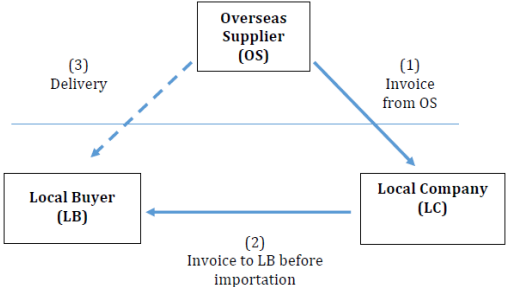


ISSUES AND RMCD FEEDBACK

NO	ISSUE	ORGANIZATION/ QUESTION NUMBER	QUESTION	FEEDBACK FROM RMCD
1.	Free Zone	MICPA (1)	<p><u>Guide on Free Zone (dated 1 January 2017)</u></p> <p>Paragraph 56 of the Guide on Free Zone states that GST shall be due and payable upon any importation of goods if the goods imported are removed from a place of import other than a FCZ (at port or airport) to FIZ. Currently FZ companies need to apply for ATS in order to enjoy the GST suspension.</p> <p>Section 162 of the GST Act 2014 specifies that no GST will be due and payable upon importation of goods into a free zone. As this section does not specify that it is only applicable to free zone located in a port or airport, it is opined that importation of goods to a free zone via a principal customs area (PCA) should fall within the ambit of Section 162 and should also not subject to GST.</p> <p>It is understood—that under the current practice, movement of goods from an import station to a free zone via PCA will be based on a Customs No. 8. where import duty is not due and payable. On the same reason, GST should also not be applicable.</p> <p>It is proposed that:</p> <p>(i) GST suspension also be granted to</p>	The matter is still under review by MOF.

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			<p>importation of goods via PCA into a free zone not located in a port or airport</p> <p>(ii) Free Zone not located in port or airport need not apply for ATS in order to enjoy the GST suspension.</p>	
2.	Redemption of unit trust	MICPA (2)	<p>With reference to item 10 of Second Schedule of GST (Exempt Supply) Order 2014, the issue, holding or redemption of any unit or other similar instruments under a trust fund is an exempt supply.</p> <p>With reference to regulation 41(j) of the GST Regulations 2014, the treatment of input tax credit attributable to exempt financial supplies as stated in regulation 40 is not applicable to companies listed in regulation 41 including an investment holding company.</p> <p>We would like to clarify whether the gains or proceeds received from redemption of unit trust by an investment holding company shall be treated as an exempt supply.</p>	<p>Unit trust gains in the form of a spread is a result of the difference in value between the redemption and placement of the unit trust. The spread is the consideration for the making of an exempt supply and is not subject to GST. If an IHC engages in such activity it is treated as an exempt supply and paragraph 40(2)(g) of the GST Regulations 2014 does not apply to the IHC.</p>

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3.	Director General's Decision : 4/2015	MICPA (3)	<p><i>Item 1:</i> Local company (LC) purchased goods from overseas supplier (OS) and later sold the goods to local buyer (LB) and issue an invoice (local invoice). The LC requests the overseas supplier to deliver the goods direct to his local buyer (LB).</p>  <pre> graph TD OS[Overseas Supplier (OS)] -- "(1) Invoice from OS" --> LC[Local Company (LC)] LC -- "(2) Invoice to LB before importation" --> LB[Local Buyer (LB)] OS -.- "(3) Delivery" -.-> LB </pre> <p>The supply made by LC to LB will qualify for an out of scope supply, provided all conditions are fulfilled. One of the condition is as follows:</p> <p>(a) There is proof that the transfer of ownership of the goods took place outside Malaysia before the goods are imported into Malaysia (through shipping document or incoterm)</p> <p>As one of the criteria is to justify that the ownership of goods has been transferred before imported into Malaysia either via</p>	<p>(i) Incoterm rules or International Commercial Terms are widely used in international commercial transactions. Incoterm inform sales contract defining obligations, cause and risk involved in the delivery of goods from the seller to the buyer.</p> <p>(ii) Since LC acquire the goods from overseas supplier, we need the incoterm in order to establish where the transfer ownership takes place whether outside Malaysia or in Malaysia.</p> <p>(iii) Therefore, if the transfer of ownership takes place outside Malaysia, transaction between LC and LB is out of scope regardless of when the shipping document is issued. On the other hand, if the transfer of ownership takes place inside Malaysia, the transaction between LC and LB is standard rated.</p> <p>(iv) Please take note that Section 12 GSTA Act 2014 is crucial in this GST treatment.</p>

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			<p>shipping document or incoterm, we would like to clarify the following:</p> <p>(i) Shipping Document Whether the said condition has been fulfilled so long the invoice issued by LC to LB is dated earlier than the date of shipping document.</p> <p>(ii) Incoterm The Incoterm is intended primarily to communicate the tasks, costs, and risks associated with the transportation and delivery of goods, by defining respective obligations (i.e. costs, and risks involved) in the delivery of goods from the seller to the buyer and most importantly it does not define where titles transfer.</p> <p>We would like to enquire the rationale in using incoterm as proof of ownership transfer under this condition.</p>	
4.	Management and maintenance services of stratified residential buildings	MICPA (4)	With reference to Appendix 11 of The 2018 Budget Speech, it explains that the current GST treatment for provision of management and maintenance services by parties other than joint management body and management corporation, such as housing developers are <u>subjected to GST at 6%</u> .	GST treatment on management and maintenance services by housing developers before JMB established is treated as non-supply as explained in Guide on Property Management – Joint Management Bodies (JMBs) & Management Corporations (MCs) as at 22 April 2016.

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			<p>However we refer to the FAQ 26 of the Guide on property management- joint management bodies (JMBs) & management corporations (MCs) as at 22 April 2016, it explains that supply of management and maintenance services by the developer during developer's management period are to be treated <u>as a non-supply</u>.</p> <p>We would like to seek clarification from Customs on the GST treatment for the provision of management and maintenance services by housing developer before a JMB is established.</p>	<p>While under the Item 20, Second Schedule, GST (Exempt Supply) Order 2014, such supply is exempted from GST including the recovery of group insurance cost, assessment tax and quit rent made by JMB and MC to the owners of the strata title residential building.</p> <p>Under The 2018 Budget Speech, the supply of management and maintenance services including the recovery of group insurance cost, assessment tax and quit rent made by JMB and MC to the owners of the strata title residential building is to be extended to the developers who manage the stratified residential building prior to establishment of JMB.</p> <p>Therefore, under the current treatment and with effect from 1st January 2018, developers or JMB or MC who responsible to maintain and manage the stratified residential building is not allowed to charge output tax and input tax is not claimable.</p> <p>The amendment of the exempt supply order does not cover the supply of such services performed on the commercial properties. Hence, the supply of management and maintenance services, the recovery of group insurance cost,</p>

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				<p>assessment tax and quit rent made by developers, JMB or MC to the commercial property's owner is subjected to GST.</p> <p>The Guide on property management-joint management bodies (JMBs) & management corporations (MCs).</p>
5.	Input list of raw materials for ATMS application via TAP	MICPA (5)	<p>A company has a list of 1600+ different raw materials.</p> <p>It is understood that the Import Button (in Appendix A) is only to upload templates provided by Customs (templates available from RMCD website). Currently only template for ATS is available. There is no special excel template issued by Customs for ATMS list of materials.</p> <p>It is understood that if the company were to upload the list of raw materials in its own template via the Attachment button (Appendix B), Customs Kelana Jaya is not able to view the file. This may not be acceptable by the Customs.</p> <p>It is understood that Customs has advised the company to manually enter in the 1600+ list of raw materials in TAP. This is not cost efficient and may result in errors.</p>	RMCD will consider the matter and inform MysGST System Management Unit.

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6.	Validity of pre-printed Invoice	STA (1)	<p>Our members still receive tax invoice issued in the format of pre-printed invoice and the particulars are either type written (with a type writer) or hand written. The particulars that are pre-printed included the word “tax invoice”, supplier name, address and GST ID, and invoice number; while the customer name, address, item descriptions, amounts and date are type-written or hand written. A validation against GST Regulation 22 found that all the required particulars are present. The suppliers are also not from the food and beverages, retail and entertainment industry which was compelled to use a computer generated invoices as per GST (Provision of Information) Regulations 2017.</p> <p>Our question is, are these pre-printed tax invoices acceptable for the purpose of input tax claiming, given that all the prescribed particulars are present and they are not from the specified industries above.</p>	<p>With reference to DG’s Decision 3/2015, Item 2:</p> <p>Pre-printed is allowed to be issued by the registered person if it fulfils the requirements in Regulation 22 GSTR 2014. Therefore, any input tax claim by the buyer using such invoice will be allowable.</p>
7.	GST treatment on vacant land without stating specific land purpose	STA (2)	<p>What is the GST treatment on a land title issued in year 1939 for a lease period of 99 years from the State Land, Sarawak that has no land restrictions and special conditions imposed on the land title under the heading of “Restrictions and Special Conditions”? The classification and category stated on the land title are <i>Mixed Zone</i></p>	<p>The GST treatment on the supply of land will be based on its usage. Under subitem 1(1), First Schedule, GST (Exempt Supply) Order 2014, the supply of land used or intended to be used for residential or agricultural purposes, or general use is exempted from GST.</p>

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			<i>Land</i> and <i>Suburban Land</i> respectively. A search with the local Land and Survey Department yielded no result as the land purpose is also not stated in the Department's database. When selling such vacant land, what would be the GST treatment?	Any land restriction or special conditions imposed on the land title does not changed the GST treatment. Therefore, any sale, lease or rent of the land used for other than residential or agricultural purposes, or general use (religious building, burial ground or playground) will be subjected to GST at standard rate.