

JABATAN KASTAM DIRAJA MALAYSIA

Ibu Pejabat Kastam Diraja Malaysia, Bahagian GST Aras 3-7, Blok A, Menara Tulus No.22, Persiaran Perdana, Presint 3 62100 Putrajaya.



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Tarikh

: 23 Rabiulawal 1439H

12 Disember 2017

Senarai edaran seperti di Lampiran

YBhg. Dato'/ Tuan /Puan,

MINIT MESYUARAT JAWATANKUASA TEKNIKAL ISU PELAKSANAAN GST BIL. 3/2017

Saya dengan segala hormatnya merujuk kepada perkara tersebut di atas.

Bersama-sama ini dilampirkan sesalinan Minit Mesyuarat Jawatankuasa Teknikal Isu Pelaksanaan GST Bil. 3/2017 untuk makluman dan tindakan YBhg. Dato'/ Tuan / Puan selanjutnya.

Sekian, terima kasih.

"BERKHIDMAT UNTUK NEGARA"

Saya yang menurut perintah,

(MARIA BT MADEL)

Bahagian GST

b.p Ketua Pengarah Kastam

Malaysia

s.k:

- (i) Timbalan Ketua Pengarah Kastam (Perkastaman & GST)
- (ii) Pen. KPK (GST)
- (iii) Pengarah GST
- (iv) Semua Ketua Cawangan/ Sektor/ Unit GST

BERKHIDMAT MENYEJAHTERAKAN RAKYAT

LAMPIRAN

BIL	NAMA	JAWATAN	AGENSI
1.	Dato' Abdul Latif Bin Abd Kadir	Pen. KPK (GST)	JKDM
2.	Tn. Ahmad Maher Bin Abd Jalil	Pengarah GST	JKDM
3.	Pn. Rokiah Bt Embong	Timb Pengarah Kastam	JKDM
4.	Pn. Tengku Aini Baldri Bt Engku Mansor	Timb Pengarah Kastam	JKDM
5.	Pn. Nur Hanisah Dukes Bt Abdullah	Timb Pengarah Kastam	JKDM
6.	Pn. Nora'ini Bt Abd Khalid	Timb Pengarah Kastam	JKDM
7.	Pn. Norlela Bt Ismail	Timb Pengarah Kastam	JKDM
8.	Tn. Mohammad Sabri B Saad	Timb Pengarah Kastam	JKDM
9.	Tn. Chin Hon Hin	Timb Pengarah Kastam	JKDM
10.	Tn. Jifridin Bin Che Daud	PKPK I	JKDM
11.	Tn. Abd Razak Bin Ahmad Arshad	PKPK I	JKDM
12.	Pn. Roszita Bt Dim	PKPK I	JKDM
13.	Pn. Juriah Noor Bt Juhari	PKPK I	JKDM
14.	Tn. Lau Thye Mun	PKPK II	JKDM
15.	Tn. Khilmie B Ghazali	PKPK II	JKDM
16.	Tn. Khairul Nizam B Othman	PKPK II	JKDM
17.	Tn. Osman B Karim	PKPK II	JKDM
18.	Tn. Mohd Nazarudin B Mohd Tohar	PKPK II	JKDM
19.	En. Koong Lin Loong	National Council Member	ACCCIM
20.	Pn. Poh Wan Kh'ng	Executive Secretary	ACCCIM
21.	En. Raja Kumaran	Director	MICCI
22.	Cik Wong Hin Wei	Secretariat	MICCI
23.	En. Philip Choo Kwong Hui	Member	STA

24.	En. Koh Siok Kiat	Member	STA
25.	Cik Yii Ylen Yien	Secretariat	STA
26.	En. Alan Chung	Committee Member	СТІМ
27.	En. Larry James Sta Maria	Committee Member	CTIM
28.	En. Tiruselvam Kupusamy	Secretariat	СТІМ
29.	En. Thong Vee Kean	Secretariat	СТІМ
30.	Dato' Tan Kwong Jin	Customs Committee	FMM
31.	Pn. Sharmini Sakthinathan	Executive	FMM
32.	Cik Maygelah Siva	Executive	FMM
33.	En. Mohameed Faisal Bin Syed Ibrahim	Member	MATA
34.	En. Mohd Rozlan Mohamed Ali	Member	MATA
35.	En. Bernard Yap	Member	MIA
36.	Pn. Azlina Zakaria	Secretariat	MIA
37.	En. Ng Swee Weng	Representative	MICPA
38.	Pn. Wong Poh Geng	Representative	MICPA
39.	Pn. Irene Quah	Representative	FREPENCA
40.	Pn. Ting Hook Yee	Representative	FREPENCA
41.	En. Darian Lim	Representative	PEMUDAH
42.	Pn. Asmah Binti Ibrahim (Urusetia)	PKPK I	JKDM
43.	Pn. Maria Bt Madel (Urusetia)	PKPK II	JKDM
44.	Pn. Sarah 'Abidah Bazilah bt Abd Jabbar (Urusetia)	PPK	JKDM

MINIT MESYUARAT JAWATANKUASA TEKNIKAL ISU PELAKSANAAN GST BIL 3/2017

1. KETERANGAN AM

Tarikh

: 30 Oktober 2017

Masa

: 9.00 pagi

Tempat

: Dewan Persidangan Sri Rampai, Ibu Pejabat JKDM, Putrajaya

2. BUTIR KEHADIRAN

BIL	NAMA	JAWATAN	AGENSI
1.	Dato' Abdul Latif Bin Abd Kadir	Pen. KPK (GST)	JKDM
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26.	En. Thong Vee Kean	Secretariat	CTIM
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28.	Pn. Sharmini Sakthinathan	Executive	FMM
29.	Cik Maygelah Siva	Executive	FMM
30.	En. Mohameed Faisal Bin Syed Ibrahim	Member	MATA
31.	En. Mohd Rozlan Mohamed Ali	Member	MATA
32.	En. Bernard Yap	Member	MIA
33.	Pn. Azlina Zakaria	Secretariat	MIA
34.	En. Ng Swee Weng	Representative	MICPA
35.	Pn. Wong Poh Geng	Representative	MICPA
36.	Pn. Irene Quah	Representative	FREPENCA
37.	Pn. Ting Hook Yee	Representative	FREPENCA
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2.	Pn. Maria Bt Madel	PKPK II	JKDM
3.	Pn. Sarah 'Abidah Bazilah bt Abd Jabbar	PPK	JKDM

Bil		Perkara	Tindakan/ Ulasan
3.0		UCAPAN ALUAN PENGERUSI	
	3.1	PENDAHULUAN i. Pengerusi mengucapkan terima kasih dan mengalu-alukan kehadiran semua ahli mesyuarat.	Makluman
	3.2	TUJUAN MESYUARAT i. Mesyuarat diadakan bagi membincangkan isu-isu teknikal yang telah dikemukakan oleh pihak swasta.	Makluman
4.0		PENGESAHAN MINIT MESYUARAT i. Minit Mesyuarat Jawatankuasa Teknikal Isu Pelaksanaan GST Bil 2/2017 telah disahkan tanpa sebarang pindaan.	Makluman
5.0		PERKARA YANG DIBINCANGKAN	
		PERBINCANGAN	
	5.1	Disallowance of input tax claim on imported goods i. CTIM raised the issue of voluntary disclosure based on the example below: Company A (importer) fail to declare the correct amount of input tax. Company A makes a voluntary disclosure due to discovery of a genuine mistake and was penalized with a compound fine. ii. RMCD will issue a Bill of Demand in which the importer subsequently paid for. It is RMCD's standard practice to disallows the input tax plains and the	RMCD response: i. RMCD takes note on the proposal will review the matter.
		disallow the input tax claim on the imported goods. iii. CTIM suggested the disallowance is excessive and would discourage voluntary disclosure for genuine mistakes. iv. RMCD maintains the current policy However, company may apply to the DG on a case to case basis subject to audit by Bahagian Pematuhan.	

Bil		Perkara	Tindakan/ Ulasan
	5.2	Claiming input tax for business with long gestation period and no taxable supply i. Current RMCD policy indicates that refund of input tax is disallow until the company makes a taxable supply. ii. However, CTIM have suggested for this policy to be reviewed. For example a construction project which takes 4 to 5 years to be completed will place a burden on the investor to take on additional financing and there are interest cost borne to finance the GST paid. This also affects international investment. Similarly, plantation industry in Sarawak will take 8-10 years for the trees to mature for export. iii. RMCD does not deny the input tax claim (ITC) but only suspend the ITC until the company makes a taxable supply.	RMCD response: i. RMCD maintains the current policy. Action: CTIM to provide details of companies with long gestation period and no taxable supply to RMCD.
	5.3	 Input tax claiming for travel insurance i. Sarawak Timber Association (STA) raised the issue with regards to travel insurance taken up for staff and whether it is claimable in full. ii. This policy covers flight delay, loss of personal property, theft, personal accident or medical claims. However, premium for each categories are not segregated as the fee will be charged lump sum by the insurance provider. 	RMCD response: i. Input tax credit on the premium paid for the policy can be claimable if it is allowable under section 39 GSTA 2014.
	5.4	Input tax claiming for off road passenger cars i. Sarawak Timber Association (STA) raised the issue on the ITC claim for off road passenger cars used strictly at the logging camps and forest plantation estates that are located in the remote areas of Sarawak's interior. ii. Some examples of the off- the-road four wheel drive passenger motor vehicles includes Toyota Hilux Single Cab, Double	RMCD response: i. Input tax is not claimable due to non compliance with Reg 34 (definition of passenger motorcar) and Reg 36 (blocked input). ii. RMCD will further review the matter subject to application by STA. Action: Sector VII

Bil		Perkara	Tindakan/ Ulasan
		Cab, Landcruiser, Station Wagon, Mitsubishi Triton, etc. These vehicles are being used exclusively for the purpose of business but have no JPJ road tax and cannot travel on public roads.	
	5.5	 Rejection of Input Tax Claim i. FMM raised the issue on the rejection of input tax claim because of failure to respond within 7 days to RMCD. ii. FMM suggested that a warning letter be issued first before the claims are rejected. Furthermore, FMM requested that an avenue to appeal the rejection of ITC claims to be included in the rejection letter. 	RMCD response: i. Warning letter will not be issued by RMCD. Companies have the avenue to resubmit a new return for ITC claim.
	5.6	 Input tax incurred in relation to out of scope supplies i. MICPA seeks clarification on whether attributable expenses incurred for making out of scope supplies be allowed for input tax credit since out of scope supplies are not taxable supplies. ii. Furthermore, there is no specific provision under GST legislations for disallowing input tax incurred for business expenses which are out of scope. Subsequently, apportionment rule does not cover out of scope supplies. 	RMCD response: i. Input tax relating to an activity which is not a supply for the purpose of GST is not claimable.
	5.7	Apportionment of input tax used for the whole development of land with commercial, residential and public amenities and utilities i. MICPA seeks clarification on the input tax apportionment for the development of land which has commercial, residential properties, public amenities and public utilities. ii. For ITC claim, if the supply of land is directly attributable to taxable supply, ITC can be claim in full.	RMCD response: i. The method to apportion input tax are as follows: (a) The input tax relating to infra is taken out from the total input tax. This is by apportioning the land based on the acreage.

Bil		Perkara	Tindakan/ Ulasan
		 iii. However, issue arise with regards to residual input tax which cannot be apportioned. iv. MICPA have suggested 2 methods demonstrated below: Method 1 Using the method from the feedback (acreage usage), the input tax relating to the portion of infra is removed from the total input tax (Non-claimable). Then, the remaining input tax is accounted for as residual input tax with the tax code TX-RE by using turnover method. Method 2 Using the method from the feedback (acreage usage), only the input tax relating to the portion of commercial properties is claimed. 	 (b) Calculate the residual input tax based on the remaining input by using turnover method accordingly. ii. For further details, refer to Item 7, Lampiran A. Action: Sector III to update Property Guide.
	5.8	Imported services Reverse charge on international flight and travel insurance i. STA seeks clarification based on the following example: Whether the supply by global insurance company which provides coverage for international travel insurance globally as well as to taxpayers in Malaysia would be treated as imported services and subject to a reverse charge.	RMCD response: i. Since the insurance coverage which is a single supply includes Malaysia, and the services are also to be consumed in Malaysia, the supply is a taxable supply subject to GST as a standard rate.
	5.9	 Zero Rating for Indirect Export of Goods CTIM seeks clarification in the case of zero-rating indirect exports of goods whereby Item 2 of DG Decision 4/2015 sets out a list of rigid requirements in respect of Bill of Lading /Airway Bill. Subsequently, Para 1(b)(v): K2/K8 must state LM as Consignor and OB as Consignee. Para 1(b)(vi)(bb): Bill of Lading/Airway. Bill must state LM as Shipper, OB as Consignee, and Notifying 	RMCD response: i. RMCD will issue a Public Ruling pending decision by Bahagian Perkastaman.

Bil		Perkara	Tindakan/ Ulasan
		Party must indicate "details of OB" and "LC as owner of goods"	
		iii. In practice, there are international trade scenario where a Straight Bill of Lading cannot be issued by the Carrier.	
	5.10	Treatment for goods sent to overseas warehouse of foreign customer but not sold yet (no invoice issued) at the time of export i. MICPA seeks clarification based on the scenario below: A supplier will first send the goods to an overseas customer's warehouse located outside of Malaysia without the transfer of ownership. Then, tax invoices will be issued when the customer collects the goods from their warehouse when needed. K2 export declaration will be made for the goods exported to Customer's warehouse at overseas. (a) The classification of supply and time of supply for supplier A. (b) As the transfer of ownership takes place outside of Malaysia, will the transaction described then be an out of scope supply? (c) If the goods to be stored in the overseas customer's warehouse located outside of Malaysia are not marketable elsewhere, should the act of delivery of the goods be considered an export, given the fact that the customer had already agreed to buy all of the goods including the leftover? (d) The GST treatment of goods sent to the overseas warehouse of foreign customer before transferring of ownership of goods.	RMCD response: i. No supply of goods is taken place if there is no transfer or disposal of goods forming part of the assets of a business even though the goods has been exported. ii. Exported goods (goods already outside Malaysia) supplied outside Malaysia is a removal of goods from a place outside Malaysia to another place outside Malaysia which is an out of scope supply. iii. The goods are considered an export if the goods already exported (proven with prescribed export form). If the customer had already agreed to buy all of the goods (goods already exported) including the leftover outside Malaysia, the transfer or disposal of the goods is an out of scope supply (supply outside Malaysia). iv. Where goods, being sent to the overseas warehouse of foreign customer before transferring of ownership of goods, no supply is made until it becomes certain that the supply (out of scope supply) has taken place. v. For further details, refer to Item 10, Lampiran A.
	5.11	Ministers Relief - Claims for repairs under a warranty to a foreign manufacturer	

Bil		Perkara	Tindakan/ Ulasan
		i. In relation to MOF decision on claims for repair costs under a warranty made by a distributor from an overseas manufacturer which will be considered as a "cost recovery" and is not subject to GST but subject to a list of conditions, CTIM proposes the following:	RMCD response: i. RMCD is awaiting decision from MOF.
		(a) no prior approval is required to reduce the administrative burden and cost. The warranty claims can be verified by Customs as part of their audit process.	
		(b) If approval is required, that a one-off application be made for all Agreements entered into by the particular entity. For this application, sample documentation for the claims can be submitted.	
		(c) Customs refer to the terms of the contractual agreement between parties as evidence to support that the warranty claim is to be made with no mark-up.	
	5.12	 GST Treatment under MOF's Relief Order i. FMM seeks clarification on the following: (a) Company A is an LMW status company. And sells their goods to an overseas company. The invoice and payment is with the overseas company. However, based on their Purchase Order they are required to deliver the goods to a company located in the FIZ. (b) Under the MOF 's Relief Order 2/2015, the supply of goods from 	 RMCD response: The goods are not supplied but only delivered to the FIZ. LMW is making supply to OC (overseas company) and the OC should pay GST on the customs value of the goods. Therefore, there is no supply between the LMW and FIZ (only removal), thus Item 3.2 in the Relief by Minister 2/2015 (effective 15 July 2015) is not applicable.
		LMW Company to FIZ Company or vice versa is relieved from charging GST under the GST Act S.56(3)(b). (c) However, the Customs Department has requested the company to issue a tax invoice and charge 6% GST based on the Customs value as the	

Bil		Perkara	Tindakan/ Ulasan
		supply of goods made by an LMW company to the overseas buyer.	
	5.13	Issues on emails from TAP regarding correspondence received from RMCD i. CTIM recommend that the TAP system be configured so that the title on emails generated by the TAP system indicates the name of the taxable person concerned to ease compliance for clients authorized under GST Agent Log In.	RMCD response: i. MyGST system is in the process of updating. Once it is updated, necessary action will be taken.
	5.14	Public Transportation i. MATA seeks clarification on whether input tax is claimable for the supply of passenger transportation that is given free by MBSA /MPPJ.	RMCD response: i. Passenger transportation is an exempt supply. However since MBSA / MPPJ provide the passenger transportation free of charge then it is no longer a supply. Therefore no input tax is claimable. ii. It is indicated in the recent Budget Speech 2018, that supply made by local authority is an out of scope supply. Therefore, local authority needs to apply to RMCD for deregistration.
	5.15	 Simplified Tax Invoice i. Technically, the DG Decisions does not allow the input tax to be claimed by the businesses as the blanket approval is only granted to the simplified tax invoice issued to end consumers only. ii. MATA seeks confirmation as to whether as a concession Customs still allows the businesses to claim input tax credit on the simplified tax invoice. 	RMCD response: i. DG's decision does not cover business. From implementation side – company has to apply to RMCD through system (online). ii. DG's decision will be replaced. iii. RMCD to issue Public Ruling to rectify the issue. Action: Sector VII
		Simplified Tax Invoice i. MICPA raised the issue on whether the Company will be entitled to claim the full amount of input tax (amount exceeds RM30.00) notwithstanding the word "tax invoice" and total amount payable	RMCD response: i. Same as the above

Bil		Perkara	Tindakan/ Ulasan
		exclusive of tax are not contained but the Company has obtained a simplified tax invoice with the Company's name and address inserted therein.	
	5.16	 Validity of Tax Invoice i. MICPA seeks clarification as to whether the tax invoice would be considered valid for the purpose of claiming input tax under the following situations: (a) Company's name is not stated in full (b) Company's name is incomplete (i.e. in the absence of "Sdn Bhd") (c) The word "Sdn Bhd" or "Berhad" is shortened to "S/B" or "Bhd" (d) Company's address stated is not the address registered in TAP (e) Company's address stated is not exactly the same as registered address. 	RMCD response: i. Generally, company must give its full name to the supplier for tax invoice issuance purposes and claiming ITC. However, the company has to apply to RMCD for approval to be stated on the invoice under an abbreviated company's name. ii. RMCD will address this issue in the Public Ruling. Action: Sector VII
	5.17	Issuance of Tax Invoice i. MICPA seeks clarification whether it is an offence for a company who failed to issue tax invoice containing prescribed particulars due to customer reluctance to provide his name and address for billing purpose.	RMCD response: i. Non-compliance will be subject to an offence under subsection 33(2)(b) GSTA 2014.
	5.18	Transactions of Members within Group i. MICPA seeks clarification in the circumstances where a member of the group provides loan to another member of the group and as to whether the interest income received from the member be regarded as an incidental exempt supply and disclosed under field 12 of the GST return or treated as disregarded supply.	RMCD response: i. Taxpayer has to declare under Field 12 (exempt supplies) GST-03 return.
	5.19	Relief Supplies i. MICPA seeks clarification on CoGSTR in the following circumstances: (a) Is the person required to provide a new Certificate of GST Relief	RMCD response: i. If the supply is made under an agreement for a period/ progressively, CoGSTR can be issued at each progressive supply.

Bil		Perkara	Tindakan/ Ulasan
		 ("CoGSTR") to the supplier for each month's supply for supply of goods or services to the person given relief on a monthly basis with monthly tax invoices to be issued. (b) Is CoGSTR still acceptable without the verification by the supplier as to whether the Certificate of GST Relief (CoGSTR) received has been signed by a designated person authorised by the person given relief. 	 ii. It is not the supplier's responsibility to verify whether the CoGSTR is signed by a designated person or not. It is sufficient as long as the person who are entitled for the relief can produce CoGSTR and make it available to the supplier upon the supply of goods. iii. For further details, refer Item 19, Lampiran A.
	5.20	 Deposit MICPA seeks clarification with reference to RMCD's letter to Malaysian Association of Hotels on 11 March 2015. Whether the GST treatment on deposit received for hotel industry shall not be a consideration for a supply be applicable to all revenue generated by the particular hotel including non-hotel room related revenue (e.g. deposit received in relation to wedding banquet, corporate functions and rental of conference rooms.) 	RMCD response: i. The GST treatment where the deposit is not a consideration for a supply applies only to hotel room advance booking.
	5.21	Supply of Accommodation i. MICPA seeks clarification whether companies would be disqualify from group registration where the company provides accommodation to their employees (including workers) with minimal charges imposed as recovery to the expenses incurred since this supply of accommodation is treated as an exempt supply.	RMCD response: i. The companies are not qualified for GST group registration if they are making an exempt supply.
6.0		 HAL-HAL LAIN i. Mesyuarat yang akan datang dijadualkan dalam bulan Disember 2017. ii. Deraf Ketetepan Umum <i>Disbursement & Reimbursement</i> telah disediakan oleh Sektor VII dan akan diedarkan oleh Unit 	Makluman

Bil	Perkara	Tindakan/ Ulasan
	Panel Teknikal kepada pihak swasta. Sebarang komen dan penambaikan hendaklah dikemukakan semula kepada pihak urusetia dalam tempoh 2 minggu.	
	iii. Ketetapan Umum <i>Imposition of Penalty</i> dan <i>Supply by Healthcare Professional</i> telah dimuatnaik dalam portal GST berkuatkuasa 1/11/2017.	
	iv. Isu yang telah dibincang dan diputuskan tidak akan dibincangkan semula.	
	v. Maklum balas di Lampiran A yang diedarkan pada hari ini hendaklah diabaikan dan Lampiran A yang baru berdasarkan keputusan yang dicapai pada hari ini akan diedarkan semula kepada semua ahli.	
7.0	PENUTUP	
	i. Tuan Pengerusi merakamkan ucapan terima kasih kepada semua ahli yang hadir.	
	ii. Mesyuarat ditangguhkan pada jam 1.00 petang.	

Disediakan:

Urusetia Mesyuarat Jawatankuasa Teknikal Isu Pelaksanaan GST Bahagian GST Ibu Pejabat Disahkan oleh:

(DATO ABOUL LATHE BIN ABO KADIR)

Pengerusi

Mesyuarat Jawatankuasa Teknikal

Isu Pelaksanaan GST

Bahagian GST Ibu Pejabat