

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> <ul style="list-style-type: none"> (a) Insurance for the building; (b) Water and electricity under bulk meters (refer page 16 and 17 of the Guide) (c) Quit rent <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> <ul style="list-style-type: none"> a) Leasing of vessel by a DA Company to another DA Company for use in PCA; b) Leasing of vessel by a DA Company to a PCA Company for use in DA only. <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.																		
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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>