GST Briefing Pack

Penang Development Corporation Group ("PDC")

Penang Development Corporation Group

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Introduction

This briefing pack has been designed to assist you with initial discussions on the implications of planning for the introduction of the GST. The objective is not to provide comprehensive answers and solutions, but to create an awareness of GST issues. This will assist the staff within PDC to think of how GST will affect their job functions. They will also participate in a series of briefings and workshops to identify the critical GST impacted areas within PDC.

PDC will face many issues during the planning stage for GST implementation. The issues identified will form the basis of an implementation plan, developed to transform PDC to become a GST compliant business.

The Introduction of GST

It was announced in the Budget 2014 that the Goods and Services Tax ("GST") will be implemented on 1 April 2015 at the rate of 6%. GST will apply to a wide base of taxable goods and services in Malaysia.

The introduction of GST will have wide ranging impacts for PDC. Experiences from other jurisdictions have shown that businesses similar to PDC required, as a minimum, 15 to 18 months to successfully complete a GST implementation project. It is for this reason that PDC has commenced its GST implementation project at this time.

GST, simply put, is a tax on final consumption. It is designed to tax most activities carried out in Malaysia. The Government has proposed to set the tax at a single rate of 6% on a wide base of taxable goods and services.

Some basic terminology is set out below:

- **Input tax** – GST paid by PDC on acquisition of standard rated goods and services;
- **Output tax** – GST to be collected on standard rated goods and services provided by PDC;
- **Taxable supplies** – These include both '**Standard Rated'** and **'Zero Rated'** Supplies. Any input tax incurred for the purpose of making these supplies can be claimed in full as a credit;
- **Standard rated** – These are supplies of goods and services that will be subject to GST at the rate of 6%. Most goods and services will be standard rated under the proposed GST system;
- **Zero rated (GST-free) supply** – PDC does not charge GST nor will be charged GST on these supplies, but can claim input tax incurred on goods and services acquired in making the zero rated supply. Please refer to Appendix 1 for the list of zero rated supplies.
- **Non taxable supply** – This is a supply of goods or services which is not subject to GST. It includes both '**Exempt supplies**' and '**Out-of-scope supplies**'.
- **Exempt supplies** – PDC does not charge GST nor will be charged GST on these supplies. PDC also cannot claim input tax incurred on goods and services acquired in making the exempt supply. Please refer to Appendix 1 for the list of exempt supplies.
- **Out-of-scope supplies** – These supplies are not captured under the Malaysian GST system and are therefore 'out of scope'. Such supplies include non business supplies, supplies made by unregistered parties or supplies of goods made outside Malaysia. Please refer to Appendix 1 for the list of out-of-scope supplies; and
- **Tax invoice** – A document that must be issued by a GST registered supplier to the recipient that documents the transaction. It will include the description, the consideration and the GST amount. The GST Law will prescribe requirements for a valid tax invoice. The recipient / purchaser can claim input tax only if they have a valid tax invoice.

How Does GST Work?

A taxable person will charge GST on taxable supplies he makes (output tax). In turn, he will claim the GST incurred on his purchases (input tax) used for making his taxable supply of goods and services.

The net GST amount (after netting off the output tax against the input tax) would then be remitted to Customs if his output tax exceeds the input tax paid within a GST accounting period. Where the input tax exceeds the output tax for a given GST accounting period, a refund would be made to the business. Examples of situations giving rise to a refund would include:

- businesses that substantially export its goods and services; or
- significant capital expenditure incurred during a GST accounting period.

Standard rated supplies

The table below illustrates how GST would operate for standard rated supplies at a rate of 6%. The table also serves to illustrate the multi-staged nature of GST.

	RM	Payment to Government	RM
Supplier			
Sales price	1.00	GST charged	0.06
GST 6%	0.06	GST incurred	0.00
Total inclusive of GST	1.06	GST payable	**0.06**
PDC			
Sales price	2.00	GST charged	0.12
GST 6%	0.12	GST incurred	0.06
Total inclusive of GST	2.12	GST payable	**0.06**
Customer			
Sales price	3.50	GST charged	0.21
GST 6%	0.21	GST incurred	0.12
Total inclusive of GST	3.71	GST payable	**0.09**

Zero rated supplies

The export of goods and services would be regarded as a zero rated supply. Similarly, services in relation to the export of goods would be zero rated.

Refer Appendix 1 for the list of zero rated supplies.

The table below illustrates how GST would operate for zero rated supplies.

	RM	Payment to Government	RM
Supplier			
Sale price - domestic	1.00	GST charged	0.06
GST 6%	0.06	GST incurred	0.00
Total inclusive of GST	1.06	GST payable	**0.06**
PDC			
Sale price – export sales	3.00	GST charged – zero rated	0.00
GST – zero rated	0.00	GST incurred	0.06
Total inclusive of GST	3.00	GST payable / (refundable)	**(0.06)**

GST is not accounted for zero rated supplies made, but input tax incurred on acquisitions (e.g. purchase of raw materials) used in making the zero rated supplies can be claimed.

Exempt Supplies

Refer Appendix 1 for the list of exempt supplies.

The table below illustrates how GST would operate for exempt supplies.

	RM	Payment to Government	RM
Stationery vendor			
Sale price	20.00	GST charged	1.20
GST 6%	1.20	GST incurred	0.00
Total inclusive of GST	21.20	GST payable	**1.20**
Bank			
Amount received (financial services)	100.00	GST charged	Nil*
GST – Exempt	Exempt		
Total inclusive of GST	100.00		

**The GST incurred on purchase of stationery used in making an exempt supply (in this instance, financial services) is not recoverable and becomes a cost of doing business.*

GST Profile of PDC

Outlined below is a preliminary guide of the relevant GST treatment of PDC's businesses:

	Supply	GST treatment
Residential property	Sale/lease of residential property	Exempt
	Rental of residential property / room charges	
Non-residential property (i.e. commercial or industrial purpose)	Sale/lease of commercial property	Standard rated
	Rental of non-residential property / shop lots	
Land	Sale/lease of industrial land	Standard rated
Additional Supply	Sale of extra car park / Free car park (supply of goods)	Standard rate
	Built-in curtain, furniture	
Construction	Construction services	Standard rate
Others	Dividend income	Out-of-scope
	Interest income from bank	Exempt*
	Sale of plant and equipment (except passenger car - blocked)	Standard rated
	Sale of scrap / fixed assets	Standard rated
	Secretarial / consultancy services (local)	
	Rental of tower, portable base transreceiver, bandwidth, roof tops and lamp posts	
	Maintenance fees, parking fees	
	Technical consultancy services (local)	
	Management services (local)	

**Incidental financial supplies*

Therefore, you need to be able to clearly distinguish between:

- Which of your products and services are standard rated, zero rated or exempt so that the appropriate amount of GST can be collected from your customers. Some of your products may be a combination of these treatments; and
- What proportion of GST that you pay to suppliers on inputs / purchases is "recoverable" from the government, insofar as the inputs / purchases relate to the provision of taxable supplies you provide to your customer.

GST Concepts

GST refers to transactions or activities as "supplies". The GST framework proposed for Malaysia may be described as an exclusion model, i.e. every supply would be taxable unless it is specifically excluded by law or policy. Hence, it is important that PDC recognise the wide application of the tax and consider what supplies are made by its business.

When is GST Chargeable?

Generally, the key factors to consider when looking at whether GST is chargeable are to:

- determine if there is a taxable supply of either goods or services.
- ascertain if the supply is made in Malaysia.
- ascertain if there is consideration received for the supply.

Supplies

A supply is not restricted to physical goods or services; it can also involve rights or entry into or release from an obligation. Thus, the grant of a right such as a royalty arrangement could be a taxable supply.

Taxable supplies refer to supplies where GST is chargeable and the supplier is able to claim input tax credit on the business purchases. GST has to be charged on **standard-rated supplies**; most goods and services would fall into this category. No GST is charged on **zero-rated supplies** although they are taxable supplies. No GST would be charged on **exempt supplies** and **out-of-scope** supplies. Appendix 1 set out the goods and services that are to be zero rated, exempt or regarded as out of scope.

Supplies made without consideration are generally not regarded as supplies for GST purposes. However, some supplies provided without consideration may nevertheless be taxable as deemed supplies. Examples of this include:-

- business assets put to private or non-business use;
- gifts; and
- employee benefits.

It will be important to identify PDC's transactions where no consideration is received as these may be subject to GST.

Place of supply

GST as a tax, is territorial in nature. Only supplies made in Malaysia will be subject to Malaysian GST. Therefore it is of fundamental importance for PDC to ascertain if a supply takes place in Malaysia.

The basic rules are:

- for goods - the supply is made in Malaysia if the supply originates from a place in Malaysia. The place of supply is where the goods are removed or made available to the customer; and
- for services - the service is made in Malaysia if the supplier's business / fixed establishment or usual place of residence is in Malaysia.

Time of Supply

The time of supply rules determines when GST is to be accounted and remitted to the authorities. Generally, a taxable person must account for GST in the taxable period in which the supply takes place.

The time of supply will be the earliest of the **basic tax point** or the **actual tax point.**

The basic tax point (**"BTP"**) for the supply of goods and services is:

- the date when the goods are removed or made available; or
- the date when the services are performed.

The actual tax point (**"ATP"**) for the supply of goods and services is:

- the date when a tax invoice is issued; or
- the date when payment is received.

21 Days Rule

If the GST invoice is issued within 21 days of the BTP and no payment is received before the BTP, then the time of supply is the date of the GST invoice.

Exceptions

Some important exceptions to the general rule above include:

- goods put to private use – at the time when the goods are appropriated to the use;
- supplies provided continuously – when invoice is issued or payment is received;
- imported services – when the recipient pays for the services; and
- free services between related entities – when the service is performed.

Value for GST

(a) If the supply was for a consideration in money, the value of the supply is:

Consideration = Value + GST

From PDC perspective, the potential issue is whether the selling price / service charges need to be adjusted, especially where they are disclosed inclusive of GST.

(b) If the supply is not for a consideration in money, i.e. barter, or is for a consideration not wholly consisting of money, the value of supply is the open market value ("OMV") of that consideration less tax, i.e. the value at which the goods or services would be supplied if it was for a consideration wholly in money less GST.

(c) The value of goods imported into Malaysia for GST purposes will be the CIF (Customs, insurance & freight) value plus customs duty and excise duty (if any).

(d) The value of imported services will be the consideration paid to the foreign supplier.

Input Tax Credit

Under the present sales tax and service tax regime, the tax paid represents a cost to business. The ability to claim a credit for GST suffered on purchases of goods and services is a fundamental feature of GST that should reduce the cost of doing business.

GST suffered becomes a cost of doing business if PDC is unable to claim it as input tax credit.

Conditions to claim input tax are:

i. the claimant is a taxable person;

ii. it is supported by a valid tax invoice;

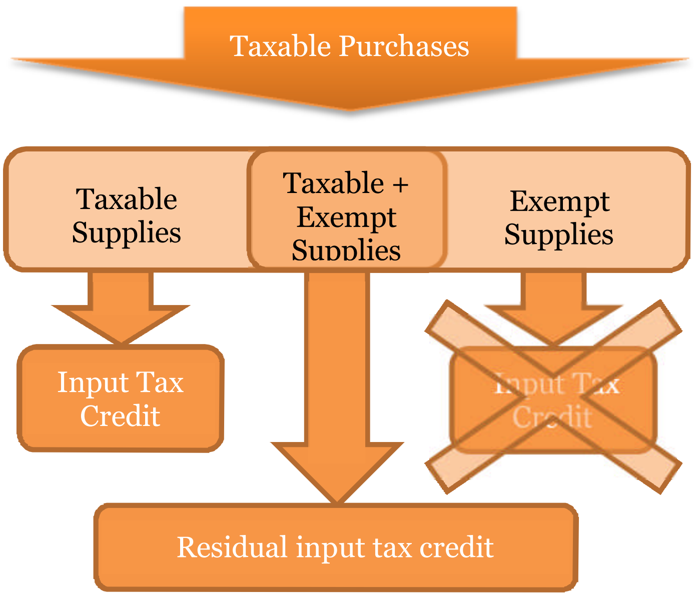
iii. invoice issued under the name of the claimant (where the consideration amount is more than RM500); and

iv. the goods and services acquired are not subject to any input tax restriction e.g. motorcars.

Restriction on Recovery of Input Tax Credit

A person cannot recover input tax credit where they make exempt supplies. Where a person carries on business of making taxable and non taxable supplies, it is necessary to identify the GST incurred on purchases as follows:

- expenses attributable to making taxable supplies - the GST incurred is wholly claimable;
- expenses attributable to making non taxable supplies - the GST incurred is wholly not claimable; and
- an apportionment of the GST on common expenses (residual input) must be made.



Residual Input Tax Credits

Residual input tax arises when input tax incurred is not directly attributed to either taxable or exempt supplies (residual input). It is proposed that the following turnover-based method be used to ascertain the portion of input tax claimable on the taxable supplies:

$$\textbf{Input tax allowable} = \frac{\textbf{Total value of taxable supplies}}{\textbf{Total value of all supplies}} \times \textbf{GST incurred on residual input}$$

Other methods of apportionment could be used only when the turnover-based method does not yield a fair approximation of the extent of input tax claimable on the taxable supplies.

De Minimis Rule

Where a taxable person makes negligible exempt supplies, it would be impractical for such person to apportion the input tax incurred to such exempt supplies. The de minimis rule is introduced to allow such taxable person to claim his input tax in full where his total value of exempt supplies (excluding incidental exempt financial supplies, as defined below) does not exceed:

i. average of RM5,000 per month; and
ii. 5% of the total value of total supplies (all taxable and exempt supplies) made in that period.

It is therefore important for PDC to identify any exempt or out-of-scope supplies that PDC makes and assess the impact of any input tax credit that may not be recoverable.

Incidental Exempt Financial Supplies

Incidental exempt financial supply is a supply of financial services made by a registered person who is not in the business of making the financial services. However, such person can treat input tax attributable to the exempt financial supplies as input tax attributable to taxable supplies.

Incidental exempt financial supplies are:

- the deposit of money;
- the exchange of currency;
- the holding of bonds, debentures, notes or other similar instruments representing or evidencing indebtness, whether secured or otherwise;
- the transfer of ownership of securities;
- the provision of loans, advances or credit to employees related entities;
- the holding or redemption of any unit or other similar instruments under a trust fund;
- the hedging of any interest rate risk, currency risk, utility price risk, freight price risk or commodity price risk.

Disallowed (Blocked) Input Tax Credit

Input tax credit will be disallowed (blocked) on certain purchases, regardless of whether or not they can be attributed to a taxable supply. Blocked input tax items include:

- Passenger motor car not used wholly for the purposes of business*
- Recreational or sporting club subscriptions
- Entertainment expenses (except for those incurred in relation to existing clients or employees)**
- Medical or personal accident insurance
- Medical expenses
- Family benefits

*There are conditions which must be conformed to in demonstrating that a vehicle is used wholly for the purposes of business. These include (but are not limited to) the vehicle is not taken home at night / weekends by employees and the vehicle displaying the name of the company.

**Entertainment expenses include:

- The provision of any food, drink, recreation or hospitality of any kind; or

- The provision of accommodation or travel associated with the provision of food, drink or recreation;

by a person or an employee of his to anyone in connection with a trade or business carried on by that person.

Accounting for GST

Filing of GST returns

- The GST return must be furnished in a prescribed form whether or not there is tax to be paid; and
- The returns must be submitted no later than the last working day of the month following the end of the taxable period. Any tax due must be paid to the authorities.

Taxable Period

The category of a taxable period will depend on the amount of annual sales:-

Annual Sales	Taxable Period of
RM5 million and above	One month
Less than RM5 million	Three month

Tax Invoice

Every registered person who makes any taxable supply of goods or services in the course or furtherance of any business in Malaysia is required to issue a tax invoice. A tax invoice is a document containing certain information about the supply that has been made and is similar to a commercial invoice except for some additional details. This document is important as it is an essential evidence to support a customer's claim for deduction of input tax. The supplier must keep a copy and the original copy should be retained by the recipient. Only a GST registered person can issue tax invoices.

The following information must be reflected on an invoice:-

(a) the word 'tax invoice' in a prominent place;

(b) the tax invoice serial number;

(c) the date of issuance of the tax invoice;

(d) the name, address and identification number of the supplier;

(e) the name and address of the person to whom the goods or services are supplied;

(f) a description sufficient to identify the goods or services supplied;

(g) for each description, distinguish the type of supply for zero rate, standard rate and exempt, the quantity of the goods or the extent of the services supplied and the amount payable, excluding tax;

(h) any discount offered;

(i) the total amount payable excluding tax, the rate of tax and the total tax chargeable to be shown separately;

(j) the total amount payable inclusive of the total tax chargeable;

(k) any amount referred to in subparagraphs (i) and (j), expressed in a currency, other than Ringgit, shall also be expressed in Ringgit in accordance with paragraph 5 of the Third Schedule of the GST Act 201X; and

(l) state separately the gross total amount payable in respect of each supply and rate (i.e. separate amount of exempt, zero, standard or other supplies).

GST credit and debit notes

- For GST purposes, a GST credit or debit note must be issued for adjustment(s) to a previously invoiced supply.
- Examples of circumstances in which a credit or debit may be raised are highlighted below:
  - There is a change in the rate of GST or description of the supply
  - Discounts or rebates are given after the goods have been supplies
  - Goods are returned due to damage
  - The amount previously invoiced was genuinely in error.
- A GST compliant credit / debit note must contain the following:
  - The words “credit note” or “debit note” in a prominent place
  - The serial number and date of issue
  - The number and date of the original invoice
  - The name, address and GST identification number of the supplier
  - The name and address of the recipient of the supply
  - The reason for the issuance of a credit / debit note
  - Description of the goods or services
  - The quantity and amount for each supply
  - The total amount excluding tax
  - The rate and amount of tax.

Bad Debts

GST on bad debts will be refunded if:

- evidence is presented that the tax is already paid;
- the claimant has not received any part or full payment six months after the GST is paid; and
- Customs is satisfied that all **reasonable efforts** have been made by the claimant to recover the debt.

The refund is performed through an adjustment to the input tax in the GST returns. Any **payment recovered** by the taxable person after the adjustment is made is deemed a taxable supply where the output tax must be accounted for accordingly.

Where PDC fails to pay to his supplier within 6 months from date of supply (or invoice date) and PDC has claimed input tax on such acquisitions, PDC is required to pay back the input tax by accounting the same amount as his output tax to reverse the input tax claimed.

Penalty for Non-Compliance

Incorrect return:-
- Fine not exceeding RM50,000 per offence per return

General Offence:-
- Fine not exceeding RM30,000 per offence (i.e. transactional)

Late registration:-
- Penalty ranges to from RM1,500 (within 30 days) to RM20,000 (more than 360 days)

Special Rules

Employee Benefits

Goods acquired and given without charge as employee benefits to employees are considered to be goods acquired for business purposes. As such, the GST paid on purchases (with the exception of blocked input tax credit items) made in providing such benefits would be claimable as a credit.

However, under the proposed GST framework, the employer would be required to account for GST on the goods provided to the employees based on the open market value of those goods if the value exceeds **RM500/person per year**.

Should the employer provide the employee benefits to the employee at a subsidised or discounted price, the value of supply for calculation of GST would be based on the subsidised price or discounted price, instead of the open market value.

PDC should identify what are the fringe benefits provided to employees and consider the GST impact in providing these fringe benefits. Some examples include:

- Long term service awards;
- Free gifts;
- Hand phones;
- Attire; and
- Vouchers.

Vouchers

Monetary vouchers are vouchers (usually with a **face value**) that entitle the holder to supplies of goods and services up to the amount stated on the voucher, e.g. gift vouchers of RM100 purchased from a departmental store. The supply of monetary vouchers is disregarded as a supply for GST purposes and tax is not collected at the time such vouchers are sold. GST would be accounted for by the vendor, when the vouchers are redeemed for goods and services.

Non monetary vouchers give an entitlement to goods or services to the voucher holder and the value of such goods and services are not explicitly disclosed, e.g. a voucher which entitles the holder to a free night stay in a hotel. For such vouchers, the GST is to be accounted at the time when the voucher is issued. When it is redeemed, no GST is due on the redemption.

Discount vouchers need careful consideration of the features to ascertain the GST treatment on the sale or redemption of the vouchers.

Vouchers are extensively used by businesses and give rise to complex issues on treatment. PDC should review the use of vouchers in its business, if any, and where relevant confirm the GST treatment with the authorities.

Exported Services / International Services

Generally, services provided by a person that "belongs" in Malaysia are standard rated. However, certain supplies of services will be **zero-rated** despite the fact they are made by a supplier that belongs in Malaysia. These services, referred to as "international or exported services" include:

- Any supply of services to a person who belongs outside Malaysia not being any supply of services related to land and goods situated in Malaysia and he is not in Malaysia at the time the services are performed.

- Services supplied:-
    - Under a contract with a person who belongs in a country other than Malaysia; and
    - Which directly benefit a person who belongs in a country other than Malaysia.

PDC could minimize its GST exposure by reviewing the range of services it provides, if any, and ascertain if they would qualify to be zero rated.

Importation of Goods and Services

GST would be payable on goods imported to Malaysia at the point of clearance of Customs control. There will be a cash flow impact on the business where GST has to be paid upfront and then a credit claimed.

GST would also be applicable to imported services via the "reverse charge" mechanism. Under a reverse charge mechanism, the importer of the service has to account for GST on the imported service as if he is the supplier of the service.

Group Registration

This is a facility which allows several companies to make an election to be regarded as a group for GST purposes and centralize their GST administration for accounting purposes. The eligibility of a company to make an election to group will be based on the equity controlling interest as defined under the Companies Act 1965. The effect of grouping is that any taxable supply between group members would be disregarded for GST purposes.

Members within a group may elect to be grouped. It has been proposed that members that provide exempt supplies would not be allowed to do so. Companies within a group that do not make an election to be grouped must account for GST on intra group transactions and file individual GST returns.

Grouping may be advantageous particularly if there are substantial inter-company transactions within the group. However, the decision to group requires thorough consideration, taking into account the cash flow benefits and the legislative / administration requirements.

Real Estate / Property

In the real estate industry, the supplies which are subjected to GST include the supply of all types of land except land for residential, general use or agricultural land whether or not including housing / building (Land includes building). The classification of type of building is determined by the condition of use as stated or to be stated in the document of title.

Classification of land and building is based on the usage at the condition as below:-

(a) The actual use of the property, design features and the essential characteristic and attributes of the property.

(b) In the case of newly completed property which has not been used, the sale of the property will be based on the design features and the essential characteristic and attributes of the property.

(c) Vacant / bare land to be treated based on usage according to the title.

(d) Change in use of the property such as change in used of residential house to be converted to commercial premise is subject to standard rate based on the following:
  - The premise is registered with the relevant authorities;
  - The owner himself applies for change of use; or
  - Evidenced by the sales and purchase agreement.

Any transfer of the whole right of ownership in land, land under an agreement for the sale of such land, land under an agreement which expressly stipulates that the ownership of such land will pass at some time in the future, any interest under Deed of Assignment or any strata title is a **supply of goods**.

Any lease, tenancy, easement, license to occupy land or transfer of undivided share in land is a **supply of services**.

Where there is a default in payment under security relating to land, the transfer of such land shall be treated as a supply of goods. Changes in the land title such as the replacement of title with strata title or subdivision is not regarded as a supply.

For the sale of uncompleted non-residential property under progressive payment contracts, you have to account for GST at various stages of the progressive / scheduled payment based on the earlier of the following:

- when tax invoice is issued; or
- when payment is received.

For the sale of completed non-residential property, you have to account for GST:

<u>(i) At the stage when Sales and Purchase (S&P) Agreement is signed:</u>

GST should be accounted at the earlier of the following:

- when a tax invoice is issued; or
- when payment is received.

(ii) At the transfer stage:

GST should be accounted at the earliest of the following:

- when a tax invoice is issued;
- when payment of the balance of the purchase price is received;
- when the property is made available to the purchaser; or
- when the transfer is effected.

Where the transaction involves a transfer of possession such as lease and rental of property, it is regarded as a supply of services. GST is imposed on each successive lease or rental payment. GST is charged whenever the consideration is received or whenever the developer issues a tax invoice relating to that lease or rental.

Developers are allowed to claim an input tax directly attributable in making taxable supplies as they normally provide mixed supplies. Input tax on goods and services which are not directly attributable to making taxable and exempt supply is regarded as residual input that needs to be apportioned accordingly.

Where a development project involves both residential housing and commercial building, the residual input tax that can be claimed are GST incurred on utilities, rental, office equipment and stationeries etc., infrastructural and recreational works such as landscaping, community hall, car park facilities, playgrounds and incidental services.

Construction

All type of construction services is subject to GST regardless of whether the services are for exempt properties such as residential or non-residential properties or for agricultural properties.

The charges which are subjected to GST include the value of all works and materials permanently incorporated in or affixed on the site of the building or construction project, and any other movable goods that the contractor may charge to the customer.

Time of supply for construction work is as follows:-

(a) Schedule payment under construction contracts where certificate of work done is required. To account for GST at the earlier of the following:
   - when payment is received;
   - when tax invoice is issued; or
   - the date certificate of work done is issue, if invoice is not issued within 21 days from date of certificate issued.

(b) Periodic payment when certificate is not required. To account for GST at the earlier of the following:
   - when payment is received or
   - when tax invoice is issued

Transitional Issues

Supplies spanning the introduction of GST

- For supply of services, time of performance of service will be regarded as the time of supply of services; and
- For supply of goods, time of removal of goods will be regarded as the time of supply of goods.

Where the time of supply takes place after the introduction of GST, GST rules will apply.

It would be important for PDC to identify the supply that would span the GST implementation date and consider cut off procedures and processes to capture the GST to be accounted for.

Contracts or agreements signed before the introduction of GST

For contracts signed before the GST appointed date where the supply of the goods or services will span over the GST implementation date, GST would still be applicable on these contracts.

For **non reviewable contracts,** taxable goods or services provided for a period of 5 years from 1 April 2015 would be **zero rated**. Thereafter, taxable goods and services would be subject to GST under the normal rules.

A non reviewable contract is one which meets the criteria set out below:

- the consideration payable under the contract must be non-reviewable (i.e. the terms of the agreement do not allow for the consideration to be changed to account for GST);
- the supplier and recipient of the supply must be both GST registered persons
- the supply must be a taxable supply
- the recipient can claim full input tax credit; and
- the contract is signed 2 years before the GST appointed date (i.e. 1 April 2015).

Reviewable contracts for the supply of taxable goods or services will be **standard rated** with effect from the implementation date.

PDC should review all its commitments under contract to ascertain whether they are reviewable or not, identify the potential exposure to GST and consider what actions to be taken to address the exposure.

Abolition of Sales Tax – Special Refund for Stock Held on Hand

The GST legislation provides for a special refund to be given to entities holding trading stock on which sales tax has been paid at the GST implementation date. Persons holding an invoice showing the amount of sales tax paid can recover it in full under the following conditions:

- PDC must be a registered person under GST by 1 April 2015
- the goods held on hand on 1 April 2015 are for the purposes of making taxable supplies
- the goods are subject to sales tax under Sales Tax Act, 1972 and sales tax has been paid before 1 April 2015
- PDC must hold relevant supplier's invoices showing PDC is the recipient of the goods; and
- for imported goods held on hand, PDC must hold relevant invoices to prove PDC is the importer or consignee or owner of the goods.

For goods purchased from traders where sales tax has been charged but is not stated in the invoice, the Customs allows the use of 20% method where:

Special Refund claimable = Actual purchase price x 20% x sales tax rate applicable

PDC must submit the claim within 6 months from 1 April 2015 via online submissions, and the special refund approved will be given in eight quarterly instalments over two years.

The issue relevant for PDC to consider would include:

- timing of the purchase of goods subject to sales tax running up to the implementation of the tax;
- processes and documentation to enable quantification of sales tax paid on stock in hand;
- to conduct regular stock takes; and
- to obtain an auditor certificate signed by an approved auditor certifying the amount of the special refund of RM10,000 or more.

Potential Areas of Impact to PDC

Price Rebalancing

The setting of prices will be a key consideration for PDC as it will need to charge GST on all its taxable supplies. PDC will need to assess whether to re-price its goods to reflect the applicable GST, or absorb the GST and retain the current pricing.

It would also be necessary for PDC to consider the Price Control and Anti-Profiteering Act 2011 which aims to prevent businesses from profiteering from the introduction of GST.

Advertising and sponsorship

PDC may makes sponsorship payment and donation to charities. PDC should consider whether this action represents consideration being given in return for a supply of goods and it would subject to GST. For example, PDC would get advertising services in term of publicity when PDC sponsors golf tournament.

For donations to charities and non-profit organizations, the GST treatment will depend on whether the payments are made to a public charitable entity or private charitable entity. A donation made to a public charitable entity will not be subject to GST whereas a donation to a private charitable entity which carries on a business and is GST registered will be subject to GST.

Vendor Management

Only GST registered vendors/suppliers to PDC would be able to charge GST on supplies made to PDC for which PDC will be able to claim an input tax credit. Unregistered vendors would not be able to pass on any potential savings from GST input tax credits available, and may pass on their increase in costs to PDC. This may result in a differential in prices between registered and unregistered vendors after the introduction of GST.

A key area for PDC would be to assess the potential additional cost arising from purchasing from unregistered vendors. It may be necessary for PDC to consider assisting and providing support to these suppliers to be registered.

For registered suppliers, the key consideration would be ensuring where possible that potential GST savings are passed to PDC and that GST compliant tax invoice from suppliers is obtained to enable PDC to claim an input tax credit on a timely basis.

Leasing/Rental

Under GST, it is important to look at the substance of leasing agreements. Where the title to the goods is transferred to the lessee at the end of the lease period (finance lease), the lease will be considered a supply of goods. Where title does not pass (operating lease), it will be a supply of services.

An operating lease will be treated as a rental service. Each lease payment will be treated as a separate supply of services and will be subject to GST.

Free Supplies to Third Party

Goods provided free of charge are subject to the “Gift Rule” which provides that no GST would be chargeable on a gift of goods made to the *same person* in the *same year* where the total cost does not exceed RM500 for that year.

The free supply of goods to a third party will attract a GST liability if the value of the goods given to the same person in the same year exceeds RM500. A free supply of services will not be subject to GST, unless supplied to connected persons.

Connected persons include directors of the company, any person holding 5% or more of the shares in the company, or companies which are directly or indirectly controlled by one or other, or a third party. Connected persons do not include employees of the company.

An initial task would be for PDC to identify all programmes for which goods are given away without consideration to assess the potential GST impact. Subsequently, it would be necessary to evaluate these policies going forward to take into account the GST impact.

Resource Requirements for GST

The introduction of the GST will also necessitate a review of the current allocation of resources. PDC will need to determine whether further resources should be allocated to meet the additional demands of the GST.

This will involve amongst others incurring costs for upgrading IT systems, changes to stationary to comply with GST requirements, training of staff, and software upgrades. These will be one-off expenditure.

As a result, these costs and the timing of their acquisition would need to be considered in any budgeting / cost assessment process.

Intercompany Supplies

Under GST, intercompany charges such as management fees and shared services charges are taxable at the standard rate. Proper GST invoice need to be issued.

Commonly, businesses issue debit notes in respect of intercompany supplies. Under GST rules, the issuance of a debit note or statement in respect of the taxable supplies would not be deemed as a GST invoice. Therefore, each intercompany supply will require issuance of a proper GST invoice;

To reduce the cost of irrecoverable input tax, if applicable, PDC may need to consider restructuring procurement / third party arrangements, such that external suppliers directly invoice the entity receiving the supply (rather than cross-charging, as a cross charges would also be subject to GST and would increase the pool of irrecoverable input tax.

Information Technology

- Tax coding of PDC’s offerings including identification of taxable and non-taxable supplies;
- Identification and categorisation of expenditure as either ‘recoverable’, ‘irrecoverable’ and ‘residual’ input tax;
- Where relevant, calculation of recoverable portion of ‘residual tax’;
- Extraction of data for preparation of GST return.

Land, Property and Construction

It is proposed that supplies pertaining to land, property and construction be standard rated, with the exception of the following supplies which are to be **exempt:**

i. the granting of land by the State Governments;

ii. the sale, lease or rental of residential land, agricultural land and land for general use such as for burial, playground and religious; and

iii. the sales, lease or rental of residential property including low and medium cost houses.

Potential areas impacted by GST and need to be considered by PDC include:

(i) **Classification of supplies**

- Classification of property development (eg. commercial or residential) and other revenue items i.e. determination of whether each of them is either taxable, exempt or 'mixed'; and
- Appropriate classification will ensure that PDC reduces the risk of incorrectly reporting its GST position.

(ii) **Irrecoverable input tax credit**

- Absolute denial of input tax credit for exempt supplies would lead to erosion of profits;
- Embedded GST in exempt supplies will be cascaded throughout the economic chain;
- Higher administrative compliance cost in determining recoverable portion and undertaking apportionment of residual input tax; and
- PDC will need to ensure that processes are in place so that the maximum amount of available input tax credits is claimed.

(iii) **Cash flow management**

- GST is payable on the earlier of when the services are performed or an invoice is issued; and
- PDC will need to review its existing terms with debtors to ensure that it does not suffer significant cash flows brought upon by a requirement to pay GST well in advance of any payment being received.

(iv) **Price rebalancing**

- PDC will now need to charge GST on its taxable supplies and further will suffer 'irrecoverable input tax' on its exempt products;
- PDC will need to assess whether it intends to re-price to reflect the applicable GST / increased cost or absorb it into its current pricing; and
- Any pricing reviews will also need to consider the impact of the Government's proposed 'Anti-profiteering' Law which will be aimed at preventing businesses from 'profiting' from the introduction of the GST.

(v) **Existing and new contracts**

- Contract signed before GST date but construction / completion of property is after GST date. No GST clause to recover GST from customer;
- PDC will need to examine existing and proposed supply contracts and agreements to ensure that these agreements have an appropriate GST clause; and
- PDC will need to examine its long-term supply contracts to determine whether any are eligible for 'Zero-Rating' under the concessions available for transitional long-term contracts.

Provision of "tie-in gifts"

PDC may provide "free goods" (e.g. kitchen cabinet) or "free services" (e.g. free club membership) as part of its sale of residential or commercial property. Since PDC doesn't charge additionally nor invoice for these items, they may be regarded as "tie-in gifts" for GST purposes as the value of goods and services has been accounted for in the charge of the "main" supply.

However, if the "tie-in gift" forms part of an exempt supply (e.g. residential property), then PDC will not be able to claim any input tax credit on the purchase.

If these "tie-in gifts" form part of a taxable supply (e.g. commercial property) then PDC will be able to claim a full input tax credit on the purchase.

GST Treatment on Capital Goods

Capital goods are normally defined as any goods which are capitalized for accounting purposes and in accordance with generally accepted accounting practice and written off over several years. The GST treatment on capital goods in Malaysia is as follows:

(a) A supply of capital goods is standard-rated.

(b) Input tax can be claimed at once on all capital goods that are used to make wholly taxable supplies.

(c) If capital goods are used solely for exempt-supply, no input tax can be claimed.

(d) Where capital goods are used for making both taxable and exempt supplies, input tax would need to be apportioned according to its proportional taxable use.

(e) Intangible assets such as trademark and goodwill are taxable supplies.

Capital Goods Adjustment ("CGA") Period

An adjustment period refers to a fixed period of time, consisting of intervals, during which the proportional taxable usage of a capital item is re-evaluated.

For land and building, the adjustment period consists of 10 intervals (inclusive of both the first and final intervals) and for any other capital item, the adjustment period would only consist of 5 intervals.

Under the CGA, intervals in which re-evaluation and adjustments are required to be made can be categorized as first, subsequent and final intervals.

Frequently Asked Questions

The following are some prompters to help you draw out issues and work streams potentially impacted by GST to be discussed in the workshop. The issues discussed may be relevant to complete the template on the Transaction Identification Analysis for your businesses.

Reminder: You are NOT required to respond to the questions in this sheet, as their purpose is to start you thinking about how GST could affect you or your job function and what you may wish to consider in completing the Transaction Identification Analysis template.

Procurement / purchases	Remarks
1. Am I able to categorize the purchases made by the business between standard-rated, exempt, and zero rated supplies?	
2. What are the services provided to the business by parties outside Malaysia? - reverse charge	
3. What are the payments, purchases that are made on behalf of another party? - agency arrangements, ITC	
4. Does the business use subcontractors? How does GST impact these arrangements?	
5. How do I best manage the timing of ITC claims?	
6. How do I ensure that my vendors will be able to give me a GST invoice?	
7. Are there are purchases that I make that do not qualify for an input tax credit claim?	
8. Does the business procure exempt goods or services? • If so, can the business identify the GST on purchases directly attributed to the making of exempt supplies? • What basis of apportion should the business use to disallow the ITC in residual expenses?	
9. Are there services provided from overseas?	
10. Are there opportunities for review in Long Term Purchase Agreements and Service Contracts?	

Sales and Marketing	Remarks
1. What are the supplies that are made by the business?	
2. Can I list down all the supplies made and whether the supplies are taxable, exempt, out of scope or zero rated supplies?	
3. How does GST affect sponsorship arrangements?	
4. How do I establish the open market value of deemed supplies or consideration received in kind	
5. What other forms of receipts or monies receivable by the business?	
6. How do I account for reimbursement of expenses?	
7. Can the supplies made by the business be regarded as composite or multiple supplies?	
8. How do I establish when a supply is to be reported for GST purposes?	
9. What is the GST impact for contracts that span after GST implementation?	
10. What is the impact of GST on the pricing of services?	
11. What are the transactions that involve :- • Exchange of goods and services or consideration in kind • Net-off arrangement	

Finance	Remarks
1. How does GST affect my cash flow? Would GST result in the business needing to borrow or borrow more?	
2. What are the changes to the accounting records and documentation to comply with the GST requirements?	
3. How do I ensure that the business captures all the input tax credit on purchases?	
4. How do I ensure the invoices received are GST tax invoices?	
5. What is the GST treatment of purchases from non GST registrants?	
6. Have I considered the GST treatment for all items for which consideration is received?	
7. What are transactions that involve reimbursement / disbursement or cost recovery arrangements?	
8. How should the business approach tax coding of its accounts payable and accounts receivable?	
9. What are the non-trade receipts and its GST treatment?	
10. What is the impact of GST on my present terms of trade?	
11. What is the GST impact of contracts that span after GST implementation?	
12. What are the services provided to non-residents? Can these services be treated as international or exported services for GST purposes?	
13. What is the policy on bad debts relief for GST?	

14. What is the GST impact on inter-company transactions? Would grouping be advantageous? Which entities are to be grouped?

15. What are the agency arrangements that the business is involved in? Has the GST impact of the arrangements been assessed?

16. What cut-off procedures should I consider for the transition into GST?

17. What are the steps that need to take to close off the sales tax positions?

Human Resource	Remarks
1. What are the types of fringe benefits that are provided by the business to employees?	
2. Can I list the GST treatment on the fringe benefits provided to employees?	
3. How do I account for the GST on the fringe benefits provided to employees? How do I ascertain the open market value where the business has to account for output tax?	
4. What kind of documentation would I require to maintain for GST on fringe benefits?	
5. When do I account for the GST on fringe benefits provided to employees?	
6. Should the business consider providing higher wages vs. fringe benefits – which approach would be more advantageous to the business?	
7. How should I respond to a request for remuneration review by staff in view of the potential GST impact on their disposable income?	
8. How does GST impact allowances provided to staff? Can I get input tax credit on the current scheme of allowances operated by the business?	

9. Can I get input tax credit on expenses reimbursed to employees, e.g. entertainment?

10. What sort of communications do I need to put out to customers, suppliers and employees?

Legal / Corporate	Remarks
1. Do I have access to all contracts / agreements executed by the business?	
2. What is the GST impact that I need to look out for in contracts?	
3. What do I understand of the terms "reviewable" and "non-reviewable" contracts for GST purposes?	
4. Do the rights / obligations created under contracts give rise to a "supply" for GST purposes?	
5. How do I keep track of reviewable contracts and what needs to be done on renewal?	
6. What do I need to do in contracts that the business may enter into before GST comes into effect?	
7. Do I have the resources to review all the contracts in time for the transition into the new tax?	

Information Technology (IT)	Remarks
1. Is the business accounting IT system GST capable?	
2. To what extent can the time of supply rules be automated?	
3. What are the advantages of coding accounts receivable or accounts payable by: • customer basis • account basis • transaction basis	

4. How can the accounting IT system assist in providing automated controls for GST processing?

5. What are information requirements and reports that need to be generated to enable the completion of the GST return?

6. Should I maintain one or multiple GST account for GST collected, paid and deemed tax?

7. How should the accounting IT system deal with deemed supplies?

8. Is my accounting IT system capable of tracking bad debts written off and subsequently paid?

9. What measures should I take to ensure that staff entering invoices into the information system are GST knowledgeable and properly trained?

10. How do I ensure that processing staff check whether the GST amount entered into the system is the same as the GST recorded in the invoice?

11. What are the procedures required so that valid tax invoices are obtained for all payments made without a tax invoice, e.g. direct debit before the input tax credit is claimed?

12. What are the procedures required for mix supplies so that the whole amount of GST is not allocated to one GST code?

13. What decision tools and coding aids would you require for transactions coding?

14. How do I ensure that transactions including payments and receipts are processed in a timely basis?

15. What are the non-standard transactions of the business and the additional review and authorization procedures required for IT processing?

16. What are the system changes required to deal with the issue of a tax invoice upon receipt of cash?

Construction Industry	Remarks
1. What supplies are subject to GST in the construction industry?	
2. What charges are subject to GST in the construction industry?	
3. If I have a construction business registered outside Malaysia, do I have to account for GST?	
4. If I am registered in Malaysia and provide construction services outside Malaysia, is the supply subject to GST?	
5. Can I claim input tax for the services related to the supply of construction project? For example, professional services of architects.	
6. Can I claim input tax credit on landscaping work constructed on the residential property which is required by Planning Authorities?	
7. Can I claim input tax on built-in-furniture supplied together with the construction of building?	
8. I provide construction services to a land owner who in return (after completion) leases the land and building to me for a period of 5 years. Can I contra the payment of the construction services with the lease payment? When do I have to account for GST?	
9. I provide construction services to a landowner who in return gives to me 20 units of the commercial building. How and when do the land owner and I have to account for GST?	
10. The developer purchased and supplied the contractor with building materials and workers. Can the contractor deduct the value charges for these supplies from the amount of progressive payments due to him?	

11. In relation to the question above, how should the developer and contractor account for the GST?

12. Supplies in form of sale, lease or rental of residential properties are exempted from GST. Does it mean that all construction works related to such residential properties, being an exempt supply, are exempted from GST too?

13. The construction contract allows the client such as the developer or an individual to withhold a percentage from the payment of each progress billing pending satisfactory completion of the entire contract. Is this withholding or the retention amount subjected to GST?

Property Developer	**Remarks**
1. As a developer, I supply both commercial and residential property. Am I liable to be registered?	
2. What are the supplies subject to GST in the real estate industry?	
3. In the course of undertaking a property development project, I have to surrender part of my land / property back to the State Authority for no monetary considerations to be used for educational, religious, charitable or public purpose. These supplies include roads, police station, schools, recreational areas and other public amenities. Are these supplies subject to GST?	
4. I also have to transfer the infrastructure of utility services such as substations, sewerage treatment plant and water tank to the respective utilities provider for a purely nominal charge. Are these transfers / supplies subject to GST?	
5. I charge interest for late payment. Is this interest payment subject to GST?	
6. When do I have to account for GST on the sale of a completed non-residential property?	
7. If I am a developer registered in Malaysia and sell non-residential property in Malaysia, do I have to account for GST on my supplies?	

8. If a local developer in Malaysia supplies non-residential property in the designated area, is the supply subject to GST?

9. Is the input tax incurred for the entire property development incorporating residential, commercial and industrial units recoverable?

10. Can I claim input tax for the incidental supplies of the main development project such as landscaping, roads, school, police station and other public amenities?

11. Can I claim input tax on speculative supplies which are incurred in the course of investigating potential projects?

12. Do I have to account for GST if my project is abandoned?

13. I make payment to my contractor to compensate him for losses due to temporary suspension of work. Is the payment paid for temporary suspension of work requested by me subject to GST?

14. I supply materials and utilities and loan workers to contractors for use in my project. Can I contra the value of the materials, utilities and workers I supply to the contractor from value of the construction services supplied to me?

15. What is the GST treatment on the service apartment and the shop houses which will be used as partially commercial and partially residential?

Appendix 1

Zero Rated Supply

The government has announced a comprehensive list of goods and services that will be treated as zero rated supplies. The list includes:

- **Food items –** Live animals, animal products, vegetable products and some prepared food stuff. The approach by the government to identify products that will be zero rated is to use the Customs tariff codes for the items. The list also includes a significant number of items covered under the Control Supplies Act 1961.

- **Other goods**
  - Goods supplied to Labuan, Langkawi and Tioman
  - Goods supplied in connection with international shipping and air transport services
  - Supply of treated water (unlimited) to domestic consumers
  - First 200 units of electricity to domestic household
  - Supply of raw materials and components for approved toll manufacturing scheme

- **Services** – Zero rated services will include:
  - Services and replacement parts in connection with ships and aircraft (excluding private use)
  - International transportation of passenger and goods
  - Leasing of goods outside of Malaysia
  - Services rendered in connection with goods or land outside Malaysia
  - Services rendered to a person outside Malaysia
  - Specified services provided in Malaysia to a person (in his business capacity) who belongs outside Malaysia
  - Insurance relating to export of goods; services connected with the export of goods
  - Insurance of risk outside Malaysia
  - Telecommunication services provided to outside Malaysia
  - Services supplied relating to co-location of computer servers equipment in Malaysia belonging to a person outside Malaysia
  - Advertising services made available outside Malaysia
  - International mail services
  - Qualifying inbound/outbound tour services
  - Lease of air or sea containers

Exempt Supply

Exempt supply means goods and services supplied by businesses that do not attract GST, but GST paid on their inputs cannot be claimed as credit. The goods and services to be treated as exempt supplies include:

- **Goods**
    - Land and building used for residential, agricultural, burial and religious purposes

- **Services**
    - Financial services:
        - The operation of any current, deposit or savings account
        - The provision of any loan, advance or credit or other similar facility
        - The transfer of derivatives/securities
        - Unit trust transactions
        - Life insurance / Family Takaful
        - Islamic financial services will be given the same treatment as conventional financial services

      *It is to be noted that any fee, commission, or similar charges associated with the above services will be treated as a taxable supply.

    - Education services
    - Childcare services
    - Healthcare services
    - Rental of residential properties and accommodation (more than 28 days)
    - Public transport
    - Toll
    - Funeral, burial, and cremation services
    - Qualifying supplies by societies and associations

Out-Of-Scope Supply

The Government, in the 2014 Budget Announcement, were silent on the types of goods and services that will treated as out-of-scope supply.

However, the Tax Review Panel has proposed that the following goods and services to be deemed as out-of-scope supplies for GST purposes:

- Non business supplies (e.g. private transactions, hobbies)
- Penalties, fines, compound, compensation
- Supplies made outside Malaysia
- Government supplies
- Supplies by statutory bodies and local authorities with respect to regulatory and enforcement functions
- Dividends / gain on sales of investment
- Wages and salaries