JAWAPAN MINIT MESYUARAT PANEL PERUNDINGAN KASTAM – SWASTA 1/2008

dan

USUL-USUL BARU MESYUARAT PANEL PERUNDINGAN KASTAM – SWASTA 2/2008

AGENDA 4
MEMBINCANGKAN PERKARA BERBANGKIT

NO.	PERKARA	KEDUDUKAN / TINDAKAN
1.	Tajuk : **Re-importation of Rejected Goods Requiring Import License** Usul : FMM Tindakan : Bahagian Kastam Agenda : 4 Bil. : 1 (m.s. 15 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Bahagian Kastam telah mengadakan mesyuarat dengan agensi-agensi berkaitan dan keputusan adalah seperti dalam **Lampiran 1**.
2.	Tajuk : **Meningkatkan syarat pengisian Borang Kastam 1A, iaitu, barangan bernilai RM 10,000 ke RM100,000** Usul : FMFF Tindakan : Bahagian Perkhdidmatan Teknik Agenda : 4 Bil. : 3 (m.s. 15 – Minit 1/2008)	**Jawapan Terkini dari KDRM**: i). Pindaan ke atas Peraturan 11A, Peraturan-peraturan Kastam 1977 telah dirujuk kepada Y. Bhg. Menteri Kewangan dan Y. Bhg. Menteri Kewangan telah bersetuju supaya amaun tersebut dinaikkan kepada RM20,000. ii). Pindaan mewartakan sedang dibuat oleh Bahagian Perkhdimatan Teknik.

3.	Tajuk : **Excise Duty is not refunded for returned damaged goods.** Usul : MICCI Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil. : 4 (m.s. 16 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Menteri telah membuat keputusan *refund* atas *damaged good returned* selepas dilepaskan dari kawalan Kastam adalah dalam kuasa menteri di bawah Sek.11(2)(b) Akta Eksais 1976.
4.	Tajuk : **Payment of Excise Duties electronically for beer and stout products.** Usul : MICCI Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil : 5 (m.s. 16 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Tindakan Bahagian Cukai Dalaman :_Model *e-payment* akan dibangunkan melalui Portal Kastam yang sedang dalam proses perolehan Tindakan Cawangan Teknologi Maklumat : Keperluan bagi membolehkan perkhidmatan pembayaran cukai bagi Cukai Jualan, Cukai Perkhidmatan dan Eksais secara *online* telah diambilkira dalam pembangunan Portal Kastam. Walau bagaimanapun, sehingga kini Jabatan belum memperolehi kelulusan dari Kementerian Kewangan berhubung kaedah perolehan pembangunan Portal Kastam tersebut

5.	Tajuk : **Kursus Ejen Kastam (KEK) oleh UUM** Usul : FMFF & AFAM Tindakan : Bahagian Kastam Agenda : 4 Bil : 6 (m.s. 16 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Jabatan KDRM telah menandatangani 'Memorandum of Agreement' dengan UUM pada 3hb ogos 2008 yang telah menetapkan bahawa semua Kursus Ejen Kastam (KEK) akan dikendalikan oleh KDRM bersama UUM mulai Januari 2009. Persatuan FMFF dan AFAM telah dimaklumkan tentang kedudukan terkini ini.
6.	Tajuk : ***'Freight Forwarder'* tidak dikawal oleh KDRM** Usul : FMM & AFAM Tindakan : Bahagian Kastam Agenda : 4 Bil : 7 (m.s. 17 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Mulai 1 April 2009, Jabatan akan menguatkuasakan Seksyen 90(6) Akta Kastam 1967 maka *'Freight forwarders'* yang ingin berurusan dengan pihak kastam dinasihatkan untuk mendapat kelulusan di bawah Seksyen 90 Akta Kastam 1967 sebelum tarikh tersebut.

7.	Tajuk : **Contract/toll manufacturers to continue enjoying the import duty/sales tax exemption facilities** Usul : MIA Tindakan : 1. Bahagian Kastam 2. Bahagian Cukai Dalaman Agenda : 4 Bil : 11 (m.s. 19 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Garispanduan telah siap dan telah diedarkan. Taklimat kepada pihak industri akan diadakan. Industri dan orang awam boleh mendapatkan salinan di laman web Bahahagian Cukai Dalaman dan stesen Kastam.
8.	Tajuk : **Sales of taxable goods by licensed manufacturer to exempt person** Usul : MIA Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil : 12 (m.s. 20 – Minit 1/2008)	**Jawapan Terkini dari KDRM**: Tindakan sedang dibuat untuk mengujudkan 'enabling prosion' dalam Perintah Cukai Jualan (Pengecualian)2008 bagi membolehkan trader membeli borang tanpa cukai untuk dibekalkan kepada exempt person
9.	Tajuk : **Refund of bad debts** Usul : MIA & MICPA Tindakan : Bahagian Cukai Dalaman/MICPA/MIA Agenda : 4 Bil : 15 (m.s. 21 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Jabatan telah menyemak semula syarat pulang balik duti atas hutang lapuk bagi akaun individu dalam industri telekominikasi. Perintah dan panduan akan dikeluarkan sedikit masa lagi. Pelaksanaan syarat pulang balik duti atas hutang lapuk bagi akauan syarikat adalah wajar dan teratur. Jabatan galakkan/ syorkan syarikat terlibat gunakan fasiliti LET. **Jawapan dari MICPA dan MIA :** Lampiran 2 dari MICPA disertakan

10.	Tajuk : **Restriction in the usage of Item No. 58 Customs Duties (Exemption) Order, 1988 (and Item No. 62 Sales Tax (Exemption) Order, 1980).** Usul : MIA Tindakan : Bahagian Kastam Agenda : 4 Bil : 17 (m.s. 20 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Satu perbincangan / RTD dengan Bahagian Analisa Cukai, Kementerian Kewangan untuk mengkaji usul ini . Keputusan Mesyuarat : a) MOF untuk mengkaji semula syarat-syarat yang terkandung dalam But. 58 PDK(P) 1988 / But.62 PCJ(P) 1980 b) Mengkaji semula PTK.Bil. 29 tentang prosidur dan garis panduan mengenai pengimportan sementara supaya lebih jelas dan teratur dalam pelaksanaan di peringkat stesen
11.	Tajuk : **Sales Tax officers are unfamiliar with procedures** Usul : MIA Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil : 20 (m.s. 24 – Minit 1/2008)	**Jawapan Terkini dari KDRM**: FAQ hampir siap dan akan diletakkannya dalam laman web secepat mungkin. Usaha penambahbaikan perkhidmatan CD: 1) Jangka pendek FAQ berkaitan CJ, CP, Eksais akan diletakkan dalam laman web. Jangka panjang kita sedang bangunkan perkhidmatan call centre 2) Fokus 2009 program KSA – memperkasakan Modul Insan dari aspek perundangan, prosedur dan isu dan permasalahan.

12.	Tajuk : **Definition of the word "Use" for Goods Taxable** Usul : MICPA Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil : 26 (m.s. 28 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Garis panduan sedang dalam proses akan diedar dan diletakkan dalam laman web CD.
13.	Tajuk : **Service Tax Intra Group** Usul : MICPA Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil : 27 (m.s. 28 – Minit 1/2008)	**Jawapan Terkini dari KDRM**: Dalam kajian Perbendaharaan
14.	Tajuk : **Security Mark System vs. Tax Stamps for Domestic Manufactured Cigarettes Beyond August 2009** Usul : MICCI & FMM Tindakan : Bahagian Cukai Dalaman Agenda : 4 Bil : 30 (m.s. 31 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Kajian dan perbincangan bersama industri rokok tempatan, pembekal dakwat keselamatan dan pembekal label cukai telah di buat. Setelah mengambil maklum pandangan pengurusan tertinggi jabatan dan Bahagian Pencegahan satu perakuan akan dikemukakan ke Perbendaharaan Malaysia

15.	Tajuk : **Submission of Inward Manifest 24 hours before vessel arrival** Usul : FMM Tindakan : Bahagian Kastam Agenda : 4 Bil : 35 (m.s. 35 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : KDRM bersetuju dengan usul ini dan sedang dalam perhatian Panel Kajian Cukai, Kementerian Kewangan

AGENDA 5
MEMBINCANGKAN USUL-USUL DALAM MINIT BIL.1/2008

NO.	PERKARA	ISU/KEDUDUKAN / TINDAKAN
1.	Tajuk : **Requirement for Approval Permits for Transhipment Cargo.** Usul : FMM Tindakan : Bahagian Kastam Agenda : 5 Bil : 5 (m.s. 40 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Approval Permits (AP) for transshipment cargo is not required under Regulations 9(h) Customs (Prohibition of Import)Order 2008
2.	Tajuk : **LMW paying duties and sales tax at output stage.** Usul : MIT Tindakan : Bahagian Kastam Agenda : 5 Bil : 9 (m.s. 41 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : The current policy is that LMW has to pay import duty and sales tax at output stage, (i.e. on the finished goods) However, manufacturer which are currently having LMW status can enjoy paying duties at the rate equivalent to CEPT rate if their products having at least 40% of local/ASEAN contents. Effective 1 August 2008, if the product qualifies for the Product Specific Rule (PSR) which involves a change of classification or tariff headings or sub-headings at the output stage, then the manufacturer which are currently having LMW status can also enjoy paying duties at the rate equivalent to CEPT rate .

3.	Tajuk : **Customs Audit** Usul : MIT Tindakan : Bahagian Perkhidmatan Teknik Agenda : 5 Bil : 11 (m.s. 43 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Diputuskan bahawa berkuatkuasa serta-merta, semua Cawangan Pemeriksaan Akaun Negeri hendaklah mengeluarkan surat pemakluman sebaik sahaja pemeriksaan telah selesai (Contoh Surat Pemakluman sebagai panduan negeri-negeri disertakan di **Lampiran 3**) Ruj : KE.HT(114)462/08/Klt.2(78)
4.	Tajuk : **Agen perkapalan dikecualikan daripada menghadiri Kursus Ejen Kastam (KEK)** Usul : FOMSA Tindakan : Bahagian Kastam Agenda : 5 Bil : 15 (m.s. 44 – Minit 1/2008)	**Jawapan Terkini dari KDRM** : Jabatan Kastam telah menghantar surat kepada FOMSA pada 11 Disember 2008 untuk mendapatkan cadangan modul /sukatan kursus (sepertimana yang telah dijanjikan oleh FOMSA)

AGENDA 6
MEMBINCANGKAN USUL-USUL BARU 2/2008

BIL.	PERKARA	ISU/KEDUDUKAN / TINDAKAN
1a.	Tajuk : **Export Manifest K 5** Usul : ISOA	**Isu** : We have been advised by Customs officers at Port Klang and Penang that the Export Manifest (K5) should match with the Export Customs Declaration (K2) prior submission to KDRM. Shipping lines prepare bills of lading based on shipping instructions received from the shipper of the goods. The shipping lines then prepare the K5 from the data in the bills of lading and submit to KDRM. We should not be the party to reconcile the K5 with K2 to ensure both documents matched before submission to KDRM. This practice is improper. This is the current practice at Penang and shipping lines are compounded if they do not match. **Cadangan ISOA (*Recommendation*) :** Customs should be the party responsible to match the K5 submitted by shipping lines against K2 submitted by freight forwarders / merchants.

BIL.	PERKARA	ISU/KEDUDUKAN / TINDAKAN
1b.	Tajuk : **Timeline for Submission Of Import Manifest (K4)** Usul : ISOA	**Isu** : The present deadline to submit import manifest (K4) to KDRM is prior discharge of cargo or 24 hrs after vessels actual time of arrival. The shipping community has been advised that this rule will be changed to 48 hrs before actual time of vessels arrival to facilitate pre-clearance. If this is true, it will increase cost of transportation esp. cargo from regional ports (ASEAN) and transshipment cargo via Sinagpore. We will have to hold cargoes at these locations to confirm actual loading of vessels as transit time is less than 24 hrs, so as to ensure submission of manifest within 48 hrs. This will have a negative impact on the efficiency of the supply chain and making it more expensive to provide shipping services. **Cadangan ISOA (*Recommendation*) :** KDRM to review the current process of validating K1 against K4 at the front end and to conduct the validation as a back end process. In doing so, it will facilitate pre-clearance and at the same time, there is no need to change the timeline for submission of K4

1c.	Tajuk : **Submission Of House Manifest (K4, K5, K6) by Freight Forwarders** Usul : ISOA	**Isu** : Presently, the freight forwarders are allowed to submit house manifest to SMK by using the BZ codes issued by the Port Klang Free Zone Authority (LPK). There are a number of problems encountered by UKM (Unit Kawalan Manifest) but they are unable to address the issues directly with the forwarders as KDRM did not license them. **Cadangan ISOA (*Recommendation*) :** Recommend that KDRM license all freight forwarders as they are an integral player in the supply chain. Alternatively, we suggest the Free Zone Authority regulate the freight forwarders, as under the Free Zone Act, the manifest is under the jurisdiction of the Free Zone Authority.
2.	Tajuk : **Cumbersome Procedures for the Approval of Alchohol & Tobacco License** Usul : ACCCIM	**Isu** : Consequent upon the reinstatement of the issuance of alcohol & tobacco license with effect from July 2008, applicants are facing cumbersome procedures and irrelevant questionnaires imposed on the application forms resulting in approval taking months to obtain. **Cadangan ACCCIM (*Recommendation*) :** To urge the Customs to simplify the procedure and for trade facilitation to approve new licenses, renewals, applications for additional import quantities and new procedures, to within 2 weeks. The applications and approvals should be processed at State Customs Stations.

3.	Tajuk : **Declaration Through EDI** Usul : ACCCIM	**Isu** : The declaration through EDI has run for few years, yet the system at certain Customs Stations are not 'paperless'. Customs forms are still required to be printed and submitted. **Cadangan ACCCIM (*Recommendation*) :** The department need to seriously consider streamlining all stations under one procedure and normal paper accepted for reference and do away with Customs forms.
4.	Tajuk : **Import Shipments Subjected To Approved Permits (Aps)** Usul : ACCCIM	**Isu** : Import shipments subjected to Approved Permits (APs) through Port Klang or Penang are cleared irrespective of the ports or terminals of discharge. However for imports through Johor the port of entry need to be mentioned in APs be it Port of Tanjung Pelepas (PTP) or Port of Pasir Gudang, thereby hampering clearance should the physical landing differ from the APs' port of entry. **Cadangan ACCCIM (*Recommendation*) :** To urge the Customs to facilitate clearance at any terminals in Johor irrespective of the place of import mentioned in APs as importers are not in control of carriers' port of call which depends on the bookings of exporters at load port.

5.	Tajuk : **Pemindahan Barang-Barang Secara 'In-Transit' Menggunakan Borang Kastam No.8** Usul : FMFF	**Isu** : Pemindahan barang-barang secara 'in-transit' menggunakan Borang kastam No.8 dari / ke Langkawi tidak dibenarkan di pecah sil Kastam di Pelabuhan Kuala Kedah. Kenderaan berkunci hendaklah bergerak terus ke stesen berkenaan. Surat dari KDRM Bahagian Kastam/Perindustrian, Kompleks Kastam Aras2, Persiaran Sultan Abdul Hamid, Alor Setar, Kedah – Ruj. KE.KB(05)690/02/ (11) bertarikh 01-02-2008. **Cadangan FMFF (*Recommendation*) :** <u>Rasional</u> Permindahan barang ke Langkawi melalui Pel. Kuala Kedah memerlukan sekurang-kurangnya tiga (3) hari transit. FMFF berpendapat tidak menasabah bagi sebuah van berkunci yang membawa satu kotak yang melebihi 100 kg. menyeberangi Kuala Kedah ke Langkawi tanpa dibenarkan memecahkan sil di Pelabuhan Kuala Kedah. Kos sebuah kenderaan bermuatan penuh dengan muatan satu kotak adalah berbeza dan kos pengangkutan akan meningkat dan tidak kompetitif. <u>Cadangan</u> Kenderaan bermuatan penuh (FCL) saja tidak dibenarkan dipecahkan sil kastam di Pelabuhan Kuala Kedah manakala kenderaan yang tidak bermuatan penuh (LCL) dibenarkan dipecahkan sil .

6.	Tajuk : **Permohonan Kerja Lebih Masa** Usul : FMFF	**Isu** : Permohonan kerja lebih masa dikehendaki pada hari Sabtu, Ahad dan cuti umum di stesen kawalan kastam di ZPB, GPB dan Pengudangan. Permohonan kerja lebih masa telah mengundang banyak masalah dari segi jadual perlepasan yang tidak konsisten dari pengilang dan ketidakhadiran kakitangan pada masa tertentu yang bertugas pada masa perlepasan tersebut. **Cadangan FMFF (*Recommendation*) :** <u>Rasional</u> Pihak swasta dan pengilang-pengilang yang berada di stesen kawalan kastam di ZPB, GPB dan Pengudangan masih beroperasi pada hari tersebut dan pihak kastam dikehendaki sentiasa berada di stesen perlepasan untuk memudahkan permidahan / perlepasan dibuat tanpa ada kelewatan. <u>Cadangan</u> Pihak kastam diminta bekerja pada hari tersebut tanpa perlu memohon kerja lebih masa bagi memudahkan permidahan / perlepasan tanpa kelewatan dari mana-mana pihak.

7.	Tajuk : **Surat Kastam Kepada Agen-Agen Penghantaran Untuk Mendapatkan Penjelasan** Usul : FMFF	**Isu** : Surat Kastam kepada agen-agen penghantaran untuk mendapatkan penjelasan / pengesahan terima masuk di stesen penerima setelah perlepasan / permindahan melebihi sebulan hingga setahun lamanya. Tindakan tegas akan diambil sekiranya gagal berbuat demikian dan tempoh tertentu diberikan selama 7 hari dan ada juga 14 hari. Isu ini telah berlarutan beberapa tahun yang lepas sehingga ke hari ini. **Cadangan FMFF (*Recommendation*) :** <u>Rasional</u> Secara rasionalnya dalam sesuatu tempoh yang agak lama sukar untuk mendapatkan dikumen-dokumen dengan segera atau tempoh yang dihadkan. Butir-butir barangan dagangan yang diberi gagal membantu untuk mempercepatkan pencarian dokumen tersebut. Dalam isu ini pihak agen penghantaran dapat menjelaskan dan membuktikan pengesahan terima masuk barangan dagangan pada hari dan di stesen penerima tersebut. <u>Cadangan</u> Pihak kastam diminta rujuk kepada DNT sekiranya system SMK dapat membantu menangani isu dengan lebih teratur dan memudahkan semua pihak. Pihak agen akan dapat maklum balas dengan segera dari sistem SMK sekiranya perlepasan / permindahan belum disahkan terima masuk (*Temporary Release*) di stesen penerima.

8.	Tajuk : **Proses Permohonan Perlantikan Agen** Usul : FMFF	**Isu** : Proses permohonan perlantikan agen mengambil masa tiga (3) hari di Pulau Pinang walhal di Pelabuhan Klang selama satu (1) hari bekerja saja. **Cadangan FMFF (*Recommendation*) :** <u>Rasional</u> Sekiranya proses permohonan di Pel. Klang mengambil masa satu hari bekerja saja, maka tidak ada sebab di Pulau Pinang tidak boleh. <u>Cadangan</u> Pihak kastam diminta menyeragamkan proses permohonan satu hari bekerja ke seluruh negeri termasuk Malaysia Timur.
9.	Tajuk : **Deklarasi Berkualiti** Usul : FMFF	**Isu** : Perkara tersebut hampir berlaku di semua stesen operasi kastam yang terlibat. Ini mengakibatkan berbagai implikasi dari segi pungutan hasil, perangkaan serta kegagalan untuk mendapatkan pulang balik duti jika berlaku. **Cadangan FMFF (*Recommendation*) :** Dicadangkan agar satu kempen bersepadu dilaksanakan di antara pihak Persatuan Pegawai Kastam, FMFF (ahli-ahli FMFF) serta FMM untuk mengadakan 'Workshop' di seluruh negara dengan dimestikan setaip pekerja yang terlibat dengan deklarasi dagangan import, eksport serta pemindahan, GBA, LMW serta CJ menghadiri kursus intensif tersebut.

10.	Tajuk : **Penglibatan Pihak Persatuan Sebelum Sesuatu Implementasi Oleh KDRM** Usul : FMFF	**Isu** : Perkara tersebut telah acapkali diutarakan oleh pihak persatuan namun secara puratanya pihak persatuan tidak terlibat dengan sesuatu implementasi yang khasnya melibatkan system SMK. **Cadangan FMFF (*Recommendation*) :** Pihak FMFF mencadangkan agar sebelum sesuatu pertukaran atau mengimplemen system yang baru, pihak KDRM diperingkat Ibu Pejabat, stesen operasi serta pihak yang terlibat membincangkan secara mendalam khasnya dari segi perlaksanaan operasi di stesen yang terlibat. Dengan pendekatan tersebut tidak berlaku pencanggahan serta ketidaksesuaian apabila diimplemen.
11.	Tajuk : **Pemeriksaan Kastam Bagi Semua Shipment Eksport (Kontena Kosong)** Usul : CRSA	**Isu** : CRSA bagi pihak syarikat-syarikat perkapalan di Pelabuhan Kelang mencadangkan agar semua shipment eksport bagi kontena kosong dari Pelabuhan Klang, pemeriksaan Kastam dijalankan di pintu masuk (gate) pelabuhan, ketika kontena masuk, bukan di Examination Bay selepas kontena masuk ke dalam pelabuhan. **Cadangan CRSA (*Recommendation*) :** Cadangan ini selari dengan izin Kastam (sekarang) untuk membenarkan pemeriksaan Kastam dijalankan di pintu keluar (gate) pelabuhan bagi semua shipment import kontena kosong ke Pelabuhan Kelang.

12.	Tajuk : **CEPT Rates for Intermediary Products sold by LMWs** Usul : FMM	**Isu** : Licensed Manufacturing Warehouses (LMWs) that sell finished products to local companies are permitted to apply for ASEAN CEPT import duty rates of between 0 – 5 % for their local sales. LMWs are not entitled to this facility if non-finished products i.e. scrap and intermediary products are sold to local companies. **Cadangan FMM (*Recommendation*) :** Malaysian companies that import intermediary products / non-finished products from ASEAN countries are entitled to ASEAN CEPT rates of duty. To enable fairer competition, FMM is of the view that intermediary products & non-finished products sold to the local market by LMW companies should benefit from CEPT rates similar to that of imported products from ASEAN.

13.	Tajuk : **Extend Drawback Section 93 to Include Repacking Activities.** Usul : FMM	**Isu** : Section 93 of the Customs Act 1967 permits import duty drawback on inputs and finished products used in the manufacture or packaging of the goods for exports. However drawback is not permitted if the goods are imported in bulk packing and then repacked into various packaging based on customer specification for re-export. Companies are required to obtain import duty and sales tax exemption from the Ministry of Finance. The exemption process is tedious and time consuming and would add to the costs of doing business. For instance, a stationary manufacturer that manufactures pens and markers often complements its product range by importing other relevant products (pencils, correction pen, sharpener and new model pens). These imported products which are dutiable are then repacked with the locally produced products according to the required products **Cadangan FMM (*Recommendation*) :** The drawback facility should be extended to include repacking activities which would enable companies to pay duty upfront for the goods imported in bulk and claim from drawback upon exportation. To assist Customs to extend this facility to eligible exporters, the Customs Export Declaration – K 2 should clearly specify contents of product exported.

14.	Tajuk : **Penggunaan Serta Kekurangan Komputer Oleh Stesen Operasi Kastam** Usul : FMFF	**Isu** : Dengan adanya sistem SMK di semua stesen yang unggul didapati perkakas komputer yang dibekalkan di stesen operasi Kastam tersebut telah uzur serta tidak mencukupi. Oleh yang demikian, ianya menyebabkan kelewatan tindakbalas ke pihak klien dan ini mengakibatkan kelewatan pelepasan dagangan. Fenomena ini hampir berlaku di semua stesen Kastam yang unggul seperti Pelabuhan Klang, Pulau Pinang, Johor serta di Malaysia Timur. Pada setiap perbincangan ataupun mesyuarat yang diadakan di stesen-stesen yang terlibat, kerapkali kami diberitahu mengenai keadaan tersebut dan jawapan yang diberi adalah tidak ada bajet untuk membeli perkakas yang baru serta terkini. Didalam era komputer penggunaan perkakas terkini amatlah mustahak untuk mencapai kepantasan pelepasan dagangan khasnya di stesen yang mempunyai banyak transaksi. **Cadangan FMFF (*Recommendation*) :** Dicadangkan agar pihak stesen operasi Kastam yang terlibat memberikan jumlah perkakas baru yang diperlukan bersesuaian dengan jumlah transaksi yang terlibat agar dapat dipanjangkan perkara tersebut ke pihak yang dapat membuat keputusan seperti EPU, PEMUDAH serta Yang Berhormat Menteri Kewangan.

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<td>15.</td>
<td>Tajuk : Confusion On Service Tax

Usul : MACS</td>
<td>Isu :
With the abolition of threshold for service tax on professional, consultancy and management services since the beginning of the year, there appears to be a confusion of whether service tax should be charged or not by the following ‘person’ providing a taxable service.

e.g. A retired company secretary provides secretarial and clerical services for only one or two companies (on part time basis) and he charges a retainer fee for acting as the company secretary and a fee for providing clerical assistance on an ad-hoc basis to the company. He does not register his business and does not have a business address to operate.

Under the above situation, our members have been advised by Customs Officers that the ‘person’ is not required to be licensed by Royal Customs of Malaysia as a service provider and thus not required to collect the required service tax.

We wish to seek your clarification on the correctness of the advice as to our understanding the ‘person’ includes an individual, a firm, an association of persons, a company and every other juridical person.

Cadangan MACS (Recommendation) :
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16.	Tajuk : **Service Tax On Advertising Service** Usul : MACS	**Isu** : MACS refers to the letter dated 10 September, 2008 issued by the Pengarah Kastam Negeri, Wilayah Persekutuan, Kuala Lumpur, Bahagian Cukai Dalaman, Cawangan Pengkuatkuasaan Pelesenan to advertising companies entitled "Jadual Kedua Peraturan-Peraturan Cukai Perkhidmatan 1975 Di Bawah Subtajuk III Butiran 3 – Prinsip Percukaian Ke atas Perkhidmatan Pengiklanan. " Before the issuance of the above letter, service tax on advertising service is only charged on the advertising fees (professional fees/rental of advertising space, etc.). This principle of computing service tax also applies to the vehicle repair workshops where service tax is not charged on spare parts used in the repair. **Cadangan MACS (*Recommendation*) :** MACS is of the view that the retrospective imposition of service tax effective from 1 August, 2008 will cause a lot of hardship and difficulty in implementation as invoices may have already been issued and fees for advertising services may also have been collected. Consequently, the imposition of any form of service tax which is retrospective in nature is both unfair and flawed. MACS is of the view that the same principle of computing service tax should be accorded to all businesses and industries. The imposition of service tax on goods obtained from licensed manufacturers for use in advertising industry appears to deviate from this principle. MACS therefore appeals that the Royal Customs of Malaysia reconsiders the implementation of the principles of taxation on advertising services.

17.	Tajuk : **Procedures in Carrying Out Inspections / Raids.** Usul : FMM	**Isu :** Section 9 of the Customs Act 1967 permits Customs officers to conduct inspections / raids in plain clothes and only badges or authority cards will be shown to gain access into company premises. **Cadangan FMM *(Recommendation)* :** To avoid possible abuse of the authority card and ensure that the inspections / raids are carried out in a legal manner, FMM request that Customs officers produce an official letter of authorization to conduct the raid. The letter should also indicate the purpose of the raid.
18.	Tajuk : **Banker's Guarantee imposing 3 times against the face value of cheque issued for payments of duties.** Usul : ACCCIM	**Isu** : - **Cadangan ACCCIM (*Recommendation*) :** To seek the Customs to consider accepting Banker's Guarantee (B/G) for payment of equivalent duties instead of imposing 3 times against the value of cheque issued

19.	Tajuk : **Customs Verification Initiative (CVI)** Usul : FMFF	**Isu** : Apakah keberkesanan Customs Verification Initiative (CVI) sejak ditubuhkan? Sudikah pihak Kastam berkongsi maklumat dengan pencapaiannya setakat ini mengikut negeri (success factor and focus point for Customs purposes) **Cadangan FMFF (*Recommendation*) :** -
20.	Tajuk : **Systems At Certain Customs Stations Are Not Paperless. Customs Forms Are Still Required To Be Printed And Submitted** Usul : ACCCIM	**Isu** : The declaration through EDI has run for a few years, yet the system at certain Customs stations are not "Paperless". Customs forms are still required to be printed and submitted. **Cadangan ACCCIM (*Recommendation*) :** The departments needs to seriously consider streamlining all stations under one procedure and normal paper accepted for reference and do away with Customs Forms
21.	Tajuk : **24 Hours Common Mobile Hand-phone** Usul : AFAM	**Isu** : There have been numerous occasions when office telephone lines are not answered especially after midnight. This then affects the clearance of goods at the various stations. Some senior Customs officers are also reluctant to offer their mobile numbers as it may be their own private numbers. There are also instances when senior Royal Malaysian Customs officers are transferred to different stations and as such contacting them via their mobile numbers becomes cumbersome **Cadangan AFAM (*Recommendation*) :** Royal Malaysian Customs should introduce a central Hotline mobile number at each station. This will then allow a central point of contact and would not affect the operations even if there is a transfer of personnel

22.	Tajuk : **Service Level Agreements** Usul : AFAM	**Isu** : There has not been any consistency in the service levels at various entry points. This of course could be due to the fact that there are some peculiarities at different stations. There should however be a published service level agreement at each station clearly spelling out exactly the expected service levels for the guide of the forwarding agents **Cadangan AFAM (*Recommendation*) :** A service level agreement needs to be drawn up and published at each RMC station. RMC should as far as possible try to standardize these service level agreements so that there are consistency at all stations. This would then ease the operations of the forwarding agents even if their staff are transferred from one station to the other
23.	Tajuk : **Correspondence** Usul : AFAM	**Isu** : We have had many of our correspondences not replied to officially. Non reply of correspondences only leaves the issues unresolved and affects the industry. We then have to resort to escalate these issues to the next highest authority which is only affecting productivity and delays in resolving the issues. **Cadangan AFAM (*Recommendation*) :** An official guideline must be issued by the Royal Malaysian Customs Headquarters on the maximum time allowed for reply of correspondences. Action should also be taken for non compliance of this guideline.

24.	Tajuk : **Import Of General Cargo Not Meeting Specifications** Usul : AFAM	**Isu** : There are instances when some general cargo shipments imported do not meet the required specifications and standards as required by the various government agencies. These are then detained by the Royal Malaysian Customs. The importers then suffer losses as these goods are not allowed to be returned to origin for claims or replacement. The importers should not be held to ransom as they are not aware that their exporters shipped goods which do not conform by the standards set out by the Malaysian authorities although their instructions were for compliance **Cadangan AFAM (*Recommendation*) :** All general cargo which do not meet the required specifications and standard spelled out by the Malaysian government agencies must be allowed to be returned to origin so that the importers do not incur financial losses and they can then seek replacement goods.

25.	Tajuk : **Public Bonded Warehouses** Usul : AFAM	**Isu** : RMC has changed the criteria for the approval of Public Bonded Warehouse licenses. They are now imposing criteria's as follows for Critical Items: 1. Value of goods stored in 1 year to be of a minimum value of RM 3.5 million. 2. Bank guarantee of 10% of the total tax involved over a period of 1 year. This new requirement for value of goods over a period of 1 year is unrealistic and has got no business relevance. The need for bank guarantee of 10% of the total tax is also unjustified as it only ties up the companies cash reserves and would affect their cash flow. There are also minimum size criteria's which have now been included which defeats the purpose in these difficult economic times. **Cadangan AFAM (*Recommendation*) :** These new criteria should be removed from the requirements for issuance of Public Bonded Warehouse License. In addition, the associations and industry must be consulted prior to policy changes.
26.	Tajuk : **Forwarding Agents Main License** Usul : AFAM	**Isu** : The Royal Malaysian Customs station Port Klang have imposed strict instructions that only Forwarding Agents who have physical offices in Port Klang can be issued with Forwarding Agents license. Forwarding agents who have their Forwarding Agents main license issued by Wilayah are not allowed to extend their license to cover Port Klang operations. There is however no restrictions for Forwarding Agents who have their Forwarding Agents main license issued by Port Klang to have physical presence in KLIA. **Cadangan AFAM (*Recommendation*) :** Forwarding Agents who have their main license in Wilayah should be allowed to extend their license to cover Port Klang operations

27.	Tajuk : **Forwarding Agents License** Usul : AFAM	**Isu** : There are forwarding agents who have yet to install the EDI system although it is a prerequisite in their day to day operations. This type of operations should not be allowed to continue as it seems that they are only lending their license to others. **Cadangan AFAM (*Recommendation*) :** A new criterion should be added to the requirements for the issuance of forwarding agents license where it is to be made mandatory that these forwarding agents install the EDI systems within 6 months of issuance of the license
28.	Tajuk : **Standardise Procedures for Re-importation of Goods that Can Be Reused** Usul : FMM	**Isu** : Plastic and steel pallets, drums, protective pads, spools, bobbins, polyurethane foams, paper or plastic layer pads, metal or plastic racks, are used by manufacturers as part of the packaging to avoid finished goods from being damages during exports. In order to reduce costs, manufacturers often re-import these packaging materials to be reused for future exports. **Cadangan FMM (*Recommendation*) :** Goods manufactured and exported by Malaysian companies should not be imposed with sales tax and import duty when the goods are brought back into Malaysia, reused and then exported. There are currently provisions in the Customs Laws i.e. Section 51, 52, 58 and 68 of Customs Duties Order (Exemption) 1988 and Section 51, 54, 55, 74 and 75 of the Sales Tax (Exemption) Order 1980 that provides for recycle products to be brought into Malaysia free of import duty and sales tax. However exemption of the duty and sales tax is based on the discretion of Customs officers at the point of importation. FMM suggest that the Customs Department develop clear guidelines on the procedures to bring in goods which will be reused and further exported.

LAMPIRAN

MAKLUMBALAS OGA MENGENAI KEPERLUAN LESEN IMPORT BAGI PENGIMPORTAN SEMULA (REJECTED GOODS)

No.	OGA	Maklumbalas	Catatan
1.	Lembaga Perusahaan Kayu Malaysia (MTIB)	masih perlu permit walaupun pengimporrtan semula	Tiga jenis kayu iaitu kayu balak, Large scantling and squares (LSS) dan Baulks sahaja yang tertakluk kepada lesen import.
2.	Jabatan Perkhidmatan Veterinar	Pengimportan semula masih perlu mendapat permit Sanitary & Phyto sanitary (SPS)	Isu-kesihatan orang awam
3.	Jabatan Kuarantin	Permit masih diperlukan untuk pengimportan semula	Isu-kesihatan orang awam
4.	FAMA	Permit masih diperlukan untuk pengimportan semula	Isu-kesihatan orang awam
5.	Jabatan Alam Sekitar (JAS)	Lesen import semula hanya bagi barangan buangan terjadual sahaja.	Isu- keselamatan orang awam
6.	Bahagian Keselamatan & Kualiti Makanan	Tiada permit dikeluarkan, hanya kelulusan semasa pengimport semual.	Isu-kesihatan orang awam
7.	Lembaga Minyak Sawit Malaysia	Permit masih diperlukan untuk pengimportan semula	Isu-kesihatan orang awam, lesen boleh dikeluarkan dalam tempoh satu minggu.
8.	MITI	Bersetuju tidak kenakan permit untuk pengimportan semula.	

Refund of service tax/sales tax paid on bad debts
Utilisation of offset mechanism

1. Introduction

Prior to 1 January 2003 there is no provision under the Service Tax Act 1975/Sales Tax Act 1972 to allow for the refund of service tax/sales tax paid on bad debts.

Effective from 1 January 2003, the Service Tax Act 1975/Sales Tax Act 1972 have been amended to include provision of bad debts refund.

Effective 1 January 2007, Regulation 16A of the Service Tax Regulations 1975/Regulation 19D of the Sales Tax Regulations 1972 have been amended to relax certain conditions for refund of service tax/sales tax on bad debts.

Provision of refund on bad debts is much welcomed by the service tax/sales tax licensees. At the same time, some service tax/sales tax licensees have experienced difficulty in complying with certain conditions imposed.

The objective of this paper is to highlight such difficulties and proposed solutions to address the same.

2. The legislation

The provisions for refund of service tax/sales tax in the relevant legislations are:-

- Section 21B of the Service Tax Act 1975;
- Regulation 16A of the Service Tax Regulations 1975;
- Section 31C of the Sales Tax Act 1972; and
- Regulation 19D of the Sales Tax Regulations 1972.

In summary, a bad debt is defined as "outstanding amount for payment in respect of the provision of taxable service/sale of taxable goods including service tax/sales tax which is due to the person but has not been paid to, and is irrecoverable by the person".

To make a claim for refund of the service tax/sales tax on bad debts:-

- Service tax or sales tax has been paid on or after 1 January 2003;
- The whole or any part of the debt has been written off as bad debt (effective1 January 2003)/ provided for in the accounts as doubtful debts (effective from 1 January 2007); and
- The Director General is satisfied that all reasonable efforts have been made to recover the service tax or sales tax.

Claims are to be made within a period of 6 years from the date the service tax/sales tax is paid.

3. Refund process by Customs

Whilst the legislation is silent on what constitute reasonable effort to the satisfaction of the Director General, Customs have interpreted such effort as :-

- Sending of registered reminder letter to debtors at least twice (for debt below RM 500);
- Sending of letter of claim notice through lawyer firm (for debt between RM 501 to RM 10,000);
- Legal process of claim in court (for debt more than RM 10,000);
- Letter of confirmation from the certified accountant ("Akauntan Berdaftar") for refund claim less than RM10,000; and
- Letter of confirmation from the chartered accountant ("Akauntan Bertauliah") for refund claim more than RM10,000.

The claimant is also required to submit the following documents to facilitate the processing for such claim:-

- Letter of application (mentioned name of bank, address and account number);
- Gazetted form for the claim of service tax/sales tax refund (Form JKED 2);
- Statement of claim (original copy & photocopy);
- Sales invoices (original copy & photocopy); and
- Service tax/sales tax return forms (Forms C.P No 3/Forms CJ. No. 3/Forms CJP/ No.1) (original copy & photocopy).

4. Practical issues faced by the service tax/sales tax licensees

The provision of bad debt refund provides an avenue to the service tax/sales tax licensee to seek a refund. However, in the process of obtaining the refund, the service tax/sales tax licensees face difficulties in complying with the onerous conditions imposed by the Customs authorities. Amongst the difficulties faced were: -

- The requirement to complete the statement of claim ("penyata tuntutan") for each debtor.
- The requirement to submit all original copy and photocopy of sales invoices.

For certain industry with high volume of transactions with hundreds or thousands of debtors, complying with the above requirement is a tremendous task/near to impossible.

In addition, the officer in charge in processing the refund claim may request for certain amount of claim to be deleted solely based on the fact that the debtor involved government agencies and there is no such excuse of non collection, oblivious to the definition of bad debts provided in the legislation.

The procession of the application could take up a long time (up to 3 years) with numerous presentations made to different group of customs officers to make them understand the billing and collection processes.

We also understand that where the amount of refund is significant, the claimant will have to wait until fund is available/provided by the Treasury before it can be disbursed.

5. Proposed solutions

It is proposed that the conditions for submission of original invoices and the statement of claim for each debtor to be waived. Instead, the claimant may provide a list of invoices for verification by the Customs authorities where required.

It is also proposed that the licensees be allowed to offset the amount of refund through their bi-monthly returns. Before the offset is allowed, the claimant will submit the following: -

- An application for utilizing offset mechanism be submitted to Customs
- The amount of refund to be offseted.

Each application should be processed by Customs within 90 working days from the date of application.

Once approved, the taxable person can proceed to deduct the amount of refund from his payment of service tax

In the event that the amount of refund exceeds the service tax payable in a particular taxable period, the balance will be carried forward to the next taxable period till the whole amount approved has been fully offset against the tax payable.

Customs is to carry out an audit on periodically basis to ensure that the offset is done appropriately.

The offset facility is a good alternative in order to strengthen company's cash flow position and subsequently help to reduce cost of doing business. Most companies will view it as one of the solution to shorten the period of getting back the excess service tax/sales tax that has been paid to Customs. At the same time, the offset mechanism will reduce the workload of Customs in processing/forwarding the refunds to the applicants.

It is the company's responsibility to maintain proper documentation/records pertaining to the claim and offset for future audits by Customs.

We opined that the implementation of the offset mechanism for bad debt refunds will not risk Customs revenue due to the fact that both sales and service taxes are self assessed. The licensees are given the responsibility to self-assess/pay the taxes bimonthly. There are sufficient provisions in both the legislations to penalise defaulters.

Furthermore, the offset mechanism is already in place some time back and is currently being used by the insurance industry.

LAMPIRAN 3

IBU PEJABAT KASTAM DIRAJA MALAYSIA,
BAHAGIAN PERKHIDMATAN TEKNIK,
CAWANGAN PERAKAUNAN HASIL
(UNIT PEMERIKSAAN AKAUN)
KOMPLEKS KEWANGAN MALAYSIA, PRESINT 2,
PUSAT PENTADBIRAN KERAJAAN PERSEKUTUAN,
62592 PUTRAJAYA .

NO. TEL : 03 – 88822428/24480
NO. FAX : 03 – 88895910
E-MAIL : Kastam@customs..gov.my

Ruj. Kami : KE.HT(114)462/08/KLT2 (78)

Tarikh : 1 *Julai 2008*

Semua Pengarah Kastam Negeri

Semua Ketua Cawangan Pemeriksaan Akaun

Datuk/Dato'/Tuan/Puan

'SURAT PEMAKLUMAN' KEPADA SYARIKAT/PELESEN BAGI MEMAKLUMKAN BAHAWA PEMERIKSAAN AKAUN TELAH SELESAI

Dengan hormatnya adalah saya merujuk kepada perkara diatas.

2. Dimaklumkan bahawa satu usul telah dibawa oleh Syarikat didalam satu Mesyuarat Panel Perundingan Kastam – Swasta Bil. 1/2008, berhubung dengan ketiadaan Surat Pemakluman apabila Pemeriksaan Akaun telah selesai dijalankan. Oleh yang demikian Ibu Pejabat telah memutuskan agar semua Cawangan Pemeriksaan Akaun negeri hendaklahlah mengeluarkan surat pemakluman sebaik sahaja pemeriksaan telah selesai. Bersama-sama ini dilampirkan Contoh Surat Pemakluman sebagai panduan negeri-negeri dan ianya berkuatkuasa serta-merta.

Sekian . Terima kasih.

' BERKHIDMAT UNTUK NEGARA '

(HJ. WAN DIN BIN WAN HASSAN)
Timbalan Pengarah Kastam Negeri,
Cawangan Perakaunan Hasil,
b.p. Ketua Pengarah Kastam,
Malaysia

JABATAN KASTAM DIRAJA MALAYSIA
CAWANGAN PEMERIKSAAN AKAUN
....
....
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Tel : ....
Fax : ....
Telex : ....
Email : ....

Ruj. Kami :
Tarikh :

Kepada,
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Tuan,

PEMERIKSAAN AKAUN KEATAS SYARIKAT......

Dengan hormatnya adalah saya merujuk kepada perkara di atas.

2. Sukacita dimaklumkan Pemeriksaan Akaun dari ....(tarikh) hingga ....(tarikh) telah selesai dijalankan keatas Syarikat tuan.

3. Saya bagi pihak Jabatan mengucapkan ribuan terima kasih diatas kerjasama yang diberikan semasa Pemeriksaan Akaun baru-baru ini.

Sekian, terima kasih

"BERKHIDMAT UNTUK NEGARA"

Saya yang menurut perintah,

( )
Cawangan Pemeriksaan Akaun
b.p Pengarah Kastam Negeri
....