

COMMENTS ON GOODS AND SERVICES TAX (GST) GUIDE

WAREHOUSING SCHEME

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Prepared by:

TECHNICAL COMMITTEE -- INDIRECT TAX (TC-IT)

PREAMBLE

The Technical Committee-Indirect Tax (TC-IT) of the Chartered Tax Institute of Malaysia (CTIM) would like to commend the Royal Malaysian Customs (RMC) for engaging the Institute to provide feedback on the draft Goods and Services Tax (GST) Guide – Warehousing Scheme. The following are the views and comments of CTIM for consideration by the authorities.

GENERAL COMMENTS

1. Reference to the GST Act, relevant Gazette Orders, and GST Guides

CTIM is of the view that wherever relevant, the guide should indicate the statutory reference, i.e. provisions of the GST Act and the relevant GST Gazette Orders and Regulations. This will allow readers, including taxable persons, agents, tax advisers, academician, etc. to understand the framework of GST clearly and facilitate compliance.

SPECIFIC COMMENTS

Paragraph 2: Overview

Sub-paragraph 2: There are **few** *several* categories of warehouse under the Customs Act 1967,

Sub-paragraph 3: The following value-added activities can be performed on stored goods in all **licensed bonded** warehouses except PEKEMA warehouse.

v: devenning – where goods are allowed to be sold directly to a buyer in a warehouse **where** either duties and / or tax on the goods have paid or not;

Sub-paragraph 4: Generally, GST on all goods imported and deposited in a public warehouse is suspended *on the goods*. However, GST is payable on any supply made in a warehouse if the goods supplied are used or for consumption in the warehouse.

CTIM Comment: For the purposes of consistency and clarity, CTIM proposes the changes as indicated above (words highlighted in yellow and words in blue).

Paragraph 3: Terminology

Paragraph 3.1: Under the customs rules and regulations, there are **few** *several* types of warehouse such as follows.

Paragraph 3.2 (i): Under GST law, the definition of **warehouse** and duty point is defined as follows:

- i. **'warehouse'** means –
 - a. any customs warehouse under section 63 of the Customs Act 1967;

- b. any licensed warehouse under section 65 of the Customs Act 1967;
- c. any duty free shop licensed under section 65D of the Customs Act 1967;
- d. any inland clearance depot licensed under section 65E of the Customs Act 1967.

CTIM Comment: For the purposes of consistency and clarity, CTIM proposes the changes as indicated above (words highlighted in yellow and words in blue).

In addition, we note that Paragraph 3.2 (i) does not refer to Sections 24 and 25 definition of Excise Act 1976 (Act 176). We would like to seek your confirmation that public excise warehouse and licenced warehouse established under Excise Act are not within the scope of warehouse for the purpose of GST.

Paragraph 4: Movement of goods into a **Licensed Bonded Warehouse**

Answer to question 4.3:

GST is suspended on the goods being transported from a Free Commercial Zone (FCZ) to a bonded warehouse, as FCZ is deemed to be a place outside the principal customs area (PCA) for GST purposes. Such movement of goods is covered by Form Customs No.8.

CTIM Comment: *In addition to the above, consideration must also be given on the administration process for suspension of GST as there is no provision / rules are drafted yet.*

Paragraph 5: Movement of goods from a **Licensed Bonded Warehouse**

Answer to question 5.3:

GST is suspended for any movement of goods between a warehouse to a duty free shop since duty free shop is also a warehouse. However, **the GST on** the consolidated goods **can be zero rated is suspended** when such goods are removed from the bonded warehouse to a free port.

CTIM Comment: We are of the view that the GST is suspended rather than zero-rated as no claim of refund may be made.

For the purposes of consistency and clarity, CTIM proposes the changes as indicated above (words highlighted in yellow and words in blue)

Paragraph 7: Supply of Goods and Services Within a Warehouse

Sub- paragraph 2: The **tax GST** on supply must be paid at the duty point, together with the duty (if any).

Answer to question 7.2:

You can zero-rate your consolidated goods when you **export** them. If you are a GST registered person, you can claim the tax charged on your local purchase as your input tax.

CTIM Comment: CTIM propose this sentence should be put in a new paragraph. For the purposes of consistency and clarity, CTIM proposes the changes as indicated above (words highlighted in yellow and words in blue)

Paragraph 8: Liabilities of a Warehousing Operator

CTIM Comment: CTIM proposes the following question and answer be inserted as 8.14:

Question: Do I need a licensed warehouse license for dutiable goods (e.g. tobacco and liquor) presently stored under warehouse of Customs Act.

Answer: No, a bonded warehouse license would serve a similar purpose to that of a license for dutiable goods for GST purpose.