

**MINIT MESYUARAT BIL 4/2015**  
**JAWATANKUASA TEKNIKAL ISU PELAKSANAAN GST**

**1. KETERANGAN AM**

Tarikh : **9 Julai 2015**  
Masa : **9.00 pagi**  
Tempat : **Bilik Mesyuarat, Bahagian GST**  
**Aras 4 ,MenaraTulus**

**2. KEHADIRAN**

<b>BIL.</b>	<b>NAMA PEGAWAI</b>	<b>AGENSI</b>
1.	Dato' Haji Zulkifli bin Yahya Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
2.	Tuan Tan Sim Kiat Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
3.	Tuan Ahmad Maher bin Abd Jalil Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
4.	Puan Rokiah binti Embong Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
5.	Tuan Wan Nor bin Wan Mamat Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
6.	Puan Teh Kheng Ean Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
7.	Puan Zaizah binti Zainuddin Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
8.	Puan Norhasimah binti Hussin Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia

9.	Tuan Mohammad Sabri bin Saad Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
10.	Puan Maimon binti Zaid Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
11.	Puan Jamilah binti Abdul Rauf Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
12.	Puan Almirulita binti Mohd Yusoff Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
13.	Puan Aminah binti Abd Manap Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
14.	Puan Syaida binti Ismail Penguasa Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
15.	Encik Beh Tok Koay	Malaysian Institute of Certified Public Accountants
16.	Encik Lim Kok Seng	Chartered Tax Institute of Malaysia
17.	Encik Poh Wan Kh'ng	The Associated Chinese Chambers of Commerce and Industry of Malaysia
18.	Encik Paul Seo	Federation of Malaysian Freight Forwarders
19.	Encik Alvin Chua	Federation of Malaysian Freight Forwarders
20.	Raja Dato' Abd Aziz Musa	Federation of Malaysian Manufacturers
21.	Encik Abdul Samad bin Ibrahim	Federation of Malaysian Manufacturers
22.	Puan Shamini Sakthinathan	Federation of Malaysian Manufacturers

23.	Puan Maygelah Siva	Federation of Malaysian Manufacturers
24.	Puan Azlina binti Zakaria	Malaysia Institute of Accountants
25.	Encik Mike Hendroff	Malaysia Institute of Accountants
26.	Cik Tan Yu Yin	Malaysian Institute of Certified Public Accountants
27.	Dato' Chua Tia Guan	Ahli PEMUDAH
28.	Dato' Mohd Mustafa	Persatuan Pengguna Islam Malaysia
29.	Tuan Osman bin Abd Karim Pen Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>
30.	Tuan Norudin bin Ya'acob Pen Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>

BIL	UCAPAN Y.BHG DATO' PENERUS	TINDAKAN	
3.	<p>Ucapan alu-aluan Yg.Bhg. Dato' Penerus</p> <p>Dato' Haji Zulkifli bin Yahya, Pengarah Kastam Bahagian GST yang mempengerusikan mesyuarat memulakan mesyuarat dengan ucapan salam dan selamat sejahtera serta ucapan terima kasih di atas kehadiran ahli mesyuarat.</p> <p>Y.Bhg Dato' berharap akan mendapat kerjasama yang baik daripada pihak swasta sebagaimana yang telah diberikan kepada Dato' Subromaniam Tholasy.</p> <p>Y.Bhg Dato' memberi penekanan ke atas isu terkini berkaitan dengan tuntutan balik (<i>refund</i>). Sehingga kini, Bahagian GST telah berjaya meluluskan 50% daripada permohonan <i>refund</i> dan berharap ianya dapat diselesaikan dalam tempoh masa terdekat susulan daripada pengambilan pegawai baru seramai 32 orang.</p> <p>Y.Bhg Dato' mengambil maklum tentang Peraturan 67, Peraturan-Peraturan Cukai Barang Dan Perkhidmatan 2014 yang menghendaki pembayaran balik dibuat dalam tempoh empat belas hari bekerja. Walau bagaimanapun terdapat sedikit kelewatan dari segi pembayaran balik disebabkan oleh faktor-faktor tertentu. Diantaranya ialah penghantaran penyata GST-03 yang tidak lengkap dan proses verifikasi perlu dibuat ke atas penyata GST-03 yang meragukan.</p>	Makluman	
4. PENGESAHAN MINIT MESYUARAT			
Minit Mesyuarat telah disahkan sebulat suara oleh ahli mesyuarat			
5. PERBINCANGAN PERKARA BERBANGKIT			
BIL	PERKARA BERBANGKIT / ISU	ULASAN/STATUS	TINDAKAN
	<p>5.1 Isu oleh Malaysian Institute of Accountants</p> <p>a) Rebate income received by freight forwarders</p>	Jawapan telah disediakan oleh Sektor V dan telah	Sekretariat

		dipersetujui oleh semua ahli. Jawapan akan dihantar kepada sebahagian ahli yang belum menerimanya.	
	b) Storage provided by freight companies who are not port or airport operators.	MIA akan kemukakan cadangan mengenai perkara ini.	MIA
	c) Handling services	MIA akan kemukakan cadangan mengenai perkara ini.	MIA
<b>5.2 Isu oleh Federation Malaysian Manufacturing</b>			
	<b>PERKARA BERBANGKIT / ISU</b>	<b>ULASAN / STATUS</b>	<b>TINDAKAN</b>
	<b>A. OUTSTANDING ISSUES</b>		
	1. Claim of input tax within 6 years from the date of supply or importation	Dalam peringkat perbincangan	Sektor
	2. Standard Operating Procedure on Customs DG Approvals	Makluman	Selesai
	3. Clarification on the double tax deductions on GST training expenses	Ahli mesyuarat telah mencadangkan supaya kandungan kursus dihantar sebelum sesuatu kursus dijalankan dan nama peserta dikemukakan kemudian bagi memudahkan aspek logistik dan pemasaran	Y.Bhg Dato' akan memper-timbangkan cadangan tersebut.

	<p>4. Participating Banks for Online Payment of GST</p>	<p>Terdapat tujuh(7) buah bank tempatan dan tujuh (7) buah bank asing yang terlibat untuk Online Payment of GST. Nama-nama bank tersebut telah di <i>up loaded</i> dalam Portal GST</p>	<p>Selesai</p>
	<p><b>B. NEW ISSUES</b></p>		
	<p>1. Confusion on the GST treatment for Shipping Line and Freight Forwarder Charges</p>	<p>Sektor V telah pun mengeluarkan garis panduan dan senarai <i>standard rated</i> dan <i>zero rated</i>. FMM akan mencadangkan semula senarai aktiviti untuk diklasifikasi sebagai <i>standard rated</i> dan <i>zero rated</i>.</p>	<p>Federation Malaysian Manufacturing</p>
	<p>2. Financial Services Payment Gateway in All Customs Stations</p>	<p>Latihan berkaitan <i>Financial Services Payment Gateway</i> kepada pegawai JKDM dan agen di Tg Kupang dan Bukit Kayu Hitam akan dilaksanakan selepas Hari Raya Aidilfitri.</p>	<p>Makluman</p>
	<p>3. Delays in approval of the list of the raw materials /components /accessories and machines to be imported under the ATS.</p>		

	<p>Ahli mesyuarat memohon supaya JKDM mengkaji semula proses kelulusan ATS. Bahan mentah tidak perlu di <i>key in</i> tetapi sebaliknya di <i>up load</i> ke dalam sistem.</p> <p>4. GST Call Centre Isu <i>GST Call Centre</i> tidak dapat melayan/menjawab panggilan orang awam.</p> <p><b>C. QUICK POINTS</b></p> <p>a) Isu <i>refund</i></p> <p>b) Kenyataan yang terdapat di bahagian bawah borang Refund</p> <p>c) Seksyen 14 Akta GST 2014 berkaitan dengan <i>Business Establishment or Fixed Establishment</i></p>	<p>Bahagian GST akan menubuhkan Jawatankuasa khas untuk selesaikan masalah ini</p> <p>Bahagian GST telah mempunyai <i>Help Desk</i> sebagai <i>complement</i> kepada <i>GST Call Centre</i>. dengan jadual bertugas dari 8.30 pagi hingga 11.00 malam. Panggilan dari orang awam dapat dijawab/dilayan dengan baik</p> <p>Y.Bhg Dato' telah menjelaskan isu <i>refund</i> semasa memulakan mesyuarat.</p> <p>Ianya berkaitan dengan isu <i>refund</i></p> <p>Sekretariat memaklumkan Price Waterhouse Coopers telah menghantar maklumat berkenaan.</p>	<p>Tim Pengarah, Caw Kawalan Kemudahan Fasilitasi dan Konsultasi</p> <p>Makluman</p> <p>Makluman</p> <p>Makluman</p> <p>Makluman</p>
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6.	<b>PERBINCANGAN ISU BARU</b>		
	<b>6.1 ISU OLEH MALAYSIAN INSTITUTE OF ACCOUNTANTS (MIA)</b> Isu dan jawapan adalah seperti di Lampiran 1		
	<b>PERKARA BERBANGKIT/ ISU</b>	<b>ULASAN / STATUS</b>	<b>TINDAKAN</b>
	<p>1. Issue No. 2(b) of DG's decision No. 3/2015 – Whether a full handwritten tax invoice can be issued by a registered person?</p> <p>2. Tax Invoice</p> <p>a) Penyata/bil yang dikeluarkan oleh TELCO tidak mempunyai perkataan "Tax Invoice"</p> <p>b) TELCO tidak mengasingkan bil-bil antara Cukai Perkhidmatan dan GST</p> <p>3. Flat Rate Scheme (FRS) Ahli mencadangkan supaya penetapan nilai ambang dikaji semula.</p> <p>4. Zero Rated Order vs Sundry Goods List Ahli ingin tahu samada senarai barang yang terdapat dalam <i>Zero Rated Order</i> akan dipinda termasuk tanda kurungan</p> <p>5. <i>Disbursements</i> Masih terdapat banyak isu dan aspek yang perlu dibincang.</p>	<p>Perkara ini telah diputuskan oleh Ketua Pengarah Kastam. Ianya hendaklah dipatuhi</p> <p>Ahli mesyuarat dimaklumkan tentang kelulusan yang diberikan oleh Ketua Pengarah Kastam di bawah para 33(3)(b) Akta GST 2014.</p> <p>Nama TELCO berkaitan hendaklah dimaklumkan kepada Jabatan</p> <p>Jabatan akan kaji perkara ini.</p> <p>Pindaan terhadap senarai barang adalah di bawah bidang kuasa MOF</p> <p>MIA akan kemukakan cadangan dan kajian menyeluruh oleh Jabatan Kastam</p>	<p>Makluman</p> <p>Makluman</p> <p>MIA</p> <p>Tim Pengarah Sektor VI</p> <p>Makluman</p> <p>MIA dan Jabatan Kastam</p>




	<p>6. GST Refunds</p> <p>(i) Masih terdapat tuntutan berakhir pada bulan Mei yang belum dibayar.</p> <p>(ii) Isu berkaitan <i>generated letter</i>. Surat yang dikeluarkan oleh sistem ini meminta supaya GST registrants kemukakan invoice belian/jualan dalam tempoh 7 hari</p>	<p>Jabatan telah mengambil langkah-langkah perlu untuk mengatasi isu ini .</p> <p>Y.Bhg Dato' akan memberikan perhatian utama kepada isu ini.</p>	<p>Tim Pengarah Cawangan Kemudahan, Fasilitasi dan Konsultasi</p>
	7. Export of services		Selesai
	<p>8. Input tax credit</p> <p>Persoalan berbangkit ialah samada <i>input tax</i> yang dituntut untuk <i>out of scope</i> perlu di <i>apportioned</i> atau tidak.</p>	<p><i>Input tax</i> boleh dituntut selepas dibuat <i>apportionment</i></p>	Selesai
<p><b>6.2 ISU OLEH THE MALAYSIAN INSTITUTE PUBLIC ACCOUNTANTS (MICPA)</b> Isu dan jawapan adalah seperti di Lampiran 2</p>			
	PERKARA BERBANGKIT/ ISU	ULASAN / STATUS	TINDAKAN
	1. Is GST applicable when goods originating from PCA are removed from a public bonded warehouse back to the PCA?	Pada asasnya GST akan dikenakan jika berlaku perpindahan hak milik.	Selesai
	2. Exempt supplies declared by Company with ATS Kekeliruan wujud dari segi pengikliran <i>incidental financial supplies</i> dalam GST 03 – samada Field 12 atau Field 6(a)	Field 6(a) adalah lebih sesuai namun perbincangan lanjut akan dibuat untuk memuktamadkannya.	Pusat Pendaftaran dan Pengurusan Hasil
	3. How to repay short payment of GST	Jawapan adalah seperti di Lampiran II	Selesai
	4. Apportionment method under partial exemption	Jawapan adalah seperti di Lampiran II	Selesai


	5. Business test for individual (Commercial Property)	Jawapan adalah seperti di Lampiran II	Selesai
	6. Land Development Agreement between Land Owner and Developer	Jawapan adalah seperti di Lampiran II	Selesai
	7. Property Management Joint Management Bodies (JMB) dan Management Corporation (MC) dikecualikan daripada pendaftaran dibawah Akta GST 2014	Perbincangan / kajian akan dibuat untuk melihat semula status JMB dan MC kerana mereka dianggap membuat bekalan bercukai kepada penyewa bangunan	Sektor III
	8. Designated Area	Isu ini akan dibawa ke mesyuarat Panel Teknikal	Unit Panel Teknikal
	9. Imported Services	Perbincangan lanjut akan dibuat	Sektor V
	10. Reimbursement	Isu ini akan dibawa kepada mesyuarat akan datang	
	11. Interest on trade debt	Jawapan adalah seperti di Lampiran II	Selesai
	<b>6.3 LAIN-LAIN ISU</b>		
	<b>PERKARA BERBANGKIT/ ISU</b>	<b>ULASAN / STATUS</b>	<b>TINDAKAN</b>
	1. Kelewatan Mengemukakan Penyata CJP No. 1  FMM membangkitkan tentang kelewatan ahli-ahli menghantar penyata CJP No. 1 semasa tempoh peralihan.	Pemegang lesen yang berkaitan hendaklah kemukakan permohonan rayuan kepada MOF	Ahli FMM

7.	<b>PENUTUP</b>	
	<p>Y Bhg. Dato' merakamkan ucapan terima kasih kepada semua ahli yang hadir dan menganggap mesyuarat ini sebagai produktif dan telah dapat menyelesaikan sebahagian besar daripada persoalan yang dibangkitkan oleh ahli-ahli.</p> <p>Mesyuarat ditangguhkan pada jam 12:25 tengahari.</p>	

Disediakan oleh :

  
**( NORUDIN BIN YA'ACOB )**  
 Penolong Pengarah Kastam  
 Bahagian GST  
 Ibu Pejabat  
 Setiausaha

Disahkan oleh :

  
**( DATO' HAJI ZULKIFLI BIN YAHYA )**  
 Pengarah Kastam  
 Bahagian GST  
 Ibu Pejabat  
 Pengerusi



MALAYSIAN INSTITUTE  
OF ACCOUNTANTS

Lampiran1

## **GST ISSUES**

### **1. Issue No. 2(b) of Director General Decision's No. 3/2015 – Whether a full handwritten tax invoice can be issued by a registered person?**

- a. It is stated in paragraph 1(d) that “beginning 1<sup>st</sup> October 2015, the registered person excluding ‘retailers’ must use a computer generated invoice or pre-printed invoice which is GST compliant”.

**Issues** – we wish to seek RMCD’s clarification on the definition of “pre-printed” invoice. Does it mean an invoice that is printed by printers with all GST compliance particulars printed except the description, quantity and values of sales. On the other hand, please confirm if the registered person can write these on the pre-printed invoices or has it to be computer printed?

- b. It is stated in paragraph 4 that “a GST registered person is not allowed to issue any handwritten tax invoices”.

**Issues** – We wish to seek RMCD’s clarification on the followings:

- i. What is the purpose of having pre-printed invoices?
- ii. Does it mean everybody must computerise his/her system?

## **ANSWER**

For the time being, we accept both method ; i) pre printed invoices ii) computer generated invoice except for six(6)categories of retailers.(restaurants, sundry shop, pharmacy, entertainment outlet, hardware, bookstore)

### **2. Tax Invoice**

it has been noticed that the statements issued by the telecommunication companies do not have the word “Tax Invoice” on their statement of accounts. Further, there are some telecommunication companies that do not segregate their transitional bills between Service Tax and GST. They include a statement that basically tells the customers to do their own apportionment.

**Issue** – We wish to seek the RMCD’s clarification whether the input tax can be claimed? Further, has RMCD approved such billing practices

**Answer:**

**Refer paragraph 33(3)(b) GSTA – DG has the power to approve registered person to use document other than a tax invoice.**

### **3. Flat Rate Scheme (FRS)**

Some of businesses have informed that RMCD require that Farmers/Settlers have a minimum income level before they can register for the FRS. This is inconsistent with the GST Act, The GST Regulations and any GST Guides that RMCD have issued.

We understand that this is because RMCD does not want the administrative costs to outweigh any benefit that the registrants (Approved Persons) may derive. The whole purpose of the scheme is to give some cash back to the Farmers who have suffered input tax on the various purchases that have made. Ergo, the farmers who have suffered a greater proportion of input taxes when compared to their income levels are the most affected – i.e. the Farmers with the lowest income levels. The introduction of a minimum income threshold is counter-productive to the aim of helping such Farmers. Further, most of the administrative work under the scheme would be undertaken by the relevant authority as listed in the Third Schedule to the GST Regulations 2014. Any administrative controls by RMCD would be minimal.

We strongly suggest that the minimum income requirement be removed immediately and all Farmers may register for the scheme as soon as possible as they have already forgone 3 months of “income” due to this delay.

### **JAWAPAN**

KPK diberi kuasa untuk meluluskan sesuatu permohonan di bawah Skim Kadar Rata di bawah Per. 97(4) Peraturan-Peraturan Cukai Barang dan Perkhidmatan 2014.

Penetapan suatu nilai ambang adalah bertujuan mengelakkan Orang Yang Diluluskan di bawah Skim Kadar Rata terpaksa menanggung kos pematuhan yang lebih tinggi dari rebat yang dikenakan keatas penjualan hasil pertanian/penternakan/perikanan kepada orang berdaftar.

Di antara sebab-sebab sesuatu permohonan telah ditolak adalah seperti berikut:

- 1) Nilai ambang yang kecil serendah RM50.00 setahun
- 2) Tidak memenuhi syarat di bawah Per.97(1)(a) Peraturan-Peraturan CBP 2014
- 3) Tidak memenuhi syarat di bawah per.97(1) (b)Peraturan-Peraturan CBP 2014

- 4) Tidak memenuhi syarat di bawah per.97(1) (d)Peraturan-Peraturan CBP 2014
- 5) Tidak memenuhi peruntukan di bawah seksyen 74(1),Akta CBP 2014
- 6) Tidak mematuhi kehendak peruntukan seksyen 74(1), Akta CBP 2014
- 7) Gagal mengemukakan dokumen sokongan seperti penyata kewangan/penyata pendapatan/lessen daripada pihak berkuasa yang ditetapkan
- 8) Pemohon gagal dihubungi /status diragui.

Sehingga 30 Jun 2015, hampir 90% dari jumlah permohonan telah diproses. Baki 10% perlu verifikasi oleh negeri-negeri, bertujuan bagi memastikan permohonan benar-benar layak. Skim Kadar Rata melibatkan hasil negara

Berhubung dengan nilai ambang, Jabatan ini akan mengkaji semula penetapan nilai ambang sekiranya perlu.

#### 4. Zero Rated Order vs Sundry Goods List

There are some miss-matches between the Zero rated goods as contained in the Zero Rated Order and as listed in the Sundry Goods list, as the Zero rated order classifies goods based on the HS code classification whilst the Sundry Goods list seeks to interpret the Zero Rated Order into everyday household purchases without any reference to the HS code.

Further, the manner in which some goods have been zero rated – insertion of brackets with only that particular good(s) being zero rated amongst all others in its own classification code – has led to confusion from importers, traders and RMCD officials at import stations.

We wish to seek RMCD's clarification on this matter.

#### **JAWAPAN**

Such mismatches are due to the code sharing of some products, i.e. standard rated and zero-rated products sharing the same tariff code. Example:

Products classified under tariff code 1905.90 900 are “Other bread, ships’ biscuits and other ordinary bakers’ not containing added sugar, honey, eggs, fats, cheese or fruit” **BUT** GST (Zero-Rated Supply) Order 2014 **ONLY** allows **plain white bread and plain wholemeal bread to be zero-rated (in bracket in the ZR Order)**.

Therefore, wholemeal or white bread with nuts, raisins, oats, bran, etc. are standard rated supplies.

In addition, after the publication of this list (2.1.2015), there were subsequent amendments to the GST (Zero-Rated Supply) Order 2014 which resulted in some

mismatches. E.g. exercise book is zero-rated in the list but is standard rated after the amendment. However, the Sundry List states that it is just a **guide and is subject to changes from time to time.**

GST Division, HQ is in the process of coming up with a second edition of the Sundry List.

Policy (MOF) determines the manner in which some goods have been zero rated – insertion of brackets with only that particular good(s) being zero rated.

## **5. Disbursements – Expenses incurred by the law firms on behalf of their clients which are subsequently on-charged to the clients**

We understand from the General Guide, that payments to third parties will be treated as disbursements if the following conditions are fulfilled:

- a. The disbursements is made by the person (i.e. law firm) as an agent on behalf of the client;
- b. The client actually received the goods or services;
- c. The client is the person responsible to pay;**
- d. The payment is authorised by the client;**
- e. The client knew that the goods and services paid for is provided by the third party;
- f. The payment is itemised;
- g. The person claims the exact amount from the client; and
- h. The payment is clearly additional to the supplies the person makes to the client.

Based on item (c) above, we understand that the RMCD is a view that the invoices must be in the name of the client if the expenses are subject to GST in order for the client to be entitled for the input tax credit.

At present, certain payments are made to Governmental authorities (e.g. the Courts, etc) by law firms on behalf of their clients. Due to payment processes set up by these authorities, the invoices or receipts are issued to the law firms directly, rather than to their clients.

Please refer to the following examples of expenses which law firms incur directly for their clients where invoices/receipts are issued to the law firms:

- Court filing fees
- Bailiff fees
- Filing fee paid to Companies Commission of Malaysia
- Registration fees paid to Land office
- Filing fees in relation to registration of patents and trademarks paid to Intellectual Property Corporation of Malaysia via the 'MyIPO' portal.

The above is not a conclusive list, but is an indicative list of expenses incurred by law firms for their clients, where invoices / receipts would not be issued to the client, but will be issued by the authorities to the law firm. We are of the view that the on-charge of the above expenses should be treated as a **disbursement** for GST purposes on the basis that the Firm merely acts as the client's known and authorised representative in paying the third party (i.e. the Courts, CCM, etc) and hence these costs, when recharged to clients should not be subject to GST, notwithstanding that the invoices are issued to the law firms. We would be grateful for your confirmation on this.

Also, please advise whether the RMCD will be providing any guidelines to distinguish the treatment of disbursements and reimbursements for GST purposes specifically for the legal practitioners, and to confirm that for disbursements, it is not essential that the invoice (from the 3<sup>rd</sup> party) be issued in the name of the client, as long as the law firm is the client's known and authorised representative acting on behalf of the client in incurring such costs.

**Answer:**

**RMCD still study on this matter. There will be issue of wrong person will claiming input tax.**

## **6. GST Refunds**

For April returns filed end of May, refunds should have been paid by 14 June 2015 (for electronic filing). A lot of refunds have not been paid, and RMCD have indicated that they want to Audit the company first. We are also aware of instances where the notification of an audit by RMCD came verbally via phone calls. Further, we have numerous complaints of such planned audits being cancelled at the last minute because RMCD are suddenly unable to meet their own timelines. In the meantime, payment for the May GST returns will be due at the end of June and they will be a need to pay the net amount due when a refund is actually due from the earlier GST returns filed. This gives rise to adverse cash-flow positions and is bad for business.

**Issue** - In this regard, we wish to seek RMCD's clarification on the above matter.

### **JAWAPAN**

**Some common reasons are as follows :**

- i. Entries into GST-03 is incorrect or incomplete**
- ii. The claim is subject to desk review**
- iii. The business did not comply with the GST requirement (claim blocked input, special refund, exempt input)**
- iv. Bank information is not complete**
- v. Unable to reach tax payer for verification**

**50% have been approved within 14 days.**



## 7. Export of Services – Items 12 and 13 of the Zero Rated Supply Order

What is meant by ‘directly in connection with’ and what is ‘goods’. For instance, if a consultant advises a foreign client about general withholding tax matters, we are of the view that it should be zero-rated as this does not relate to land or goods in Malaysia.

What if a consultant advises a foreign client on shares in a Malaysia company? This issue would also arise in the classification of Intellectual property – is it a good?

**Issue** - We wish to seek RMCD’s confirmation whether the Intellectual property/shares in the context of Items 12 and 13 of the Zero Rated Supply Order would be classified as goods.

### **JAWAPAN**

Directly in connection with’ in the context of services refers to

- Supply of services which is closely aligned with the **SPECIFIC** goods or land that it is appropriate to treat the location of the goods or land as the place of consumption.

‘Goods’ means any forms of movable or immovable tangible property but excluding money (legal tender) under circulation.

Treatment of Intellectual property / shares in the context of items 12 and 13 of the Zero Rated Supply Order:

- Intellectual property is not a goods since it is not tangible.
- For the purpose of item 12 & 13, If the services is related to the **SPECIFIC** goods in Malaysia then it is standard rated
- Services directly in connection with shares issued and traded in Malaysia cannot be zero rated because of the exclusion under item 12. ‘Share’ is a capital market product.

## **8. Input Tax Credit**

Is there any clarity for GST registered businesses on the claiming of the full input tax suffered against supplies which are standard rated and supplies which are out of scope. Our view is that full input tax suffered can be claimed. Some believe there is a need for attribution of the input tax against the supplies which are standard rated. There is confusion on the matter and we wish to seek RMCD's clarification.

**Issue** - We wish to seek RMCD's confirmation whether the input tax attributable to out of scope supplies (for a fully taxable supplier) is fully claimable.

**Answer:**

**RMCD need further information**

THE MALAYSIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS  
(INSTITUT AKAUNTAN AWAM BERTAULIAH MALAYSIA)

**SUBMISSION OF ISSUE**

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
1	<p><b>Is GST applicable when goods originating from PCA are removed from a public bonded warehouse back to the PCA?</b></p> <p>It has been brought to our Member's attention that in Penang, some of the public bonded warehouses (PBW) allow the storage of locally manufactured goods which are subsequently sold in the local market.</p>	<p>Please clarify whether GST is applicable for removal of own goods from a PBW back to the PCA.</p>	<p>GST is applicable if transfer of ownership is occurred.</p>
2	<p><b>Exempt Supplies declared by Company with ATS</b></p> <p>A company in JB has been told by the Customs official that their ATS will be withdrawn as the company has declared exempt supplies in Field 12 of the GST 03 Form.</p> <p>The exempt supplies declared consist of incidental exempt financial supplies such as interest from deposit placed with bank and realised foreign gain and loss.</p>	<p>As the exempt supplies declared is incidental to the ATS' business activities and is not made by a company which is a restricted person (reference is made to Regulations 40 and 41 of the GST Regulations 2014), kindly confirm that the declaration of the incidental exempt financial supplies by the ATS holder is in order.</p>	<p>Further discussion will be held to finalize this issue.</p>

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
3	<p><b>How to repay short-payment of GST</b></p> <p>Short payment of GST may arise due to price adjustment after goods are imported into Malaysia, reclassification of the HS codes, etc.</p>	<p>Clarification is sought for the following category of taxpayers:</p> <p>a) For a taxable business, can he be allowed not to repay the short-payment of GST as he will not claim the input tax credit?</p> <p>b) For a non-taxable person, must the short-paid GST be repaid to the Customs at the import station where the goods were imported? If yes, please clarify on the mechanism as to how the shortfall of GST can be paid, the timeline for such remittance and vide which Form.</p>	<p>Any short paid must be paid to import station and you claim.</p> <p>Any short paid must be paid to import station and you claim.</p>
4	<p><b>Apportionment method under partial exemption</b></p> <p>The Guide on Partial Exemption dated November 21, 2014 provided the following formula:</p> $r = [(t-o) / (s-o)] \times 100\%$ <p>Where:-</p> <p>R : is the recoverable percentage of residual input tax,</p>	<p>Clarification is sought whether the value of “t” should also include all adjustments that are made in relation to the “t” supplies, such as credit note / debit note and all adjustments made towards bad debts (i.e. bad debts relief and bad debts recovered for the taxable period).</p>	<p>Yes ,the value of “t” should also include all adjustments that are made in relation to the “t” supplies, such as credit note / debit note and all adjustments made towards bad debts except bad debts relief .</p>

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
	<p>T : is the total value (exclusive of GST) of taxable supplies (including supplies made outside Malaysia which would be taxable if made in Malaysia, deemed taxable and disregarded supplies) made in the taxable period,</p> <p>O : is the total value (exclusive of GST) for all excluded supplies,</p> <p>S : is the total value (exclusive of GST) of taxable (including supplies made outside Malaysia would be taxable if made in Malaysia, deemed taxable and disregarded supplies) and exempt supplies made in the taxable period.</p> <p>There are certain value of supplies that are excluded from the above standard method of apportionment which are:-</p> <p>a) The value of any supply of capital assets used by the taxable person for the purposes of his business. If an asset or part of an asset is disposed of as Transfer of Going Concern (TOGC), such value are excluded as well.</p> <p>b) The value of any supply made by a recipient in accordance with the Approved Toll Manufacturer Scheme under Section 72 of the Act,</p> <p>c) The value of any supply referred as incidental exempt supplies in the Regulations that are made by the person where such supply is incidental</p>		

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
	<p>to one or more of his business activities, The value of any exempt supply of land for general use made by a taxable person to any public body where that supply of goods by the taxable person is made in compliance with the requirement enforced by any public body</p> <p>d) Value of any supply of imported services.</p>		
5	<p><b>Business test for individual (Commercial Property)</b></p> <p>a) Guide on Property Developer (30.3.15) Individual <u>in his possession owns</u> more than two commercial properties or commercial land exceeding 1 acre is considered carrying out business if intended to make supply of goods</p> <p>b) Panel Decision 4 Individual <u>supply of goods in a 12 months period</u> more than two commercial properties or commercial land exceeding 1 acre is considered carrying out business</p>	<p>Clarification is sought as the Guide (released later than the Panel Decision) appears to be different from the Panel Decision.</p>	<p>1. In the case of non-residential land or property, any individual is treated as carrying out a business if he has <b>at any one time</b> in his ownership, more than 2 commercial properties or more than one acre of commercial land.</p> <p>If ---</p> <p>(a) the total value of supply for the properties he owned exceed the prescribed threshold; and</p> <p>(b) he has the intention to supply such non-residential properties;</p> <p>then he is liable to be registered. Therefore any supply of such</p>

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
			<p>property is subject to GST.</p> <p>2. Any individual is also be treated as making a supply of taxable service if:-</p> <p>(a) he is supplying any lease, tenancy, easement, licence to occupy or rent ; and</p> <p>(b) his annual turnover has exceeded the prescribed threshold in the 12 months period.</p> <p>All input tax incurred in the course or furtherance of such business is claimable commencing from the date he is registered.</p> <p><b>‘at any one time’</b> means in his possession owns more than 2 commercial property within a period of 12 months commencing on or after the effective date.</p>
6	<p><b>Land Development Agreement between Land Owner and Developer</b></p> <p>Amendment to DG’s Decision 3/2015 (25/5/2015)</p>	<p>Clarification is sought as to whether can the developer (if registered) claim in full the</p>	<p>If the approved use of the land has not been established, the supply is a taxable supply.</p>

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
	In relation to mixed supplies, if the approved use of land has not been established by the parties, the land owner (if registered) must issue tax invoice and charge GST to the developer based on the amount of land owner's entitlement for the supply of rights to use the land or the supply of land and account the GST.	input tax incurred on the acquisition of rights to use the land or the acquisition of land since the approved use of land has not been established (subsequently adjust due to change of use once the use has been established)?	The input tax incurred can be recovered in full. However, once the use has been established you are required to make an adjustment due to change of use as regulated in Regulation 44 or 45, of GST Regulation 2014.
7	<p><b>Property Management</b></p> <p>Guide on Property Management (28/4/15)</p> <p>JMB and MC in residential buildings are exempted from GST registration as stipulated in para 20 of GST (Exempt Supply) Order. However, they are required to register if they make taxable supply of services to any person who is not the parcel owner of such residential property and the annual taxable turnover exceeds the GST threshold.</p>	<p>Please clarify whether JMB and MC of residential buildings are treated as making taxable supplies to parcel owners for the following :-</p> <ul style="list-style-type: none"> <li>(a) Insurance for the building;</li> <li>(b) Water and electricity under bulk meters (refer page 16 and 17 of the Guide)</li> <li>(c) Quit rent</li> </ul> <p>If so, is the JMB or MC required to register if the value of these taxable supplies to parcel owners exceeds RM500k?</p>	<p>JMB or MC is not making any supply of the item (a) – (c). The insurance of the building, bulk meter utilities bills, and quit rent is charged to JMB or MC. Therefore, they are acting as a principal and later they recover the expenses from the parcel owner. The recovery of expenses is treated as reimbursement. Reimbursement is subject to GST.</p> <p>The JMB or MC is required to be registered under Sec. 20, of GST Act 2014 if the his annual taxable turnover exceeds RM500,000.00.</p>
8	<p><b>Designated Area</b></p> <ul style="list-style-type: none"> <li>a) Leasing of vessel by a DA Company to another DA Company for use in PCA;</li> <li>b) Leasing of vessel by a DA Company to a PCA Company for use in DA only.</li> </ul>	Clarification is sought whether leasing of vessel as stated in the issue are supply within DA (no GST).	This issue will be forwarded to Panel Technical Meeting



No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
9	<b>Imported services</b>  Imported services of zero rated supplies if made in Malaysia (e.g. Overseas HQ charged Malaysia company postal service performed in relation to international mail).	Clarification is sought as to whether any output tax should be accounted for the imported services (since it is zero rated not standard rated supply if made in Malaysia)?	Need further clarification and full facts.
10	<b>Reimbursement</b>  a) Medical services provided by a private hospital to group of companies are exempt supplies. When the hospital bills to the holding co, no GST is applicable, When holding onwards bill to its subsidiaries, is it subject to 6% GST?;  b) For electricity bill – incurred before 1 April 2015 but recharge after 1 April 2015, is it subject to 6% GST?  c) TNB collect 1% charges as SEDC – this is an out of scope supply as payable to the Ministry, when a company recharge the electricity and the 1% charge, is the whole amount subject to GST?  d) 1% Renewable Energy (RE) Fund collected by TNB on behalf of Sustainable Energy Development Authority (SEDA) for the RE Fund. SEDA is an agency under the Ministry of Energy, Green Technology and	Please clarify whether 6% GST is applicable regardless of the original GST status of the supply when recovery/rebilling do not meet the criteria of a disbursement.  If so, under what circumstances can a concession be given such that the original GST status be maintained in view of how certain industries interact with the Authorities in terms of payment?	a) –d) will be bring to the next meeting

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
	<p>Water.</p> <p>e) Quit rent charges to developer is out of scope supply and land title is in developer's name, when developer rebills to purchaser, it should also be subject to 6%, right? But the Developer Guide date stated that supply of quit rent by a developer is not a supply</p>		<p>Generally, quit rent is charged by local authority to developer under developer's name is out of scope supply. Later, the developer recover the expenses from the land owner is a supply. Such supply is a supply of service. Therefore, the reimbursement is subject to GST. Hence, the property guide will be updated soon.</p>
11	<p><b>Interest on trade debt</b></p> <p>A trading company sells goods to customer, where interest will be charged by the trading company to the customer in case the customer default or late in paying the trade debt.</p> <p>Interest at a certain % is charged on the outstanding trade debt, not on any provision of financial supplies (eg loan) made by the trading company to the customer.</p>	<ol style="list-style-type: none"> <li>1) Please confirm that the interest charged on the outstanding trade debt is a provision of credit for trade debt receivable and hence, is a provision of an incidental exempt financial supply as specified under Regulation 40(2)(f) of the GST Regulations 2014.</li> <li>2) Please confirm that on the basis that the provision of the incidental exempt supply is incidental to one or more of the trading company's business (Regulation 40(1) of the GST Regulations 2014 refers), the input tax attributable to such provision is to be treated as attributable to a taxable supply.</li> </ol>	<p>It is not financial supply. It is a penalty for late payment which is out of scope.</p> <p>Cannot claim input tax.</p>

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
	<p><u>Issue 1 :</u></p> <p>From the perspective of the Trading Company, since there is no financial supplies (eg loan) made by the Trading Company to the trade debtor, and the interest income was derived from charging on the outstanding trade debt only, hence, the interest income should not be viewed as Incidental Exempt Financial Supplies. Please advise.</p> <p><u>Issue 2 :</u></p> <p>If it is not an incidental exempt financial supplies, would it be viewed as Exempt Supply or Taxable Supply?</p> <p><u>Issue 3 :</u></p> <p>If the interest income is treated as an Exempt Supply, the claiming of input tax credit of the Trading Company will be subjected to partial exemption?</p>		<p><b>Issue 1</b></p> <p>In this case interest is charged on the outstanding <b>trade/commercial debt</b> not on the provision of any financial supply, hence, the interest income <b>should not</b> be viewed as incidental exempt financial supply for claiming input tax.</p> <p><b>Issue 2</b></p> <p>It is considered as late payment penalty/charge which is an <b>out of scope</b> supply</p> <p><b>Issue 3</b></p> <p>Not subject to partial exemption.</p>