

SME Loan Guarantee Scheme (SGS) / Special Loan Guarantee Scheme (SpGS) Form for the Computation of Government's Share of Legal Costs - Specimens

Below are two specimens of completed form for the computation of Government's share of legal costs under different scenarios.

Scenario 1 – Legal Costs covering SGS/SpGS and non-SGS/non-SpGS facilities

- The Participating Lending Institution (PLI) has granted three facilities to the Borrower -
 - C08000001 – an SGS term loan (Government's risk sharing ratio at 50%)
 - ST0900001 – an SpGS term loan (Government's risk sharing ratio at 80%)
 - A non-SGS/non-SpGS overdraft
- The two shareholders of the Borrower have provided personal guarantee to all the three facilities.
- The Borrower has defaulted in payment for all the three facilities.
- The PLI has appointed a law firm to take a series of recovery actions against the Borrower and the Personal Guarantors (including issuing demand letters, filing Writ of Summons, and obtaining Judgment against the Borrower and the Personal Guarantors).
- The Borrower and the Personal Guarantors are wound up/bankrupted by themselves or by creditors other than the PLI. PLI has subsequently filed the Proof of Debt Forms against them.

Form for the Computation of Government's Share of Legal Costs⁽¹⁾ – Specimen 1

Name of Borrower: ABC Company

Application No. of SGS/SpGS Facility(ies): C08000001, ST0900001

(I) Apportionment Factor⁽²⁾

			(a)	(a)/Total of (a) x 100%	
	Facility (Application No. for SGS/SpGS Facility OR Loan No. for non-SGS/SpGS Facility)	Account No. (Facility type)	Outstanding Balance ⁽³⁾ as at a specific cut-off date ⁽⁴⁾ (HK\$)	Apportionment Factor	Supporting Document (e.g. Bank Statement, Demand Letter, Writ of Summons, etc.)
1	C08000001	XX-XXX-XXX1 (WCL)	4,000,000	40%	See Appendix 1
2	ST0900001	XX-XXX-XXX2 (Term Loan)	1,000,000	10%	See Appendix 2
3	L0123456	XX-XXX-XXX3 (Overdraft)	5,000,000	50%	See Appendix 3
		Total :	10,000,000	100%	

(II) Legal Costs incurred⁽⁵⁾

	Legal Action involved	Amount (HK\$)	(b) (b) x Apportionment Factor in Part I			Invoice	Receipt of Payment
			Legal Costs apportioned (HK\$)				
			Facility 1 under Part (I)	Facility 2 under Part (I)	Facility 3 under Part (I)		
			(a) SGS* (b) SpGS* (c) Non-SGS/ SpGS*	(a) SGS* (b) SpGS* (c) Non-SGS/ SpGS*	(a) SGS* (b) SpGS* (c) Non-SGS/ SpGS*		
1	Legal services including issuing demand letters to Borrower and Personal Guarantors, filing Writ of Summons and obtaining Court Judgment	38,500	15,400	3,850	19,250	See Appendix 4	See Appendix 5
2	Filing Proof of Debt Forms	120	48	12	60	N.A.	See Appendix 6
3							
		Total :	38,620	15,448	3,862	19,310	

* Please delete where inappropriate.

(III) Government's Share of Legal Costs

		(c)	(d)	(c) x (d)
	Facility (Application No. for SGS/SpGS Facility <u>OR</u> Loan No. for non-SGS/SpGS Facility)	Legal Costs apportioned (See Part II) (HK\$)	Government's Risk Sharing Ratio	Government's Share of Legal Costs (HK\$)
1	C08000001	15,448	50%	7,724.00
2	ST0900001	3,862	80%	3,089.60
3	L0123456	19,310	-	-
	Total :	38,620		10,813.60



Notes

- (1) In case the legal costs are incurred as a result of the recovery of more than three facilities of the same borrower, additional rows/columns can be added to the tables under Parts (I) to (III).
- (2) Computation of Apportionment Factor on a pro-rata basis is necessary when the Legal Costs cover more than one SGS/SpGS facility or cover other non-SGS/SpGS facility(ies). If the Legal Costs are solely related to the recovery of one SGS/SpGS facility, it is not necessary to compute the Apportionment Factor under Part (I) and the Legal Costs thus apportioned under Part (II).
- (3) The "Outstanding Balance" could either be the "Outstanding Principal" or "Outstanding Principal plus Interest" of the concerned facility. Irrespective of whether "Outstanding Principal" or "Outstanding Principal plus Interest" is chosen, the same should apply to all facilities involved for the sake of fairness and consistency.
- (4) PLI may propose a "Cut-off date" such as the earliest default date among all the SGS/SpGS facilities, default dates of the respective SGS/SpGS and non-SGS/non-SpGS facilities, or other dates on which a specific legal action was taken (e.g. cut-off date of the outstanding balance as stated in demand letter, Writ of Summons or Judgment, etc). TID would consider individual proposals on the grounds of fairness, consistency and reasonableness.
- (5) Legal Costs incurred should be related to, if not solely for, the recovery actions on the liable parties of the SGS/SpGS facilities.

Lender's Name : XYZ Bank, Ltd

Signature of Contact Person : Chan Tai Man

Name of Contact Person : Chan Tai Man

Position of Contact Person : Recovery Officer

Telephone No. : 1234 5678

Date (dd/mm/yy) : 01/08/2013

**Scenario 2 – Legal Costs for SpGS facility only
(the same computation for SGS facility except for the different risk sharing ratio)**

- The Participating Lending Institution (PLI) has granted only one SpGS revolving loan SC0900002 (Government's risk sharing ratio at 80%) to the Borrower.
- The two shareholders of the Borrower have provided personal guarantee to the SpGS facility.
- The Borrower has defaulted in payment for the SpGS facility.
- The PLI has appointed a law firm to take a series of recovery actions against the Borrower and the Personal Guarantors (including issuing demand letters, filing Writ of Summons, and obtaining Judgment against the Borrower and the Personal Guarantors).
- The Borrower and the Personal Guarantors are wound up/bankrupted by themselves or by creditors other than the PLI. PLI has subsequently filed the Proof of Debt Forms against them.

As the legal costs are solely related to the SpGS facility, it is not necessary to compute the Apportionment Factor under Part (I) and the Legal Costs thus apportioned under Part (II).

Form for the Computation of Government's Share of Legal Costs⁽¹⁾ – Specimen 2

Name of Borrower: ABC Company
 Application No. of SGS/SpGS Facility(ies): SC0900002

(I) Apportionment Factor⁽²⁾

			(a) Outstanding Balance ⁽³⁾ as at a specific cut-off date ⁽⁴⁾ (HK\$)	(a)/Total of (a) x 100% Apportionment Factor	Supporting Document (e.g. Bank Statement, Demand Letter, Writ of Summons, etc.)
1	Facility (Application No. for SGS/SpGS Facility OR Loan No. for non-SGS/SpGS Facility)	Account No. (Facility type)			
2					
3					
		Total :			

(II) Legal Costs incurred⁽⁵⁾

	Legal Action involved	Amount (HK\$)	(b) x Apportionment Factor in Part I Legal Costs apportioned (HK\$)			Invoice	Receipt of Payment
			Facility 1 under Part (I)	Facility 2 under Part (I)	Facility 3 under Part (I)		
			(a) SGS* (b) SpGS* (c) Non-SGS/ SpGS*	(a) SGS* (b) SpGS* (c) Non-SGS/ SpGS*	(a) SGS* (b) SpGS* (c) Non-SGS/ SpGS*		
1	Legal services including issuing demand letters to Borrower and Personal Guarantors, filing Writ of Summons and obtaining Court Judgment	38,500				See Appendix 1	See Appendix 2
2	Filing Proof of Debt Forms	120				N.A.	See Appendix 3
3							
	Total :	38,620					

* Please delete where inappropriate.

(III) Government's Share of Legal Costs

		(c)	(d)	(c) x (d)
	Facility (Application No. for SGS/SpGS Facility <u>OR</u> Loan No. for non-SGS/SpGS Facility)	Legal Costs apportioned (See Part II) (HK\$)	Government's Risk Sharing Ratio	Government's Share of Legal Costs (HK\$)
1	SC0900002	38,620	80%	30,896.00
2				
3				
	Total :	38,620		30,896.00



Notes

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- (2) Computation of Apportionment Factor on a pro-rata basis is necessary when the Legal Costs cover more than one SGS/SpGS facility or cover other non-SGS/SpGS facility(ies). If the Legal Costs are solely related to the recovery of one SGS/SpGS facility, it is not necessary to compute the Apportionment Factor under Part (I) and the Legal Costs thus apportioned under Part (II).
- (3) The "Outstanding Balance" could either be the "Outstanding Principal" or "Outstanding Principal plus Interest" of the concerned facility. Irrespective of whether "Outstanding Principal" or "Outstanding Principal plus Interest" is chosen, the same should apply to all facilities involved for the sake of fairness and consistency.
- (4) PLI may propose a "Cut-off date" such as the earliest default date among all the SGS/SpGS facilities, default dates of the respective SGS/SpGS and non-SGS/non-SpGS facilities, or other dates on which a specific legal action was taken (e.g. cut-off date of the outstanding balance as stated in demand letter, Writ of Summons or Judgment, etc). TID would consider individual proposals on the grounds of fairness, consistency and reasonableness.
- (5) Legal Costs incurred should be related to, if not solely for, the recovery actions on the liable parties of the SGS/SpGS facilities.

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Signature of Contact Person : *Chan Tai Man*

Name of Contact Person : Chan Tai Man

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