

**MINIT MESYUARAT BIL 3/2015**  
**JAWATANKUASA TEKNIKAL ISU PELAKSANAAN GST**

**1. KETERANGAN AM**

Tarikh : 10 Jun 2015  
Masa : 9.00 pagi  
Tempat : Bilik Mesyuarat, Bahagian GST  
Aras 4, Menara Tulus

**2. KEHADIRAN**

BIL.	NAMA PEGAWAI	AGENSI
1.	Dato' Subromaniam Tholasy Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
2.	Tuan Tan Sim Kiat Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
3.	Puan Rokiah binti Embong Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
4.	Pn Nur Hanisah Dukes binti Abdullah Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
5.	Puan Zaizah binti Zainuddin Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
6.	Puan Norhasimah binti Hussin Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
7.	Puan Jamilah binti Abdul Rauf Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
8.	Puan Maria binti Madel Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia

9.	Puan Kho Wun Lin Penolong Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
10.	Tuan Muhammad Aizat bin Iskandar Penguasa Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
11.	Tuan Abdul Fattah bin Noor Azmi Penguasa Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
12.	Encik Abdul Samad bin Ibrahim	Federation of Malaysian Manufacturers
13.	Puan Shamini Sakthinathan	Federation of Malaysian Manufacturers
14.	Encik Michael Hendroff	Malaysia Institute of Accountants
15.	Puan Azlina binti Zakaria	Malaysia Institute of Accountants
16.	Poh Wan Khing	The Associated Chinese Chambers of Commerce and Industry of Malaysia
17.	Y. Bhg Dato' Paul Selva Raj	Gabungan Persatuan Pengguna-Pengguna Malaysia (FOMCA)
18.	Koh Siok Kiat	Malaysian International Chamber of Commerce and Industry (MICCI)
19.	Wan Heng Choon	Malaysian International Chamber of Commerce and Industry (MICCI)
20.	Tan Yu Yin	Malaysian Institute of Certified Public Accountants
21.	Beh Tok Koay	Malaysian Institute of Certified Public Accountants
22.	Darian Lim	Ahli PEMUDAH

23.	Lim Kok Seng	Chartered Tax Institute of Malaysia
24.	Puan Norizan binti Ramli Pen Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>
25.	Tuan Norudin bin Ya'acob Pen Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>



	ditanda tangan oleh Y.Bhg Dato Seri Ketua Pengarah Kastam	Sekretariat
<b>BIL.</b>	<b>PENGESAHAN MINIT MESYUARAT</b>	<b>TINDAKAN</b>
4.	Minit Mesyuarat Jawatankuasa Teknikal Isu Pelaksanaan GST bil. 2/2015 dipersetujui untuk disahkan sebulat suara.	
<b>BIL</b>	<b>PERKARA-PERKARA YANG DIBINCANGKAN</b>	
5.	<p><b>5.1 Perbincangan isu yang dikemukakan oleh Malaysian Institute of Accountants ( Rujuk Lampiran 1A)</b></p> <p>Puan Kho Wun Lin daripada Sektor V telah memberikan penerangan ke atas jawapan yang telah disediakan (rujuk <i>Lampiran 1B</i>) ke atas isu-isu berikut :</p> <p><b>1) Rebate income received by freight forwarders</b>  <b>Isu (i) :</b>  Y.Bhg Dato' mengarahkan supaya jawapan yang telah disediakan dibincang semula dan jawapan baru dikeluarkan</p> <p><b>Isu (ii) :</b>  Jawapan yang disediakan dipersetujui oleh semua ahli.</p> <p><b>2)Storage provided by freight companies who are not port or airport operators:</b></p> <p>Y Bhg. Dato' menyarankan supaya MIA mengemukakan <i>proposal</i> untuk dibincangkan dalam mesyuarat pada masa akan datang.</p> <p><b>2) Handling Sevices</b>  Isu ini akan dibincang dalam mesyuarat akan datang selepas menerima <i>proposal</i> daripada MIA</p> <p><b>5.2 Perbincangan isu yang dikemukakan oleh Federation Malaysian Manufacturing (rujuk Lampiran 2A)</b></p> <p><b>A OUTSTANDING ISSUES</b>  1. <i>Claim of input tax within 6 years from the date of supply or importation.</i></p>	<p>Ketua Sektor V</p> <p>Makluman</p> <p>Malaysia Institute of Accountants</p> <p>Malaysia Institute of Accountants</p>

<p>Y.Bhg Dato' akan membuat perbincangan dalaman dan akan mengeluarkan satu keputusan dalam DG's Decision</p> <p>2. <i>Standard Operating Procedure on Customs DG Approvals</i></p> <p>Y Bhg. Dato' mengambil maklum perkara ini walaupun Bahagian GST tidak menjalankan tugas/aktiviti pada <i>full strength</i></p> <p>3. <i>Clarification on the double tax deductions on GST training expenses</i></p> <p>Y Bhg. Dato' menegaskan Bahagian GST telah meluluskan semua permohonan yang telah dikemukakan oleh sektor swasta. Y Bhg. Dato' akan meluluskannya sebaik sahaja FMM mengemukakan permohonan tersebut.</p> <p>4. <i>Participating Banks for Online Payment of GST</i></p> <p>Y Bhg. Dato' mengarahkan supaya PKPK I Puan Zaizah mengambil tindakan perlu dan upload di dalam Portal GST senarai bank asing (foreign banks) yang diberi kemudahan <i>Direct Debit</i></p> <p><b>B. NEW ISSUES</b></p> <p>1. <i>Confusion on the GST treatment for Shipping Line and Freight Forwarder Charges</i></p> <p>Y Bhg. Dato' mengarahkan supaya Sektor V menyediakan <i>table listing</i> layanan GST ke atas perkhidmatan logistik.</p> <p>2. <i>Financial Services Payment Gateway in All Customs stations.</i></p> <p>Y Bhg. Dato' mengarahkan supaya Puan Zaizah memberikan jawapan/penjelasan mengenai perkara ini.</p> <p>3. <i>Delays in approval of the list of the raw materials/components/accessories and machines to be imported under the ATS</i></p> <p>Y Bhg. Dato' mengarahkan supaya FMM memberi nama syarikat yang telah mendapat kelulusan ATS dan meminta FMM tidak membuat pernyataan umum.</p>	<p>Ketua Sektor VII</p> <p>Makluman</p> <p>FMM</p> <p>Ketua Pusat Pendaftaran dan Pengurusan Hasil</p> <p>Pn Norhasimah binti Hussin</p> <p>Puan Zaizah binti Zainuddin</p> <p>FMM</p>
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## **GST ISSUES**

### **1. REBATE INCOME RECEIVED BY FREIGHT FORWARDERS**

It is a norm in the freight transportation industry that freight forwarders often receive rebates from their overseas agents in the course of their business. The rebate relates to commission income received for referring business to the overseas agents in connection with the handling of goods (e.g. customs clearance) when the goods arrive at the overseas jurisdiction from Malaysia.

Example: XYZ Sdn Bhd arranges with Agent A in China to do handling services (e.g. customs clearance and unloading) for goods transported from Malaysia to China on behalf of one of its clients. XYZ Sdn Bhd will receive a rebate (commission) from Agent A for the referral work.

**Issues** – we wish to seek RMCD's confirmation:-

- (i) Whether the commission can be zero-rated under Item 4 of the GST (Zero Rated Supply) Order 2014 ("the Order") on the basis that this is a supply of services in relation to international freight transportation (i.e. the rebate income forms part and parcel of the income from international freight transportation services) or be zero-rated under item 12 of the Order (i.e. export of services)
- (ii) On the other hand, Malaysian freight forwarders may also pay the rebates or commission to their foreign agents for getting referral business from them to handle customs clearance and other handling services when the goods arrive in Malaysia from overseas.

In this regard, we seek RMCD's clarification whether this payment falls under "imported services" provision under Section 13 of the GST Act 2014 and hence, subject to the reverse charge mechanism.

### **2. STORAGE PROVIDED BY FREIGHT COMPANIES WHO ARE NOT PORT OR AIRPORT OPERATORS**

Item 5 of the Order states that *"transport, loading, unloading and handling services as referred to in subitem 3(2) in relation to the transport of goods from a place in Malaysia to*



*another place in Malaysia to the extent that those services are supplied by the same supplier as part of supply to which subitem 4(b) and 4(c) applies".* In subitem 3(2), "handling services" is defined to include:-

- (a) Stevedoring and portorage
- (b) Loading, unloading, reloading, stowing, securing and shifting cargo for the use of cranes and weighing machines
- (c) Sorting opening for inspection, repairing, weighing and tarring, taping and sealing, erasing and re-marking, labelling and renumbering, tallying, checking, sampling, measuring or gauging of goods
- (d) Survey of cargo (including damaged cargo)
- (e) Cargo security services
- (f) Presenting goods for customs declaration
- (g) Preparing or amending customs declaration
- (h) Preparing or amending bills of lading, airway bills and certificates of shipment

Please note that providing storage for goods form part and parcel of the freight transportation services (whether for domestic or international freight transportation).

**Issue** - we wish to seek RMCD's confirmation whether storage of goods provided by freight forwarders falls within the definition of "handling services" as defined above, and hence qualify for zero-rating if the storage is provided by the same supplier as part of international freight transportation services.

### **3. HANDLING SERVICES**

Pursuant to Item 12 of the Order (Second Schedule), services supplied under a contract with a person who belongs in a country other than Malaysia and which directly benefit a person who belongs in a country other than Malaysia who is outside Malaysia at the time the services are performed can be zero-rated provided the goods are not in Malaysia at the time the services are performed.

It is common practice in the industry where a freight forwarder could be engaged to only provide local handling services e.g. loading and customs clearance (without providing international transportation services) for goods meant for exports by another supplier or to handle handling services for goods imported into Malaysia by another supplier. In this regard, the freight forwarder will only bill for the local handling services without charging ocean freight.

**Issue** - we wish to seek RMCD's confirmation whether the amount billed for the handling services can be zero-rated on the basis that the goods concerned are meant for exports or imports, as the case may be.

**MAKLUMBALAS LAYANAN CUKAI BARANG DAN  
PERKHIDMATAN (CBP) MALAYSIAN INSTITUTE OF  
ACCOUNTANTS**

1. Bayaran rebat (komisyon) yang diperolehi dari ejen di China untuk perkhidmatan pengendalian barang yang dibuat di Malaysia adalah tertakluk kepada GST pada kadar standard. Butiran 12 Jadual Kedua, Perintah Cukai Barang dan Perkhidmatan 2014 adalah tidak terpakai kerana barang berada di Malaysia pada masa perkhidmatan itu dilaksanakan.

Sebaliknya, bagi bayaran komisyon yang dibuat kepada ejen di China untuk perkhidmatan pengendalian barang yang dibuat di China, ianya dianggap sebagai perkhidmatan yang diimport bagi ejen di Malaysia.

2. Bagi tujuan GST, penyimpanan barang (*storage of goods*) tidak termasuk dalam kategori pengendalian barang. Merujuk kepada Butiran 3(1), Perintah Cukai Barang dan Perkhidmatan 2014.

Walau bagaimanapun, perkhidmatan penyimpanan barang hanya tertakluk kepada GST pada kadar sifar sekiranya perkhidmatan itu dibuat oleh pengendali pelabuhan (*port operator*). Jika ia dilakukan oleh pihak lain selain dari pengendali pelabuhan, ianya adalah tertakluk kepada GST pada kadar standard.

3. Jika *freight forwarder* hanya menyediakan perkhidmatan pengendalian barang, ianya adalah tertakluk kepada GST pada kadar standard. Merujuk kepada Butiran 5 Jadual Kedua, Perintah Cukai Barang dan Perkhidmatan 2014, perkhidmatan pengendalian barang hanya berkadar sifar jika ianya dilakukan oleh pembekal yang sama untuk perkhidmatan pengangkutan yang melibatkan pengangkutan domestik dan antarabangsa selaras dengan butiran 4 Jadual Kedua, Perintah Cukai Barang dan Perkhidmatan 2014.

**IMPLEMENTATION OF GST – FMM COMPILATION ON FEEDBACK FROM THE INDUSTRY**

**A. Outstanding Issues**

<b>NO.</b>	<b>ISSUE</b>	<b>OUTSTANDING ISSUE</b>	<b>SUGGESTIONS</b>
1.	<u>Claim of input tax within 6 years from the date of supply or importation</u>	<p>According to the GST Act, where any claim of input tax has not been made in the taxable period, the Director General may allow such person to make the claim within 6 years from the date of supply to or importation by him.</p> <p>FMM would like to suggest that if the tax document is within 6 years from date of supply or importation, taxable person is allowed to claim input tax without DG's permission.</p> <p>Customs Written Response (after the GST Technical Committee 2/2015 held on April 29, 2015):</p> <p>Such claim can only be made within 6 years if the taxpayer has valid reasons for doing so. Otherwise the claims must be in the taxable period where he</p>	<p>We would like to clarify if the taxable person is allowed to claim input tax (within 6 years from date of supply or importation) without the requirement to write in to the DG for permission?</p>

NO.	ISSUE	OUTSTANDING ISSUE	SUGGESTIONS
		incurred the input tax and in possession of valid documents such as tax invoice or import documents.	
2.	<u>Standard Operating Procedure on Customs DG Approvals</u>	<p>There are many applications that call for the approval from the Customs Director General including the utilisation of the GST Relief Order, application for the ATS and ATMS, Group Registration and etc.</p> <p>It has been brought to FMM's attention that letters and applications seeking the approval from the Customs DG have not received timely replies.</p> <p>Customs Written Response (after the GST Technical Committee 2/2015 held on April 29, 2015):</p> <p>SOP has been uploaded for the utilisation of the Relief Order and etc.</p>	We would like to request for a client charter or a standard response time on the letters and applications seeking the approval from the Customs DG.
3.	<u>Clarification on the double tax deductions on GST training expenses</u>	<p>Customs Department has developed the guidelines for claiming double tax deductions on training expenses.</p> <p>According to the guidelines, in order to be</p>	FMM would like to request the Customs Department to grant a blanket approval to FMM on GST trainings conducted by FMM in collaboration with the Royal Malaysian Customs Department.

NO.	ISSUE	OUTSTANDING ISSUE	SUGGESTIONS
		<p>eligible for the deductions, the training should be conducted by trainers that have been approved by Customs.</p> <p>Many academic institutions, accounting firms and industry associations conduct trainings on a regular basis. In order to get an approval for each training session would be tedious for both the training provider and the Customs Department.</p> <p>Customs Written Response (after the GST Technical Committee 2/2015 held on April 29, 2015):</p> <p>Blanket approval has been granted to agencies such as CTIM, MATA and MIA conducting GST courses in collaboration with the Royal Malaysian Customs Department of.</p>	
4.	<u>Participating Banks for Online Payment of GST</u>	<p>The direct online payment of GST can only be made through 7 participating local banks.</p> <p>FMM has been informed by Customs that companies are able to make direct debit</p>	<p>The decision by the Technical Committee and the Monitoring Committee is confusing and FMM would like to seek clarification on the current GST law governing processes by foreign banks to allow direct online payment of GST.</p>

NO.	ISSUE	OUTSTANDING ISSUE	SUGGESTIONS
		<p>payment through the following foreign banks: Bank of America, Citibank, HSBC, OCBC, Standard Chartered and Duetsche Bank. However, they are first required to seek approval by submitting the Direct Debit Approval Form (DDAF) from any RHB branches.</p> <p>Hence, companies with accounts with foreign banks will require opening accounts with local banks to pay GST returns online.</p> <p>In order to facilitate businesses, the Government should encourage foreign banks to allow direct online payment of GST.</p> <p>We would also like this online GST payment facility to be granted to importers to avoid backlog at ports.</p> <p>Customs Response:</p> <p>At the last GST Technical Committee 2/2015 held on April 29, 2015, Customs highlighted that companies are able to</p>	

NO.	ISSUE	OUTSTANDING ISSUE	SUGGESTIONS
		<p>make direct debit payment through the following foreign banks: Bank of America, Citibank, HSBC, OCBC, Standard Chartered and Duetsche Bank. However, they are first required to seek approval by submitting the Direct Debit Approval Form (DDAF) to any RHB branches.</p> <p>However, at the GST Monitoring Committee 3/2015 held on April 30, 2015, the Customs Department has requested businesses to write in to the Customs DG in order to make payments through foreign banks.</p>	



## B. New Issues

NO.	ISSUE	NEW ISSUE	SUGGESTIONS
1.	<u>Confusion on the GST treatment for Shipping Line and Freight Forwarder charges</u>	<p>Major shipping lines had circulated to their customers the list of GST treatment on logistics services. The list is based on their interpretation of the GST Guides for Shipping Industries produced by Customs Department.</p> <p>Some of the items i.e. demurrage fee which was charged 6% in the circulated list appeared to be zero rated in GST Guides for Shipping Industries. Another example is the supply of services for the repair and maintenance of a ship which is zero rated in the guidelines but shipping lines charged 6%.</p>	We would like to propose for the Customs Department to develop a table listing the GST treatments for the various logistics services specific to the type of charges, abbreviation and GST treatment.
2.	<u>Financial Services Payment Gateway in All Customs Stations</u>	<p>Currently the FSPG (Financial Services Payment Gateway) facility is not available in certain Customs stations in the country. Examples are Bukit Kayu Hitam Kedah and Tanjung Kupang Johor.</p> <p>As a result, businesses are required to make payment of Customs Duties and</p>	Customs to have FSPG facility in all Customs station to facilitate GST payment and clearance until it is eventually replaced by u-Customs.

NO.	ISSUE	NEW ISSUE	SUGGESTIONS
		<p>GST via cheque. The issuance of cheque by the tax payer and the delivery of cheque to the Customs station will result in late payment subsequently late clearance of goods. The minimum delay in clearance is 3 days.</p> <p>This situation was not a problem prior to GST, as many goods have either zero import duty, exempt import duty or CJ5 facility. But with many imported goods having to pay GST, this is now a problem</p>	
3.	<u>Delays in Approval of the list of raw materials / components / accessories and machines to be imported under the ATS</u>	It has been brought to FMM's attention that there are delays in the approval of the list of raw materials / components / accessories and machines to be imported under the ATS submitted through the TAP system. This is causing delays in clearing ATS imports at ports and thus increasing cost of doing business and reducing productivity of businesses.	<p>FMM would like to suggest for Customs to speed up these approvals to facilitate imports through the ATS.</p> <p>We would also like to request for a client charter or a standard response time on all applications seeking approval through the TAP system.</p>
4.	<u>GST Call Centre</u>	Based on feedback received from businesses post April 1, 2015, there still appears to be much confusion over the interpretation of the GST Act and its	It is proposed that the Customs Department establish dedicated lines for the businesses / GST registrants to seek clarification.

NO.	ISSUE	NEW ISSUE	SUGGESTIONS
		<p>related laws. Despite the 55 industry guides and 16 specific guides, companies are still grappling with the challenges of incorporating GST into current business practices. Customs has disclosed that the Department is understaffed and therefore not able to respond to the high number of calls to the call centre. Most of the calls are from the general public on whether the products are standard rated / zero rated.</p>	