NO	ISSUE	RECOMMENDATION / CLARIFICATION SOUGHT	RESPONSE
1.	Transfer of Going Concern a) The date of transfer of business can be defined differently under a sale and purchase agreement. For the purpose of GST, does it mean that the transfer date is the: • Date of the agreement; • Date when the agreement is effective; • Date when the transferee has the rights to start transferring the assets/business to the transferor? (this date could be 4-6 months after the date of the agreement); or • Date when the business transfer is completed? b) Does the transfer of business need to be transferred under one agreement only? For commercial and legal reasons, the transfer may not necessarily be under one agreement. It could be done under one master agreement, with connected or subsidiary/secondary agreements (for example, one master sale and purchase agreement with one secondary agreement for the transfer of employees). c) Where a sale of business does not meet the TOGC criteria, how should the sale of business be valued for the purposes of GST? • Is GST to be imposed on the value of		*Sektor VII* Response to (a): The transfer date is the date when the agreement is effective unless there is a clause stating terms of transfer, etc. at a later date. This may be difficult to monitor and control: • Date when the transferee has the rights to start transferring the assets/business to the transferor? (this date could be 4-6 months after the date of the agreement); or • Date when the business transfer is completed Response to (b): The transfer of business need not have to be only one agreement. Response to (c): The selling price stipulated in the agreement of sale

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	assets only? If so, is the value of assets at book value or market value? Or; • Is GST to be imposed on the value of the business i.e. net value after assets minus liabilities (including intangibles)?		
2.	Issuance of tax invoice for Disregarded and Relief Supplies **Section 75(1)** "A holder of a Capital Markets Services Licence and holders of a Capital Markets Services Representative's Licence shall be treated as a single entity for the purposes of registration under this Act.." **Section 75(3)(b)** "any taxable supply of goods or services in carrying on a business of dealing in securities or dealing in derivatives between members and lead member of the single entity shall be **disregarded**" (emphasis added) **Director General's Decision 6|2015 Item 1 Decision 2** "For the taxable supply which is disregarded or granted relief, the tax element in the tax invoice must be presented as 'NIL' and specified as 'disregarded' or 'relief'"	Question: Whether the requirement to issue tax invoice for disregarded supplies extend to Single Entity arrangement, ie. between Capital Markets Services Licence and Capital Markets Services Representatives for activities under the capacity of a single entity?	*Sektor VII* The requirement to issue tax invoice for disregarded supplies extends to Single Entity arrangement under section 75. Paragraph 75(3)(b) indicates that the supply between the holder of a Capital Markets Services Licence and the holder of a Capital Markets Services Representative's Licence in carrying on the business of dealing in securities or derivatives, is a disregarded supply.
3.	1. Imported Services i. Would reverse charge be applicable to services procured from a non-resident supplier whereby the services are performed outside Malaysia? Examples /		*Sektor V* Imported services means any services by a supplier who belongs in a country other than Malaysia or who

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	scenarios include:- a. Purchase of air ticket from Singapore to Jakarta through an overseas travel agent; b. Freight services from Amsterdam to Labuan procured through an overseas freight forwarder; c. Repair and maintenance of vessel in Indonesia by an overseas supplier; d. Medical expenses for staff incurred at a Singapore clinic/hospital/medical centre. ii. Where services are procured from a non-resident supplier which is invoiced to Company A but the liability to pay lies with Company B, would reverse charge be applicable to Company A or Company B?		carries on business outside Malaysia, to a recipient who belongs in Malaysia, and the services are consumed in Malaysia. i. a. air ticket from Singapore to Jakarta, the services is consumed outside Malaysia, thus, reverse charge is not applicable. b. the transport services end in Malaysia (Labuan), thus, the reverse charge is applicable. However, the transport services in relation to goods from a place outside Malaysia to the first entry point in Malaysia is zero-rated supply (item 4(c), Second Schedule, GST (Zero-Rated Supply) Order 2014). c. the repair and maintenance services are directly in connection to goods and the goods (vessel) is outside Malaysia (in Indonesia) when the services are performed. Therefore, reverse charge is not applicable.

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			d. the medical services is performed and consumed in Singapore, thus for the medical expenses incurred at a Singapore clinic/ hospital/ medical centre, reverse charge is not applicable. ii. The invoice is addressed to Company A. Thus reverse charge is applicable to Company A, not Company B.
4.	Reverse charge for fully taxable persons. Many countries do not require registered persons who are fully taxable to perform reverse charge, as it has no net GST impact and only imposes an administrative burden on the taxpayers.	Is there scope for the Director General to release in its next document a concession whereby fully taxable persons may forego accounting for reverse charge altogether? For example, in New Zealand, only those who make an average of less than 95% taxable supplies are required to self-account under reverse charge. This is in recognition of the fact that there would be net GST impact for fully taxable persons as they would generally be entitled to full input tax claim on the self-accounted imported service.	*I Sektor VII* This issue had been discussed. Reverse charge applies also to other than taxpayers (not registered for GST) and also taxpayers which are mixed suppliers. In such cases, there is a GST impact to be considered. The GST treatment has to be streamlined for all transactions.

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5.	Clarification of supplies subject to reverse charge Section 13(1) provides that imported services which would be “taxable supplies” If it were made in Malaysia will be subject to reverse charge. “Taxable supplies” is defined to be both zero rated and standard-rated supplies. It is non sensical require reverse charge to be performed with respect to supplies which would qualify for zero-rating.	Can this be amended in the Act, and in the interim, can the Director General release in its next document which provides a concession whereby imported services which would be zero-rated are not required to be self-accounted for?	*Unit Panel Teknikal* Imported services needs to be accounted for using the reverse charge mechanism in relation to zero rated supply. This acts as a control mechanism to avoid abuse with respect to supplies that is standard rated but subsequently declared as zero rated.