CHARTERED TAX INSTITUTE OF MALAYSIA

FEEDBACK FROM CTIM ON GOODS AND SERVICES TAX REGULATIONS 2014 ("GST REGULATIONS")

NO.	ISSUES	COMMENTS	CTIM QUERIES AND/OR RECOMMENDATIONS
I.	**GOODS AND SERVICES TAX REGULATIONS 2014**		
1.	**Transfer of land** Regulation 4	Regulation 4 refers to subparagraph 2(1) of the First Schedule of the Act which stipulates the criteria for treating the transfer of land as supply of goods.	For clarity, the criteria for transfer of land under subparagraphs 2(1)(a) and 2(1)(c) should clearly state whether transfer of ownership of land means transfer of "beneficial ownership" and not necessarily "legal ownership" or "legal title".
2.	**Supplies of goods and services between connected persons** Regulation 9(3)	A holding company that has provided continuous management services or has transferred land, to its related company which is not entitled to claim input tax credit, is now required to issue a tax invoice to the latter every 3 months. Consequently, the holding company will have to account for output GST in its GST return and pay GST to the RMCD. Since the recipient is not entitled to claim input GST, this will put a major financial strain on the business of the group as a whole. To be cost effective, to achieve economies of scale and to avoid duplication, it is common for the holding company to provide bookkeeping, accounting and management services on an ongoing basis to its subsidiaries. Such policy would not be viewed as business friendly and may affect foreign investment.	GST relief should be given for management services (e.g. bookkeeping, accounting, treasury, etc) provided to companies within a group in order to achieve the effect similar to the current service tax treatment of not charging any service tax for inter-company management services.
3	**Supplies In Relation To Construction Industry** Regulation 11(a) provides that *"in the case where a certificate in relation to any work done is not required pursuant to the contract, a*	Sometimes constructions companies are not aware of the existence of the certificate until a much later date and thus compliance with this provision could sometimes be impractical.	CTIM would like to seek clarification from the MOF/RMCD on the following: • The time of supply is unclear where a certificate is not required and the consideration is not wholly in money. Would the time of supply be considered as the date of issue

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	supply shall be treated as taking place at the earlier of the following time: *(i) when a payment is received by the supplier where the consideration for the contract is wholly in money; or* (ii) *when the supplier issues a tax invoice,*" Regulation 11(b)-(c) provides the date of tax invoice as the time of supply where the tax invoice is issued within 21 days from the date of the issuance of certificate of work done. Otherwise, the date of certificate of work done is taken as time of supply.		of a tax invoice? • When payment is made periodically: whether time of supply is treated as taking place each time a part payment is made? • Whether "payment" includes inter-company offsetting, or contra of outstanding balances, or passing through accounting double entries, or crediting one's bank account by way of telegraphic fund transfer in the banking system? • When no-cash payment is made, or a combination of cash and non-cash payments are made, whether time of supply is the earlier of − ➢ the time when value of the non-cash portion is ascertained, or ➢ the time when the exchange takes place?
4	**Group Registration** Regulation 19(1) stipulates that "*Companies are eligible to be treated as members of a group if they satisfy the following conditions:* (a) *one company controls each of the other companies or any individual or individuals carrying*	(i) In the case of subsidiaries of a local holding company, can the subsidiaries form a group without the local holding company being part of that group (for e.g. if the holding company does not make wholly taxable supplies)? Regulation 19(1) is unclear in this regard (ii) It is common for a MNC to have shared services re-charged to Malaysian subsidiaries such as accounting, internal auditing, payroll, legal, etc. in accordance to the arms' length principle. The recipient who derives	(i) We would like to request for the RMCD to issue a public statement to clarify the position. (ii) Refer to our comments on item 2 above.

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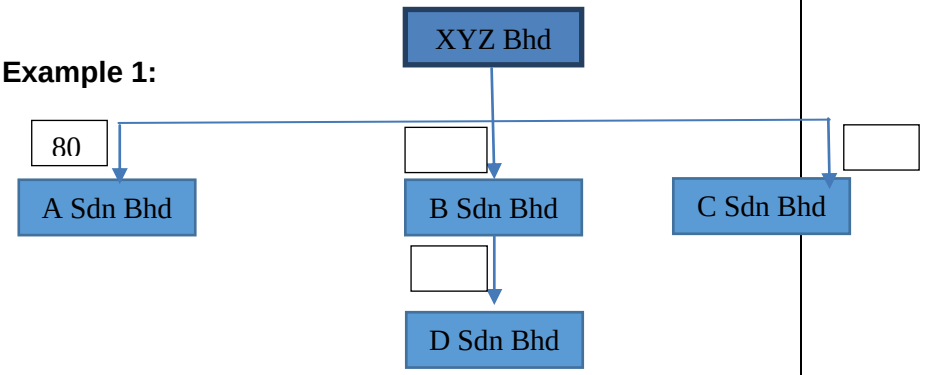
	on business in partnership controls all of the companies; *(b) each company is registered under the Act and makes wholly taxable supplies; and* *(c) such company is not treated as a member of another group."* Regulation 19(2) further provides "*Any company which is under the control of a company belonging to another country other than Malaysia is eligible to be treated as a member of a group if the company satisfies the following conditions:* *(a) the company is registered under the Act and makes wholly taxable supplies and* (b) *the company is not treated as a member of another group."* Further, paragraph 50 of the GST Guide on Registration (23 April 2014) provides that foreign companies which are not established in Malaysia cannot become members of a group. This is further explained in Example 1 and 2 of the GST Guide.	benefit from centralised services has to account for ***GST on imported services*** under recipient accounting. Supplies made between members of group companies under Group Registration regime are disregarded for GST purpose. However, foreign companies are not eligible for group registration and this will therefore increase the costs of compliance for the Malaysian subsidiaries. (iii) Based on wordings of the GST Regulations 2014, it is understood that the GST grouping is determined by the percentage of effective shareholding in a company. This is elaborated in the GST Guide for Registration (Examples 1 and 2 on page 21), as shown below: **Example 1:**  XYZ Bhd has direct control over A and B, and also controls D indirectly through B. Companies XYZ, A, N and D can register for GST as a group. Since C is not controlled by XYZ, therefore, it is not eligible as a group member. **Example 2:**	(iii) Amend GST Regulations to ensure that it is consistent with Section 5 of the Companies Act 1965.

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		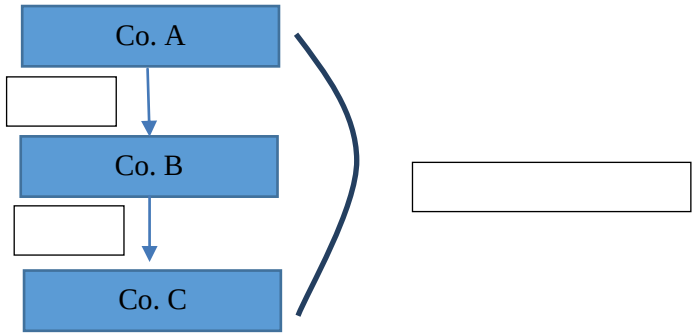 Company A has direct control over B (80%) but it has no control over company C (48%). For GST registration purposes, companies A and B can form a group but company C is not eligible to be a group member. The above positions contradict the provision of the Companies Act 1965 which defines a subsidiary and holding company under Section 5 as follows: **Section 5 of Companies Act 1965 - Definition of subsidiary and holding company.** (1) For the purpose of this Act, a corporation shall, subject to subsection (3), be deemed to be a subsidiary of another corporation if – (a) that other corporation- (i) controls the composition of the board of directors of the first-mentioned corporation; (ii) controls more than half of the voting power of the first-mentioned corporation; or (iii) holds more than half of the issued share	

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		capital of the first-mentioned corporation (excluding any part thereof which consists of preference shares); or **(b) the first-mentioned corporation is a subsidiary of any corporation which is that other corporation's subsidiary.** Applying the provision in the Companies Act 1965 to Example 2 above, A, B and C are eligible to be grouped together by virtue of the fact that Company C being a subsidiary of Company B is deemed to be a subsidiary of Company A. **GST Grouping in other GST/VAT jurisdictions** Reference to the laws in Singapore and the UK indicate that there is no contradiction between grouping for Companies Act and GST purposes as the controlling equity criteria under the Companies Act is followed in the GST legislation. In addition, effective shareholding is not a criteria for grouping. The main criteria is to show that there is "control" in existence. So long as the companies are subsidiaries of another company, all the companies are eligible to be grouped together for GST / VAT purposes. The company law in Malaysia is similar to that of the UK and Singapore, but the GST Grouping concept differs. The GST Grouping for both Singapore and the UK are in line with their Companies Act unlike Malaysia. The different position under different Acts is likely to cause confusion.	

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5	**Self-billed invoice** Regulation 23		Regulation 23(2)(a) - … for a period which shall not be later than (i) the expiry of a period of 12 months; or (ii) the expiry of contracts… Please confirm our understanding of the Regulation based on the following examples: **Example 1** The contract between the supplier and the recipient is for 3 years, the RMCD can approve the self-billing agreement to last for 12 months or 3 years. **Example 2** The contract between the supplier and the recipient is for 6 months, the RMCD only approve the self-billing agreement to last for 6 months. **Example 3** The contract between the supplier and the recipient has no expiry date, the RMCD will only approve the self-billing agreement for 12 months.
6	**Issuance of Credit Note and Debit Note** Regulation 25	(i) Regulation 25(1) provides that either the supplier or recipient of a supply can issue a credit note or debit note where there is a change in the consideration for the supply after the GST return for the supply has been	Does it mean that a credit note or debit note can only be issued after the GST return for the supply has been furnished to the DG?

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		furnished to the Director General (DG) of the RMCD. (ii) Paragraph 65 of Guide on Insurance and Takaful (as at 8 May 2014) states that only the insurance agent (i.e. the supplier) can issue a credit note or debit note to adjust the consideration (commission) in a self-billed arrangement. Regulation 25(4): The requirements for credit notes to state the description, quantity and amount of the supply is onerous in the case of credit notes issued in respect of early payment discounts.	What if the company intends to amend the tax invoice issued before the GST return is filed (due to error or disagreement with supplier/customer)? What would constitute an adjustment in the course of business? To be consistent with Regulation 25, the Guide on Insurance and Takaful (as at 8 May 2014) should be amended to allow both the insurance agent and the insurance company to issue a credit note or debit note.
7	**Definition of "passenger motor car"** Regulation 34(1)(e) provides for the application to the DG for exclusion from the definition of passenger motor car	Para 10(a)(v) of the Guide on Input Tax Credit (27 Oct. 2013) implies that input tax credits may be claimed on 'pool cars' and this position is partly reflected in Regulation 34(e). However, it requires an approval to be sought from the DG. The need to seek approval from the DG each time a passenger car is acquired for use exclusively for business purposes in order to claim input tax credit is time-consuming and will drain the resources of the taxable person. It is inconsistent with the 'self policing' characteristic of the Malaysian GST model.	CTIM suggests that the conditions for input tax credit on pool cars be stipulated in a Regulation so that the credit can be claimed without having to make an application to the DG each time. For administrative efficiency, CTIM suggests that the conditions for exclusion from the definition of passenger motor car be published in the GST Guides/Public Rulings and the application for DG's approval be

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			removed.
8	**Disallowance Of Input Tax** Regulation 36 "*Input tax incurred by a taxable person shall be excluded from any credit under Section 38 of the Act in respect of any of the following*: (a) *the supply to or importation by him of a passenger motor car;* (b) *the supply of goods or services relating to repair, maintenance and refurbishment of a passenger motor car;*	(i) The scope of Regulation 36(b), which is a new insertion, is not clear. CTIM would like to seek confirmation that input tax credit may be claimed in respect of GST incurred in relation to car tinting, vehicle insurance, and other running costs, in particular the fuel cost. (ii) CTIM is of the view that directors or employees requires convenient and efficient transportation to meet the business demands such as meeting with clients, suppliers, government authorities, visiting and inspecting outlets and branches operations, attending conferences and promotional activities, etc. As such, company cars are generally subject to heavy wear and tear due to extensive business use. To disallow the input claims on repair, maintenance and refurbishment costs will increase the operating costs. This will impact the SME most because SME generally conduct their businesses based on personal relationship rather than depending on established organisational structure and procedures. (iii) Regulation 36(h) provides that input tax is not available on "entertainment expenses to a person other than employees or existing customers except entertainment expenses incurred by a person who is in the business of providing entertainment". The term "entertainment" in Regulation 36(h) is not defined in the Regulations. This will cause some confusion on the interpretation, drawing from the experience in the income tax law.	a) CTIM suggests that the **GENERAL GUIDE** and **GUIDE ON INPUT TAX CREDIT** be amended to clarify issue (i) and to provide examples for avoidance of doubt on what these expenses encompass. b) CTIM suggests that Regulation 36(b) be removed, or at least modified to allow a claim on the portion for business use and a public ruling be issued on this matter. c) Given that the interpretation of entertainment is a contentious area under the income tax regime, a public ruling on input tax credit claims for entertainment would be helpful.

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9	**De Minimis Rule** Regulation 37(a)	The threshold for de minimus rule is an average of RM5,000 per month. The limit provided is too low.	Suggest to remove RM5,000 per month requirement and only having a 5% limit, which is 5% of all supplies in a year.
10	**Simplified Tax Invoice** Section 33(3)(a) (Issuance of Tax Invoice) Regulation 38 (Claims of Input Tax)	There is no reference to a "simplified tax invoice" in the Regulations. There is only a reference to an invoice without the "name and address of the recipient as approved by the DG" under Regulation 38(1)(a)(ii). There appears to be a lot of discretion and flexibility for the DG to determine the contents of the simplified invoice. There is also no guidance from the RMCD on how to apply for such approval. The intention of Regulation 38(1)(a)(ii) seems to be to allow the use of a simplified tax invoice to claim input tax credit. However, given the large volume this may not be practical if all such claims require the approval of the DG. Furthermore based on the wording of Section 38(1)(a)(ii), if for example an employer pays for an expense, say professional membership for its employee, it would not be entitled to claim input tax credit on the invoice if it contains 'the name and address of the recipient'.	In what scenario would the DG direct that other documents be used to claim the input tax? For practical and administrative ease, CTIM proposes that businesses should be allowed to issue simplified invoices based on the published Guide. There should not be a need to apply to the RMCD for approval to issue a simplified tax invoice.
11	**Attribution of input tax to taxable supplies** Regulation 39	• The formula for calculating the amount of recoverable percentage of residual input tax is as below: $a = \frac{t - o}{s - o} \times 100\%$ Where: **a** is the recoverable percentage of residual input tax,	

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		rounded off to the nearest 2 decimal places **t** is the total value (exclusive of GST) of taxable supplies made in the taxable period **o** is the total value (exclusive of GST) of all excluded supplies **s** is the total value of all supplies made in the taxable period • The excluded supplies (i.e. item 'o' the above formula) in sub-regulation 39(3)(c) is extended (as compared to the Guide on Partial Exemption (draft as at 4 November 2013)) to include the exempt supply of land for general use under Regulation 42..	
12	**Treatment of Input Tax Attributable to Exempt Financial Supplies as Being Attributable to Taxable Supplies** Regulation 40	• Item (f) of sub-regulation 40(2) (as below) is an additional item which is treated as incidental exempt financial supply. This item is not included in the General Guide (draft as at 27 October 2013) or Guide on Input Tax Credit (draft as at 27 October 2013). "*(f) the assignment of or provision of credit for any trade receivable*;" Regulation 40(3): "Paragraph 89(2)(a)" which is referred to in Reg. 40(3) is neither found in the GST Act 2014 nor in the GST Regulations 2014. Similarly, it is unclear whether paragraphs 19(1)(b) and 19(2)(a) mentioned in the Regulation 40(3), refer to the GST Act 2014 or GST	Please confirm our understanding on the term incidental based on the following scenarios: (1) Manufacturing company gives a loan to a related company. This is an incidental exempt financial supply. (2) Investment holding company has three sources of income, management fees, dividend and interest income. Management fees makes up 30% of income of the business. The balance of the income is in the form of dividend and interest (i.e. remaining 70%). Would the dividend and interest income

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		Regulations 2014.	be deemed incidental? Is the percentage of standard rated supply to total supply relevant in determining if the exempt financial supply is "incidental"? (3) If a plantation company trades in palm oil, which involves physical and paper trading, to hedge against crude palm oil price fluctuation, would the gain/loss from hedging be considered an incidental exempt supply?
13	**Treatment of Input Tax Attributable to Exempt Supply of Land for General Use as Being Attributable to Taxable Supplies** Regulation 42(2) & (3)	The provision of Reg. 42(2) is very wide, however the definition of general use in Reg. 42(1) is very restrictive. It is unclear (i) whether Regulation 42(2) covers public facilities such as roads, drainage, bus station, etc. (ii) whether GST incurred *on construction* of such playgrounds and religious buildings can be claimed as input tax credit. "General use" is defined to exclude land for agriculture use and land for the construction of government buildings (which include wet markets, public schools or government hospitals) (iii) whether "supply of land for agriculture use" and "supply of land for the construction of government buildings" should be classified under "general use" as Exempt Supply or are standard rated supplies The surrendering of land by a taxable person to a public	What type of expenses would be viewed as attributable to exempt supply of land for general use?

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		body (i.e. Federal Government, State Government, local authority and statutory body) for the purpose of burial ground, playground or religious building shall be treated as taxable supplies for the purpose of calculating the attributable input tax credit of the taxable person. The above treatment does not extend to surrendering of land to public body for the purpose of road, school and other public utilities.	
14	**Adjustment Of Input Tax Over-Deducted Due To Change Of Use** Regulation 44(2) **Adjustment Of Input Tax Under-Deducted Due To Change Of Use** Regulation 45(2)	In both regulations 44(2) and 45(2) the words "change of" appear to be missing before the word "use" in the second line. Regulations 44 and 45 require that where input tax has been claimed in respect of a good or service purchased, and the usage of that good or service changes so that the attribution of the good or service to taxable or exempt supplies changes, an adjustment to the input tax claimed must be made. This will apply for 6 years from the date of the claim being made. When the usage of the good or service becomes more attributable to an exempt than a taxable supply, input tax credit over claimed must be returned to the RMCD. Where the usage of the good or service becomes more attributable to a taxable than an exempt supply, input tax credit under claimed must be recovered from the RMCD. The regulations appear to require that the taxpayer make ***both*** adjustments, not just those that give rise to an underpayment of tax. This regulation had been alluded to in the Guide on Property Developer (draft as at 11 March 2014) to allow an	CTIM requests that examples be provided on how the adjustment should be calculated.

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		adjustment to input tax claimed in respect of infrastructure cost relating to mixed developments. Where input tax credit is claimed in accordance with the development plan, any change to the development plan would mean the developer should adjust the input tax credit claimed accordingly. However regulations 44 and 45 have not been limited in scope to property developers or indeed to mixed suppliers. Where ***any taxable person*** (excluding banking industry) changes the usage of ***any*** good or service procured giving rise to an adjustment within 6 years of the original claim for input tax credit, the taxable person ***must*** make the prescribed adjustment.	
15	**Input tax allowed on the acquisition of goods or services under Islamic Financial arrangement.** Regulation 48	• The input tax costs (of goods and services) for Islamic financial arrangement have been excluded from the Fixed Input Tax Recovery (FITR) computation under Regulation 51. This is supposedly the allowance for full recovery of input tax incurred as announced in all Guides pertaining to the Banking Sectors (Guide on Islamic Banking, Guide on Commercial Banking and Guide on DFIs). There is still lack of clarity in terms of which acquisition is subject to FITR limitation vs acquisitions as allowed under Regulation 48. • Regulation 48 provides for input tax entitlement on goods and services acquired under Islamic Financial arrangement to the extent that is allowable and reasonable to be attributable to the supplies made or to be made. • As supplies made under Islamic financial arrangement (except for provision of financing) is treated as neither a supply of goods nor services in Para 5 of Second	

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		Schedule, it is unclear whether the intended aim of providing Full Recovery can be applied under this Regulation • The other inconsistency is in the treatment of Shariah Advisory services of a Shariah Committee where such services is said to not be subject to GST in Guide on Islamic Banking. Regulation 48 gives the impression that it is taxable; albeit Full Recovery	
16	**Eligibility for input tax allowance** Regulation 51	• It seems that Labuan financial institutions licensed under Labuan Financial Services and Securities Act 2010 or Labuan Islamic Financial Services and Securities Act 2010 may not be eligible for any Fixed Input Tax Recovery.	Please confirm that Labuan financial institutions are not eligible for Fixed Input Tax Recovery.
17	**Time for Payment of Refund** Regulation 67 stipulates *(1) Where the DG is required to make a refund under subsection 38(3) of the Act, he shall make such refund –* *(a) within fourteen working days or within the time practicable, after the return to which the refund relates is received by the DG under S. 41 of the Act where the taxable person who is a registered user furnishes the return by electronic service provided under S.166 of the*	It is unclear what the term 'within the time practicable' means.	CTIM would like to seek clarification from the RMCD on what 'within the time practicable' means. Clarification should be provided.

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	Act, or *(b) within twenty eight working days or within the time practicable, where the taxable person furnishes the return other than by electronic service* (2) *Where the amount of refund is withheld under subsection 38(4) or 38(5) of the Act, the DG shall make the payment of refund within 90 days after ---*		
18	**Correction of errors** Regulation 69		What is the definition of the phrase "within such time"? There should be guidance on how to go about correcting errors.
19	**Claim for Bad Debt Relief** Regulation 70(2)	The provisions of Regulation 70(2) on what constitutes insolvency or bankruptcy is too narrow, not practical and unnecessarily/unlawfully limits the operation of Section 58 of the GST Act 2014. Regulation 70(2) should follow the applicable law.	We suggest that insolvency in the case of an individual should cover all situations prescribed under Section 3(1) of the Bankruptcy Act, 1967 and in the case of a company should cover all situations prescribed under Section 218 (2) of the Companies Act, 1965. (please refer to the sections below)
20	**Application for Relief for second-hand goods** Regulation 77(2) (c)	Regulation 77(2) (c) is too wide and will even cover inadvertent offences for which a compound has been settled.	We suggest that Regulation 77(2) (c) be re-worded to only cover any offence concerning fraud or dishonesty.

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21	**Manner of claiming for bad debt relief** Regulation 71	The phrase "shall make a claim" in regulation 71(1) appears inconsistent with the phrase "may make a claim" in section 58(1) of the Act.	Based on the wording in Section 58(1) of the Act, a claim for bad debts relief is optional and not mandatory. A confirmation of this interpretation would be important to facilitate correct implementation of systems and processes for bad debt relief.
22	**Timing of receipt of payment** Regulation 72	This regulation provides for an adjustment to be made when payment is received from the customer but does not define the timing at which payment is treated as received. Say, I receive a cheque dated 25 April from my customer on 10 May in an envelope with a postmark 9 May and I bank in the cheque only on 28 May and the cheque clears on 1 June, what is the time at which the payment is received?	For the purpose of six-month adjustments, the timing of receipt as well as the timing of payment is crucial. Public rulings should be issued. *The Australian Tax Office's GST Ruling 2003/12* (as amended by its addendums) may be referred to as a benchmark.
23	**Evidence required to support claim** Regulation 73	The regulation requires documentary evidence showing that sufficient efforts have been made to recover debt from customer. The phrase "sufficient efforts" is subjective and be defined in the Regulation itself - or clarified by way of a public ruling.	
24	**Application for Approval of Joint Venture** Regulation 86	Currently such an application can be made only for a joint venture involved in petroleum-related activities. The provision which enables joint ventures to register for GST is still restricted to petroleum upstream activities. This has not been extended to other industries such as property development. As many property development projects in Malaysia are undertaken through unincorporated joint ventures between landowners and developers, it is appropriate for the GST joint venture scheme to apply also	Under section 177(2)(j), the Minister has powers to prescribe any other activity as a joint venture as he deems fit. CTIM suggests that the Application for Approval of Joint Venture be extended to the property development sector.

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		to property development joint ventures. This will greatly facilitate compliance with the GST Act and take into account the fact that while the landowner provides the land, the developer is licensed/approved to build developed units on the land for sale to customers. In certain joint venture arrangements, the land owner may be a passive investor only and therefore it may not be practical to require the land owner, who is not involved in the development and sales activities, to be responsible for GST on sales to end buyers.	
25	**Use of electronic service** Regulation 106	Regulation 106 makes reference to Section 166 of the GST Act subject to the terms and conditions as the DG may determine. Section 166(2) of the GST Act states that: "(2) Where an electronic notice is made and transmitted to the Director General, the Director General shall not be liable for any loss or damage suffered by the registered user by reason of any error or omission of whatever nature or however arising appearing in any electronic notice obtained by the registered user under the electronic service if the error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the provision of the service." Section 166(4) of the GST Act states that: "For the purposes of this section, "registered user" means any person who is authorized in writing by the Director General to gain access to and use the electronic service."	It is suggested that a paragraph is also included to state that where an electronic notice is made and transmitted to the DG by a registered person / register user, and if there is error or omission and the error or omission was made in good faith and not negligence in any manner, the person is not liable for penalties. It is suggested that a registered user is further defined or a list included.

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26	**Manner in using electronic services** Regulation 107	As stated in Regulation 107(9) – where an electronic notice is made and transmitted, to the DG but does meet requirement of this Part, the DG or any authorized officer may serve a notice to the registered user indicating non-compliance and such notice shall not be deemed to have been made and transmitted to the DG by such person	This Paragraph suggests that the notice submitted by user may be deemed as not submitted if there are any errors – intentionally or not. This includes any non-compliance to any part of the regulation. CTIM suggests that clearer guidance be provided rather than a non-acceptance of the notice.
27	**Termination of the Provision of Electronic Services to the Registered User** Regulation 108	This Regulation states that the DG may at any time by notice to the registered user, terminate the provision of electronic service to the registered user if he:… a) Fails to comply with any terms and conditions.. b) Contravenes any regulations in this Part; or c) Notifies the DG for cancellation…	Similar to Regulation 107 mentioned above, the DG may terminate the provision of electronic service at any time. This suggests that any errors, mistakes, intentionally or not may cause the electronic service to be cancelled / terminated. CTIM suggests that clearer guidance be provided as this may be a practical issue whereby registered users may be caught in a situation whereby they are not able to use electronic services due to “unintentional” errors.
28	**Eligibility for GST tax agent** Regulation 109(1) stipulates the eligibility of GST Tax Agent:	The First Schedule of the Accountants Act 1967 provides a list of the higher educational institution in order to be qualified under section 14(1)(a) of the Accountants Act. Under the tax agent guideline for section 153 of the Income Tax Act, an individual is eligible to apply for a tax agent licence if the individual is a member of CTIM without the	CTIM, together with MATA and MIA, had suggested a new proviso to be inserted at the end of para 2.1 (a) of the *Guidelines for the Application for Approval as GST Tax Agent*, which reads as follows:

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I.	**GOODS AND SERVICES TAX REGULATIONS 2014**		
		mandatory requirement to have an accounting degree as required by GST Regulation 109(1)(b)(i) or 109(1)(b)(ii). The requirement for a person to have any of the qualifications listed in Part I of the First Schedule of the Accountants Act 1967 or a degree in economics or business from the higher educational institution recognized by the Government will unduly discriminate members of CTIM who are professionally qualified tax specialists and who are eligible as tax agents under Section 153 of the Income Tax Act 1967. Regulation 109(1)(g) : The requirement for passing an interview for all applicants may not be practical in the initial years of GST implementation where a considerable number of tax agents would need to be licensed within a short period of time. The process will delay the registration of GST tax agents and may take up substantial resources from the RMCD.	*"Provided that where a person is a member of a body listed under para 2.1(b), the requirement under para 2.1(a) above is waived."* While such pragmatic approach to solve the issue immediately is very much welcomed, as CTIM is recognised in the Guidelines as one of the professional bodies, it is pertinent that Regulation 109(1)(c)(ii) be amended so as to give the Guidelines the intended authority. CTIM suggests that the authorities consider the possibility of waiving the requirement for an interview for selected applicants who meet all the other requirements in the first 5 years of implementation.
29	**General penalty** Regulation 114	This Regulation is a "catch-all" penalty regulation: "Any person who commits an offence under these Regulations shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding two years or to both."	There are individual penalty regulations on the various sections of the GST Regulations. This general penalty provision suggests that the RMCD can apply this Regulation as well as other specific Regulations. Is this redundant? CTIM suggests that the RMCD review the applicability of this Regulation.