

GST FREQUENTLY ASKED ISSUES (FAI)

BIL.	ISSUES	DECISION
1.	<p>Last date to issue invoice under the Service Tax or Sales Tax</p> <p>Whether a person licensed under the Service Tax Act 1975 or Sales Tax Act 1972 can still issue invoice or debit note after 1/4/2015 for services rendered or goods sold before 1/4/2015?</p>	<ul style="list-style-type: none"> (i) Sections 178 and 181 of GSTA (Goods and Services Tax Act 2014 [Act 762]) expressly provide that though the Sales Tax Act 1972 and Services Tax Act 1975 are repealed, any liability incurred, tax due, overpaid or erroneously paid under those Acts may be collected, refunded, remitted or enforced as if those Acts had not been repealed. (ii) Sections 179 and 182 of GSTA further provide that, notwithstanding subsections 178 and 181 of GSTA, any person who is licensed under Sales Tax Act 1972 or the Service Tax Act 1975 shall furnish to the Director General (DG) a return for the last taxable period not later than 28 days from 1/4/2015 or such longer period as the DG may determine. (iii) Section 185 of GSTA provides that sales tax under the Sales Tax Act 1972 or service tax under the Services Tax Act 1975 shall not be chargeable for any sales, used, disposal or importation of taxable goods or any taxable services. (iv) Decision: Taxable person under the Sales Tax Act 1972 or the Service Tax Act 1975 sold taxable goods or rendered taxable services on the last taxable period before 1/4/2015 shall – <ul style="list-style-type: none"> (a) furnish a return as required under the Sales Tax Act 1972 or the Service Tax Act 1975 for the last taxable period not later than 28 days from 1/4/2015, unless otherwise determined by the DG; (b) issue invoice or debit note which imposes sales tax or service tax not later than 28/4/2015.
2.	<p>Goods received free and given away free</p> <p>Regarding gifts above cost of RM500, received by a taxpayer (B) from another taxpayer (A) and subsequently given away free again by B to C after the gift becomes B's business asset –</p>	<ul style="list-style-type: none"> (i) Para 5(1) of the First Schedule of GSTA provides that subject to subparagraph (2), where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, the transfer or disposal is a supply of goods by the person. (ii) Para 5(2)(a) of the First Schedule of GSTA provides that subparagraph (1) does not apply where the transfer or disposal is a gift of goods made in the course or furtherance of business made to the same person in the same year where the total cost to the donor is not more than RM500; (iii) Decision

BIL.	ISSUES	DECISION
	<p>(i) whether B is entitled for ITC as he received the goods free from A?</p> <p>(ii) whether B is liable to account for GST when the goods are subsequently given free to C?</p> <p style="text-align: center;"> A \longrightarrow B \longrightarrow C Gives free Gives free </p>	<p>Since B has not incurred any cost on the goods he received from A, B is not entitled to claim input tax credit and is not liable to account for GST when the goods are subsequently given free to C.</p>
3.	Price display	<p>(i) Section 8 of the Price Control and Anti-Profiteering Act 2011[Act A1464] provides that where prices of any goods or charges for any services are determined, such prices or charges shall include all government taxes, duties and any other charges.</p> <p>(ii) For the purpose of GST, price displays, advertises, publishes or quotes by registered person on any taxable supply of goods or services shall include GST unless the DG approves otherwise (Section 9(5) and (7) of GSTA);</p> <p>(iii) Decision</p> <p>(a) All registered person including online business who makes taxable supply of goods or services shall display, advertise, publish or quote the price inclusive GST. However, price displays, advertises, publishes or quotes by registered person on any taxable supply of goods or services may be exclusive of GST subject that they must state the word 'goods or services are subject to GST 6% and the price payable is exclusive of GST' and the supply is made –</p> <p style="margin-left: 20px;">(aa) only to another registered person; or</p> <p style="margin-left: 20px;">(bb) during transitional period for only 14 days i.e. 1/4/2015 to 15/4/2015. This facility is given for the businesses to complete the process of price labelling or tagging inclusive of GST.</p> <p>(b) Online businesses, though the price display must be inclusive of GST, they may notify customers outside Malaysia that the prices payable for goods or services brought out from Malaysia are not subject to GST.</p>

BIL.	ISSUES	DECISION
4.	<p>Supply of SIM (Subscriber Identification Module) card prepaid or post-paid.</p> <p>i) In Designated Area (Labuan, Langkawi and Tioman).</p> <p>ii) Free of charge.</p>	<p>(i) Section 155 provides that notwithstanding section 9, no tax shall be charged on any taxable supply of goods or services made within or between the Designated Area (DA) unless the Minister otherwise directs in an order under section 160 of GSTA.</p> <p>(ii) Under item 2(c) of the GST (Imposition of Tax for Supplies in respect of DA) Order 2014 [P.U.(A)187/2014], tax shall be imposed at the rate fixed under subsection 10(1) of the Act on telecommunication services supplied within or between DA.</p> <p>(iii) Decision</p> <p>(a) Supply of SIM card is a supply of right to use telecommunication services and it is a supply of services.</p> <p>(b) Supply of SIM card in a DA is subject to GST.</p> <p>(c) Supply of SIM card in a DA to a non-connected person for free of charge is not a supply and not subject to GST.</p>
5.	<p>Approval for Simplified Tax Invoice</p>	<p>(i) Section 2 of GSTA defines 'tax invoice' means an invoice required to be issued by a taxable person under section 33 of GSTA.</p> <p>(ii) Any registered person who makes taxable supply of goods or services in Malaysia shall issue a tax invoice containing particulars prescribed in regulation 22 of Goods and Service Tax Regulations 2014 [P.U.(A)190/2014] (GSTR) unless otherwise approved by the DG (section 33(1) of GSTA).</p> <p>(iii) Section 33(3)(a) of GSTA provides that the DG may approve written application made by a registered person to exclude prescribed particulars subject to conditions as he deems fit to impose. However, the registered person shall include the recipient name and address in the tax invoice upon request by the recipient.</p> <p>(iv) Simplified tax invoice refers to tax invoice without full particulars prescribed in regulation 22 GSTR and this tax invoice can only be issued by a registered person who has been granted approval by the DG.</p> <p>(v) Decision</p> <p>DG pursuant to section 33(3)(a) of GSTA gives his approval (blanket) to any registered person who makes a supply to end consumer (not businesses), to exclude following particulars in their tax invoices-</p>

BIL.	ISSUES	DECISION
		<ul style="list-style-type: none"> (a) the word '<i>tax invoice</i>' (reg. 22(a) GSTR); (b) name and address of the recipient (reg.22(e) GSTR); (c) the total amount payable exclusive of tax.