Malaysian Customs.*

## Standard Rated Tax Supply JMB/MC & Exempt Tax Supply JMB/MC

- **Standard Rated Tax Supply JMB/MC (Net effect: GST = 6% Charges)**
  - 1) **Charges** are mandatory increased by **6%** in the form of **GST Output Tax** that is allowed to be **set off with** paid **GST Input Tax** in the maintenance & management of common property in the stratified development area.
  - 2) Need to register as **GST Tax Supply Entity**.
  - 3) Additional costs for **GST compliance software and hardware**.
  - 4) Recurrent additional cost for manpower to **file GST** with **maintenance of proper records**.
  - 5) Exposure to **penalties, fines & prosecution** for mistakes or negligence in GST filing and records.
- **GST Exempt Tax Supply JMB/MC (Net effect: GST = 6% Charges)**
  - 1) **Charges** need to be **increased by 6%** in order to meet increase in expenditure due to **GST Input Tax** in the maintenance & management of common property in the stratified development area.
  - 2) **No need to register** as GST Tax Supply Entity.
  - 3) **Free from liabilities** of item (3), (4) & (5) above.

## PETITION FOR Zero Rated Tax Supply

### Operating Maintenance Account

Total Billing of Charges:	RM1,462,962 p.a.	
<b>Output Tax payable by MC to RMC</b>	<u>0%</u>	<b>Nil</b>
Total Expenditure:	RM1,461,257 p.a.	
% GST Goods & Services	<u>99%</u>	
Total GST Goods & Services:	RM1,443,290 p.a.	
Input Tax	<u>@ 6%</u>	
Input Tax paid by MC to SP	<u>RM 86,597 p.a.</u>	
<b>Input Tax paid by MC to SP</b>	<u>RM86,597 p.a.</u>	<b>RM86,597 p.a.</b>
<b>Input Tax claimable by MC from RMC</b>	<u>RM86,597 p.a.</u>	<b>RM86,597 p.a.</b>

**Net Effective GST Tax paid by MC = 0**

*Abbreviations:*    **MC** = Management Corporation;    **SP** = Service Providers  
**RMC** = Royal Malaysian Customs.

## Petition for Zero Rated Tax Supply JMB/MC

- **Zero Rated Tax Supply JMB/MC (Net effect: GST = 0)**
  - 1) **Charges** are **not levied with GST Output Tax** in the maintenance & management of common property in the stratified development area.
  - 2) Need to register as **GST Tax Supply Entity**.
  - 3) Additional costs for **GST compliance software and hardware**.
  - 4) Recurrent additional cost for manpower to **file GST** with **maintenance of proper records**.
  - 5) Exposure to **penalties, fines & prosecution** for mistakes or negligence in GST filing and records.
  - 6) The benefit of the saving of GST from the **refund of claimable GST Input Tax**, which is **6% of Charges**, outweighs the cost and liabilities in item (3), (4) & (5).

## CONCLUSION

- No element of pecuniary profit  
**Charges = Expenditure**
- No element of value added tax
- Almost whole Expenditure or 99% are from GST Tax Supply Entities  
**Output Tax = Input Tax = 6% of Charges**
- Net effect of GST is the same
 

Standard Rated Tax Supply JMB/MC,	<b>GST = 6% of Charges</b>
GST Exempt Tax Supply JMB/MC,	<b>GST = 6% of Charges</b>
- **Consequence**
  - 1) **Standard Rated Tax Supply JMB/MC** pays nett GST at 6% of Charges but is encumbered with unnecessary cost and potential liabilities.
  - 2) **Low Cost and Low Medium Cost JMB/MC** pays 6% GST Input Tax (equivalent to 6% of Charges) with burden and zero relief.

## PETITION

- **Law is made for People**

To amend the GST Act to enable Zero Rated Tax Supply to cover goods and **services** instead of only goods.

- **Classify as Zero Rated Tax Supply**

To amend the GST classification from the Standard Rated Tax Supply and Exempt Supply to the **Zero-rated Tax Supply** for the **Charges, contributions to sinking fund** and all form of **related contributions or charges** payable by parcel owners in respect of **all the stratified development areas** in Malaysia irrespective of whether the **common property is maintained and managed** by the **management corporation, joint management body** or **developer**.

# Clarification on the Impact of GST on Stratified Development Areas

*Thank You To The Press*



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