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Ministry of Finance
100 High Street, #10-01
The Treasury
Singapore 179434

BY EMAIL (pc_gstabil@mf.gov.sg)
& POST

Dear Sirs

**Public Consultation on the Draft Goods And Services Tax ("GST")
(Amendment) Bill 2014**

We refer to your email of 11 June 2014 inviting the Law Society to provide feedback on the above consultation.

2 The consultation was referred to the members, whose views are set out below. The Council of the Law Society ("Council") has considered and shares the views put forth and would be grateful for MOF's clarification on certain aspects of the proposed amendments.

I) Allowing GST-registered persons to fully claim GST on re-import of goods belonging to their customers

Sections 27, 27A and new section 33B

*The GST Act will be amended to allow GST-registered persons to **fully** claim the GST (and use relevant GST suspension and deferment schemes) on re-import of value-added goods belonging to their customers, subject to specified conditions. The change will equalise the GST implication between the GST-registered persons performing the value-adding activity in Singapore (where there is no need to re-import the value-added goods), and outsourcing the value-adding activity overseas.*

3 Members take the view that, for greater clarity, either MOF or the Inland Revenue Authority of Singapore ("IRAS") may wish to consider defining the terms "consigned" and "treatment and process", either in the main legislation or in the regulations and circulars to be drafted. It was further noted that in some circulars, for example, the e-tax guide issued by IRAS for Retailers, the definition of "consignment" is referred to as "agreeing to sell the goods without first buying those goods from the owner". However, it is not clear as to how such a definition could apply to an outsourcing arrangement.

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4 It is suggested that clarification may be given to state that, within the context of outsourcing, "consignment" would refer to a situation where goods are sent to the taxable person by the customer for the purpose of applying or carrying out a "process" on such goods, and that legal title to the goods does not pass to the taxable person.

II) Providing for non-legal entities to claim and account for GST on goods, land, buildings and intellectual properties

Sections 2, 8, 19 and Second Schedule

To put non-legal entities on par with legal entities (e.g. a company) with regard to the GST implication of holding properties, the GST Act will be amended such that GST-registered non-legal entities will:-

(a) Claim GST incurred on acquisitions (e.g. a purchase) of such properties as if they are the legal owners; and

(b) Account for GST on supplies (e.g. a sale) of such properties as if they are the legal owners.

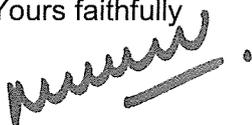
5 It is noted that under the current GST Act, Section 19(2) states that the "taxable person" (defined as defined as a person who is required to be registered under the Act) is entitled to GST credits. The proposed amendments clarify that (i) where a taxable person which is a non-legal entity is concerned, and (ii) where the supply is made by a bare trustee, the supply will be treated as a supply made by the taxable person and not the bare trustee.

6 However, if there should be an excess of input tax over output tax and the non-legal entity is entitled to a GST refund, there is a lack of clarity as to who or which legal entity within the non-legal grouping (for example, the individual partners in a partnership) would be entitled to the refund. It appears that one would refer to basic principles of partnership law and the relevant law on clubs and associations to determine how any tax refunds would be apportioned.

7 We suggest that MOF or IRAS may wish to provide clarity (whether in the legislation, circular or e-tax guide) on the mechanics of how the refunds would be paid out and apportioned, if at all.

8 We thank you for inviting the Law Society to participate in this consultation and look forward to an update in due course.

Yours faithfully



Michelle Woodworth
Director (HoD), Representation & Law Reform Department