Issues For Technical Committee on GST Implementation Meeting No.1/2016

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No	Issues	CTIM's Proposal	Feedback from Customs
1	**<u>Claim For Bad Debt Relief</u>** Para (iii) of item 3 of DG's Decision No. 1/2014, as amended, states that "*if the bad debt relief is not claimed immediately after the expiry of sixth month, then the taxable person has to notify the Director General (DG) within 5 days after the expiry of sixth month on his intention to claim at a later date."* The requirement involves tracking of outstanding debts and inform the DG on time. It is burdensome and does not enhance administrative efficiency. Furthermore, S58(1)(b) of the GST Act 2014 only allows a claim to be made if "…sufficient efforts have been made by him to recover the debt."	To waive the requirement to inform DG on the intention to claim the bad debt relief at a later stage and allow taxable person to claim bad debts relief as and when they deem that sufficient efforts have been made to recover the debt. Alternatively, as debtor turnover period varies depending on industry practice and company policy, RMCD may consider allowing flexibility for companies to "claim bad debt relief" based on the respective companies bad debt policy (in respect of GST bad debt relief), say aging of 12 months, 18 months or 24 months.	*Sektor VII* The taxable person need to notify only once and we will respond in writing of his obligations to claim at a later stipulated date This obligation will then also apply should a similar situation arise. We are in the process of developing the Standard Procedure for Bad Relief Claim in TAP.
2	**<u>Foreign Exchange Rates</u>** Para (ii) of Item 6 of DG's Decision No. 1/2014, as amended, states that *"In the case of local supply including imported services or export of goods, where the supplier and the buyer are both making wholly taxable supplies and both are businesses registered for GST –* *a) ……..* *b) ……..* *c) …… and* *d) ……..* Where either the supplier or buyer is not GST registered or making wholly taxable supplies, which exchange rate is applicable?	Businesses be allowed to use the exchange rate as listed in Para (ii)(a) of the DG's Decision No. 1/ 2014, regardless of the GST status (i.e. whether the company is registered or not etc.) as long as the exchange rate used is consistent with the business practices.	Sector VII RMCD will use the exchange rate determined by DG of Customs as specified in Item 5, Third Schedule of GST Act 2014

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3	**Reimbursement and Disbursement** Further to clarification provided in the DG's Decision 5/2015, there are still confusion in practice. A Malaysian bank pays RM10,000 for the service of a consultant established in Country B. (i) Scenario 1 The consultant incurs RM1,000 on international flight and RM530 (inclusive of GST) on accommodation in Malaysia. Both of these are paid by the consultant and is subsequently billed to the bank. (ii) Scenario 2 The Bank arrange and pay directly RM1,530 for the international flight and hotel accommodation and receive the tax invoices.	CTIM would like to seek RMCD's confirmation on the following : (i) The RM1,530 constitutes a reimbursement and reverse charge is applicable. Kindly note that the $1,530 already includes GST $30 charged by the hotel to the foreign consultant. No one is in the position to claim input tax credit. This treatment results in double taxation on hotel accommodation in Malaysia and also a tax on tax. (ii) Reverse charge is applicable on RM10,000 only. In addition, the bank can claim ITC of RM30 on the hotel accommodation. We propose a more comprehensive guidance giving more examples to illustrate the GST treatment for reimbursement and disbursement under the different scenario be issued. For example, a) Recovery of expenses which are ancillary to or part of the primary supply with no markup; b) Recovery of expenses which are not ancillary or forming part of any primary supply. Is there a difference if such recovery is at cost or with mark-up?	*Sektor VII* Scenario 1: The costs incurred by the foreign consultant for his acquisitions (flight and accommodation) in Malaysia is not claimable as he is not registered for GST in Malaysia. Unlike those incurred in his country. The supply of services by the foreign consultant to be consumed in Malaysia by a recipient in Malaysia is a supply of imported services. Hence, the reverse charge mechanism applies. Scenario 2: The acquisitions made by the bank must be for the purpose of making a taxable supply in the course and furtherance of his business. If the acquisition attributes to the making of an exempt supply, no ITC is claimable. (ITC of RM30 not claimable) In both cases, the criteria established under Item 6, DG's Decision 5/2015 needs to be examined carefully. The issue of recovery of expenses with mark up or at cost is only one of the many areas to be examined. Ancillary simply means secondary to the principal. In the case of scenario 1 above, principal incurred any expenses (including ancillary expenses e.g. flight and accommodation) in performing the primary

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			supply to the client, it will only be treated as a reimbursement for GST purposes if fulfills the criteria for reimbursement in Item 6, DG's Decision 5/2015. Note: 1. It would be difficult for RMCD to establish whether an expense is ancillary or not to the primary supply. 2. Should the consultant **have the right** to alter the consideration of the supply, it will be treated as a reimbursement.
4	**Secondment of Employees** Section 2 of the GST Act 2014 states that "*services means anything done or to be done including the granting, assignment or surrender of any right or the making available of any facility or benefit but excludes supply of goods or money*". Secondment of employees is considered as a supply of services. The Seconding company is required to impose GST on the cost recovery.	We propose that RMCD consider granting administrative concession to exclude secondment arrangement from constituting a supply made by the Seconding Company, except for companies in the business of providing human resources. **Basis for concession** It is common for multinationals to second staff with specific expertise to local subsidiaries to meet operational needs, e.g. to administer special machinery or programme, etc. Imposing GST on secondment of employees may impede the transfer of know-how to Malaysia. A point to note is that secondment is not a supply in S'pore for GST purposes, subject to conditions.	*Sektor VII* The entity enters into agreements to charge the recipient the anticipated costs of employing the seconded employees during the duration of the secondments. The supply made by the entity to the recipient is in the course or furtherance of its business i.e. a business activity Hence, the 'secondment services' as agreed by parties to an agreement will be treated as a taxable supply or reimbursement and subject to GST at a standard rate.

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5	**GST inclusive Price** Section 9(5) of the GST Act 2014: "*Where any registered person displays, advertises, publishes or quotes in any manner the price of any supply of goods or services he makes or intends to make, such price shall include the tax that is chargeable on the supply unless the DG approves otherwise under subsection (7)*." Section 9(7) of the GST Act 2014: "*The DG may approve in writing an application made under subsection (6) and where an approval has been granted, the registered person shall display, advertise, publish or quote the price exclusive of tax with the words 'Price payable is exclusive of tax'*" The above requirement is meant to have a wide application to ensure the public is not misled on price quoted / displayed. However, the wording "quotes in any manner" is too wide and may include terms specifically agreed between bilateral parties in a contract. This would disrupt ordinary business transactions and create confusion on the legal application of contractual terms.	We propose for RMCD to restrict this section to prices which are displayed publicly. For bilateral agreements, the parties involved can agree to a GST exclusive price and this can be reflected without the requirement to obtain prior approval from Customs. This issue was specifically dealt with in the S'pore GST Regulations. Non-public price can be in GST exclusive form。	*Sektor VII* Tax inclusive prices are in compliance with section 8 of the Price Control and Anti Profiteering Act 2011 and section 9 of the GST Act 2014. ALL prices must be quoted **INCLUSIVE** of GST with no exceptions. The GST component, must be shown as a separate item in the total. Rather than have the recipient/buyers questioning whether the price is inclusive or exclusive, especially when a contract is silent or a display is silent, the government policy to adopt an inclusive pricing will benefit ALL. However, in the DGs Decision 1/2015 item 3 states that the price may be displayed exclusive if the supply is made to a registered person with a qualifying statement below: (i) goods and services are subject to GST at 6% ; and (ii) the price payable is exclusive of GST This would not be misleading or deceptive. Prices may be indicated exclusive of tax at an outlet or through advertisement from which all of your business is with business customers registered for GST.

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6	**Claim Of Input Tax Credit (ITC)** Reg 38.(1) of GST Regulations 2014 provides that "*Subject to subregulations (2) and (3),* ***any taxable person claiming input tax*** *by deducting from the output tax that is due from him under section 38 of the Act* ***shall do so*** *on the return furnished by him* ***for the taxable period in which he holds****,—* *(a) if the claim is in respect of a supply from another taxable person, —* *(i)* ***a tax invoice in his name*** *which is required to be provided under section 33 of the Act; or* *(ii)* *(b) ……* *(c) ...* *.....*" Reg 38.(4)(a) further provides that "*Where any claim of input tax has not been made in the taxable period in which the taxable person holds the document mentioned in subregulation (1) or (3), the Director General may allow such person to make the claim within six years from the date of supply to or importation by him;*" In order to be eligible to claim the ITC, a taxable person shall ***claim the input tax incurred in the taxable period in which*** he ***holds the tax invoice*** (or documents provided in the regulation and any other documents directed by the Director General), issued under his name. **(a) Tax Invoices Issued Under The Name Of The Employee**	(a) We would like to seek confirmation from RMCD on the concession. (The existing GST	*Sektor VII* Reg.38(1)(a)(ii) clearly stated that the maximum amount of input tax to be claimed is not more than RM30 for a tax invoice which does not contain the name and address of

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	Based on the verbal clarification obtain from Customs officers in the Hand-Holding Programme held on 23 & 24 October 2014, a registered person is eligible for input tax credit for tax invoices issued under the name of the employee in respect of expenses incurred during business trips if the company is able to provide a letter to prove that the employee is requested by the company to incur the expenses. (e.g. online purchase of hotel accommodation or air tickets). **(b) Claiming ITC In The Same Taxable Period** In practice, the staff claim's policy of most businesses would require its staff who have incurred expenses on behalf of the business in the course of carrying out his/her official duties to submit his/her claim within the stipulated timeframe e.g. one (1) to three (3) months (depends the size of company) along with the original supporting expenses records for the company's approval and disbursement. Common types of expenses involved are as follow:- ▪ Local travelling expenses (including air fare & etc); ▪ Event expenses; ▪ Hotel accommodation during their official visits in/outside of Malaysia; ▪ Telephone bills; ▪ Petrol expenses; ▪ Car park expense; and ▪ Other business expenses. It is impractical and not cost-effective for businesses to change the policy for staff claim and for the Human Resource and Finance team to process the voluminous receipts on time.	legislations and guides does not reflect such concession). (b) In light of the practical challenge faced by most of the businesses in claiming the ITC in the **same taxable period** in which the expenses incurred by staff, CTIM would like to propose for RMCD to allow ITC related to expenses incurred by staff on behalf of the company ***be claimed in the taxable period when payment is made by Registered Business to its staff*** instead of being based on the date of tax invoices issued to the Registered Business. (c) We propose that RMCD allow	the recipient. Based on Item 2, DG's Decision 2/2014, the taxable person is only allowed to claim input tax incurred on mobile phone expenses billed to his employee as long as the expenses are reimbursed and accounted as business expenses. *Sektor VII* If the taxable person has not claimed the input tax incurred in the period he hold the valid tax invoice, he may claim on the earlier of: (a) the date or time of posting the tax invoice into the company Accounts Payable; or (b) one year from the date he holds the tax invoice.

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	(c) *Utility Bill Under The Name Of Landlord* In the case of rented property, many of the utility bills/invoices are in the name of the landlords, who may not be registered for GST. Based on the current GST rules, the tenants (i.e. registered persons) are not able to recover the input tax incurred on such utilities bills as the invoices are not under their names. **However a GST registered tenant is allowed to claim ITC using utility invoices / bills which are in the name of the landlord until 31/3/2016, subject to the following conditions –** (i) The property owner is not a GST registered person; (ii) There must be a tenancy agreement signed by the property owner and the tenant; (iii) There must be a clause in the tenancy agreement or a written declaration signed by both the tenant and property owner in a separate document stating that 'the input tax on the electricity and water invoices / bills can only be claimed by the tenant. However, if the property owner becomes GST registered person, the tenant is not allowed to claim the input tax using such invoices / bills." (iv) The tenant must keep records of the input tax claimed for the electricity and water invoices / bills under the name of landlord; **and** The tenant shall stop claiming ITC using utility invoices / bills under the name of the property owner once the landlord becomes a GST registered person. In this case the normal GST rules apply where the landlord will have to issue a tax invoice and charge GST to the tenant. The tenant can use the tax invoice	businesses to claim input tax on utility bills issued under the name of the landlord if the registered person is able to prove that the premises are being occupied by the registered person for business purposes.	*Sektor 1* Regulation 38, GST Regulations 2014: 38(1) subject to subregulations (2) & (3), any taxable person claiming input tax by deducting from the output tax that is due from him under section 38 ot the Act shall do so on the return furnished by him for the taxable period in which he holds,- a) if the claim is in respect of a supply from another taxable person,- (i) a tax invoice in his name which is required to be provided under section 33 of the Act; or (ii) a tax invoice which does not contain the name and address of the receipient where approval has been given by the Director General under paragraph 33(3)(a) of the Act provided that the maximum amount of input tax to be claimed is not more than thirty ringgit

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	for claiming the ITC. Whilst the registered person can seek to change the names under those utilities bills to their names, such exercise is inconvenient due to the administrative processes of the authority, short rental period, or change in tenancy, etc. **(d) *Carry Forward of Input Tax Credits for Offset Against Future GST payable*** The RMCD allows input tax credits to be 'carried forward' and offset against future GST payable. However, we note that the credit balance will not be automatically used to offset against the following month's GST liability pending approval/audit by Customs. In these situations, the taxable person is still required to pay GST in the following month, resulting in serious cash flow problems. There have been cases where the taxpayer has NOT made an election to carry forward the ITC, but when the refund is subsequently paid more than one month later, Customs have automatically deducted from the refund amount, the tax payable amount from the subsequent taxable period, notwithstanding that the taxpayer has already paid the tax for that month. The taxpayer would then need to make a request for the amount of the refund unpaid, further delaying getting the refund back and adding to cashflow issues.	(d) This needs to be addressed from a policy perspective. The requirement of specific approval or a prior audit before the offset is permitted negates the facility. Customs need to clarify if this is a policy or practice across the board going forward, as it is not equitable to deduct from the refund, tax that has already been paid.	*Unit Pulangbalik dan Peralihan* a) If the taxpayer has carried forward balance in the account, allowed to offset with future GST payable on condition the refund of input tax credit has been approved. b) For amount automatically deducted and at the same time the taxpayer has already paid the tax for that taxable period, taxpayer can request in writing to RMCD to claim back the excess amount that the tax payer has paid to RMCD. (Cross Period Offsetting) Configuration has been done to GENTAX, can only offset if refund has been approved.
7	**Fixed Input Tax Recovery ("FITR") – Labuan Offshore Branch** Regulation 52 of the GST Regulations 2014 provides	Whether Regulation 52 is applicable to a Labuan Bank set up as a Branch of a Malaysian Bank	*Sektor IV* Regulation 52 is **not** applicable to a Labuan Bank set up as a Branch of a Malaysian Bank

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	that any person referred to in Regulation 51 is allowed to a fixed rate of input tax credit on the total input tax incurred in a taxable period excluding input tax allowed under regulation 48.	(carrying on Offshore Banking activities) **and** licensed under Labuan Financial Services and Securities Act 2010. If not applicable, can the Labuan Bank register and file for GST separately from the Malaysian Bank?	(carrying on Offshore Banking activities) **and** licensed under Labuan Financial Services and Securities Act 2010. The offshore bank is **not** allowed to register separately under section 30 since the bank is a mixed supplier.
8	**Method For Recovery Of Input Tax For Free Gifts** Under para 25, Guide on Tax Invoice and Record Keeping (as at 20 May 2015) *"a tax invoice in respect of zero rated and deemed supplies must be issued for the purpose of claiming input tax when the customer who is a registered person requested for it".* The tax invoice issued to the customers for recovery of the deemed output tax may not comply with the valid tax invoice requirement under Regulation 22 of the GST Regulations 2014. Third Schedule of the GST Act 2014 Determination of value of deemed supplies (gifts) (Open market value vs. cost price.) Supply between manufacturer and distributor has a different "market value" from a supply between retailer and consumer. To account for output tax, whether to base it on the lower market value or cost price.	CTIM proposes that RMCD provides samples of valid tax invoice in respect of free goods given to customers. To account for output tax based on cost price (common in many other jurisdictions)	*Sektor VII* If total cost of the gift to the donor is more than RM500, GST needs to be accounted and input tax is claimable by the donor on the input tax he incurs for the purchase. A tax invoice is not to be issued for a disposal of goods in the form of gifts when the donor accounts for output tax. The recipient of the gift is not entitled for any claim of input tax. Paragraph 24 states that a tax invoice is not required to be issued when a registered person makes a supply without consideration on which tax is charged. Amendments will be made to paragraph 25 of the related guide to clarify this. *Sektor VII* Paragraph 4 of the 3rd Schedule GST Act 2014, provides for the OMV to be used on disposal of goods for no consideration

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9	**Application of Gift Rule** Para 5(2)(a), First Schedule, GST Act 2014 stipulates that "a gift of goods made in the course or furtherance of the business made to the same person in the same year where the total cost to the donor is not more than RM500" is not a supply of a good by the person. In order for taxpayers to comply with this Para, significant effort have to be made to track and monitor gifts given away.	To simplify compliance and reduce costs of doing business, CTIM proposes that the Para be amended so that threshold of RM500 be applied on cost of each gift rather than accumulated costs of gifts made during the period. Singapore GST gift rule only applies to value of gifts.	Sektor VII We follow DG's decision 2/2014, item 4 How to determine the GST on gift? i) Para 5(2)(a) of the First Schedule of GSTA 2014: No GST will be charged on gift made in the course or furtherance of business to the same person in the same year where the total cost of the gift to the donor does not exceed RM500. If the total cost to the donor is more than RM500, GST need to be accounted for and input tax is claimable. ii) The word 'year' in paragraph 5(2) (a) of the First Schedule of GSTA 2014 refers to 'tax year '(financial year). iii) Gift bought by a taxable person from a non-GST registered person worth more than RM500 and given free without consideration is not subject to GST but no input tax is claimable as the gift is acquired without tax.
10	**Expediting Refund Of ITC** During the implementation of GST, RMCD committed to refund the ITC within 14-28 days of filing the GST returns. It is noted that a significant number of taxpayers have had their refunds withheld "pending audit". However, there is no official audit notification or date for the audit visit. The practice has a serious impact on the cash flow of businesses	To expedite the refund process, CTIM proposes that the refund be made before audit unless there is a clear indication of fraud. The RMCD should use the audit process to ensure compliance and impose penalty on defaulter. Where the RMCD intends to audit a	*Unit Pulangbalik dan Peralihan* Once the account is verified, Regulation 67(1) of the GST Regulation 2014 will not be applicable. It will no longer be 14 working days for online submission and 28 working days for manual submission. Regulation 67(2) will be applicable once the account is verified.

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		taxpayer, it should inform him by letter.	
11	**<u>Directors</u>** (1) <u>Directors As Connected Persons</u> Para 2(1)(a), Third Schedule, GSTA 2014 states that "*A person shall be deemed to be connected if –* (a) *they are officers or directors of one another's business*." Clarification is sought on the meaning of the above:- (i) Director A is a director of Company X, and is a connected person to Company X; or (ii) Director A and Director B are both directors in Company X and Company Y. Therefore Director A and Director B are connected persons. (2) <u>Director Fee and Regulation 9</u> Regulation 9(1) of the GST Regulations 2014 provides that "*This regulation applies in relation to the supplies mentioned in regulations 4, 5, 8 or 10 where the supplies are made in the following circumstances:* *(a) The person making the supply is connected with the person to whom the supply is made; and* (b) *The person to whom the supply is made is not entitled to credit under section 38 of the Act for the whole or any part of the tax on the supply*." Regulation 9(3) further states that "*Where this regulation applies, goods or services shall, to the extent that they have not been treated as supplied by*	Please clarify. If a non-executive director is a connected person and director's fee is determined at the AGM held after the end of the financial year, would Regulation 9(3) apply to the director's fee? If so, how will the directors' fees be quantified for GST purposes every 3 months as required by Regulation 9?	*Sektor VII* Para 2(1)(a). Third Schedul, GST Act 2014 states that "*they are officers or directors **of one another's business"*** Connected person is between companies and not between the persons itself. For example: Director A and Director B are both directors in Company X and Company Y. Therefore **Company X and Company Y** are connected persons. As mentioned above, a person who becomes director in a company, both of them are not considered as connected person. Therefore , Regulation of the GST Regulations 2014 would not apply in the given Scenario 1

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	virtue of the regulations specified in subregulation (1) and to the extent that they have been provided, be treated as separately and successively supplied at the end of the period of 3 months after the supplies commenced and thereafter at the end of each subsequent period of 3 months."		
12	**GST Treatment for Property Developer** (a) Provision of Construction Services to Land Owner The original item 7 of DG 4/2014 and the Property Developer Guide dated 30/3/15 suggested that the developer is supplying construction services to the land owner and must charge GST to the land owner and account the GST accordingly. However, this GST treatment is not provided in the amended item 7 of DG 4/2014 issued on 31 March 2015. Similarly, the Guide to Property Developer issued on 30 March 2015 has not been updated with the DG's Decision accordingly. (b) Sale of Bare Land According to Paragraph 19(C) of the Guide on Property Developer as at 31 March 2015, GST treatment on the bare land shall be based on usage according to the land title issued by the Authority.	(a) CTIM would like to seek confirmation from RMCD that the requirement to charge GST on the deemed supply of construction services to the land owner by the developer in all joint developments (for all joint development / JV models including the 3 scenarios (a), (b) and (c) as shown in the Property Developer Guide on page 19) is no longer applicable as this has been superseded by the above DG Decision. (b) However, in the event where the land owner of a commercial land has obtained development order from the relevant authority to build residential property on his land, if he wishes to sell his bare land to 3rd party, shall it be an exempt supply or standard rated supply? Does it have any difference in GST treatment if the development order obtained is for mixed property (i.e. commercial and residential property together)?	*Sektor III* (a) Yes, the requirement to charge GST on the deemed supply of construction services to the landowner by the developer is no longer applicable as the amendment of Item 7 of DG's Decision 4/2014 issued on 31 March 2015 has superseded the earlier decision. (b) For the sale of vacant/bare land, the usage of the land is in accordance to the land title issued by the relevant authority. Regardless what type of the development order received by the landowner, as there is still no development works done on the vacant/bare land, therefore the usage will be determined by its land title.

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14	**Voluntary GST Registration For Pre-Commencement Of Business** Item 5， DG's Decision No.2/2014 states that "(i) *A person who intends to make any taxable supplies can apply for voluntary registration if he can satisfy that he is committed to do business by submitting the following documents:* *……and* ii) *The total taxable supply is expected to exceed the threshold within 12 months from the date of application."* However, where there are reasonable grounds for believing that the total taxable supplies is expected to exceed the threshold in that month and the eleven months immediately succeeding the month, the person is actually liable to be registered mandatorily as required under section 20(3)(b) of GST Act. Hence, Voluntary registration under Section 24 would only apply to cases which fall outside section 20(3)(b) i.e. in cases when total taxable supply is expected to exceed the threshold only after eleven months immediately succeeding the month. Kindly confirm if this understanding is correct. In addition, businesses may need to register for GST due to various commercial reasons. An existing business operating below the threshold is allowed to register voluntarily under Section 24 of the GST Act 2014. Condition (ii) practically denies or delays registration by pre-commencement businesses operating below threshold, particularly those industries that requires heavy initial outlay and have a long gestation period. This will stifle business activity and	CTIM proposes that Item 5 of DG's Decision No.2/2014 be reviewed. For instance, where the companies can prove that they are genuine businesses with intention to operate in Malaysia (e.g. have actual contracts/ agreements signed), application for voluntary registration be allowed. In the event that no taxable supply is expected within the first 2 years and the total taxable supply is only expected to exceed the threshold in the 3 year (e.g. build and sell commercial development), please confirm that the person may apply for voluntary registration in order to claim the input tax incurred at the initial stage although taxable supply is only expected at a later stage. What are the conditions to be fulfilled, if any? In this connection, CTIM recommends that businesses be informed of the reason for refusal where application for voluntary registration is rejected and that the item (c) of Fourth Schedule to GST Act 2014 be removed to facilitate application for review. In a related matter, CTIM would like to seek clarification whether the deemed input tax credit provided in regulation 46 (input tax credit on	*Unit Penguatkuasaan Pendaftaran* Item 5 of DG's Decision No.2/2014 already be reviewed and will be amendment on details ii) :- *The taxable supply be made within 12 months from the date of application.* Note : The companies can prove that they will making taxable supply (actual contracts/agreements signed) If the person cannot prove that they will making taxable supplies within 12 months, they must apply for approval from the Director General. This application will be reviewed case by case.

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	increase start-up costs. It may hinder our economy growth. Whilst we understand the need to monitor registrations to avoid false refund claims, preventing or delaying registration of bona fide businesses may not be a suitable way.	pre-registration expenses on goods) required any approval to be made to the Director General? (if so, please indicate the detail procedures.)	
15	**Filing of GST Return 03** **(1) Revision of GST-03 Explanatory Notes** We note that RMC has frequently updated the GST-03 explanatory notes in response to feedback from businesses, associations and professional bodies. CTIM would like to commend on RMCD on its prompt action to update the public. Such changes/clarification generally would result in consequential adjustments to the system used by the business for its GST reporting. Businesses have to consult their system vendors to modify and test the system and the process takes time and require additional costs. Currently, the practice of updating is by replacing the existing Explanatory Notes with the latest version. No public announcement is made. The only reference for public to verify the version involved would be based on the date (as displayed in the file name) of such softcopy of explanatory notes. As businesses and tax agents would need to keep abreast with changes in reporting requirements and to understand the type of information to be disclosed and its implications, timely notification is important for compliance. The current GST-03 Guidelines and the relevant GST Guides still need to be enhanced to facilitate GST Tax Return preparers to correctly complete the Return.	**(1)** In view that most of the technical clarification/explanation for GST-03 reporting requirements will impact the type of information to be disclosed in the GST-03 forms and failure to comply with the requirement may result in the company submitting incorrect returns and facing fines and penalties in the future, CTIM proposes that the RMCD indicate the issue date and the effective date of amendment (i.e. the date the amendment is expected to be implemented in the GST-03 by the registrant, taking into account sufficient lead time required to allow the registrant to make necessary changes to the information system) in every version of its updates **without imposing penalty**.	*Unit Penguatkuasaan Pendaftaran* RMCD still in discussions with the MOF

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	There are some practical problems which need to be addressed. **(2)** ***Negative values in Field 5(b) or Field 6(b) of Form GST-03*** A negative value may arise in Field 5(b) or Field 6(b) of Form GST-03 where: (a) Negative amounts in Field 5(a) and Field 5(b) In a taxable period where there is no taxable supplies being made (i.e. no output tax) but a credit note is issued to adjust for the consideration on the taxable supply made in the previous taxable period. (b) Negative amounts in Field 6(a) and Field 6(b) In a taxable period where there is no taxable acquisition (i.e. no input tax) but a credit note is received from the supplier to adjust for the consideration on the taxable supply acquired in the previous month. The Form GST-03 and the system in Taxpayer Access Point ("TAP") currently cannot accept negative values for the above 2 Fields. **(3)** ***Correction of errors to the GST-03*** Regulation 69 provides that amendments to the GST-03 must be made within such time as the officer of GST may require and any person who contravenes this regulation commits an offence. **(4)** ***The following are some other ambiguities*** • **Field 5a** - mixed suppliers should report the full value of acquisitions relating to residual input tax - or should only report the claimable portion?	**(2)** CTIM suggests that the RMCD • allows negative values in Field 5(a) and 5(b) to be included in the amount reported in Field 6(a) and 6(b) respectively. • allows negative values in Field 6(a) and 6(b) to be included to the amount reported in Field 5(a) and 5(b) respectively. • reconsiders the proposal to defer reporting negative values in either fields until there are positive values in subsequent taxable periods as it is inequitable and inconsistent with the principles set out in sub-regulations 25(1) & (2) of the GST Regulations 2014. **(3)** CTIM would like to seek confirmation from the RMCD that currently the RMCD will not enforce the timeline requirement and the taxable person can make amendments anytime they find an error without penalty. However, compound may still imposed on error made. If affirmative, CTIM would request the RMCD issue a	(2) If there is negative values in Field 5(a) and 5(b), the companies have to apply approval for adjustment from Director General. The companies have to apply manually and each application must be accompanied by supporting documents such as credit note, debit note and invoice. Online application via TAP will be updated in the future. (3) RMCD soon will make enforcement on those who contravenes this regulation commits an offence. (4) We are updating Guide On Filling GST-03 • Field 5a - mixed suppliers should report the full value of acquisitions relating to residual input tax - or should only report the claimable

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	• **Field 6a** – The disclosure figures confined only to those which are attributable to making taxable supplies? (Field 16 has been revised to include only capital assets which are attributable to taxable supply.) • Should supply of goods to designated area be reported in **Field 10 or 11**? • What kind of services in Second Schedule of the Zero-Rated Supply Order should be reported in **Field 11**? Which ones relate to **Field 10**? • **Field 11** - the technical committee 2/2015 minutes requires export of goods to be declared at K2 value, which means that foreign currency will be converted using Customs weekly export rate. This may contradict the requirement of section 15 of the Act. Kindly clarify. Also, please confirm that the time of supply rules in sec 11 applies, and thus the reporting would not be based on K2 dates. • **Field 12** - There is confusion whether ES43 should be included, and whether ES43 is applicable to businesses other than "active mixed suppliers" such as property developers, hospitals, universities etc. • **Field 14** - the value reported should be K1 values or the values from the foreign supplier's invoices. • **Field 16** - Clarification is required on whether the value of all capital asset values acquired or only those valued at greater than RM100k should be included. Should purchases without GST be included (e.g. relieved acquisition of medical equipment by a hospital)? Can the taxable person choose to report the blocked acquisition as well?	notice in writing to ensure transparency and consistency in practice. Any subsequent change in practice will be announced to the public before implementation and enforced prospectively, taking into account the time required for system software adjustments. If this is not so, clarification is required as to the time frame for making amendments to the GST-03.	portion? **Only report the claimable portion** • Field 6a – The disclosure figures confined only to those which are attributable to making taxable supplies? (Field 16 has been revised to include only capital assets which are attributable to taxable supply.) **Yes, disclosure figures confined only to those which are attributable to making taxable supplies** • Should supply of goods to designated area be reported in Field 10 or 11? **Field 11** • Field 11 - the technical committee 2/2015 minutes requires export of goods to be declared at K2 value, which means that foreign currency will be converted using Customs weekly export rate. This may contradict the requirement of section 15 of the Act. Kindly clarify. Also, please confirm that the time of supply rules in sec 11 applies, and thus the reporting would not be based on K2 dates. **Subject to 3rd schedule** **Foreign exchange : When the supply takes place or in the case of the importation of goods, at the rate of exchange determined by the DG at the**

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	Sometimes a business will decide to capitalise an asset long after its actual acquisition. Clarification is required regarding the time at which the capital asset value should be brought into account. • **Field 17** - e.g. If a tax invoice is raised for RM106k (RM100k + GST RM6k) and no payment is received within 6 months, is the value reported in cell 17 RM6k or RM106k?		**time applicable for the calculation of customs duty or excise duty and valuation** • Field 12 - There is confusion whether ES43 should be included, and whether ES43 is applicable to businesses other than "active mixed suppliers" such as property developers, hospitals, universities etc. **ES43 should be included** • Field 14 - the value reported should be K1 values or the values from the foreign supplier's invoices. **K1 values** • Field 16 - Clarification is required on whether the value of all capital asset values acquired or only those valued at greater than RM100k should be included. Should purchases without GST be included (e.g. relieved acquisition of medical equipment by a hospital)? Can the taxable person choose to report the blocked acquisition as well? Sometimes a business will decide to capitalise an asset long after its actual acquisition. Clarification is required regarding the time at which the capital asset value should be brought into account. **Acquisition of taxable capital asset need to declare**

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			Block input tax are not required to declare • Field 17 - e.g. If a tax invoice is raised for RM106k (RM100k + GST RM6k) and no payment is received within 6 months, is the value reported in cell 17 RM6k or RM106k? **Total value of bad debt relief inclusive tax**
22	**GST Transitional Guide** Credit notes with respect to supplies under sales / service tax For how long – what time period - can clients issue invoices with sales tax or credit notes showing sales / service tax?	There should not be a time period for issuance of credit note as there are unforeseen circumstances that may require the issuance of credit note for goods or services provided under the previous regime. This should be allowable if both the buyer and the sellers agree to the issuance.	*Caw Kawalan Kemudahan Fasilitasi dan Konsultasi* Director General's Decision 1/2015 :Taxable persons under Sales Tax Act or Service Tax Act: (b) issue invoice or debit note which imposes sales tax or service tax not later than 28/4/2015.