

AGENDA 3

USUL-USUL BARU

NO	USUL BARU 1/2015	MAKLUMBALAS
1	ISU GST OLEH MICPA	
	<p><u>USUL</u></p> <p>With the recent implementation of GST, the industries would appreciate an update to the written procedures on whether a taxable person is still required to impose GST on invoices issued after making GST payment via customs declaration forms in respect of the below:</p> <p>A. Principal Customs Area (PCA) to customs bonded warehouse and vice versa</p>	<p>Tindakan : Bahagian GST</p> <p>A.</p> <p>(i) The local supply of goods from PCA company, GST to be charge in the tax invoice and to be accounted in their respective taxable period through GST-03 return, immaterial where the goods are to be delivered.</p> <p>(ii) The supply of imported goods from bonded warehouse to PCA company to be declared in Custom Form K1/K9 where custom duty and GST are payable. Please note that for the goods which are imported into a bonded warehouse and there is a supply within the bonded warehouse, the supply is disregarded. So the tax invoice issued for the supply within the warehouse, GST not to be charged but indicated as disregarded under the Warehousing Scheme. GST importation is only be paid in Customs Form K1/K9 and not on the tax invoice.</p>

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	<p>B. Free Commerce Zone (FCZ) to PCA</p> <p>C. LMW to PCA</p> <p>D. Imported goods into a FCZ / Free Industrial Zone (FIZ) that are located in a port</p>	<p>B. Supply of goods from FCZ to PCA is treated as importation into Malaysia. Custom duty and GST to be paid in Custom Form K1/K9. The supply of commercial goods within FCZ are given relief by Minister under the provision of subsection 56(3) GSTA 2014. The tax invoice for such a supply issued by the supplier in FCZ are granted relief from charging GST by indicating the clause below on their tax invoice "...relief from charging GST under section 56(3) GSTA 2014". This mean GST to be paid on custom form not on tax invoice. However, the following goods are not eligible for this relief:</p> <ul style="list-style-type: none"> • wine, spirits, beer and malt liquor; • Tobacco and tobacco products; and • Any goods to which credit for input tax incurred is disallowed under regulation 36. <p>C. The supply of goods from LMW to PCA is treated as local supply for GST purpose. Declaration of K9 is required and upon declaration only custom duty is to be paid but GST is to be charged in the tax invoice and the LMW company will account the GST in their respective taxable period through GST-03 return.</p> <p>D. For importation of goods into FCZ is not subject to GST. However, importation of goods into FIZ which are located in FCZ in a port, which has Approved Traders Scheme (ATS) facilities will be able to suspend the GST upon importation. If the company does not have that facility, GST to be paid through Custom Form 1 GST Payable.</p>

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	<p><u>CADANGAN</u></p> <p>To promote transparency and consistency, it is proposed that the updated written procedures be posted on the RMC's website.</p>	<p>The written procedures for the above GST treatment will be available in the GST guide on FCZ, FIZ and LMW.</p>

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2	ISU GST OLEH MICPA	
	<p><u>USUL</u></p> <p>With the recent implementation of GST, the industries would appreciate an update to the written procedures on how to claim GST relief in respect of the below:</p> <ul style="list-style-type: none"> • Imports subject to relief of the GST Relief Order 2014 [P.U. (A) 273] under: <ul style="list-style-type: none"> a) item 16 (goods exported & subsequently re-imported for repair & reprocessing) b) item 18 (production samples) c) item 19, 20 & 21 (import of empty pellets/containers for re-export) d) item 22 (items imported through air courier service) <p><u>CADANGAN</u></p> <p>To promote transparency and consistency, it is proposed that the updated written procedures be posted on the RMC's website.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan:</p> <p>The written procedure is available in the GST Import Guide.</p> <p>How to claim GST relief?</p> <ol style="list-style-type: none"> 1. Make an application to the State Director of Customs for approval to obtain relief. 2. With the approval, prepare Customs Form No. 1 / No. 9 for importation in the name of the person given approval / importer. 3. Third party importation will not be given relief. 4. Follow Customs procedures in relation to goods imported which are given exemption from Customs duties. 5. Stamp on Customs Form a statement requesting for a relief and attach the approval letter from the State Director of Customs. The statement is as follow : "Relief from payment of GST under Item ... Goods and Services Tax (Relief) Order 2014" 6. If the proper officer of Customs at the entry point is satisfied that all conditions set by the State Director of Customs are fulfilled, GST will not be paid upon clearance from Customs control. 7. The importer or any person given relief must ensure all the conditions relating to the relief in the GST (Relief) Order 2014 is complied with. 8. The importer or any person given relief must keep proper records for purposes of auditing.

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		9. The importer or any person given relief is required to declare under Item 13 Part C, GST-03 the total value of supplies granted GST relief.

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3	ISU GST OLEH MICPA	
	<p><u>USUL</u></p> <p>The industries would appreciate a more comprehensive GST Guide relating to reimbursement / disbursements to capture a wider scope of activities of a principal versus an agent and any exception to such classification.</p> <p><u>CADANGAN</u></p> <p>To ensure that the correct GST treatment be accounted for, it is proposed that a comprehensive guide be made available.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan:</p> <p>Please refer to APPENDIX 1 for an excerpt from the Director General's Decision 5/2015.</p>

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4	ISU GST OLEH MICPA	
	<p>Where pricing adjustment occurs post importation of goods, clarification is required on the mechanism as to how and when shortfall of duties and GST (in the case of a debit note received from the importer) can be remitted to RMC, the timeline for such remittance and vide which Form.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>Section 18 of Customs Act disallows any such correction unless notice in writing of such claim has been given at or before the time of such removal.</p>

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5	ISU GST OLEH MICPA	
	<p><u>USUL</u></p> <p>The present GST-03 Guidelines or the relevant specific GST Guide would need to be enhanced to assist GST Tax Return preparers to correctly file a GST Tax Return. Following are two immediate practical issues for RMC's consideration:</p> <p><u>CADANGAN</u></p> <p><u>The reporting of Part C, item 11 of GST-03 : Total Value of Export Supplies</u></p> <p>Should the actual total value of goods exported be based on:</p> <ol style="list-style-type: none"> i. Invoice (foreign currency converted using prevailing bank rate); or ii. K2 Form (foreign currency converted using Customs weekly export rate) <p><u>Reporting of Realised Foreign Exchange Gains / Losses</u></p> <ol style="list-style-type: none"> i. Realised Foreign Exchange : Gain RM1,000; Loss RM800 <ul style="list-style-type: none"> - RM200 (to report net gain); or - RM1,800 (to report total value); or - RM1,000 (to report gain only) ii. Realised Foreign Exchange : Gain RM800; Loss RM1,000 <ul style="list-style-type: none"> - (-) RM200 (to report net loss); or - RM Nil; or - RM1,800 (to report total value); or RM800 (to report gain only) 	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>K2 Form</p> <p>Under the GST law, there is no implication of GST on classification and valuation of exported goods since all goods exported are zero rated. However you should comply with the classification and valuation requirements under the Custom Act 1967.</p> <p>Report RM200 net gain</p> <p>Report RM200 net loss- without (-) sign</p>

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6	CLAIM OF INPUT TAX WITHIN 6 YEARS FROM THE DATE OF SUPPLY OR IMPORTATION OLEH FMM	
	<p><u>USUL</u></p> <p>According to the GST Act, where any claim of input tax has not been made in the taxable period, the Director General may allow such person to make the claim within 6 years from the date of supply to or importation by him.</p> <p><u>CADANGAN</u></p> <p>FMM would like to suggest that if the tax document is within 6 years from date of supply or importation, taxable person is allowed to claim input tax without DG's permission.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>Such claim can only be made within 6 years if the taxpayer has valid reasons for doing so. Otherwise the claims must be in the taxable period where he incurred the input tax and in possession of valid documents such as tax invoice or import documents.</p>

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7	DROP SHIPMENT OLEH FMM	
	<p><u>USUL</u></p> <p>Manufacturer M "sold to" and "bill to" Local Company X and "ship to" Overseas customers. In the Customs Declaration, shipper is manufacturer M and not local company X.</p> <p>According to Customs official response to FMM's issues, Customs has informed us as the transfer of ownership of the goods took place in Malaysia, supply made by Manufacturer M to Local Company X is standard rated.</p> <p><u>CADANGAN</u></p> <p>FMM is of the view that this supply should be zero rated in accordance with the GST Act itself. The Act specifies that export in terms of physical movement and Customs Declaration Form overseas is zero rated.</p> <p>The example: Manufacturer M "sold to" and "bill to" Local Company X and "ship to" Overseas customers. In the Customs Declaration, shipper is manufacturer M and not local company X. These have been configured into the GST software system. The software systems such as SAP has been modify that "Ship to party" to non-MY is zero rated.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>For this scenario, the GST treatment can be found under item 2 of DG's Decision 4/2015 dated 15.4.2015 as follows :</p> <p>Local company (LC) purchased goods from a local manufacturer (LM) and request LM to export the goods to his overseas buyer (OB). Whether the supply made by LM to LC qualify for a zero rate?</p> <p>(1) The supply of goods made by LM to LC is a standard rated supply, because the transfer of ownership of the goods took place in Malaysia. However such supply will qualify for a zero rate subject to compliance with the following conditions –</p> <p>(a) The supply is related to goods other than wine, spirit, beer, intoxicating liquor, malt liquor, tobacco and tobacco products;</p> <p>(b) LM must keep and maintain the following documents :</p> <ol style="list-style-type: none"> i. Purchase order from LC to LM; ii. Tax invoice issued by LM to LC and shipped to OB; iii. Written instruction from LC that the purchase goods is to be exported to OB; iv. Proof of payment from LC to LM; v. Export document such as K2/K8 where it is stated that the consignor is LM and the consignee is

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		<p>OB; and</p> <p>vi. Bill of lading / airway bill stating the following details:</p> <p>(aa) LM as the shipper;</p> <p>(bb) OB as the consignee;</p> <p>and</p> <p>(cc) Indicate under column "Notify Party" the details of OB or his representative and LC as the owner of the goods</p> <p>(c) LM must export the goods within 60 days or any extended period as approved by the Director General (DG) from the time of supply;</p> <p>(d) Time of supply for LM is the date of invoice issued or payment received, whichever is the earlier;</p> <p>(e) The local company (LC) must keep and maintain the following documents :</p> <p>(i) Purchase order from OB to LC;</p> <p>(ii) Invoice issued by LC to OB; and</p> <p>(iii) Proof of payment from OB to LC;</p> <p>AND</p> <p>(f) Any other necessary conditions as the Director General may require from time to time.</p> <p>(2) If LM does not have possession of the goods to be exported or control over the export arrangement he must treat the sales as local supply and subject to GST at standard rate.</p>

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8	AIRPORT DUTY FREE SHOPS (DFS) OLEH FMM	
	<p><u>USUL</u></p> <p>The DFS guide uploaded in the GST Portal was last revised as at 27 October 2013. Many businesses still refer to this guide in making policy and operational decisions in their sales to the DFS.</p> <p>FMM understands that there are many policy changes in the GST treatment concerning the Airport DFS.</p> <p><u>CADANGAN</u></p> <p>As there are many policy changes to the DFS status, FMM would like to request for clarification on the status of the amendments to the DFS guide.</p> <p>FMM would also like to request Customs Department to be lenient on businesses that may have made wrong business decisions due to these outdated guides uploaded in the GST Portal.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan : Panduan DFS telah siap dikemaskini sehingga 28 April 2015 oleh sektor VI dan telah dimuatnaik di dalam portal GST.</p>

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9	SPECIAL SALES TAX REFUND FOR STOCK AT HAND OLEH FMM	
	<p><u>USUL</u></p> <p>The special sales tax refund for eligible products would be applicable only for goods that are paid and have reached the claimant by Mar 31st, 2015.</p> <p>The Credit periods in the industry are close to 90 to 120 days, which means that all inventory held by the claimants that has not been paid for will not be eligible for the sales tax refund.</p> <p>This has caused some businesses to return sold goods - rather than speed up payment as it would impact their cash flow adversely.</p> <p><u>CADANGAN</u></p> <p>FMM would like the Customs Department to consider current business practice of granting 90 days credit terms and to allow companies until June 2015 to make full payments.</p>	<p>Tindakan : Bahagian GST</p> <p>JAWAPAN :</p> <p>Director General (DG) decision made on this issue:</p> <ol style="list-style-type: none"> 1. Credit period of 60 days to be given to claimant from 1 April 2015. 2. Returning of sold goods / buy back is strictly not allowed. 3. However, during Mesy. J/Kuasa Kerja chaired by Tan Sri KSP, this matter was discussed.

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10	ZERO RATING OF MILK FORMULA PRODUCTS OLEH FMM	
	<p><u>USUL</u></p> <p>Ministry of Finance has issued the latest list of milk formula products that will be zero-rated for GST for products used by infants and babies 0 to 36 months of age. However the latest list of products does not cover specialised products for lactose intolerant infants / babies etc.</p> <p><u>CADANGAN</u></p> <p>The FMM Infant Formula Ethics Committee in a letter dated March 31, 2015 has requested Customs and MOF to expand the list to include milk formula products for lactose intolerant infants / babies etc: 1901.10.900, 1901.10.100, 1901.10.219, 1901.10.200, 1901.19.0591, 1901.19.0592, 2106.90.910, 1901.10.900, 2106.90.990, 1901.90.591, 1901.90.592</p> <p>These HS Tariff Codes have not been included in the list although these products fall within the same category as the newly zero-rated milk formula products.</p> <p>FMM would like to support the FMM Infant Formula Ethics Committee's request to expand the list to include milk formula products for lactose intolerant infants / babies etc.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan : Masih di dalam pertimbangan MOF</p>

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11	TREATMENT ON LMW LOCAL SALES OLEH FMM	
	<p><u>USUL</u></p> <p>There seems to be confusion on the GST treatment for LMW, FIZ and FCZ companies with and without the Approved Traders Scheme (ATS).</p> <p><u>CADANGAN</u></p> <p>FMM would like to seek clarification on the following GST treatment with and without the ATS:</p> <ul style="list-style-type: none"> i. Local sales of LMW companies ii. LMW sales to LMW or FIZ iii. LMW sales to RDC or IPC iv. Local sales of FIZ companies v. FIZ sales to FIZ or LMW vi. FIZ sales to RDC or IPC vii. RDC sales to LMW or FIZ viii. IPC sales to LMW or FIZ 	<p>Tindakan : Bahagian GST</p> <p>Refer to APPENDIX 2.</p>

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12	STANDARD OPERATING PROCEDURE ON CUSTOMS DG APPROVALS OLEH FMM	
	<p><u>USUL</u></p> <p>There are many applications that call for the approval from the Customs Director General including the utilization of the GST Relief Order, application for the ATS and ATMS, Group Registration and etc.</p> <p>It has been brought to FMM's attention that letters and applications seeking the approval from the Customs DG have not been entertained.</p> <p><u>CADANGAN</u></p> <p>FMM would like to request for the Customs Department to issue Standard Operating Procedures on all GST related approvals and applications.</p>	<p>Tindakan : Bahagian GST</p> <p>GST Relief Order</p> <p>1) Terdapat 4 Panduan yang telah dimuatnaik dalam website gst.customs.gov.my</p> <p>i) Panduan Pelaksanaan Butiran 3, Perintah CBP (Pelepasan) 2014. (Pelepasan perolehan barang untuk Jabatan Kerajaan Persekutuan dan Negeri)</p> <p>ii) Panduan Pelaksanaan Butiran 26, Perintah CBP (Pelepasan) 2014. (Pelepasan perolehan barang untuk Perwakilan Asing dan Pertubuhan Antarabangsa)</p> <p>iii) Panduan Pelaksanaan Butiran 6, Perintah CBP (Pelepasan) 2014. (Pelepasan Perolehan barang untuk kemudahan jagaan kesihatan swasta)</p> <p>iv) Panduan pelaksanaan tuntutan pulangbalik CBP ke atas perolehan perkhidmatan oleh Perwakilan Asing dan Pertubuhan Antarabangsa.</p>

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		<p>2) Sedang menyediakan panduan pelepasan :</p> <p>i) Menunggu kelulusan MOF bagi Butiran 4 dan Butiran 5 berkaitan equipments and materials oleh IPTA/IPTS dan sekolah swasta.</p> <p>Nota: Dijangka siap dalam tempoh 1 minggu selepas terima keputusan daripada MOF.</p> <p>ii) Deraf SOP bagi Butiran 8, Jadual Pertama, Perintah CBP (Pelepasan) 2014. (Pelepasan untuk pertubuhan amal swasta)</p> <p>Jawapan Unit Kawalan Kemudahan - ATS / ATMS</p> <p>SOP ATS dan ATMS telah dikeluarkan untuk pegawai Jabatan.</p> <p>Jawapan Pusat Pendaftaran Dan Pengurusan Hasil GST - Group Registration</p> <p>Jawapan :</p> <p>SOP memproses permohonan pendaftaran kumpulan telah dikeluarkan untuk pegawai Jabatan.</p>

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13	CLARIFICATION ON THE DOUBLE TAX DEDUCTIONS ON GST TRAINING EXPENSES OLEH FMM	
	<p><u>USUL</u></p> <p>Customs Department has developed the guidelines for claiming double tax deductions on training expenses.</p> <p>According to the guidelines, in order to be eligible for the deductions, the training should be conducted by trainers that have been approved by Customs.</p> <p><u>CADANGAN</u></p> <p>Many academic institutions, accounting firms and industry associations conduct trainings on a regular basis. In order to get an approval for each training session would be tedious for both the training provider and the Customs Department.</p> <p>We would like to request the Customs Department to grant a blanket approval to these trainers and not based on a case by case basis.</p>	<p>Tindakan : Bahagian GST</p> <ol style="list-style-type: none"> 1. Permohonan adalah <i>case by case basis</i> <ol style="list-style-type: none"> a) Kelulusan dalam tempoh tiga hari berdasarkan setiap permohonan lengkap diterima. b) Memenuhi tatacara permohonan di para 4.0, Garis Panduan Bagi Mendapatkan pengesahan JKDM Ke Atas Latihan Yang Layak Bagi Tujuan Potongan Cukai Pendapatan Di Bawah Kaedah-Kaedah Cukai Pendapatan (Potongan Bagi Kos Yang Berhubungan Dengan Latihan Untuk Pekerja Bagi Pelaksanaan Cukai Barang dan Perkhidmatan) 2014 c) Kelulusan Pengarah GST Ibu Pejabat / Pengarah Kastam Negeri 2. <i>Blanket approval</i> diberikan kepada agensi yang menjalankan kursus dengan kerjasama Jabatan Kastam Diraja Malaysia iaitu CTIM, MATA dan MIA.

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14	PARTICIPATING BANKS FOR ONLINE PAYMENT OF GST OLEH FMM	
	<p><u>USUL</u></p> <p>The online payment of GST can only be made through 7 participating local banks. Companies with accounts with foreign banks will require opening accounts with local banks to pay GST returns.</p> <p><u>CADANGAN</u></p> <p>In order to facilitate businesses to make GST payments, the Government should encourage foreign banks to accommodate GST transactions.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>Bank antarabangsa yang menyediakan kemudahan Direct Debit adalah:</p> <ul style="list-style-type: none"> i. Bank America ii. Citibank iii. HSBC Bank iv. OCBC Bank v. Standard Chartered Bank vi. Duetsche Bank <p>Pembayar cukai hendaklah memohon dan mengemukakan Borang Kebenaran <i>Direct Debit</i> (DDAF) di mana-mana cawangan RHB Bank. Status permohonan akan dikeluarkan oleh RHB Bank.</p>

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15	INCORRECT GST RETURN – CLEAR POLICIES ON IMPOSITION OF PENALTIES OLEH CTIM	
	<p><u>USUL</u></p> <p>GST is a new tax to Malaysia. Unforeseen technical and implementation issues can only been clarified shortly before and after implementation date. This apply equally to Government and businesses. In the initial stage, it is reasonable to expect continued refinements and adjustments being necessary for a new tax system implementation of this scale. Regardless of size, organisations have limited resources in dealing with a wide range of challenges and threats in today's competitive and dynamic environment. Where there is insufficient time to disseminate information and make adjustment accordingly, especially due to factors that are not in tax payer's control, gaps in system, process and procedures can lead to errors in returns.</p> <p><u>CADANGAN</u></p> <p>In the long run, the quality of tax compliance affects the costs of tax administration. Lower quality of compliance leads to higher administration costs overall. During initial stage of introducing a new tax system such as GST, punitive action should be balanced with policy that encourages better self-compliance, such as voluntary disclosure and prompt errors adjustments, so taxable persons would have good reason to come forward and correct genuine errors in tax returns as early as possible without fear of punitive action.</p> <p>To encourage self-compliance, CTIM is of the view that punitive action during the initial stage of GST implementation (e.g. first year) may be moderated taking into consideration the following mitigating</p>	<p>Tindakan : Bahagian GST</p>

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	<p>factors:-</p> <ul style="list-style-type: none"> • Efforts taken by taxable persons in disclosing errors on voluntary basis • Adjustments necessary as a result of choosing to rely on “Guidelines”/”DG’s decisions” issued, revision thereafter or clarification made available only subsequent to implementation <p>For example, RMC may consider to release a clear and transparent Written Policy in this regard:-</p> <p>(i) Correction of Errors and Sufficient Time for Adjustment</p> <p>To distinguish between unintentional mistake and wilful act of tax avoidance, taxable person will be allowed to make correction of error without retrospective penalty provided correction is made within a reasonable period. Similarly, taxable persons are allowed a reasonable time period to adjust their reporting system following the resolution of a particular issue formally raised by taxpayers e.g. in the form of a formal reply, issuance of “Guidelines”/”DG Decision” or any other formal clarifications from Customs.</p> <p>(ii) Voluntary Disclosure</p> <p>To encourage self-compliance, lower rates of penalties may be offered to taxable persons who made disclosure voluntarily after the submission of their GST returns, depending on the length of time taken to make the disclosure from the due date of the submission of the return.</p>	<p>Sekiranya berlaku kesilapan maklumat dalam penyata yang telah dihantar, orang berdaftar boleh membuat pindaan dengan mengemukakan pindaan kepada mana-mana penyata. Pindaan boleh dibuat pada bila-bila masa sahaja.</p> <p>Tiada kemudahan <i>voluntary disclosure</i> pada masa ini. Penalti tidak dikenakan kepada pembayar cukai yang lewat membuat pembayaran.</p>

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16	GOODS SUPPLY TO FEDERAL OR STATE GOVERNMENT OLEH CTIM	
	<p><u>USUL</u></p> <p>We were informed that the Ministry of Finance has issued a letter on 4 March 2015 advising the Chief Secretary to the Government (Ketua Setiausaha Negara), all Chief Secretaries of Ministries (Ketua Setiausaha Kementerian), all Heads of Federal Departments (Ketua Jabatan Persekutuan) and all State Secretaries (Setiausaha Kerajaan Negeri) that the supplies of goods to Ministries, Federal Departments and States will be GST relieved (diberi pelepasan). This is in accordance to Item No. 3 of the First Schedule to the Goods and Services Tax (Relief) Order 2014 [P.U. (A) 273/2014].</p> <p>However, in the Appendix to the letter, the word “dikecualikan” (exempted) is used for supplies for contracts that spans the effective date of the implementation of GST and contracts with extension of time. This is not in line with the GST (Relief) Order 2014 and we believe the words “dikecualikan” has been mistakenly used in the place of “diberikan pelepasan” in the Appendix to the letter. In any case, the GST treatment recommended in the Appendix disregarded the transitional provisions for contracts with no opportunity to review stated in Section 187 of the GST 2014.</p> <p>We understand various Ministries and Federal Departments are now rejecting the charging of GST on ALL contracts spanning the effective date on the basis of the said letter and Appendix. In addition, the supplies made under these contracts are to be treated as exempt supplies for which the registered taxpayers are not allowed to claim any input tax credit they incurred to make that supplies.</p> <p><u>CADANGAN</u></p> <p>We request RMC to help escalate the issue to Ministry of Finance (MOF) for a prompt resolution as the implications are wide and severe.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>Komen Bahagian GST</p> <p>1. Kontrak perolehan perkhidmatan (kontrak kerja) yang sedang berkuatkuasa di mana Surat Setuju Terima telah ditandatangani dan tempoh kontrak melangkaui 1 April 2015. Termasuk juga kontrak tersebut tamat.</p> <p>Keputusan berkenaan GST Diberi pelepasan daripada kenaaan GST sehingga kontrak tersebut tamat.</p> <p>2. Kontrak perolehan perkhidmatan bukan perunding (kontrak perkhidmatan) yang tidak dikenakan cukai perkhidmatan sebelum 1 April 2015, sedang berkuatkuasa di mana Surat Setuju Terima (SST) telah ditandatangani dan tempoh kontrak melangkaui 1 April 2015.</p> <p>Keputusan berkenaan GST Diberi pelepasan daripada kenaaan GST sehingga 31 Mac 2017 atau tamat tempoh kontrak, mana lebih awal.</p> <p>3. Kontrak perkhidmatan perunding dan bukan perunding yang dikenakan cukai perkhidmatan sebelum 1 April 2015.</p> <p>Keputusan berkenaan GST Dikenakan GST walaupun Surat Setuju Terima (SST) telah ditandatangani sebelum 1 April 2015 dan kontrak melangkaui tarikh tersebut.</p>

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		<p>Sila rujuk laman web MOF, Dasar Kenaan GST dalam Perolehan Kerajaan.</p> <p>Pekeliling Perbendaharaan Malaysia PK 1/2013</p> <p>Surat Kementerian Kewangan Ruj. 0.3865/356(SJ.4)(Jld.22)(SK.24)(7) bertarikh 12 Mei 2015.</p>

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17	REMOVAL OF GOODS FROM FREE INDUSTRIAL ZONE (FIZ) AND LICENSED MANUFACTURING WAREHOUSE (LMW) FOR CONSUMPTION/CIRCULATION IN PCA OLEH CTIM	
	<p><u>USUL</u></p> <p>At present, customs duties and sales tax are both paid at the time of removal using Customs No.1 Forms or Customs No.9 Forms, if applicable. Under GST regime, taxable person making such supplies is required to issue a GST tax invoice for making taxable supplies (including foreign companies located outside Malaysia making such supplies in Malaysia).</p> <p><u>CADANGAN</u></p> <p>We seek the confirmation and clarification from the RMC as regard the following:</p> <ul style="list-style-type: none"> • Presentation of seller's GST Tax Invoice at the time of clearance is not mandatory at the time of customs clearance as long as sufficient documents and information are made available to allow accurate assessment of Customs Value declared in K1 or K9 Forms, especially in situation where issuance of a Tax Invoice is not yet required by GST laws at the time of clearance. • In the event that GST Tax Invoice is not available at the time of clearance, delivery to consignees/recipients/buyers in PCA should not be denied as long as requirements under customs laws have been complied with. <p>Clarity and consistency of RMC's position in all Customs Stations is important to avoid delays of goods clearance/delivery</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>1) GST Treatment is as follows :</p> <p>a) <u>LMW TO PCA</u></p> <p>Customs declaration to be made and only duty import to be paid in Customs Form No.9.</p> <p>GST to be charged in tax invoice and to be accounted in Form GST 03.</p> <p>b) <u>FIZ TO PCA</u></p> <p>Customs declaration to be made and only duty import to be paid in Customs Form No. 1.</p> <p>GST to be charged in tax invoice and to be accounted in Form GST 03.</p> <p>2) Under Section 33 of GSTA 2014, a tax invoice must be issued when a taxable supply is made. If a tax invoice is issued within 21 days from the date of supply, the time of supply is the invoice date.</p> <p>3) Under Section 174 of GSTA 2014, Customs procedures must be followed in relation to import and export of goods.</p> <p>4) In the case where it involves an importation in relation to the Customs Act i.e. LMW to PCA / FIZ to PCA, a Customs declaration must</p>

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		<p>be made and a tax invoice must be attached to the Customs declaration for the purpose of Customs clearance. A tax invoice must be issued at the time of clearance for the purpose of determining the value of the supply, duty import element and the GST element since GST will not be paid on Customs declaration form. Commercial invoice cannot be used in this situation as it does not show the element of GST and this case involves a local supply.</p>

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18	APPROVED TRADER SCHEME (ATS) COMPANIES OLEH CTIM	
	<p><u>USUL</u></p> <p>Applicant for ATS status had not been required to provide a complete list of all raw materials and components that will be imported. However, recently the RMC have informed ATS status companies that a complete list of materials to be imported has to be submitted (and this is required before the importation for the purpose of suspension of GST). In addition, ATS approval letter requires ATS companies to furnish monthly statements.</p> <p><u>CADANGAN</u></p> <p>Confirmation of this new procedures is sought. If affirmative, a formal guideline setting out clearly the requirements including rationale, formats of documentation, record keeping and reporting requirements should be released immediately.</p>	<p>Tindakan : Bahagian GST</p> <p>Orang yang diluluskan ATS perlu muat turun Lampiran 03 (Penyata bulanan bagi Skim Pedagang Diluluskan (SPL) dan Lampiran 04 (Penyata bulanan bagi Skim Pedagang Diluluskan (SPL) kategori "Perolehan tahunan melebihi RM25 juta dan 80% pembekalan berkadar sifar) melalui portal GST. Kemudian isi dan hantar ke stesen Kastam yang mengawal sebelum setiap 10 haribulan bulan berikutnya.</p> <p>Pindaan ke atas syarat di lampiran surat kelulusan ATS sedang dikemaskini.</p>

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19	FACILITATION OF COMPLIANCE OLEH CTIM	
	<p><u>CADANGAN</u></p> <p>To enhance the quality of compliance and avoid confusion, CTIM suggests that :</p> <p>(i) All GST Guides and other publicly available guidelines and rulings relating to GST should indicate the date of issue of the updated version in the front page and a list of changes since the introduction of the original document at the end of the Guide.</p> <p>(ii) All GST Forms should accompanied by a Guidance Note on how to complete the Form. The Guides/document should be expanded and linked to the provisions of the law. In the absence of such Guidance Notes, the diverse approach in converting the 'theory' into 'practice' is inevitable and this may disrupt the statistical analysis etc.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>It is a current practise now.</p> <p>Example : Refer to Legal Practitioner Guide</p>

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20	CREDIT NOTE AND DEBIT NOTE – FOREIGN CURRENCY OLEH CTIM	
	<p><u>USUL</u></p> <p>Customs have stated that credit note and debit note issued in foreign currency should have a forex rate based on the day of the issuance of the credit note and not the date of the original supply.</p> <p><u>CADANGAN</u></p> <p>CTIM is of the view that this may cause significant issues as the use of a different currency rate to the original invoice would cause significant distortions to the GST reportable amounts where there have been significant movements in currency over that period. This would not represent an accurate reflection of the value paid.</p> <p>We request a formal clarification of RMC's position in this matter.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>After deliberation, RMCD has revised the decision as follows :</p> <p>Where credit note or debit note is issued in a foreign currency, the forex rate is based on the date of the original supply.</p>

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21	GST AGENT -- DECLARATION OF EXPORT VALUE IN K2 FORM [S. 65 GSTA 2014] OLEH CTIM	
	<p><u>USUL</u></p> <p>“Value” in relation to goods to be exported is defined in Customs Act 1967 as price which an exporter would receive for the goods (calculated to the stage where such goods are released by Customs at the place of export). A GST Agent acting on behalf its foreign principal who is not allowed to register in Malaysia, will need to hold Customs No.2 Forms with its name in Box 1 as support for zero rating its export. Agent is not the seller and will not receive payment in respect of goods exported but only a fee for its services.</p> <p><u>CADANGAN</u></p> <p>In this respect, we would appreciate if the RMC could clarify what value the GST agent is expected to report in K2 Declaration, and the enabling provisions / basis for the agent to comply with laws.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>For purpose of exportation goods, the value to be declared is the Free on Board (FOB) value of the goods to be exported.</p>

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22	SPECIAL SALES TAX REFUND – CLASSIFICATION OF GOODS [S.190 GSTA 2014] OLEH CTIM	
	<p><u>CADANGAN</u></p> <p>Under Section 190(2) GSTA 2014, the goods must be taxable under Sales Tax Act 1972, amongst other conditions.</p> <p>We would like to seek clarification from RMC on the level of details or proofs required to support the claim that inventories held are in fact taxable under Sales tax Act 1972 e.g. would stating tariff code that applicant believe is accurate for the product according to sales tax order at present be sufficient? If further details/evidence are required, a Guideline setting out clearly supporting documents / analysis would be important.</p>	<p>Tindakan : Bahagian GST</p> <p>Jawapan :</p> <p>Under section 190(2) GST Act 2014 a GST registered person under section 20 GST Act 2014 is allowed to claim special refund (20% method). Under this section the claimant is required to make sure all goods for claiming of special refund is not classified under the (Schedule A) Sales Tax (Exemption) Order 2013.</p> <p>The claimant of special refund under section 190(2) will have to check first whether those goods are classified under the Sales Tax (Exemption) Order 2013 or otherwise. If not classified, the claimant is eligible for special refund (20% method).</p>

