

## Proposed Amendments to Goods and Services Tax Bill 2009

No.	Current Provision	Proposal	Rationale
1.	<p><b>Clause 2 Interpretation</b></p> <p>New provision.</p>    <p>New provision.</p>	<p>“person” includes individual, corporation, Federal Government, State Government, statutory body, local authority, society, trade union, co-operative society, joint venture, trust, partnership and any other body, organization, association or group of persons, whether corporate or unincorporated;</p>    <p>“belongs” has the meaning assigned to it in section 14.</p>	<p>It is important to define the meaning of “person” so that the meaning of “person” becomes clear.</p>    <p>Currently there is no enabling provision on definition of belongs. With the enabling provision, it will help the reader.</p>
2.	<p><b>Clause 3 Meaning of Business</b></p> <p>(3) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.</p>	<p>(3) Anything done in connection with the commencement, termination or intended termination of a business is treated as being done in the course or furtherance of that business.</p>	<p>To clarify that commencement of a business is also treated as being done in the course or furtherance of that business.</p>
3.	<p><b>Clause 11 Time of Supply</b></p> <p>(2) Subject to subsections (4), (5), (6) and (7), the time of supply of goods shall be—</p>	<p>(2) Subject to subsections (4), (5), (6) and (7), the</p>	<p>Drafting amendment.</p>

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	<p>(a) at the time of removal of the goods if the goods are to be removed;</p> <p>(b) at the time when the goods are made available to the person to whom the goods are supplied if the goods are not to be removed;</p> <p>(c) where .....</p>	<p>time of supply of goods shall be—</p> <p>(a) if the goods are to be removed, at the time of removal of the goods;</p> <p>(b) if the goods are not to be removed, at the time when the goods are made available to the person to whom the goods are supplied;</p> <p>(c) where .....</p>	
4.	<p><b>Clause 13</b> <b>Imported services</b></p> <p>New provision</p>	<p>(5) Notwithstanding subsection (1), where goods are imported into Malaysia under a lease agreement from a person who does not belong to Malaysia, tax shall be charged on the goods.</p>	<p>The amendment is to be consistent with the Customs Act 1967 on the treatment of leased goods imported into Malaysia. Hence, the supply of imported services does not apply to leased goods from foreign parties. GST shall be charged on the importation of leased goods into Malaysia</p>
5.	<p><b>Clause 15</b> <b>Value of Supply</b></p> <p>(3) Where the supply is for a consideration not in money, the value of the supply shall be taken to be the open market value of</p>	<p>(3) Where the supply is for a consideration not in money, the value of the supply shall be taken to be an amount, with the addition of the tax</p>	<p>The amendment clarifies the meaning of value of supply to be the open market value less tax and not</p>

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	<p>that consideration.</p> <p>(5) Where the supply is not for a consideration, the value of the supply shall be taken to be the open market value of that supply.</p> <p>(7) For the purposes of this section, the value of the supply of goods shall include excise duty paid or is to be paid where applicable.</p>	<p><b>chargeable, equal to</b> the open market value of that consideration.</p> <p>(5) Where the supply is not for a consideration, the value of the supply shall be taken to be <b>an amount, with the addition of the tax chargeable, equal to</b> the open market value of that supply.</p> <p>(7) For the purposes of this section, the value of the supply of goods <b>or services</b> shall include excise duty paid or is to be paid where applicable.</p>	<p>the open market value.</p> <p>The word “services” is inserted so that the value of supply of services will not include other duty/tax such as entertainment duty, stamp duty or gaming tax.</p>
6.	<p><b>Clause 17</b> <b>Zero-rated supply</b></p> <p>(9) Where any goods specified in the order made under subsection (4) are imported into Malaysia, no tax shall be chargeable on their importation.</p>	<p><del>(9) Where any goods specified in the order made under subsection (4) are imported into Malaysia, no tax shall be chargeable on their importation.</del></p>	<p>With the deletion, any person importing selected goods which are zero-rated will be granted relief from paying GST under clause 57 when the goods are imported into Malaysia.</p>
7.	<p><b>Clause 18</b> <b>Exempt supply</b></p> <p>(7) Where any goods specified in the order made under subsection (2) are imported into Malaysia, no tax shall be chargeable on their importation.</p>	<p><del>(7) Where any goods specified in the order made under subsection (2) are imported into Malaysia, no tax shall be chargeable on their importation.</del></p>	<p>With the deletion, any person importing exempt goods will be granted relief from paying GST under</p>

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			clause 57 when the exempt goods are imported into Malaysia.
8.	<p><b>Clause 19</b>  <b>Registration of taxable person</b>            New provision</p>	<p>(3) This part shall not apply to any person who---</p> <p>(a) has no business establishment or other fixed establishment in Malaysia;</p> <p>(b) has no such establishment in any country and his usual place of residence is not in Malaysia; or</p> <p>(c) has such establishment both in Malaysia and elsewhere and his establishment which is most directly concerned with the supply is not in Malaysia, and</p> <p>for the purposes of paragraphs (a), (b) and (c), a fixed establishment in Malaysia or in any country includes a branch or an agency through which a person carries on a business in Malaysia or in that country, as the case may be.</p>	<p>It is a policy decision not to register a person who does not belong in Malaysia under the GST law.</p>
9.	<p><b>Clause 20</b>  <b>Liability to be registered</b>            (6) In determining the value of any person's supplies for the purposes of subsections (3) and (4), the following</p>	<p>(6) In determining the value of any person's supplies for the purposes of subsections (3) and (4), the following supplies shall be excluded:</p>	<p>The amendment excludes the value of any deemed supply made under the ATMS in determining whether a</p>

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	<p>supplies shall be excluded:</p> <p>(a) supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied;</p> <p>(b) supplies of imported services;</p> <p>(c) supplies made in accordance with the Warehousing Scheme under section 71; and</p> <p>(d) supplies made within or between designated areas under section 162.</p>	<p>(a) supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied;</p> <p>(b) supplies of imported services;</p> <p>(c) supplies made in accordance with the Warehousing Scheme under section 71;</p> <p><del>(ca) supplies made in accordance with the Approved Toll Manufacturer Scheme under subsection 73(2); and</del></p> <p>(d) supplies made within or between designated areas under section 162.</p>	<p>person is liable to be registered.</p>
10.	<p><b>Clause 22</b> <b>Cessation of liability to be registered</b></p> <p>(3) In determining the value of any person's supplies for the purposes of subsection (1), the following supplies shall be excluded:</p> <p>(a) supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied;</p> <p>(b) supplies of imported services;</p>	<p>(3) In determining the value of any person's supplies for the purposes of subsection (1), the following supplies shall be excluded:</p> <p>(a) supplies of goods that are capital assets of the business in the course or furtherance of which they are supplied or to be supplied;</p> <p>(b) supplies of imported services;</p> <p>(c) supplies made in accordance with the Warehousing Scheme under section 71;</p>	<p>The amendment excludes the value of any deemed supply made under the ATMS in determining whether a person can be deregistered.</p>

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	<p>(c) supplies made in accordance with the Warehousing Scheme under section 71; and</p> <p>(d) supplies made within or between designated areas under section 162.</p>	<p>(ca)supplies made in accordance with the Approved Toll Manufacturer Scheme under subsection 73(2); and</p> <p>(d) supplies made within or between designated areas under section 162.</p>	
11.	<p><b>Clause 28</b> <b>Registration of partnership</b></p> <p>(3) Notwithstanding any written law to the contrary, until the notification in writing of the date on which a change in partnership is made to the Director General, any person who has ceased to be a partner in the partnership shall be regarded as continuing to be a partner for the purposes of this Act and shall be liable for the proportion of the partnership's liability on any tax due and payable on any supply of goods or services by the partnership.</p> <p>(9) Any person who fails to pay for the proportion of the partnership's liability on any tax due and payable which he is liable to pay under subsection (3) commits an offence.</p>	<p>(3) (a) Any person who ceases to be a partner in a partnership shall be liable for the proportion of the partnership liability on any tax due and payable on any supply of goods and services by the partnership until the date of cessation and such person who ceases to be a partner in a partnership shall notify in writing to the Director General of the date of cessation.</p> <p>(b) Any person who fails to notify in writing to the Director General on the date of cessation commits an offence.</p> <p><del>(9) Any person who fails to pay for the proportion of the partnership's liability on any tax due and payable which he is liable to pay under subsection (3) commits an offence.</del></p>	<p>It is a policy decision that a partner is only liable for the period when he is still a partner and not for the period when he ceases to be a partner but he is duty bound to notify the Director General if he ceases to be a partner.</p> <p>The deletion is a consequential amendment as a result of the new subclause (3).</p>

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12.	<p><b>Clause 33</b> <b>Issuance of tax invoice</b></p> <p>(1) (c) stating the amount payable excluding tax, the rate of tax and the total tax chargeable shown as a separate amount, except as the Director General may otherwise allow and subject to conditions as he deems fit to impose.</p> <p>(7) Notwithstanding subsection (1), no tax invoice shall be issued for—</p> <p>(a) any supply of second-hand goods under section 60; or</p> <p>(b) any supply of imported services.;</p>	<p><del>(1) (c) stating the amount payable excluding tax, the rate of tax and the total tax chargeable shown as a separate amount, except as the Director General may otherwise allow and subject to conditions as he deems fit to impose.</del></p> <p>(7) Notwithstanding subsection (1), no tax invoice shall be issued for—</p> <p>(a) any supply of second-hand goods under section 60;</p> <p>(b) any supply of imported services;</p> <p>(c) any supply of treated or processed goods which is deemed to have been supplied by the recipient under section 73; or</p> <p>(d) any prescribed supply of goods which is deemed to have been supplied by the approved jeweller under section 74.</p>	<p>Paragraph (c) is already covered under paragraph (a) where all particulars in respect of the supply which include particulars on the tax will be prescribed in the GST Regulation.</p> <p>The amendment is to disallow the issuance of tax invoice for supplies made by a recipient under Approved Toll Manufacturer Scheme or approved person under Approved Jeweller Scheme.</p>

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13.	<p><b>Clause 37</b> <b>Accounting basis</b></p> <p>(2) Notwithstanding subsection (1), the Director General may, upon application in writing by any registered person and subject to the prescribed conditions, approve the registered person to account for tax solely on a payment basis.</p>	<p>(2) Notwithstanding subsection (1), the Director General may, upon application in writing by any registered person and subject to the prescribed conditions, approve the registered person to account for tax <del>solely</del> on a payment basis.</p>	<p>With the deletion, accounting for GST is not solely to be based on payment basis. There are some exceptions on leasing and other transactions where accounting for GST is based on invoice basis.</p>
14.	<p><b>Clause 38</b> <b>Credit for input tax against output tax</b></p> <p>New provision</p>	<p>(13) Notwithstanding any provision of this Act, where any taxable person fails to comply with subsection 21(1) or 21(3) —</p> <p>(a) no refund shall be made under subsection (3) if the amount of credit exceeds the output tax for the period he should have been registered; or</p> <p>(b) the taxable person shall not be entitled to any credit of input tax under subsection (1) if he fails to include such credit in the return referred to in paragraph 41(2)(a).</p>	<p>With the new provision, it will discourage any person from late registration.</p>



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15.	<p><b>Clause 42</b>  <b>Furnishing of declarations and payment of tax by person other than a taxable person</b></p> <p>(1) Where any person other than a taxable person is liable for tax under subsection 13(3) and paragraphs 66(4)(b) and 73(4)(b), the person shall—</p> <p>(a) account for tax .....; and</p> <p>(b) pay to the .....</p> <p>not later than the last day of the subsequent month from the month in which the supply is made or treated as taken place under those provisions.</p>	<p>(1) Where any person other than a taxable person is liable for tax under subsections 13(3), 59(3) and 66(4A) and paragraphs 66(4)(b) and 73(4)(b), the person shall—</p> <p>(a) account for tax .....; and</p> <p>(b) pay to the .....</p> <p>not later than the last day of the subsequent month from the month in which the supply is made or treated as taken place or payment is made under those provisions.</p>	<p>The amendment provides for the furnishing of declaration and payment of tax by --</p> <p>(a) any person who is no longer a taxable person but receives payment relating to a bad debt relief while he was a taxable person; and</p> <p>(b) any person who is a non taxable person and sells goods belonging to a taxable person in satisfaction of a debt.</p> <p>The insertion of the phrase “or payment is made” is to specify when the declaration should be furnished in respect of repayment relating to a bad debt under subclause 59(3).</p>
16.	<p><b>Clause 47</b>  <b>Recovery of tax, etc as a civil debt</b></p> <p>(1) Without prejudice to any other remedy and notwithstanding any appeal against any decision of the Director General under section 132, any tax due and payable, any</p>	<p>(1) Without prejudice to any other remedy and notwithstanding any appeal against any decision of the Director General under section 132, any tax due and payable, any penalty payable <del>and</del> any surcharge accruing, any fee or any other moneys</p>	<p>The insertion enables Customs to recover costs incurred by Customs such as fee charged by a consultant or other professionals including travelling and accommodation costs</p>

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	<p>penalty payable and any surcharge accruing under this Act may be recovered by the Minister as a civil debt due to the Government.</p> <p>(4) In any proceedings to recover the tax, penalty or surcharge under subsection (1), the production of a certificate signed by the Director General that any tax, penalty or surcharge and the amount shown thereof as due in any return, assessment or notice made under this Act from a person named therein and giving the address of the person and purporting to be a copy of or an extract from any notice of assessment shall be conclusive evidence of the making of the assessment and shall be sufficient authority for the court to give judgement for that amount.</p> <p>(5) Any penalty or surcharge imposed under this Act shall, for the purposes of this Act and the Limitation Act 1953 [Act 254], the Limitation Ordinance of Sabah [Sabah Cap. 72] and the Limitation Ordinance of Sarawak [Sarawak Cap. 49], as the case may be, be recoverable as if it were tax due and payable under this Act and accordingly subsection 6(4) of the Limitation Act 1953, section 3 of the Limitation Ordinance of Sabah and section 3 of the Limitation Ordinance of Sarawak,</p>	<p><del>payable</del> under this Act may be recovered by the Minister as a civil debt due to the Government.</p> <p>(4) In any proceedings to recover the tax, penalty, <del>or</del> surcharge, <b>fee or other moneys</b> under subsection (1), the production of a certificate signed by the Director General that any tax, penalty, <del>or</del> surcharge, <b>fee or other moneys</b> and the amount shown thereof as due in any return, assessment or notice made under this Act from a person named therein and giving the address of the person and purporting to be a copy of or an extract from any notice of assessment shall be conclusive evidence of the making of the assessment and shall be sufficient authority for the court to give judgement for that amount.</p> <p>(5) Any penalty <del>or</del> surcharge, <b>fee or other moneys</b> imposed under this Act shall, for the purposes of this Act and the Limitation Act 1953 [Act 254], the Limitation Ordinance of Sabah [Sabah Cap. 72] and the Limitation Ordinance of Sarawak [Sarawak Cap. 49], as the case may be, be recoverable as if it were tax due and payable under this Act and accordingly subsection 6(4) of the Limitation Act 1953, section 3 of the Limitation Ordinance of Sabah and section 3 of the Limitation Ordinance of Sarawak, as the case may be, shall not apply to the penalty <del>or</del> surcharge, <b>fee</b></p>	<p>in respect of an advance ruling made.</p>

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	as the case may be, shall not apply to the penalty or surcharge.	or other moneys.	
17.	<p><b>Clause 57</b> <b>Power of Minister to grant relief and exemption</b></p> <p>(1) The Minister may, by order in the <i>Gazette</i> and subject to such conditions as he deems fit to impose, relieve any person or class of persons from the payment of the whole or any part of the tax which may be due and payable on any taxable supply of goods or services or any importation of goods or class of goods.</p> <p>(3) The Minister may, in any particular case and subject to such conditions as he deems fit to impose—</p> <p>(a) relieve any person or class of persons from the payment of the whole or any part of the tax which may be due and payable on any taxable supply of goods or services or any importation of goods or class of goods; or</p> <p>(b) exempt .....</p>	<p>(1) The Minister may, by order in the <i>Gazette</i> and subject to such conditions as he deems fit to impose, relieve any person or class of persons from the payment of the whole or any part of the tax which may be <del>due and payable</del> <b>chargeable and levied</b> on any taxable supply of goods or services or any importation of goods or class of goods.</p> <p>(3) The Minister may, in any particular case and subject to such conditions as he deems fit to impose—</p> <p>(a) relieve any person or class of persons from the payment of the whole or any part of the tax which may be <del>due and payable</del> <b>chargeable and levied</b> on any taxable supply of goods or services or any importation of goods or class of goods; or</p> <p>(b) exempt .....</p>	<p>The amendment is to reflect the situation of payment of tax by a person who receives a supply on which tax is chargeable and levied on it and not where tax is due and payable.</p>

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18.	<p><b>Clause 59</b> <b>Bad debt relief</b></p> <p>(2) Where the person referred to in subsection (1)—</p> <p>(a) has not received any payment in respect of the taxable supply, the person may make a deduction or claim for the whole of the tax paid; or</p> <p>(b) has received part of the payment in respect of the taxable supply, the person may make a deduction or claim for an amount calculated in accordance with the following formula:</p>	<p>(2) Where the person referred to in subsection (1)—</p> <p>(a) has not received any payment in respect of the taxable supply, the person may make a <del>deduction or</del> claim for the whole of the tax paid; or</p> <p>(b) has received part of the payment in respect of the taxable supply, the person may make a <del>deduction or</del> claim for an amount calculated in accordance with the following formula:</p>	<p>The word “deduction” is deleted because a claimant can only make a claim for his bad debt. He cannot make a deduction.</p>
19.	<p><b>Clause 60</b> <b>Relief for second hand goods</b></p> <p>(1) Any taxable person may, subject to the prescribed conditions, secure a reduction of any tax chargeable on any supply of goods of the prescribed descriptions in cases where no tax was chargeable on the previous supply of goods.</p>	<p>(1) Any taxable person may, subject to the prescribed conditions, secure a reduction of any tax chargeable on any supply of the prescribed goods in cases where---</p> <p>(a) no tax was chargeable; or</p> <p>(b) tax was chargeable in accordance with this section,</p>	<p>It is a policy decision to allow GST relief for second hand goods when goods are purchased from another margin scheme holder or goods are purchased without tax.</p>

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	<p>(3) This section shall apply to cases where the previous supply of goods, and notwithstanding subsection (1), the previous importation of goods took place before the appointed date.</p>	<p>on the previous supply of such goods.</p> <p>(3) This section shall extend to cases where the prescribed goods were chargeable under the Sales Tax Act 1972</p>	<p>The amendment states that the GST relief for second hand goods also covers sale or importation of goods taking place before GST era.</p>
20.	<p><b>Clause 66 Agents</b></p> <p>New provision</p> <p>(5) Where goods or services are supplied by an agent acting on behalf of a principal who is a taxable person and does not belong in Malaysia, the supply shall be deemed to be made by the agent:</p> <p>Provided that the supply deemed to be made by the agent shall not include any supply made by the agent in his own name.</p>	<p>(4A) Where goods are deemed to be supplied by a taxable person by virtue of subparagraph 4(7) of the First Schedule, any person whether or not he is a taxable person, who sells the goods in satisfaction of any debt owed by the taxable person, shall be liable for any tax due and payable on the supply.</p> <p>(5) Notwithstanding subsection (1), where goods or services are supplied by an agent acting on behalf of a principal who does not belong in Malaysia and would be a taxable person if he belongs in Malaysia, the supply shall be deemed to be made by the agent:</p> <p>Provided that the supply deemed to be made by the agent shall not include any supply made by the agent in his own name.</p>	<p>The amendment requires the person who is selling goods belonging to a taxable person liable to account tax if he sells the goods in satisfaction of a debt.</p> <p>The amendment avoids any contradiction with subclauses 66(1).</p>

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21.	<p><b>Clause 69</b> <b>Transfer of Going Concern</b></p> <p>(2) Where—</p> <p>(a) a business or part thereof carried on by a taxable person is transferred as a going concern to a transferee who is or is to be a taxable person by virtue of the transfer together with the assets of the business; and</p> <p>(b) by virtue of the Second Schedule, the supply of the assets to the taxable person is treated as neither a supply of goods nor a supply of services,</p> <p>the transferee shall be deemed to have incurred input tax on the value of the supply of the assets and to have deducted the input tax from any output tax due from him on the day of the supply.</p> <p>(3) For the purposes of this section, the value of the supply of any assets under subsection (2) shall be calculated in accordance with section 15 without the addition of tax.</p>	<p>(2) Where a business or part thereof carried on by a taxable person is transferred as a going concern to a transferee, who is or is to be a taxable person by virtue of the transfer together with the assets of the business,</p> <p>(a) any right of the transferor to a credit for input tax or a refund of tax shall become the right of the transferee whether or not existing at the date of the transfer and when the transferor has made a claim for credit for input tax or refund of tax before the date of transfer, it shall be treated as having been made by the transferee; and</p> <p>(b) any liability of the transferor existing at the date of the transfer to furnish a return or to account for or pay tax under section 41 shall become the liability of the transferee and any return furnished or tax accounted for or paid by the transferor shall be treated as having been made by the transferee.</p> <p>Delete subclause (3)</p>	<p>With the deletion of subclauses (2) and (3) and the replacement of a new subclause (2), the principle of continuity can be upheld when a business is transferred as a going concern.</p>

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22.	<p><b>Clause 71</b> <b>Warehousing scheme</b></p> <p>(7) For the purposes of this section—</p> <p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p> <p>(e)</p> <p>(f)</p> <p>(g) “warehouse” means —</p> <p>(i) any customs warehouse;</p> <p>(ii) any licensed warehouse;</p> <p>(iii) any duty free shop;</p> <p>(iv) any inland clearance depot.</p>	<p>(7) For the purposes of this section—</p> <p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p> <p>(e)</p> <p>(f)</p> <p>(fa)“petroleum supply base” means a supply base approved by the Minister and licensed as a supply base under the Customs Act 1967 to supply goods and services specifically to the petroleum upstream industry.</p> <p>(g) “warehouse” means —</p> <p>(i) any customs warehouse;</p> <p>(ii) any licensed warehouse;</p> <p>(iii) any duty free shop;</p> <p>(iv) any inland clearance depot;</p> <p>(v) any petroleum supply base.</p>	<p>With the amendments any petroleum supply base can be treated as warehouse that can be subject to the warehousing scheme.</p>
23.	<p><b>Clause 73</b> <b>Approved Toll Manufacturer Scheme</b></p> <p>(1) There shall be a scheme to be known</p>	<p>(1) There shall be a scheme to be known as</p>	<p>The amendment is to disregard the</p>

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	as “Approved Toll Manufacturer Scheme” which allows any taxable person who qualifies to disregard the supply of goods which comprises the treatment or processing of goods for and to a person who belongs in a country other than Malaysia subject to the prescribed conditions (hereinafter referred to as the “toll manufacturer”).	“Approved Toll Manufacturer Scheme” which allows any taxable person who qualifies to disregard the supply of goods which comprises the treatment or processing of goods <b>and supply of services</b> for and to a person who belongs in a country other than Malaysia subject to the prescribed conditions (hereinafter referred to as the “toll manufacturer”).	supply of services from a toll manufacturer to a foreign principal.
24.	<p><b>Clause 75</b> <b>Flat Rate Scheme</b></p> <p>New provision</p>	<p><b>(4) An approved person shall not include the flat rate addition on any supply made by him---</b></p> <p><b>(a) where such supply is not related to the prescribed activities of his business; or</b></p> <p><b>(b) to any person other than the registered person.</b></p> <p><b>(5) Any approved person who contravenes subsection (4) commits an offence and shall, on conviction, be liable ---</b></p> <p><b>(a) to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both; and</b></p> <p><b>(b) to a penalty of two times the amount of flat rate addition so shown.</b></p>	It is an offence if an approved person wrongly charges flat rate addition to a non registered person or on a supply which is not related to a prescribed activity. The penalty for the offence is two times the amount of flat rate addition wrongly charged.



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25.	<p><b>Clause 78</b> <b>Advance ruling</b></p> <p>New provision</p>	<p>(5) The Director General may, at any time, withdraw any advance ruling made under subsection (1) by giving a notice in writing of such withdrawal to the person to whom the ruling applies.</p>	<p>The amendment provides an enabling provision in the Act to allow the Director General to withdraw any issued advance ruling.</p>
26.	<p><b>Clause 91</b> <b>Power of arrest</b></p> <p>(5) Every person so arrested may be released from custody—</p> <p>(a) on his depositing .....</p> <p>(b) on his executing ....., or</p> <p>(c) on his depositing .....</p> <p>New provision</p>	<p>(5) Subject to such conditions as the senior officer of goods and services tax may deem fit to impose, every person so arrested may be released from custody—</p> <p>(a) on his depositing .....</p> <p>(b) on his executing ....., or</p> <p>(c) on his depositing .....</p> <p>(7) The amount of money deposited shall be forfeited by the Director General if the person fails to comply with the conditions imposed.</p>	<p>The amendment allows the imposition of conditions by an officer of goods and services tax in cases of arrest.</p> <p>The new clause provides provision for forfeiture of deposit of money if a person who is released after being arrested fails to comply with the conditions imposed.</p>

No.	Current Provision	Proposal	Rationale
27.	<p><b>Clause 95</b> <b>Penalty for evasion of tax, fraud</b></p> <p>(6) In any prosecution under this section, any evasion of tax shall be deemed to be with the knowledge of the accused unless the contrary be proved by the accused.</p>	<p>(6) In any prosecution under this section <b>or section 101</b>, any evasion of tax shall be deemed to be with the knowledge of the accused unless the contrary be proved by the accused.</p>	<p>The amendment is made because clause 95 should be read together with clause 101.</p>
28.	<p><b>Clause 96</b> <b>Penalty for improperly obtaining refund, etc.</b></p> <p>Any person who causes or attempts to cause the refund under subsection 10(4), 17(6), 18(4), 38(3), 58(1), 62(1) or 194(1) or entitlement to relief under subsection 59(1) to any person by the Director General of any amount in excess of the amount properly so refundable or relieved to him commits an offence and shall, on conviction, be liable—</p> <p>(a) to a fine.....; and</p> <p>(b) to a penalty .....</p>	<p>Any person who causes or attempts to cause the refund under subsection 10(4), 17(6), 18(4), 38(3), 58(1), 62(1) <del>or</del> 194(1), <b>194(2)</b> or entitlement to relief under subsection 59(1) to any person by the Director General of any amount in excess of the amount properly so refundable or relieved to him commits an offence and shall, on conviction, be liable—</p> <p>(a) to a fine .....; and</p> <p>(b) to a penalty .....</p>	<p>The amendment is made because any wrongful refund under subclause 194(2) can be treated as a penalty for improperly obtaining a refund.</p>
29.	<p><b>Clause 130</b> <b>Application for review and revision</b></p> <p>Any person may apply to the Director</p>	<p><b>(1) Any person may apply to the Director General,</b></p>	<p>It is a policy decision that the Director</p>

No.	Current Provision	Proposal	Rationale
	<p>General, by notice in writing within thirty days of the date the person has been notified of any decision made by the Director General or an officer of goods and services tax for review and revision of the decision and the Director General shall make a final decision and notify the person within sixty days or within the time practicable.</p>	<p>within thirty days from the date the person has been notified of any decision made by the Director General or an officer of goods and services tax for review and revision of the decision and there is no appeal on the same matter has been made to the Tribunal or court.</p> <p>(2) Where an application has been made under subsection (1), the Director General shall make a decision and notify the person within sixty days from the date the application is received or within the time practicable.</p> <p>(3) An application under subsection (1) shall be made in such manner and form as the Director General may determine.</p>	<p>General does not review any decision made if an applicant has appeal on similar matter to the Tribunal or Court;</p> <p>The amendment provides for the Director General to make a final decision within sixty days or any practicable time from the date of application received.</p> <p>The amendment proposes to include the form and manner to make application for a review.</p>
30.	<p><b>Clause 132 Right of appeal</b></p> <p>(2) The appeal shall be made to the Tribunal within thirty days from the date the disputed decision was made known to the aggrieved person in the prescribed form together with the prescribed fee.</p> <p>New provision</p>	<p>(2) The appeal shall be made to the Tribunal within thirty days from the date the disputed decision was made known to the aggrieved person or within any such extension of time that may be granted by the Tribunal.</p> <p>(2A) An appeal under subsection (2) shall be made in such manner and form as the Tribunal may determine together with a prescribed fee.</p>	<p>The amendment allows the Tribunal to grant an extension of time for an application to appeal.</p> <p>The amendment proposes to include the form and manner to make application for an appeal.</p>

No.	Current Provision	Proposal	Rationale
31.	<p><b>Clause 141</b> <b>Hearing of appeals</b></p> <p>(5) In the case under subsection (4), the decision shall be determined in accordance with the opinion of the majority of the remaining members of the panel, and if there is no majority, the member presiding the proceedings shall have a second or casting vote.</p>	<p>(5) In the case under subsection (4), the decision shall be determined in accordance with the opinion of the majority of the remaining members of the panel, and if there is no majority, the <b>Chairman or Deputy Chairman</b> presiding the proceedings shall have a second or casting vote.</p>	<p>It is a policy decision that the member presiding a proceeding has to be a Chairman or a Deputy Chairman and not a member.</p>
32.	<p><b>Clause 147</b> <b>Representation at hearing</b></p> <p>For the purpose of an appeal—</p> <p>(a) any party .....; and</p> <p>(b) the Director General .....</p>	<p><b>Notwithstanding section 174</b> for the purpose of an appeal—</p> <p>(a) any party .....; and</p> <p>(b) the Director General .....</p>	<p>Subclause 174(1) prevents any person other than a tax agent to represent any party to an appeal under clause 147. The amendment allows any party to an appeal case to conduct his case himself or he may be represented by any person whom he may appoint.</p>
33.	<p>New provision</p>	<p><b>Clause 152A</b> <b>Appeal to the High Court</b></p> <p>Any party aggrieved by the decision of the Tribunal shall have the right of appeal from the decision of Tribunal to the High Court.</p>	<p>The amendment allows any party aggrieved with the decision of the GST Tribunal to appeal to the High Court.</p>

No.	Current Provision	Proposal	Rationale
34.	<p><b>Clause 162</b> <b>Supply of goods or services within or between designated area</b></p> <p>(1) For the purposes of this Act, a taxable supply made within or between the designated areas are disregarded for tax purposes with respect to accounting for output tax.</p> <p>(2) Notwithstanding subsection (1), tax shall be charged by any taxable person on any supply of freight services between designated areas.</p>	<p><b>Notwithstanding section 9, no tax shall be charged on any taxable supply made within or between the designated areas unless the Minister otherwise directs in an order under section 167.</b></p> <p><b>Delete subclause (2).</b></p>	<p>It is a policy decision that no tax should be charged on supplies made within or between designated areas. The supplies made should not be disregarded.</p> <p>Subclause (2) is deleted because any supply of freight services will be subjected to tax and listed in the Designated Area Order.</p>
35.	<p><b>Clause 163</b> <b>Goods or services imported into or supplied from designated area</b></p> <p>Notwithstanding any provision of this Act—</p> <p>(a) tax shall be due and payable upon all goods supplied from a designated area to Malaysia to all intents as if the supply were importation into Malaysia;</p> <p>(b) tax shall be charged on taxable supply of services made by any taxable person from a designated area to Malaysia or from Malaysia</p>	<p>Notwithstanding any provision of this Act—</p> <p>(a) tax shall be due and payable upon all goods supplied from a designated area to Malaysia to all intents as if the supply were importation into Malaysia;</p> <p>(b) tax shall be charged on taxable supply of services made by any taxable person from a designated area to Malaysia or from Malaysia to a designated area <b>excluding a supply of services which comprises the use of the goods under any lease agreement,</b></p>	<p>The amendment treats goods leased from designated area to Principal Customs Area as importation of goods and not to be treated as a supply of services.</p>

No.	Current Provision	Proposal	Rationale
	<p>to a designated area;</p> <p>(c) no tax shall be chargeable upon any importation of goods or supply of imported services into a designated area.</p>	<p><b>from a designated area to Malaysia;</b></p> <p>(c) no tax shall be chargeable upon any importation of goods or supply of imported services into a designated area.</p>	
36.	<p><b>Clause 167</b> <b>Power of Minister to impose tax</b></p> <p>(1) Notwithstanding any provision of this Part, the Minister may, by order published in the <i>Gazette</i>, prescribe any supply within a designated area and any goods or services supplied to, imported into or exported from the designated area to be chargeable to tax.</p>	<p>(1) <b>The Minister may, by order published in the <i>Gazette</i>, prescribe any supply within or between the designated areas and any goods or services supplied to, imported into or exported from the designated area to be chargeable to tax.</b></p>	<p>This amendment is a consequential amendment made to clause 162. The words “notwithstanding any provision of this Part” are not relevant.</p>
37.	<p><b>Clause 174</b> <b>Tax agent</b></p> <p>(1) No person shall be permitted to act in Malaysia on behalf of any person for any matter under this Act unless he is a tax agent.</p> <p>(2) Any person may apply for an approval to be a tax agent to the Minister if—</p>	<p>(1) No person shall be permitted to act in Malaysia on behalf of any person for any matter under this Act unless he is a tax agent <b>provided that this subsection shall not prevent any other person to represent any party to an appeal under section 147.</b></p> <p>(2) <b>An individual who has his usual place of residence in Malaysia may apply to the Minister for approval to be a tax agent in accordance with the prescribed conditions.</b></p>	<p>The amendment allows a solicitor or tax agent to represent a person at a hearing of an appeal before a Tribunal.</p> <p>The amendment disallows a company to be a tax agent.</p>

No.	Current Provision	Proposal	Rationale
	<p>(a) in the case of an individual, he has his usual place of residence in Malaysia; or</p> <p>(b) in the case of a company, a firm, a society, an association or other body of persons, it is incorporated or otherwise legally constituted in Malaysia.</p> <p>(3) The Minister may approve an application under subsection (2) and if it is approved, the approval shall, unless sooner revoked, be valid for a minimum period of twenty-four months beginning from the date of the approval.</p>	<p>(3) The Minister may approve an application under subsection (2) and if it is approved, the approval shall, unless sooner revoked, be valid for---</p> <p>(a) a minimum period of twenty-four months beginning from the date of the approval; or</p> <p>(b) any other period as may be determined by the Minister.</p>	<p>The amendment allows the Minister to approve any other period if the tax agent's application is approved.</p>
38.	<p><b>Clause 181</b> <b>Power to make regulations</b></p> <p>(2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes:</p> <p>(a) .....</p>	<p>(2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes:</p> <p>(a) .....</p>	

No.	Current Provision	Proposal	Rationale
	<p>New provision</p> <p>New provision</p> <p>(h) to prescribe matters in relation to the allowable amount of input tax and to provide for securing a reasonable attribution of input tax to supply under section 39 including—</p> <p>(i) determining a proportion.....;</p> <p>(ii) adjusting, .....</p> <p>(iii) the making .....</p> <p>(r) to provide the scope and procedure applied in relation to any ruling made under section 77 or 78;</p> <p>New provision</p>	<p>(fa) to prescribe matters relating to tax invoice;</p> <p>(fb) to prescribe matters relating to accounting for tax under section 37;</p> <p>(h) to prescribe matters in relation to the allowable amount of input tax and to provide for securing a reasonable attribution of input tax to supply under section 39 including—</p> <p>(i) determining a proportion.....;</p> <p>(ii) adjusting, .....</p> <p>(iii) the making .....</p> <p>(iv) specifying a percentage of allowable amount of input tax to be credited by any person;</p> <p>(r) to provide the scope and procedure applied in relation to any ruling made under section 77 or 78---</p> <p>(i) scope and procedure applied relating to section 77 or 78; and</p> <p>(ii) fees and cost payable in respect to any ruling application;</p> <p>(ua)to prescribe matters relating to the approval of a tax agent under section 174</p>	<p>The amendment provides powers to the Minister to make regulation relating to matters involving tax invoice and payment basis.</p> <p>The amendment provides powers to the Minister to make regulation to fix a fixed rate of input tax.</p> <p>The amendment gives the Minister the enabling power to make regulations for the government to recover costs and fees incurred in the course of processing an advance ruling.</p> <p>The insertion provides powers to the Minister to make regulation on matters involving the approval of tax agent.</p>



No.	Current Provision	Proposal	Rationale
39.	<p><b>Clause 184</b> <b>Payment of sales tax when person not registered</b></p> <p>(1) Notwithstanding subsection 182(1), any person who is licensed under the Sales Tax Act 1972 and is not registered under this Act shall be required to account and pay for sales tax on the goods held on hand on the appointed date—</p> <p>(a) which are acquired free from sales tax under section 9 of the Sales Tax Act 1972; or</p> <p>(b) where a deduction of sales tax has been made for goods purchased under section 31<sub>a</sub> of the Sales Tax Act 1972.</p> <p>(2) The person referred to in subsection (1) is not required to account for sales tax on the finished and semi finished goods held on the appointed date</p>	<p>(1) Notwithstanding subsection 182(1), any person who is licensed under the Sales Tax Act 1972 and is not registered under this Act shall be required to account and pay for sales tax on the goods held on hand on the appointed date—</p> <p><b>(1) which is exempted from sales tax under section 10 of the Sales Tax Act 1972;</b></p> <p>(a) which are acquired free from sales tax under section 9 of the Sales Tax Act 1972; or</p> <p>(b) where a deduction of sales tax has been made for goods purchased under section 31<sub>a</sub> of the Sales Tax Act 1972.</p> <p>(2) The person referred to in subsection (1) <b>shall be</b> required to account for sales tax on the finished and semi finished goods held on the appointed date</p>	<p>The amendment is to require a sales tax licensee who is not registered for GST to pay sales tax on goods acquired free from sales tax under section 10 of the Sales Tax Act 1972.</p> <p>Sales tax licensees who are not registered for GST is required to account for sales tax on the finished and semi-finished goods in the return for the last taxable period. Similar provision under the Sales Tax Act 1972 when ceased to be a sales tax licensee.</p>

No.	Current Provision	Proposal	Rationale
40.	<p><b>Clause 186</b> <b>Furnishing of return for the last taxable period</b></p> <p>(2) The person referred to in subsection (1) shall state and pay—</p> <p>(a) the amount of service tax, for the whole or any part of the payment for any taxable service provided, not received within a period of twelve calendar months preceding the last taxable period; and</p> <p>(b) the amount of service tax on all taxable service provided in the last taxable period,</p>	<p>(2) The person referred to in subsection (1) shall -</p> <p>(a) state –</p> <p>(i) the amount of service tax, for the whole or any part of the payment for any taxable service provided, not received within a period of twelve calendar months preceding the last taxable period; and</p> <p>(ii) the amount of service tax on all taxable service provided in the last taxable period, and</p> <p>(b) pay in accordance with section 14(2) Service Tax Act 1975.</p>	<p>The amendment addresses the issue of contradiction between subclause 186(2) and subclause 185(2). Subclause 186(2) contradicts with section 14(2) of the Service Tax Act 1975.</p>
41.	<p><b>Clause 187</b> <b>Payments, invoices and importation before appointed date</b></p> <p>(2) Notwithstanding section 11, where, before the appointed date —</p>	<p><b>Payments, invoices, supplies and importations spanning appointed date</b></p> <p>(2) Notwithstanding section 11 and subject to subsection (4), where, a registered person who</p>	<p>The amendment requires a registered person to account output</p>

No.	Current Provision	Proposal	Rationale
	<p>(a) any payment is received in connection with a supply of goods or services that will be made on or after the appointed date; or</p> <p>(b) an invoice was issued relating to a supply of goods or services that will be made on or after the appointed date, for the purposes of determining the taxable period to which output tax or input tax is attributable, the payment is taken to have been received or the invoice is taken to have been issued, during the first taxable period after the appointed date.</p> <p>New provision</p> <p>New provision</p>	<p>would be making a taxable supply on or after the appointed date and, before the appointed date, has—</p> <p>(a) <b>received any payment</b> <del>any payment is received</del> in connection with a supply of goods or services that will be made on or after the appointed date; or</p> <p>(b) <b>issued an invoice</b> <del>an invoice was issued</del> relating to a supply of goods or services that will be made on or after the appointed date, for the purposes of determining the taxable period to which output tax or input tax is attributable, the payment is taken to have been received or the invoice is taken to have been issued, during the first taxable period after the appointed date.</p> <p>(3) <b>For the purpose of determining the value of a supply made on or after the appointed date, any payment received or any amount stated in an invoice issued before the appointed date shall be deemed to be tax inclusive if it is in connection to a supply of goods or services that will be made on or after the appointed date.</b></p> <p>(4) <b>Where ---</b></p> <p>(a) <b>sales tax has been paid or an invoice has been issued on which sales tax is chargeable on the sale of any taxable</b></p>	<p>tax and input tax in the first taxable period for supplies to be made on or after the appointed date if they receive payment or issue invoice before the appointed date.</p> <p>The amendment allows any payment received or invoice issued to be GST inclusive.</p> <p>The amendment allows a taxable person not to charge GST on supplies made on or after the appointed date if sales tax or service</p>

No.	Current Provision	Proposal	Rationale
		<p style="color: red;">goods; or</p> <p style="color: red;">(b) service tax has been charged or paid on the provision of any taxable service,</p> <p style="color: red;">no tax shall be chargeable on any supply of such goods or services made on or after the appointed date.</p>	tax has been paid.
42.	<p><b>Clause 190</b> <b>Value of supply of goods and services</b></p> <p>Where a supply of goods or services is treated as having taken place after the appointed date, the value of the supply shall be the amount determined under section 15, as is, in the opinion of the Director General, not reasonably attributable to any part of the goods supplied or services performed before the appointed date.</p>	<p>Where a supply of goods or services is treated as having taken place <b>on or</b> after the appointed date, the value of the supply shall be the amount determined under section 15, as is, in the opinion of the Director General, not reasonably attributable to any part of the goods supplied or services performed before the appointed date.</p>	The amendment corrects the situation for clause 190 to apply when a supply is made on the appointed date.
43.	<p><b>Clause 191</b> <b>Contract with no opportunity to review</b></p> <p>(2) Where a supply is made before the earlier of the following, that is—</p> <p style="padding-left: 40px;">(a) five years .....; or</p> <p style="padding-left: 40px;">(b) when .....</p>	<p>(2) Where a supply is made before the earlier of the following, that is—</p> <p style="padding-left: 40px;">(a) five years .....; or</p> <p style="padding-left: 40px;">(b) when .....</p>	The amendment is to provide another condition where the provisions under this clause are only applicable when the recipient of the supply is entitled to a credit for the whole of the tax on the supply.

No.	Current Provision	Proposal	Rationale
	<p>Provided that—</p> <p>(A) the supplier and recipient of the supply are registered persons; and</p> <p>(B) the supply is a taxable supply;</p>	<p>Provided that—</p> <p>(A) the supplier and recipient of the supply are registered persons; <del>and</del></p> <p>(B) the supply is a taxable supply; <b>and</b></p> <p>(C) <b>the recipient of the supply is entitled to credit under section 38 for the whole of the tax on the supply.</b></p>	
44.	<p><b>Clause 192</b> <b>Progressive or periodic supply</b></p> <p>(3) This section shall not apply to—</p> <p>(a) a supply of a warranty that relates to goods or services whether expressed, implied or required by law, where the value of the warranty is included in the price of the goods or services;</p> <p>(b) a provision of services where service tax has been paid on the services;</p> <p>(c) any contract with no opportunity to review under section 191.</p> <p>New provision</p>	<p><b>(3) No tax shall be chargeable to any supply of a warranty that ---</b></p> <p><b>(a) begins before the appointed date and ends on or after the appointed date; and</b></p> <p><b>(b) relates to goods or services whether expressed, implied or required by law, where the value of the warranty is included in the price of the goods or services.</b></p> <p><b>(4) This section shall not apply to any contract with no opportunity to review under section 191.</b></p>	<p>The amendment allows a taxable person not to charge tax on warranty supplies while clause 192 will not apply to contracts with no opportunity to review.</p>

No.	Current Provision	Proposal	Rationale
45.	<p><b>Clause 193</b> <b>Rights granted for life</b></p> <p>(2) Where any payment for rights granted or exercisable for the rest of the person's life or for a period of not less than thirty years is paid before the appointed date by existing or new members of clubs, organisations, associations and other bodies for any rights, the payment for the rights shall not be chargeable to tax.</p>	<p>(2) Notwithstanding subsection 187(2), where a supply of services referred to in subsection (1) is made before the appointed date to existing members or new members of clubs, organisations, associations and other bodies for a consideration,---</p> <p>(a) the whole or part of which is paid before the appointed date, shall not be chargeable to tax; and</p> <p>(b) the whole or part of which is paid on or after the appointed date, shall be chargeable to tax.</p>	<p>The amendment clarifies that no tax is chargeable on any payment made before the appointed date. Any payment made after the appointed date is subject to GST.</p>
46.	<p><b>Clause 194</b> <b>Refund of sales tax for goods held on hand</b></p> <p>(1) Subject to subsection (3), a person is entitled to a special refund equal to the amount of sales tax in respect of the goods held on hand subject to the following conditions:</p> <p>(a) the claimant .....;</p> <p>(b) the claimant .....;</p> <p>(c) the goods are taxable under the</p>	<p>(1) Subject to subsection (3), a person is entitled to a special refund equal to the amount of sales tax in respect of the goods held on hand subject to the following conditions:</p> <p>(a) the claimant .....;</p> <p>(b) the claimant .....;</p> <p>(c) the goods are taxable under the Sales Tax Act 1972 and the sales tax has been</p>	<p>The word "charged" is deleted because a person is entitled to a special refund if he has paid sales tax.</p>

No.	Current Provision	Proposal	Rationale
	<p>Sales Tax Act 1972 and the sales tax has been charged or paid; and (d) the claimant .....</p> <p>(2) In the case where—</p> <p>(a) the goods .....</p> <p>(b) the goods ....., and</p> <p>(c) the invoice .....,</p> <p>he is entitled to a special refund equal to twenty percent of the amount shown on the invoice multiplied by the applicable sales tax rate subject to the following conditions:</p> <p>(A) the claimant is a registered person under section 20 as at the appointed date; and</p> <p>(B) the claimant on the appointed date holds goods for the purposes of making a taxable supply.</p>	<p><del>charged or paid</del> by the claimant; and (d) the claimant .....</p> <p>(2) In the case where—</p> <p>(a) the goods .....</p> <p>(b) the goods ....., and</p> <p>(c) the invoice .....,</p> <p>he is entitled to a special refund equal to twenty percent <del>of the amount shown on the invoice of</del> the invoiced value of the goods he holds on the appointed date multiplied by the applicable sales tax rate subject to the following conditions:</p> <p>(A) the claimant is a registered person under section 20 as at the appointed date; <del>and</del></p> <p>(B) the claimant on the appointed date holds goods for the purposes of making a taxable supply; <del>and</del></p> <p>(C) the claimant has paid the amount due as shown on the invoice.</p>	<p>The amendment prevents a taxable person from benefitting special refund to more than the person's entitlement.</p>

No.	Current Provision	Proposal	Rationale
	<p>(3) Where the claimant is entitled to a special refund under subsection (1) and the sales tax he has been charged is unpaid to the supplier at the end of the period of six months from the date of invoice, he shall repay the amount as his output tax in the return for taxable period following the end of the six months period.</p> <p>(4) The special refund shall not apply to—</p> <p>(a) goods which .....</p> <p>(b) goods which .....</p> <p>(c) goods held .....</p> <p>(d) goods on which sales tax has been paid under the Sales Tax Act 1972 before the appointed date and subsequently to be exported after the appointed date where a claim for drawback on the sales tax paid is to be made under section 29 of the same Act.</p>	<p>(3) Where a claim for special refund has been made under subsection (1) and subsequently the claimant returns the goods to the licensed manufacturer or supplier, he shall account the amount of special refund as his output tax.</p> <p>(4) The special refund shall not apply to—</p> <p>(a) goods which .....</p> <p>(b) goods which .....</p> <p>(c) goods held .....</p> <p>(d) goods on which sales tax has been paid under the Sales Tax Act 1972 before the appointed date and subsequently to be exported <b>on or</b> after the appointed date where a claim for drawback on the sales tax paid is to be made under section 29 of the same Act;</p> <p>(e) goods on which the claimant is allowed to claim sales tax deduction under section 31A of the Sales Tax Act 1972.</p>	<p>The requirement to repay tax at the end of six months from the date of invoice if the claimant has not paid the sales is deleted because a person is not entitled to a special refund if he has not paid sales tax. A new subclause (3) is inserted to require the claimant who has claimed the special refund and subsequently return the goods to account the special refund as his output tax.</p> <p>The amendment corrects the situation for special refund not to apply on goods on which sales tax has been paid and subsequently exported on the appointed date where drawback has yet to be made. Special refund is also not allowed on goods where the claimant is allowed to claim sales tax deduction under section 31A of the Sales tax Act 1972.</p>



No.	Current Provision	Proposal	Rationale
47.	<p><b>Clause 195</b> <b>Claim for special refund</b></p> <p>(1) Any claim for a special refund under section 194 shall be notified to the officer of goods and services tax in a form as may be determined by the Director General not later than six months from the appointed date.</p>	<p>(1) Any person who is entitled to a special refund under section 194 shall only be eligible to make one claim and such claim shall be made in a form as may be determined by the Director General not later than six months from the appointed date.</p>	<p>It is a policy decision to allow only one claim for special refund.</p>
48.	<p><b>Clause 196</b> <b>Offsetting unpaid sales tax or penalty against special refund</b></p> <p>Notwithstanding any provision of this Act or any other written law, where any person has failed to pay, in whole or in part, any amount of sales tax due and payable or penalty payable under the Sales Tax Act 1972 (referred to as unpaid tax in this section), the Director General may set off, against that unpaid tax or penalty, any amount or any part of any special refund to that person under this Act and shall treat any amount set off as payment received from that person</p>	<p>Notwithstanding any provision of this Act or any other written law, where any person has failed to pay, in whole or in part, any amount of sales tax due and payable or penalty payable under the Sales Tax Act 1972 (referred to as unpaid tax in this section), the Director General may set off, against that unpaid tax <del>or penalty</del>, any amount or any part of any special refund to that person under this Act and shall treat any amount set off as payment <b>or part payment</b> received from that person.</p>	<p>The amendments are to avoid redundancies and to include situation where set off is made for a part of the unpaid sales tax.</p>
49.	<p><b>Clause 197</b> <b>Adjustment for sales tax deduction made under section 31B of Sales Tax Act 1972</b></p> <p>(1) Where a manufacturer who has been licensed under the Sales Tax Act 1972 is</p>	<p><b>Clause 197</b> <b>Taxable goods purchased before appointed date and returned on or after appointed date</b></p> <p>Where ---</p>	<p>The amendment allows sales tax</p>

No.	Current Provision	Proposal	Rationale
	<p>eligible to deduct sales tax under section 31<sub>b</sub> of the same Act and regulation 19<sub>c</sub> of the Sales Tax Regulations 1972 [<i>P.U. (A) 55/1972</i>], the amount of sales tax paid may be counted as his input tax provided that he is registered under this Act.</p> <p>(2) Where a purchaser who is registered under this Act has claimed a special refund for goods held on hand and subsequently returns the goods to the licensed manufacturer, he shall account the amount of special refund as his output tax.</p>	<p>(a) a manufacturer who has been licensed under the Sales Tax Act 1972 sold taxable goods on which sales tax has been paid before the appointed date to a customer; and</p> <p>(b) a customer subsequently returns the same goods to the licensed manufacturer on or after the appointed date and within three months from the date of sale,</p> <p>the amount of sales tax refunded by the licensed manufacturer may be treated as his input tax provided that he is registered under this Act.</p> <p>Delete subclause (2)</p>	<p>licensee who is registered under GST to claim input tax on the amount of sales tax refund on goods sold before the appointed date and subsequently returned during the GST period.</p> <p>Subclause (2) is deleted because it is transferred to subclause 194(3).</p>
50.	New provision	<p><b>Clause 197A</b>  <b>Taxable service provided before appointed date and terminated on or after appointed date</b></p> <p>Where ---</p> <p>(a) a supplier who is licensed under the Service tax Act 1975 makes a taxable</p>	<p>The new provision provides similar tax treatment for contra system under services tax as provided for under the sales tax deduction.</p>

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		<p>supply of services which spans the appointed date or begins on or after the appointed date;</p> <p>(b) service tax on such supply of services has been paid before the appointed date; and</p> <p>(c) a customer subsequently terminates such supply of services on or after the appointed date,</p> <p>the amount of service tax refunded by the service tax licensee may be treated as his input tax provided that he is registered under this Act.</p>	
51.	<p><b>Clause 199</b> <b>Retention payment</b></p> <p>Where any contract for the supply of goods or services before the appointed date provides for the retention of any part of the consideration by a person pending full and satisfactory performance of the contract, or any part of it, by the supplier, the retention payment in respect of any supply made after the appointed date shall be chargeable to tax.</p>	<p>Where any contract for the supply of goods or services before the appointed date provides for the retention of any part of the consideration by a person pending full and satisfactory performance of the contract, or any part of it, by the supplier, the retention payment in respect of any supply made <b>on or</b> after the appointed date shall be chargeable to tax.</p>	<p>The amendment provides the situation for clause 199 to apply when a supply is made on the appointed date.</p>
52.	<p><b>Clause 200</b> <b>Unredeemed vouchers</b></p> <p>Goods or services supplied after the appointed date in redemption for</p>	<p>Goods or services supplied <b>on or</b> after the appointed date in redemption for vouchers issued</p>	<p>The amendment provides the situation for clause 200 to apply</p>

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	vouchers issued before the appointed date shall be chargeable to tax.	before the appointed date shall be chargeable to tax.	when a supply is made on the appointed date.
53.	<p><b>First Schedule - Paragraph 1(3) Transfer</b></p> <p>(3) In the case of land, the alienation, transfer or surrender under title is a supply of goods.</p>	<p>(3) In the case of land, the alienation, transfer or surrender under title is a supply of goods <b>including any transfer which stipulates that the property will pass at some time in the future.</b></p>	<p>The amendment proposes to include cases where the title of land is passed at some time in the future to be regarded as a supply of goods.</p>
54.	<p><b>First Schedule - Paragraph 2 Treatment or Process</b></p> <p>2. The production of goods by applying a treatment or process to another person's goods is a supply of services.</p>	<p><b>2. Any treatment or process which is being applied to another person's goods is a supply of services</b></p>	<p>The amendment is to do away with the requirement to produce new goods in order for the supply to be treated as a supply of services when any treatment or process is being applied to another person's goods.</p>
55.	<p><b>First schedule – Paragraph 4 Transfer of business assets</b></p> <p>(6) Where tax charged on any goods which is excluded from any credit under subsection 38(12) and a taxable person is making a taxable supply of the goods, any use of the goods by him in the course or furtherance of the business shall be</p>	<p><b>(6) Notwithstanding paragraph 1, where a taxable person who is in the business of making a taxable supply of goods has claimed input tax under section 38 and there is a change of use of such goods which results in the goods being excluded from any credit under subsection 38(12), the use</b></p>	<p>The amendment clarifies the situation where a supply will be treated as a supply of goods if there is a change of use in the goods. The change of use occurs when input tax has been claimed because the goods are</p>

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	<p>treated as a supply of goods.</p> <p><del>(9) Subparagraph (8) does not apply to any goods where the person who ceases to be a taxable person can show to the satisfaction of the Director General—</del></p> <p><del>(a) that no credit for input tax in respect of the supply or importation of the goods has been allowed to him; and</del></p> <p><del>(b) that the goods were not acquired by him as part of the assets of a business which was transferred to him as a going concern by another taxable person.</del></p>	<p>of such goods by him, whether for a consideration or not, shall be treated as a supply of goods.</p> <p><del>(9) Subparagraph (8) does not apply to any goods where the person who ceases to be a taxable person can show to the satisfaction of the Director General—</del></p> <p><del>(a) that no credit for input tax in respect of the supply or importation of the goods has been allowed to him; and</del></p> <p><del>(b) that the goods were not acquired by him as part of the assets of a business which was transferred to him as a going concern by another taxable person.</del></p>	<p>intended for making taxable supplies and subsequently the goods are used for which input tax are excluded from any credit.</p>
56.	<p><b>First Schedule – Paragraph (5) Supply of services to connected persons</b></p> <p>Where a supply of services is made not for a consideration by a taxable person to a connected person as referred to in the Third Schedule not being an employee and the connected person is not entitled to</p>	<p><b>Subject to subparagraph 4(3),</b> where a supply of services is made not for a consideration by a taxable person to a connected person as referred to in the Third Schedule <del>not being an employee</del> and the connected person is not entitled to a</p>	<p>The amendment clarifies that any private use of business asset for no consideration is a supply of services. The phrase “not being an employee”. Is deleted because the scope of</p>

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	a credit under section 38 on the supply, the supply to the connected person is a supply of services.	credit under section 38 on the supply, the supply to the connected person is a supply of services.	connected person does not include employee.
57.	<b>Second Schedule</b> New provision	<p><b>Paragraph (5)</b></p> <p><b>Supply by goods or services under Islamic finance</b></p> <p>5. Any sale of assets or transfer of rights to a property from any person who is a borrower to a financial institution or any person approved by the Director General and the subsequent resale of the same asset or transfer of rights to the same property from the financial institution or any person approved by the Director General to the person who is a borrower under a contract which relates to a supply of financing in accordance with the principles of <i>syariah</i> shall be treated as neither a supply of goods nor a supply of services.</p>	<p>It is a policy decision that the tax treatments for both conventional financial products and Islamic financial products are neutral. In this regard, the supply of goods or services relating to the Islamic financing for the purpose of aqad is treated as neither a supply of goods nor a supply of services.</p>
58.	<b>Second Schedule</b> New provision	<p><b>Paragraph (6)</b></p> <p><b>Insurance indemnity payment</b></p> <p>6. Any supply of goods between an insurer or takaful operator and an insured in the course of setting a claim under the insurance policy or contract of takaful shall be treated as neither a supply of goods nor a supply of services.</p>	<p>It is a policy decision that the insurance indemnity payment is treated as neither a supply of goods nor a supply of services.</p>

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59.	<p><b>Second Schedule</b> New provision</p>	<p><b>Paragraph (7)</b> <b>Diplomatic or consular services</b></p> <p>7. Any supply of diplomatic or consular services by foreign mission shall be treated as neither a supply of goods nor a supply of services.</p>	<p>It is a policy decision that the supply of diplomatic or consular services by foreign mission is treated as neither a supply of goods nor a supply of services.</p>
60.	<p><b>Third Schedule - Paragraph 2(1)(c)</b> <b>Connected person</b></p> <p>2. (1) Persons shall be deemed to be connected if—</p> <p>(a) they are officers or directors of one another's business;</p> <p>(b) they are legally recognised partners in business;</p> <p>(c) they are employer and employee;</p> <p>(d) any one person directly or indirectly owns, controls, or holds five per cent or more of the outstanding voting stock or shares of both of them;</p>	<p>2. (1) Persons shall be deemed to be connected if—</p> <p>(a) they are officers or directors of one another's business;</p> <p>(b) they are legally recognised partners in business;</p> <p><del>(c) they are employer and employee;</del></p> <p>(d) any one person directly or indirectly owns, controls, or holds five per cent or more of the outstanding voting stock or shares of both of them;</p>	<p>It is a policy decision that the scope of connected person will not include employee.</p>

No.	Current Provision	Proposal	Rationale
61.	<p><b>Third Schedule</b></p> <p>New provision</p>	<p><b>Paragraph 8</b>  <b>Value of betting and gaming supplies</b></p> <p>Where a taxable supply of services is made by a person licensed under any written law involving betting, sweepstakes, lotteries, gaming machines or games of chance, the value of supplies shall be determined in accordance with the following formula ---</p> $\frac{100}{100 + C} \times (A-B)$ <p>where A is the consideration received for the supplies less any tax or duty under this Act and any other written law except excise duty imposed under Excise Act 1976;</p> <p>B is amount of money (if any) received by persons (other than the person making the supply and persons acting on his behalf) participating successfully in the betting, sweepstakes, lotteries gaming machines or games of chance, as the case may be; and</p> <p>C is the rate of tax fixed under section 10.</p>	<p>It is a policy decision that the value of betting and gaming supplies is determined on the net margin which is the difference between the consideration received (less gaming tax or pool betting duties) and prize payout.</p>



No.	Current Provision	Proposal	Rationale
62.	<p><b>Fourth Schedule</b></p> <p>The Goods and Services Tax Appeal Tribunal shall not have jurisdiction to hear appeals against—</p> <p>(a) any matter .....</p> <p>(o) the compounding of offences under section 127; and</p> <p>(p) any matter relating to approval of reward by the Director General under section 175.</p>	<p>The Goods and Services Tax Appeal Tribunal shall not have jurisdiction to hear appeals against—</p> <p>(a) any matter .....</p> <p>(o) the compounding of offences under section 127; <del>and</del></p> <p>(p) any matter relating to approval of reward by the Director General under section 175; <b>and</b></p> <p><b>(q) any matter relating to special refund under sections 194 and 195.</b></p>	<p>The amendment blocks any appeal on special refunds under clauses 194 and 195</p>