

FIRST SCHEDULE

[Section 4]

MATTERS TO BE TREATED AS A SUPPLY OF GOODS OR A SUPPLY OF SERVICES

Transfer

1. (1) Any transfer of the whole property in movable goods is a supply of goods but subject to subparagraph (2) the transfer—

(a) of any undivided share of the property in movable goods; or

(b) of the possession of the movable goods,

is a supply of services.

(2) If the possession of movable goods is transferred—

(a) under an agreement for the sale of the movable goods; or

(b) under an agreement which expressly stipulates that the property in movable goods will pass at some time in the future,

it is a supply of goods.

Land

2. (1) In the case of land, any transfer of—

(a) the whole right of ownership in land;

(b) land under an agreement for the sale of such land;

(c) land under an agreement which expressly stipulates that the ownership of such land will pass at some time in the future;

(d) any interest under Deed of Assignment; or

(e) any strata title,

is a supply of goods.

(2) Any lease, tenancy, easement, licence to occupy land or transfer of undivided share in land is a supply of services.

(3) Where there is a default in payment under a security relating to land, the transfer of such land shall be treated as a supply of goods.

Treatment or process

3. Any treatment or process which is being applied to another person's goods is a supply of services.

Utilities, etc.

4. The supply of any form of power including electricity and the supply of gas, water, refrigeration, air-conditioning or ventilation is a supply of goods.

Transfer, etc., of business assets

5. (1) Subject to subparagraph (2), where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, the transfer or disposal is a supply of goods by the person.

(2) Subparagraph (1) does not apply where the transfer or disposal is—

- (a) a gift of goods made in the course or furtherance of the business made to the same person in the same year where the total cost to the donor is not more than five hundred ringgit; or
- (b) a gift, to an actual or potential customer of the business, of an industrial or commercial sample in a form not ordinarily available for sale to the public.

(3) Whereby or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of goods is a supply of services.

(4) Subparagraphs (1) and (3) shall not deem anything done not for a consideration as a supply except where the person who is carrying on a business is entitled to credit under section 38 on the supply or importation of the goods.

(5) The supply of goods in subparagraph (1) or the supply of services in subparagraph (3) is to be treated as made in the course or furtherance of the business, and in the case of a business carried on by an individual—

- (a) subparagraph (1) shall apply to any transfer or disposal of goods in favour of himself personally; and
- (b) subparagraph (3) shall apply to goods used or made available for use by himself personally.

(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 and the goods are excluded from any credit under subsection 38(12), the use of such goods by him, whether for a consideration or not, shall be treated as a supply of goods.

(7) Where any goods, forming part of the business assets of a taxable person, are sold by any other person who has the power to do so to recover any debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person in the course or furtherance of his business.

(8) Subject to subparagraph (9), where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

- (a) the business is transferred as a going concern to another person under section 68; or
- (b) the business is carried on by a personal representative who is deemed to be a taxable person under section 31.

(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—

- (a) that no credit for input tax in respect of the supply or importation of the goods has been allowed to him and 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; or
- (b) that the goods were acquired by him from a person other than a taxable person.

Supply of services to connected persons

6. Subject to subparagraph 5(3), 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, the supply to the connected person is a supply of services.