

MINIT MESYUARAT BIL 5/2015
JAWATANKUASA TEKNIKAL ISU PELAKSANAAN GST

1. KETERANGAN AM

Tarikh : **17 September 2015**
Masa : **9.00 pagi**
Tempat : **Bilik Mesyuarat, Bahagian GST**
Aras 4 ,MenaraTulus

2. KEHADIRAN

BIL.	NAMA PEGAWAI	AGENSI
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.	Pn Tengku Aini Baldri binti Engku Mansor 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 Azizah binti Kechik Tim. Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia
8.	Puan Fauziah binti Abu Zarim Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia

9.	Puan Sakenah Begum binti Md Nazir Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
10.	Tuan Jifridin bin Che Daud Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
11.	Puan Raizam binti Mustapha Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
12.	Puan Maimon binti Zaid Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
13.	Puan Almirulita binti Mohd Yusoff Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
14.	Tuan Faizulnudin bin Hashim Penolong Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia
15.	Puan Aminah binti Abd Manap Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
16.	Tuan Baharudin Abdul Rahman Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
17.	Tuan Khairul Nizam bin Othman Penolong Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia
18.	En David Lai	CTIM
19.	En Wan Heng Choon	CTIM
20.	En Koh Siok Kiat	CTIM
21.	En Lim Kok Seng	CTIM
22.	En SM Thanneermalai	CTIM
23.	Dr Veerinderjeet Singh	MIA
24.	Puan Azlina binti Zakaria	MIA
25.	En Abd Aziz bin Abu Bakar	MATA
26.	Raja Dato' A Aziz Musa	FMM

27.	Puan Shamini Sakthinathan	FMM
28.	En Beh Tok Koay	MICPA
29.	En Raja Kumaran	MICCI
30.	Encik Poh Wan Kh'ng	ACCCIM
31.	Encik Lee Hooi Seng	ACCCIM
32.	Encik Paul Seo	FMFF
33.	Encik Alvin Chua	FMFF
34.	Puan Norizan binti Ramli Pen Kanan Pengarah Kastam I Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>
35.	Tuan Osman bin Abd Karim Pen Kanan Pengarah Kastam II Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>
36.	Tuan Norudin bin Ya'acob Pen Pengarah Kastam Bahagian GST	Jabatan Kastam Diraja Malaysia <i>Sekretariat</i>

BIL	UCAPAN Y.BHG DATO' Pengerusi	TINDAKAN
3.	<p>Ucapan alu-aluan Yg.Bhg. Dato' Pengerusi</p> <p>Pengarah Kastam Bahagian GST, Dato' Haji Zulkifli bin Yahya memulakan mesyuarat dengan ucapan salam dan selamat pagi serta ucapan terima kasih di atas kehadiran ahli mesyuarat.</p> <p>Y.Bhg Dato' telah memberi penekanan ke atas dua perkara semasa ucapan permulaan mesyuarat iaitu pembayaran dan tuntutan bayaran balik (<i>refund</i>).</p> <p>Pembayaran GST boleh dibuat melalui tiga saluran iaitu bayaran secara <i>online</i>, bayaran secara manual dan bayaran melalui bank. Apa yang penting bagi bayaran secara <i>online</i> ialah keperluan jalur lebar (<i>band width</i>) internet ialah 1MB.</p> <p>Dari segi bayaran <i>refund</i>, Y.Bhg Dato' memaklumkan peratusan yang telah selesai bagi bulan April ialah 97.2%, Mei (92.3%), Jun (77.7%) dan Ogos sebanyak 28.6%</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> <p>b) Storage provided by freight companies who are not port or airport operators.</p>	<p>Jawapan telah disediakan oleh Sektor V. Rujuk Lampiran 1B</p> <p>Sila rujuk Lampiran 1B</p>	<p>Makluman</p> <p>Makluman</p>

	c) Handling services	Sila rujuk Lampiran 1B	Makluman
	5.2 Isu oleh Federation Malaysian Manufacturing		
	PERKARA BERBANGKIT / ISU	ULASAN / STATUS	TINDAKAN
	<p>A. OUTSTANDING ISSUES</p> <p>1. Claim of input tax within 6 years from the date of supply or importation</p> <p>Maklum balas telah diberikan oleh Sektor VII seperti berikut :</p> <p>Reference is made to Regulation 38 of the GST Regulations 2014. The taxpayer is allowed to claim input tax he has incurred in the taxable period the tax invoice he holds is posted into his accounts payable (i.e. posting date) or within a period of 12 months from the date he holds the tax invoice, whichever is earlier.</p> <p>B. NEW ISSUES</p> <p>1. Confusion on the GST treatment for Shipping Line and Freight Forwarder Charges</p> <p>Wakil FMM memaklumkan Sektor V telah mengeluarkan <i>comprehensive list</i>. Senarai tersebut telah dihantar kepada ahli-ahli untuk diedarkan kepada pelanggan.</p>	<p>Ahli mesyuarat telah mencadangkan supaya perkataan <i>may allow</i> yang terdapat dalam Peraturan 38 Peraturan GST 2014 ditafsir dan disiarkan dalam <i>DG's Decision</i>.</p> <p>Y.Bhg Dato' bersetuju supaya DG's decision dikeluarkan mengenai perkara ini.</p> <p>PKPK I Sektor V Tuan Faizulnudin memaklumkan senarai tersebut dalam proses untuk <i>upload</i> ke dalam sistem.</p>	<p>Sektor VII</p> <p>Makluman</p>

	2. Delays in approval of the list of the raw materials /components /accessories and machines to be imported under the ATS.	Jawapan adalah seperti di butiran 3, Lampiran A2	Makluman
6.	PERBINCANGAN ISU BARU		
	6.1 ISU OLEH MALAYSIAN INSTITUTE OF ACCOUNTANTS (MIA)		
	PERKARA BERBANGKIT/ ISU	ULASAN / STATUS	TINDAKAN
	<p><i>1. Disbursements</i></p> <p>Isu yang dibangkitkan adalah berkaitan dengan profesion guaman dan perundangan. Tidak ada keseragaman bagi sesuatu caj. MIA perlukan satu resolusi mengenai perkara ini</p> <p><i>2. Input tax credit (ITC)</i></p> <p>ITC mempunyai layanan yang berbeza bagi perkhidmatan berkadar <i>standard</i> dan perkhidmatan dibawah kategori <i>out of scope</i>. Justeru, Jabatan Kastam hendaklah menjelaskan perkara ini kepada <i>public</i> melalui saluran tertentu seperti <i>website</i> dan sebagainya.</p>	<p>Y. Bhg Dato' akan memberikan maklumbalas kepada MIA</p> <p>Y.Bhg Dato' bersetuju bahawa ITC adalah isu yang bersifat teknikal.</p> <p>MIA dikehendaki berbincang dengan Sektor VII untuk selesaikan isu-isu yang berbangkit berkaitan dengan ITC dan membuat cadangan kepada MOF.</p>	<p>Sektor I</p> <p>MIA & Sektor VII</p>
	6.2 ISU OLEH THE MALAYSIAN INSTITUTE PUBLIC ACCOUNTANTS (MICPA)		
	PERKARA BERBANGKIT/ ISU	ULASAN / STATUS	TINDAKAN
	1. Property Management <i>Joint Management Bodies</i> (JMB) dan <i>Management Corporation</i> (MC)	Jawapan telah diberikan dalam mesyuarat yang lalu. Sila rujuk Lampiran B	Makluman

	2. Designated Area PKPK I Tuan Faizulnudin telah mengemukakan beberapa persoalan kepada MIA diantaranya <i>wet leasing</i> dan <i>dry leasing</i>	Sila rujuk Lampiran B	Makluman
	3. Imported Services	Sila rujuk Lampiran B	Makluman
	4. Reimbursement	Jawapan adalah seperti di Lampiran B.	Makluman
7	ISU BARU		
	7.1 Isu oleh MICPA	- Sila rujuk Lampiran A1	
	7.2 Isu oleh FMM	- Sila rujuk Lampiran A2	
	7.3 Isu oleh FMFF	- Sila rujuk Lampiran A3	
	7.4 Isu oleh PWC	- Sila rujuk Lampiran A4	
	7.5 Isu oleh MIA	- Sila rujuk Lampiran A5	
8.	PENUTUP		
	<p>Y Bhg. Dato' merakamkan ucapan terima kasih kepada semua ahli yang hadir dan telah memberikan input yang amat baik. Y. Bhg Dato' berpuas hati dengan perbincangan pada hari ini dan berharap mendapat sokongan yang baik dan berterusan daripada sektor perniagaan</p> <p>Mesyuarat ditangguhkan pada jam 12:45 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

Lampiran 1B

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

1. Bayaran rebat (komisyen) 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 komisyen 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.

NEW ISSUE FOR MESYUARAT BIL. 5/2015

Lampiran A1 - MICPA

No.	Issue	Recommendation / Clarification Sought	FEED BACK FROM CUSTOMS
1	<p>Reporting of Realised Foreign Exchange Gains / Losses in GST-03 Form</p> <p>A Member of our Institute has stated that his client (a company) received the following advice from a RMCD officer recently.</p> <p>Background</p> <p>The company <u>received</u> interest income from bank and also incurred a net foreign exchange loss.</p> <p>Advice Received</p> <p>The company was advised that:</p> <ol style="list-style-type: none"> 1) for the purposes of ie realised foreign exchange gains / losses, such gains / losses must be added up with the interest income from the bank and reported under Field C12 of the GST-03 Form; and 2) if the foreign exchange is in the loss position, it should be reported as zero. 	<p>The advice on reporting of the realised foreign exchange loss received by the company does not appear to be in line with the advice given by RMCD in its letter dated 27 May 2015 under item 5B in respect of reporting of realised foreign exchange gains / losses where it was stated that in the case of a realised net foreign exchange loss, i.e. loss of RM200, the amount reportable is RM200 without the (-) sign.</p> <p>Due to the discrepancy, we would like to seek clarification on the correct treatment of the reporting of a realised foreign exchange loss.</p>	<p>Puan Fauziah binti Abu Zarim PKPK I Sektor IV</p> <p>Only realized gain should be reported in the GST-03. If the foreign exchange is in the loss position, it should be reported as zero.</p>

2	<p>Exempt Supplies declared by Company with ATS</p> <p>The minutes of the GST Technical Issues Committee meeting held on 9 July 2015 stated that confusion arises as to whether the incidental exempt financial supplies received by an ATS should be declared in Field 12 or Field 6(a) of the GST-03 Form.</p>	<p>We wish to clarify that the question raised was in respect of whether ATS will be withdrawn as a result of exempt supplies (consisting incidental exempt financial supplies such as interest from deposit places with a bank and realised foreign gains / losses) declared.</p>	<p>PKPK II Tn Khairul Nizam Othman Pengurusan Pembayar Cukai Utama</p> <p>Application or status of ATS will not be withdrawn as a result of incidental exempt supplies.</p> <p>Any supplier who provide both taxable supplies and incidental exempt supplies will be treated as making wholly taxable for the purpose of ATS</p> <p>Please refer Regulation 40(3), Goods and Services Tax Regulation 2014</p>
3.	<p>How to repay short-payment of GST</p> <p>The minutes of the GST Technical Issues Committee meeting held on 9 July 2015 did not 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>We would appreciate the RMCD's response on how to repay short-payment of GST.</p>	<p>Registered person</p> <p>Any short paid must be paid at import station and you can claim GST import as input tax in the GST-03 Form</p> <p>Non registered person</p> <p>Any short paid must be paid at import station and you cannot claim GST import as input tax.</p> <p>Short paid duty or GST should be declared and paid at the respective import station through the issuance of AM 115 or Bill Of Demand (customs document) whichever is applicable.</p>

NEW ISSUE FOR MESYUARAT BIL. 5/2015

FMM conducted a survey in the months of July –August 2015 to assess the issues faced by members on the implementation of GST post April 1, 2015 i.e. delays in input credit refunds, difficulties in obtaining special sales tax refunds and difficulties in making online payment of GST returns. A total of 162 companies responded to the survey. The main issues highlighted by members include:

NO.	Issue	Recommendation	Feed Back From Customs
1.	<p>Late Refunds of Input Tax Credit (ITC)</p> <p>The GST refund mechanism is considered the Achilles Heel and delays have impacted the cash flow of businesses especially of SMEs. Based on the survey, the following is the time taken for companies to receive their refund:</p> <p><u>April returns</u></p> <ul style="list-style-type: none"> • 11.1% received within 14 working days. • 14.3% received within 1 month • 41.3 % received refunds within 2 months • 20.6% received after 2 months 	<p>(a)FMM would like to urge Customs Department <u>to refund the input tax credit (ITC) within 14 days from date of filing their returns</u> online as stipulated in the GST Regulations and to conduct a post audit thereafter if required.</p> <p>(b)FMM proposes for the GST legislation to include the <u>provision for interest on late payments and refunds</u> to ensure strict compliance and to uphold the integrity of the GST system.</p> <p>(c)Important for Customs to continue <u>to update companies on the status of their refunds</u> in the TAP system and also by email. Customs to also indicate when the refunds are banked into their accounts.</p>	<p>Puan Sakenah Begum binti Md Nazir PKPK I Unit Kawalan Kemudahan</p> <p>(a)Pembayaran balik GST mengikut peraturan 67 Peraturan GST 2014 hendaklah dibuat dalam tempoh empat belas (14) hari bekerja (penyerahan elektronik) dan dua puluh lapan (28) hari bekerja (penyerahan manual) atau dalam tempoh yang praktik.</p> <p>Orang berdaftar GST tidak layak mendapat pembayaran balik dalam tempoh 14/28 hari bekerja adalah disebabkan oleh beberapa faktor seperti berikut :</p> <ul style="list-style-type: none"> • pengisian penyata GST-03 yang tidak lengkap • maklumat bank yang tidak betul • tiada/lambat maklumbalas yang diterima daripada pemohon ke atas kuiiri pegawai pulang balik • syarikat tidak dapat dihubungi melalui no telefon/alamat/email yang dikemukakan

NO.	Issue	Recommendation	Feed Back From Customs								
	<ul style="list-style-type: none">12.7% have not received refunds to date <p><u>May returns</u></p> <ul style="list-style-type: none">26.5% received within 14 working days26.5 % received within 1month22% received after 1 month25% not received refunds to date <p><u>Issues raised:</u></p> <p>(i) No updates from Customs on the status of the refunds.</p> <p>(ii) Unable to contact Customs to check on the status of the refunds despite providing the documents requested by Customs for the desk review.</p> <p>(iii) No indication if the refund is approved and timeline to bank in the refund. Companies are forced to check their accounts on a daily basis to determine if</p>		<p>semasa pendaftaran</p> <ul style="list-style-type: none">tuntutan palsu dan meragukan yang dikemukakan oleh syarikat; danmaklumat pendaftaran yang tidak lengkap menjejaskan proses pulang balik. <p>Pihak syarikat adalah dinasihatkan supaya memberi maklumbalas dengan segera apabila dihubungi bagi mempercepatkan proses pulang balik.</p> <p>(b)Buat masa kini tiada cadangan daripada kerajaan untuk membayar faedah bagi pembayaran balik yang lewat.</p> <p>(c) Orang berdaftar akan dimaklumkan melalui emel mengenai :</p> <ul style="list-style-type: none">Jika tidak layak menerima bayaran balik dalam tempoh 14/28 hari bekerja.Arahan kepada bank pembayar untuk pembayaran balik kepada orang yang berdaftar <p>Status Proses Pembayaran Balik</p> <table><tr><th>Tempoh bercukai</th><th>Peratusan telah selesai</th></tr><tr><td>April 2015</td><td>97.24</td></tr><tr><td>Mei 2015</td><td>92.37</td></tr><tr><td>Jun 2015</td><td>77.71</td></tr></table>	Tempoh bercukai	Peratusan telah selesai	April 2015	97.24	Mei 2015	92.37	Jun 2015	77.71
Tempoh bercukai	Peratusan telah selesai										
April 2015	97.24										
Mei 2015	92.37										
Jun 2015	77.71										

NO.	Issue	Recommendation	Feed Back From Customs						
	the money has been banked in.		<table><tr><td>Tempoh bercukai</td><td>Peratusan telah selesai</td></tr><tr><td>Julai</td><td>33.32</td></tr><tr><td>Ogos</td><td>28.61</td></tr></table>	Tempoh bercukai	Peratusan telah selesai	Julai	33.32	Ogos	28.61
Tempoh bercukai	Peratusan telah selesai								
Julai	33.32								
Ogos	28.61								
2.	<p>Online Payment of GST through TAP system, Local and Foreign Banks</p> <p>There are various methods of making GST payments – online (TAP portal, bank portals, direct debit etc) and manually (over the bank Counter/ Customs Kelana Jaya – GPC). From feedback received from members 92% of the survey respondents indicated that they utilise the manual payment method over the bank counter as they face the following challenges in utilising the online payment systems:</p> <p>(i) TAP portal – Members have highlighted that the system keeps hanging and not able to cope with the online payments. Companies have resorted to printing</p>	<p>Important for Customs <u>to address issues on online payment of GST</u> as too much manpower and time is now being spent by Customs to reconcile cheques instead of concentrating on facilitating the input tax refunds.</p> <p>Customs to remove the online payment threshold limit of RM1 million.</p>	<p>Puan Wahizam binti Abd Wahid PKPK II Unit Penguatkuasaan Pendaftaran</p> <p>(i)After March 2015, MyGST always up and running and RMCD have increased GST resources. Connection to MyGST depended on companies internet connections. Payment to MyGST only start in May 2015. Companies are encourage to pay via online banking but accessing is depended on companies internet connections. If taxpayers do not have sufficient internet connection, they can use MyGST kiost</p>						

NO.	Issue	Recommendation	Feed Back From Customs
	<p>the payment voucher and submitting cheques over the bank counter;</p> <p>(ii) Online banking via local banks – In order to utilise the online banking system, companies are required to install the FPX gateway payment module. Some MNCs have taken 6 months to try to connect with the Customs TAP portal / banking systems but failed and therefore have also resorted making payment over the counter.</p> <p>(iii) Direct debit via RHB Bank for companies banking with foreign banks – RHB is the sole anchor bank appointed by Jabatan Akauntan Negara for the registration of registrants wanting to</p>		<p>at RMCD GST state.</p> <p>(ii) There is no integration between MyGST and companies SAP systems for security purpose. Any MyGST integrations with other systems must get approval from Ministry of Finance (MOF) .Integration is with 7 local banks as approved by MOF (RHB, Maybank, CIMB, BIMB, Hong Leong Bank, Alliance Bank and Public Bank).</p> <p>(iii) RHB is RMCD's anchor bank appointed by Jabatan Akauntan Negara Malaysia. RMCD has appointed RHB to manage the registration of registrant who wish to use the Direct Debit Facility.</p> <p>Under FPX Direct Debit, the "Buyer" registration is a one-time process (standard</p>

NO.	Issue	Recommendation	Feed Back From Customs
	<p>use the Direct Debit Facility. Under the FPX Direct Debit, the 'Buyer' registration is a requirement before tax payer is allowed to submit payments online. First time transaction registrants have to fill up the Direct Debit Authorisation Form and submit to RHB. The application is then submitted by RHB to MyClear for approval. Approval is given after being verified by the buyer's bank. This process is tedious and discourages companies from making online GST payments.</p> <p>(iv) Non-panel Banks - Many companies have highlighted that the banks they are banking with are not part of the panel banks that allow direct payment to Customs i.e. there are</p>		<p>by MyClear) before tax payer is allow to submit their payment online.</p> <p>For the first transaction registrants have to fill up Direct Debit Authorisation Form and submit to RHB .</p> <p>(iv)Application to become bank agent must be made in writing to Director of Cawangan Perakaunan Hasil, Jabatan Kastam Diraja Malaysia.</p>

NO.	Issue	Recommendation	Feed Back From Customs
	<p>no international banks on this panel; and</p> <p>(v) Threshold- Respondents also highlighted that GST payments amounting over RM1 million cannot be made online.</p>		<p>(v) Transaction limit for B2B is RM10 million. For B2C is RM30K. There is no transaction limit for direct debit.</p>
3.	<p>Approve Traders Scheme</p> <p>The following issues / problems have been raised by members with regards to the issue of the ATS scheme:</p> <ul style="list-style-type: none"> To produce the hardcopy of the approved list of raw materials / components / accessories and machines imported at the ports for verification by Customs officers. There is currently no file export functions in the TAP system to enable Customs to view the list from their desk thus forcing businesses to print screen the list in order to be printed out and face 	<p>To ensure that the Customs <u>ATS system is in sync</u> with Customs importation system.</p> <p>Proposed for the <u>deadline</u> to submit Lampiran B is <u>extended to 30 days</u>.</p> <p>There is a need for Customs to reevaluate its ATS processes and <u>do away with all the redundant reports</u> and request for only one consolidated report from ATS operators.</p>	<p>Puan Pusphalatha a/p Subramaniam PKPK II Unit Kawalan Kemudahan</p> <ul style="list-style-type: none"> Hardcopy was requested during the time our system was down for 2-3 weeks. The approved person could not go into scheme change field to add in additional goods. That problem has been rectified about two weeks ago. The approved person can add in their goods through scheme change via TAP system now. Hardcopy endorsed by the controlling station was requested at that point of time by the assessment officer in order to assess and suspend GST. We apologized for the inconvenience caused during the period where the system was down.

NO.	Issue	Recommendation	Feed Back From Customs
	<p>problems if they have a long list to be printed.</p> <ul style="list-style-type: none"> • Customs at ports requesting for registration of station (port of entry) under the ATS scheme • Additional / New Items under the ATS scheme takes more than 1.5 months to be approved. • Many reports to be submitted to Customs (Lampiran B, Lampiran XI-1 and XI-2, Lampiran M1 and M2 and Lampiran M4). Lampiran B is required to be submitted by the 10th of every month and this provides too little time for companies to compile and verify for Lampiran B purposes 		<ul style="list-style-type: none"> • It is one of the requirement in the TAP system and the taxpayer is aware about this matter. So far no issue raised regarding this matter at our level. Kindly enlighten us the issue raised. • ATS standing order clearly stated as 7 working days and we tried to fulfill the 7 working days unless the approved person failed to submit additional required documents. • All the reports stated are meant for LMW import duty exemption except for Lampiran B which is for GST suspended amount which the approved person has to report to Customs by 15th of the following month. If the taxpayer fails to fulfill this condition, DG can revoke the special scheme.
4.	<p>Foreign Exchange Rate Issues</p> <p>Issues related to exchange rate include:</p> <ul style="list-style-type: none"> • Customs requires the use of foreign rate of exchange as determined by DG for importation of goods. However financial reporting 	<p>All <u>import and export rate of exchange</u> should be standardised by utilising Bank Negara daily rate of exchange.</p> <p>Allow rounding adjustment tolerance of $\pm 0.1\%$ of the tax invoice to be acceptable for local supply in foreign currency.</p>	<p>Sektor VII</p> <p>After conversion from foreign currency to local currency , the rounding adjustment on the total amount payable(including tax) should be to the nearest 5 cents.</p> <p>For example :</p> <ul style="list-style-type: none"> ○ RM10.21 will be adjusted to RM10.20, ○ RM10.27 will be adjusted to RM10.25

NO.	Issue	Recommendation	Feed Back From Customs
	<p>becomes inaccurate when using Customs exchange rate on imports.</p> <ul style="list-style-type: none"> Local supply of tax in invoices in foreign currency must be indicated in RM for summaries. This has caused the rounding errors especially in JPY due to rounding calculation of suppliers and customers are different. 		<ul style="list-style-type: none"> RM10.28 will be adjusted to RM10.30 RM10.23 will be adjusted to RM10.25 <p>There is no rounding adjustment for the tax element(GST)</p> <p><u>Catatan</u></p> <p>Bagi pertukaran asing (foreign exchange), JKDM akan mengguna pakai kadar pertukaran yang ditentukan oleh KPK seperti mana yang ditetapkan oleh Akta GST 2014. (Sila rujuk Butiran 5, Jadual Ketiga Akta GST 2014)</p>
5.	<p>Too Many Tax Codes</p> <p>As there are too many tax codes and too complex for users to apply and therefore there is a tendency to use the wrong code and submit wrong returns to Customs</p>	<p>To <u>minimise and simplify the tax codes</u> to be used in bookkeeping for input and output.</p> <p>Propose for Customs to be <u>lenient with the penalties</u> for tax coding errors.</p>	<ul style="list-style-type: none"> i. Puan Siti Zaleha binti Mohd Said ii. Tuan Baharudin bin Abd Rahman <p>No requirement to minimize. The tax codes were given as a guide to accounting software vendors. However, those registered persons who are not using e-voucher facilities, may have their own tax codes. A registered person who wrongly declares tax code through the GST return commits an offence.</p>

NO.	Issue	Recommendation	Feed Back From Customs
6.	<p>Waiver of the penalties during teething period of GST</p> <p>Due to the transition to the GST, we note that the flip-flop in the GST legislation, unable to understand highly technical GST guides, too many complicated tax codes, problems with the TAP system causing hanging GST submissions are the many issues faced by members when making their GST returns.</p> <p>Customs has penalised companies for late filing of returns / payment after deadline.</p>	<p>As GST is a new tax system, it would be common in the first few months of its implementation for companies to be ignorant of the law and make filing errors.</p> <p>FMM would like to urge the Customs Department <u>to waive the penalties</u> on businesses that have made errors on filing of returns or delayed in submission by 1-2 days. Customs should instead provide advisory services and in letters to highlight the error and recommendation to address the error.</p>	<p>Puan Wahizam binti Abd Wahid PKPK II Unit Penguatkuasaan Pendaftaran</p> <p>The department takes an advisory approach on such matters at the present moment. No compound will be imposed on the registered person that furnishes late returns until specific instructions issued by the department.</p>
7.	<p>Delays in Customs Approvals</p> <p>There are many applications that call for approval from the Customs Department including the utilisation of the GST Relief Order, application for ATS and ATMS, Group Registration, Branch Registration and etc.</p>	<p>FMM would like to request for the Customs Department to <u>issue a client charter</u> on all GST related approvals and applications</p>	<p>Puan Pusphalatha a/p Subramaniam PKPK II Unit Kawalan Kemudahan</p> <p>For ATS AND ATMS application, approval is given within 14 working days unless required documents are not given for verification. If the required document is not submitted within 14 working days the case will be pending. And for</p>

NO.	Issue	Recommendation	Feed Back From Customs
	<p>It has been brought to FMM's attention that letters and applications seeking the approval from Customs have not received timely replies. In some cases there have not been any correspondence from Customs i.e. an FMM member who has submitted an online cancellation for branches in the beginning of July has not received any response from Customs and this has caused uncertainty in the submission of their GST returns.</p>		<p>most of such cases we have denied the approval. As far as for HQ level action has been taken either approval/denied has been given.</p> <p>GST Division is in the process of preparing the client's charter for group and branch registration. Please provide the name of FMM members who have not received any reply to their letters from the department.</p>

NEW ISSUES FOR MESYUARAT BIL. 5/2015

Lampiran A3 - FMFF

	Issue	Recommendation	Feed back from Customs.
1.	<p>Director General's decision 5/2015 dated 30/04/2015.</p> <p>Transport Services.</p> <p>Who can be considered as making a supply of transportation services under item 4, Second Schedule of GST (Zero-rated supply) Order 2014</p> <p>As per discussion at the GST Technical Committee Meeting on 09/07/2015, the interpretation was that the Freight Forwarder and Non-Vessel Operating Common Carrier (NVOCC) under (ii) and (iii) of the DG's decision was only entitled zero-rated tax treatment to supply of transport services only.</p> <p>Based on the narrow definition of item 4, the Freight Forwarder and NVOCC may not enjoy any direct benefit from the DG's decision as they do not operate the ship and may be unable to qualify as making a supply of transportation services.</p> <p>Many Shipping Lines operate on Vessel Sharing Agreements (VSA)</p>	<p>FMFF submits that DG's decision to include shipping lines operating in VSA should be similarly extended to NVOCCs and Freight forwarders. The decision could be considered when it includes reference to item 5 "transport, loading, unloading and handling services as referred to in sub item 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 the supply of services to which sub item 4 (b) "from the last exit point in Malaysia to any place in other country" or (c) "from a place outside Malaysia to the first entry point in Malaysia" applies. By expanding the scope to item 5 and item 3(2) the Freight Forwarder and NVOCC can enjoy zero-rated supply for their following services similar to Shipping lines. The charges for freight Forwarders to be zero-rated are:</p> <ol style="list-style-type: none">1. Terminal Handling charges2. LCL charges3. D/O and B/L fee4. EDI fee	<p>Tuan Faizulnudin bin Hashim PKPK I Sektor V</p> <p>Sebelum keluarnya DG decision 5/2015, hanya <i>carrier</i> sahaja dianggap sebagai pembekal perkhidmatan pengangkutan antarabangsa di bawah butiran 4 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014.</p> <p>Setelah mendapat kelulusan dari Kementerian Kewangan, <i>NVOCC</i> dan <i>freight forwarder</i> dianggap sebagai pembekal perkhidmatan pengangkutan antarabangsa bagi tujuan butiran 4 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014.</p> <p>Butiran 3(2) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014 merupakan <i>ancillary services</i>. Pembekal <i>ancillary services</i> perlu mengenakan GST ke atas perkhidmatan yang diberi disebabkan bekalan tersebut berlaku di Malaysia.</p>

	Issue	Recommendation	Feed back from Customs.
	<p>where each participating shipping line contributes an agreed number of ships to the service. The shipping line that provides the ship would be the transport operator. The other shipping lines in the VSA are given agreed number of slots/spaces in the ship. Therefore, they are not operating the ship or providing the transport. The DG's decision does not differentiate these participating shipping lines that do not actually operate the ship and they qualify under item 4, Second Schedule of GST of (Zero Rated Supply) Order 2014 as a supply of transport.</p>	<ol style="list-style-type: none"> 5. Agency fee 6. Cost recovery charges/CRM 7. Seal charges <p>For NVOCCs, the following charges to be zero-rated:</p> <ol style="list-style-type: none"> 1. FCL –Terminal handling charges 2. LCL fees 3. EDI fees 4. D/O and B/L fees 5. Cost Recovery fee 6. Agency Recovery Fee (FCL only) 7. Agency fee 8. Seal fees <p>FMFF request GST Technical Committee/MOF to review its DG's decision 5/2015 to enable freight forwarders and NVOCCs operating as Principals to zero-rate their supply of services under item 5 of Second Schedule (Zero-Rated Supply) Order 2014. If this review is not made freight forwarders and NVOCCs will lose all their business to shipping lines who zero-rate their services and charges while Freight forwarders and NVOCCs standard rate the charges. For information more than 65% of freight on ships are arranged by Freight forwarders and NVOCCS while 100% of air freight is by freight forwarders, as General Sales Agent. For air freight, Airline sells to Forwarder and forwarder sells to another Forwarder, which Customs GST Sector V has deemed as zero-rated supply.</p>	<p>Walaubagaimanapun, <i>ancillary services</i> ini boleh dikenakan GST pada kadar sifar sekiranya ia dibekal oleh mereka yang layak di bawah butiran 3(1) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014 atau ianya dibekal oleh pembekal yang sama di bawah butiran 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014.</p> <p>Sekiranya NVOCC atau <i>freight forwarder</i> juga menyediakan perkhidmatan pengangkutan <i>domestic</i> bersekali dengan perkhidmatan di bawah butiran 4 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014, mereka juga layak untuk mengenakan GST pada kadar sifar untuk ancillary services sepertimana peruntukan butiran 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014</p>

	Issue	Recommendation	Feed back from Customs.
2	<p>Port charges. We refer to Sector V (transportation) advice that port charge is deemed as reimbursement and therefore a SR supply.</p> <p>The interpretation was that the port charge was issued in the name of the Forwarder and not in the name of the importer/exporter</p> <p>GST should not be increasing the cost or price of services in the logistics industry. We have thousands of Importers and exporters and it would be difficult for the Port/Terminal Operators to get all of them to open an account and manage their accounts. As such, Port and Terminal Operators warrant that Forwarding Agents representing their customer importers and exporters open an account with them. The port charges are invoiced directly to the forwarding Agents who then collect from their importers and exporters on a back to back basis. The original Port/Terminal invoices are submitted to the importers and exporters and there is no mark-up of the port charges.</p>	<p>In this regard, as the claim from the Forwarding Agent to the importer/exporter is on a back to back basis and supported by original copies of the Port/Terminal operators' invoices, this should not be regarded as reimbursement which is interpreted as a supply and hence SR but should be treated as disbursement, which is OS.</p> <p>Furthermore this is not a revenue to the Forwarding Agent.</p> <p>Also, it is the Port and Terminal's decision that the Forwarding Agent open an account with them rather than importers/exporters themselves.</p> <p>FMFF submits that GST Technical Committee/MOF review the tax treatment for Port charge from a reimbursement to disbursement.</p> <p>This will ensure that costs of logistics services do not increase because of GST.</p> <p>Also, there is no revenue earned in the supply.</p> <p>We also understand from the General Guide that payments to third parties will be treated as disbursements if the following conditions are fulfilled:</p> <ol style="list-style-type: none"> The disbursement is made by the person as an agent on behalf of the client; The client actually received the goods or services; The client is the person responsible to pay; 	<p>Tuan Faizulnudin bin Hashim PKPK I Sektor V</p> <p>Pembekalan perkhidmatan ini hanya layak dikenakan atas kadar sifar oleh pengendali pelabuhan atau lapangan terbang atau orang yang diberi kuasa oleh Menteri Pengangkutan sepertimana peruntukan butiran 3(1) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014.</p> <p>Perkhidmatan ini juga adalah berkadar sifar sekiranya perkhidmatan itu dibekalkan oleh pembekal yang sama sepertimana yang diperuntukan di bawah butiran 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014</p> <p>Dalam keadaan lain (cth. sebagai <i>recovery of cost</i>) atau pembekalan oleh pembekal yang TIDAK LAYAK di bawah butiran 3(1) atau 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014, perkhidmatan tersebut adalah berkadar standard.</p> <p>Caj pelabuhan yang dikenakan kepada pengimport oleh agen penghantaran tidak boleh dianggap sebagai <i>disbursement</i> kerana transaksi ini tidak memenuhi kriteria <i>disbursement</i> seperti yang ditetapkan</p>

	Issue	Recommendation	Feed back from Customs.
		<p>d. The payment is authorised by the client;</p> <p>e. The client knew that the goods and services paid for provided by the third party;</p> <p>f. The payment is itemised</p> <p>g. The person claims the exact amount from the client</p> <p>h. The payment is clearly additional to the supplies the person makes to the client.</p> <p>Based on the General Guide, the Port charges should be treated as disbursement and not reimbursement.</p>	dalam DG's decision butiran 6, bil 5/2015
3.	<p>Warehouse and console Operators operating at Port Klang.</p> <p>The Warehouse operators and Console Operators lease space from the Port and Terminal operators to offer their services. The operators are licensed by Port Klang Authority who also sets and regulates the tariff the operators charge for their services. Services include loading, unloading, handling services or storage of goods in the warehouse.</p> <p>Sector V has informed that PKA was wrong in issuing a circular that the supply of services of warehouse operators and console operators as zero-rated are wrong based on the interpretation that only the Port or</p>	<p>Based on the amendment FMFF submits that the services of warehouse operators and Console operators are zero-rated as they are licensed by the Port Authority and tariffs are set and regulated by the Port Klang Authority.</p> <p>The Minister of Transport is the Minister in charge of Transport and Port Klang Authority is authorised by the Minister of Transport to license, sets rules and conditions to warehouse operators and console operators to operate at port Klang.</p> <p>The Port Klang Authority's functions and powers and regulatory authority are derived from the Port Authority Act 1963 and the Port Authority By-Laws 1965. Under these Act and By-laws, PKA has authorised the business of Warehouse operators and Console</p>	<p>Tuan Faizulnudin bin Hashim PKPK I Sektor V</p> <p>Pembekalan perkhidmatan ini hanya layak dikenakan atas kadar sifar oleh pengendali pelabuhan atau orang yang diberi kuasa oleh Menteri Pengangkutan sepertimana peruntukan butiran 3(1) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014.</p> <p>Perkhidmatan ini adalah berkadar standard sekiranya perkhidmatan itu dibekalkan oleh pembekal selain daripada mereka yang dinyatakan di 3(1) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014 atau</p>

	Issue	Recommendation	Feed back from Customs.
	<p>Airport operator who offers these services can be zero-rated. We refer to amendment of Second Schedule (Goods and Services Tax (Zero-Rated Supply) (Amendment) Order 2015. The principal Order is amended in the Second Schedule-</p> <p>(a) By substituting for sub item 3(1) the following sub item:</p> <p>(1) Loading, unloading, handling services or storage of goods carried or to be carried in a ship or aircraft in a port or airport by-</p> <p>(a) A port operator</p> <p>(b) Airport operator</p> <p>(c) Any person authorised by the Minister responsible for transport</p>	<p>operators in Port Klang. In this regard, as per the amendment to the Zero-rated supply Order 2014, FMFF submits to GST Technical committee/MOF that warehouse operators' services as follows should be zero-rated:</p> <p>(a) Terminal handling charges (b) LCL charges (c) EDI fee (d) B/L and D/O fee (e) Agency Fee (f) Cost Recovery charges/CRM.</p>	<p>perkhidmatan itu dilakukan mereka yang layak tetapi di luar kawasan pelabuhan.</p> <p>Seksyen 3(1) Port Authority Act 1963 menyatakan Lembaga Pelabuhan Klang adalah pengendali pelabuhan dan walaupun <i>warehouse operator</i> dilesenkan oleh Lembaga Pelabuhan Klang, <i>warehouse operator</i> bukanlah pengendali pelabuhan. <i>Warehouse operator</i> hanya layak sekiranya mereka diberi kuasa oleh Menteri Pengangkutan sepertimana Peruntukan 3(1)(c) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014.</p>

NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
1.	<p>Zero-rating of Terminal Charges</p> <p>“Terminal charges” are charged by ports or airports as consideration for the use of their terminals and associated handling services provided by port and airport operators when ships or aircraft dock at or land at their terminals.</p> <p>The above terminal charges qualify for zero-rating under Item 1(a), Second Schedule of the GST (Zero-Rated Supply) Order 2014. It is noted that the law does not specify if the person providing these services have to be a port or airport operator.</p> <p>The industry practice for logistics companies, freight forwarders and forwarding agents (hereinafter referred to as collectively as “operators”) would incur these terminal charges as they deal directly with the ports and airports. The end customers do not generally contract directly with the ports and airports authorities. These charges are then recovered by the operators from the end customer. The invoices from the port and airport operators are currently treated as zero rated supplies to the operators. Impossible to use the disbursement rules because industry practice is for invoices to be issued to operators and not end-customers.</p> <p>A number of trade associations have informed their members that the recovery of these terminal charges qualify for zero rating when operators recover these charges from the end customer following a dialogue between Royal Malaysian Customs Department (“RMCD”) and the transport industry</p>	<p>Clarification whether terminal charges may be treated as recovery of a pass through cost which may be zero rated similar to Item 7 of the DG Decision 5/2015 which allows for the zero-rating of transport services on-charged by operators.</p>	<p>Tuan Faizulnudin bin Hashim PKPK I Sektor V</p> <p><i>Terminal charges</i> adalah sebahagian dari perkhidmatan pengendalian (<i>handling services</i>) berkaitan dengan barang di pelabuhan atau lapangan terbang.</p> <p>Pembekalan perkhidmatan ini hanya layak dikenakan atas kadar sifar oleh pengendali pelabuhan atau lapangan terbang atau orang yang diberi kuasa oleh Menteri Pengangkutan sepertimana peruntukan butiran 3(1) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014</p> <p>Perkhidmatan ini juga adalah berkadar sifar sekiranya perkhidmatan itu dibekalkan oleh pembekal yang sama sepertimana yang diperuntukan di bawah butiran 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014</p>

NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
			Dalam keadaan lain (cth. sebagai <i>recovery of cost</i>) atau pembekalan oleh pembekal yang tidak layak di bawah butiran 3(1) atau 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014 perkhidmatan tersebut adalah berkadar standard.
2.	<p>Charges/fees under Item 3, Second Schedule of GST (Zero-Rated Supply) Order 2014</p> <p>Item 3, Second Schedule of GST (Zero-Rated Supply) Order 2014 provides that the supply of services relating to “loading, unloading, handling services or storage of goods <u>by a port or airport operator</u> carried or to be carried in a ship or aircraft in a port or airport” shall be zero-rated.</p> <p>Similar to terminal handling charges, operators would incur the charges/fees and subsequently recover these amounts from end-customers customer. The current industry practice is that the invoices for these services are almost always in the name of the operators. The present arrangements will also not meet the strict technical requirements of a disbursement.</p> <p>A number of trade associations have informed their members that the recovery of these charges qualify for zero rating when operators recover these charges from the end customer.</p>	Clarification whether the charges/fees for the above services recovered as a pass through cost by operators may be zero-rated similarly to the treatment allowed under Item 7 of the DG Decision 5/2015.	<p>Tuan Faizulnudin bin Hashim PKPK I Sektor V</p> <p>Pembekalan perkhidmatan ini hanya layak dikenakan atas kadar sifar oleh pengendali pelabuhan atau lapangan terbang atau orang yang diberi kuasa oleh Menteri Pengangkutan sepertimana peruntukan butiran 3(1) Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014</p> <p>Perkhidmatan ini juga adalah berkadar sifar sekiranya perkhidmatan itu dibekalkan oleh pembekal yang sama sepertimana yang diperuntukan di bawah butiran 5 Jadual Kedua, Perintah CBP</p>

NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
			<p>(Bekalan Berkadar Sifar) 2014</p> <p>Dalam keadaan lain (cth. sebagai <i>recovery of cost</i>) atau pembekalan oleh pembekal yang tidak layak di bawah butiran 3(1) atau 5 Jadual Kedua, Perintah CBP (Bekalan Berkadar Sifar) 2014 perkhidmatan tersebut adalah berkadar standard.</p>
3.	<p>Guidance On Business Establishment And Fixed Establishment</p> <p>Currently, there is no explanation or guidance what constitutes a "business establishment" ("BE") or a "fixed establishment" ("FE"). In the absence of any explanation or guidance on BE and FE, it is difficult for businesses to determine whether a supplier belongs in a country or not for the purpose of GST.</p>	<p>Guidance be provided RMCD on what constitutes a BE or FE. We attach an extract (Paragraphs 3.3 to 3.4.1) of the VAT Notice 741A issued by the UK HM Revenue & Customs ("HMRC") and an extract from the Inland Revenue Authority of Singapore ("IRAS") website for your information.</p>	<p>Puan Nur Hanisah Dukes binti Abdullah PKPK I Sektor VII</p> <p>Isu ini boleh dirujuk kepada Specific Guide bertajuk <i>Guide on Supply</i> (m/surat 57). Panduan ini menerangkan dengan jelas dan terperinci berkaitan <i>business/fixed establishment</i>.</p>
4.	<p>Deemed supply under Paragraph 5, First Schedule of GST Act 2014</p> <p>Goods acquired before 1 April 2015 were not subject to GST. We understand that if goods acquired before 1 April 2015 are given out as free gifts after on or after 1 April 2015, the taxable person does not have to account for GST on the free gifts as there was no input tax claim by taxable person. This treatment is supported by</p>	<p>Confirmation that, other than in the situation where a special refund of sales tax has been claimed in respect of goods acquired before 1 April 2015, the disposal or transfer of a business asset acquired before 1 April 2015 without consideration would not give rise to a taxable</p>	<p>Puan Pusphalatha a/p Subramaniam PKPK II Unit Kawalan Kemudahan</p> <p>Barang yang diperolehi sebelum 1 April 2015 dan kemudiannya diberi sebagai hadiah</p>

NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
	<p>subparagraph 5(4), First Schedule of the GST Act 2014 which states that:</p> <p><i>"Subparagraphs (1) and (3) shall not deem anything done not for a consideration as a supply except where the person who is carrying on a business is entitled to credit under section 38 on the supply or importation of the goods."</i></p> <p>Where a taxable person has claimed a special refund of sales tax under section 191 of the GST Act on the goods acquired before 1 April 2015, the goods are deemed to be given credit for input tax under 191(5) of the GST Act.</p>	<p>event under Paragraph 5, First Schedule of the GST Act 2014.</p>	<p>pada/selepas 1 April 2015 adalah tertakluk kepada perenggan 5(2) Jadual Pertama Akta GST 2014.</p>

New Issue for Mesyuarat Bil. 5/2015

Lampiran A5 – MIA

NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
1.	<p>Tax Invoice</p> <p>There is a requirement to issue tax invoice (based on the latest DG's decisions and revised Tax Invoice and Record keeping Guide) when supplying taxable items that are given relief under Section 56 of Goods and Services Tax Act 2014. Property developers provide "free" infrastructure to local authorities & companies like TNB, IWK, Telekom, etc.</p>	<ul style="list-style-type: none"> a. When must the tax invoice be issued? b. Must such tax invoice issued to local authorities be signed and acknowledged by the local authorities? c. What is the supply value to be stated on the tax invoice (in practice such 'gifts' have no determinable value)? d. If the supply value is zero, what is the value to be used in the input tax recovery rate for mixed suppliers? e. Is the certificate issued to the local authorities or just for record for RMCD audit? f. If the property developers are required by local authorities to supply infrastructure at free of charge to them, is tax invoice still required to be issued for the infrastructure supplied since the value of supply is zero? 	<p>Puan Nur Hanisah Dukes binti Abdullah PKPK I Sektor VII</p> <p>Tax invoice / Value of Supply of good or services</p> <p>Goods or services given relief or given free or at a nominal value is a taxable supply and a tax invoice must be issued. The value for the supply is either "0" or nominal value eg. RM10.00</p> <p>Certificate of GST Relief (CoGSTR)</p> <p>For a supply that requires a CoGSTR, the certificate should be signed and acknowledged by the local authorities and copies to be given to RMCD and the Local Authority (LA)</p>

NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
			Residual ITC Based on the formula stated in the Reg 39(4), value of taxable supply given relief should be included in the value of T (in the formula). Since the developer supply the public infra to the LA at a nominal value or zero value, that value (nominal / zero value) should be used in the formula.
2.	Regulation 36(6) of the GST Regulations 2014 According to Regulation 36(b) of the GST Regulations 2014, input tax for the supply of goods or services relating to repair, maintenance and refurbishment of passenger car is blocked.	a. What constitutes repair and maintenance?	Puan Nur Hanisah Dukes binti Abdullah PKPK I Sektor VII Under Regulation 36(b) of the GST Regulation 2014, repair, maintenance and refurbishment of passenger motorcar is blocked except for insurance coverage, petrol/gas/diesel consumption, battery for hybrid cars and parking services.
3.	Malaysian Consultancy Firm – Due Diligence Services Malaysian Consultancy Firm provides due diligence services on a target entity outside Malaysia. Engagement letter is with a Malaysian entity. Bulk of the work is done overseas, i.e. at the target company's premises.	a. Can the fees raised by the Malaysian Consultancy Firm be zero rated under items 10 or 11 of the Zero Rated Order? b. If the answer to (a) above is "yes", must the out of pocket expenses therefore be zero rated as well or do we follow Customs current practice of treating such amounts as being reimbursement in nature and therefore taxable?	Tuan Faizulnudin bin Hashim PKPK I Sektor V It should be under item 12. The rate should be standard rated.

No.	Issue	Recommendation / Clarification Sought	MAKLUMBALAS
1.	<p>Property Management</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> <p>(a) Insurance for the building;</p> <p>(b) Water and electricity under bulk meters (refer page 16 and 17 of the Guide)</p> <p>(c) Quit rent</p> <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>
2.	<p>Designated Area</p> <p>a) Leasing of vessel by a DA Company to another DA Company for use in PCA;</p> <p>b) Leasing of vessel by a DA Company to a PCA Company for use in DA only.</p> <p>Response from MICPA after questioning by Tuan Faizulnudin bin Hashim are as follows :</p>	<p>Clarification is sought whether leasing of vessel as stated in the issue are supply within DA (no GST).</p>	

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	<p>a. Leasing of a vessel by a Designated Area (DA) Company to another DA Company for use in PCA and leasing of vessel by a DA Company to a PCA Company for use in DA only are dry leasing arrangements (i.e. bareboat charter)</p> <p>b. The Company can also provide proof that the vessel is used in DA based on the Vessel Daily Report ("VDR") which will state the area where the vessel operated.</p>														
<p>Response from Tn Faizulnudin bin Hashim : Dry Leased - A supply of a means of transport</p> <table border="1"> <thead> <tr> <th>Lessor belongs in</th><th>Leesee belongs in</th><th>Vessel used by lessee in</th><th>GST Treatment</th></tr> </thead> <tbody> <tr> <td>DA</td><td>DA</td><td>PCA</td><td> <p>If the vessel is already in PCA, 6% GST chargeable on the monthly lease payment.[Sec. 157 GSTA]</p> <p>If the vessel is to be imported into PCA from DA, GST 6% will be imposed on the importation [Sec. 156(a) GSTA]. However there is no GST chargeable on the monthly lease payment.</p> </td></tr> <tr> <td>DA</td><td>PCA</td><td>DA</td><td>No tax chargeable, provided that the vessel is wholly used in DA[Sec. 155 GSTA]</td></tr> </tbody> </table>				Lessor belongs in	Leesee belongs in	Vessel used by lessee in	GST Treatment	DA	DA	PCA	<p>If the vessel is already in PCA, 6% GST chargeable on the monthly lease payment.[Sec. 157 GSTA]</p> <p>If the vessel is to be imported into PCA from DA, GST 6% will be imposed on the importation [Sec. 156(a) GSTA]. However there is no GST chargeable on the monthly lease payment.</p>	DA	PCA	DA	No tax chargeable, provided that the vessel is wholly used in DA[Sec. 155 GSTA]
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	Wet leased - A supply of transportation service. <table border="1"> <thead> <tr> <th>Lessor belongs in</th><th>Lessee belongs in</th><th>Services in</th><th>GST Treatment</th></tr> </thead> <tbody> <tr> <td>DA</td><td>DA</td><td>PCA</td><td>Standard rate. [Sec. 157 GSTA]</td></tr> <tr> <td>DA</td><td>DA</td><td>DA to PCA(vice versa)</td><td>Standard rate. [Sec. 156(b) GSTA]</td></tr> <tr> <td>DA</td><td>PCA</td><td>DA</td><td>No tax chargeable, provided that the transportation service is wholly in DA. [Sec. 155 GSTA]</td></tr> </tbody> </table>			Lessor belongs in	Lessee belongs in	Services in	GST Treatment	DA	DA	PCA	Standard rate. [Sec. 157 GSTA]	DA	DA	DA to PCA(vice versa)	Standard rate. [Sec. 156(b) GSTA]	DA	PCA	DA	No tax chargeable, provided that the transportation service is wholly in DA. [Sec. 155 GSTA]
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3.	Imported services 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.																
	Questions asked by Puan Kho Wun Lin : 1. Who is the service supplier and is the service supplier in Malaysia or overseas; and 2. Who is charging who and any intermediaries in between. Response from Tan Yu Yin, MICPA : The Holding Company (with headquarters in the UK) incurred postal services charges for mailing / despatch of documents / parcels within the UK and to Malaysia on behalf of the Malaysian Co. The mailing services is provided by the UK Royal Mail and billed to the UK Holding Company. The UK Holding Company subsequently allocated and on-charge the costs incurred on behalf of the Malaysian Co. to the Malaysian Co.																		

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	<p>Clarification is therefore sought as to whether any output tax should be accounted for the abovementioned services (since it is zero rated not standard rated supply if made in Malaysia) for the reimbursement by the Malaysian Co to the UK Holding Company.</p> <p>Response from Sector V : Cost recovery by Holding Co in UK for postal services in relation to services in UK is out of scope as the services are consumed outside Malaysia and the supplier is an oversea person. Services acquired from overseas which directly connected to goods oversea and consumed oversea is an out of scope supply.</p> <p>As for the payment made by Malaysian company to the Holding Co in UK in relation to international mail, it is treated as imported services, it is zero rated under Item 21, Second Schedule of GST (Zero Rated Supply) Order 2014.</p>		
4.	<p>Reimbursement</p> <p>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?;</p> <p>b) For electricity bill – incurred before 1 April 2015 but recharge after 1 April 2015, is it subject to 6% GST?</p> <p>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?</p> <p>d) 1% Renewable Energy (RE) Fund collected by TNB on behalf of Sustainable Energy Development</p>	<p>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.</p> <p>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?</p>	

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	<p>Authority (SEDA) for the RE Fund. SEDA is an agency under the Ministry of Energy, Green Technology and 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>
	<p>Response from Puan Raizam, PKPK I Sector 1</p> <p>In relation to (a) to (d) in the case where such cost is be incurred in registered person's capacity as a paying agent for a particular client. Hence, such registered person does not have the legal obligation to pay for the goods or services or be a party to a contract and does not have discretion to alter the nature or value of supplies made between his purchaser and the third party supplier but are authorized by his purchaser to make payment to the third party supplier on his behalf. As such, no GST is eligible on the subsequent disbursement by the client. A recovery of a payment, the registered person incurred by him in his capacity as paying agent on behalf of another party in order to discharge its payment obligation is treated as a disbursement. A disbursement does not constitute a supply and is not subject to GST.</p> <p>For the purposes of GST, payment to the third party will be treated as disbursements if:</p> <ul style="list-style-type: none"> (a) The disbursement is made by the person 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; 		

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	<p>(d) The payment is authorised by the client;</p> <p>(e) The client knew that the goods and services paid for is provided by the third party;</p> <p>(f) The payment is itemised;</p> <p>(g) The person claims the exact amount from the client; and</p> <p>(h) The payment is clearly additional to the supplies the person makes to the client.</p>		<p>However, the registered person must charge their clients GST when billing if an item is reimbursement for GST purposes. For the purpose of GST, the term “reimbursement” refers to the recovery of an expense that registered person incur as a principal from another party. Thus, if the expenses paid to a third party have been incurred by the registered person in the course of making his own supply of goods or services to his client and the payment was part and parcel of the whole of the services rendered by him to his purchaser, it will constitute part of the whole services rendered and become part of the consideration payable. A reimbursement, may be subjected to GST if it is consideration for a supply of goods or services. The registered person are entitled to input tax incurred on goods or services procured by them if the subsequent recovery of such expenses constitutes a taxable supply.</p>