GST TO SST | THE EDGE ctm

Revisiting the previous SST regime


BY CHOW CHEE YEN AND JOANNE HOOI – ADVENT MOORE STEPHENS

	SALES TAX	SERVICE TAX
Basis of taxation	Sales tax is a single-stage consumption tax imposed on taxable goods manufactured locally and/or imported.	Service tax is a single-stage consumption tax levied and charged on prescribed taxable services provided by prescribed taxable persons.
Rate of tax	Generally, sales tax rate is 10%. However, certain categories of goods will be subject to sales tax at the following rates: • 5% • 20% • Specific rate	• 6% of the price, charge or premium of taxable services • Credit card/charge card: – RM50 per year on the principal card – RM25 per year on the supplementary card
Legislation	Sales Tax Act 1972	Service Tax Act 1975
Threshold	RM100,000	Various thresholds, generally RM150,000 and RM300,000
Example of taxable goods/services	• Imported fruits and certain foodstuffs • Certain electrical appliances • Motor vehicles • Cigarettes and tobacco products	• Provision or sale of food and drinks in a restaurant • Telecommunication services • Management and consultancy services

The sales tax and service tax ("collectively refer to SST") were introduced in 1972 and 1975 respectively. However, as a result of the disadvantages under the regime, it was replaced with the Goods and Services Tax (GST) at the rate of 6% with effect from April 1, 2015.

After its triumph at the 14th general election, the new Pakatan Harapan government announced that GST will be abolished and SST will reintroduced in September.

The previous SST

Goods exempted from Sales Tax

- All exported goods
- Live animal, fish and seafood
- Certain essential food items including meat, milk, eggs, vegetables, fruits and bread;
- Medical and educational equipment; and
- Photographic equipment and film.

Sales Tax — Exemption from licensing

Any person who manufactures taxable goods in the course of business is required to be licensed as a sales tax manufacturer. However, certain manufacturing activities are exempted from this licensing requirement, which include:

- Incorporation of goods into buildings;
- Manufacture of ready-mixed concrete; and
- Repacking of bulk goods into smaller packages by a person other than a licensed manufacturer

Disadvantages of SST

Cascading effect (double taxation)

An efficient taxation regime avoids "tax over tax" or the "cascading effect", which may lead to inflation.

Under the previous SST regime, there were circumstances under which consumers had to pay tax on tax.

For instance, when a licensed manufacturer sold his manufactured soft drinks to a restaurant operator, he was liable to charge sales tax at 10% to the restaurant operator. As there was no credit system under the SST regime, the sales tax charged by the licensed manufacturer would become a cost to the restaurant operator.

The restaurant operator in turn sells the soft drinks to its customers. If the restaurant operator was licensed with service tax, he had to charge service tax at 6% on the provision of food and drinks.

Based on the above example, it is clear that there was a cascading tax effect where the consumer paid sales tax and service tax on the same goods (the soft drinks purchased at the restaurant). Thus, the effective tax rate suffered by the consumer under the SST regime turned out to be 16.6%.

The above cascading tax effect does not happen under the GST regime as it has a tax credit system.

Compounding effect

Sales tax is a single-stage consumption tax, which means that sales tax is only imposed at the manufacturer level or when goods are imported into Malaysia. Subsequent sale of goods is no longer subject to sales tax.

Although sales tax is imposed at the manufacturer level only, there will be a compounding effect when the goods are sold through the supply chain.

The problem in distinguishing between cost of goods sold and the tax element in the price often benefits the traders at the expense of government revenue.

GST is an effective tax system as the tax will be captured at every stage of the supply chain and thus will not result in tax loss to the government.

Less transparency

Under the GST regime, any GST paid by final consumers will be indicated on the tax invoices issued by a GST registrant. However, under the SST, sales tax paid (if any) by the final consumer is not shown in the invoice as it is embedded in the price of the goods.

Thus, the final consumer is not aware of the amount of sales tax paid, if any.

Bureaucratic red tape

Under the previous sales tax regime, in order to uphold the single-stage concept, there were facilities for licensed manufacturers to obtain taxable raw materials and packing materials free of sales tax for use in the manufacturing of finished goods.

A licensed manufacturer had to apply for approval to get tax-free materials or get special exemption for capital goods used in the manufacturing process. This bureaucratic practice costs taxpayers both time and money.

Under the GST regime, there is no such practice as businesses can offset the GST paid on inputs in their GST returns.

No complete tax relief for goods and services exported

Under the previous SST regime, there was no complete tax relief for goods and services exported.

However, under the GST regime, exportation of goods and services is zero rated and thus, the overall cost of doing business becomes lower, which will in turn help the export sector to be more competitive.

Issue of transfer pricing and value shifting

Sales tax is imposed at the manufacturer level only. Generally, a sales tax licensed manufacturer will establish a related entity (trading arm) to reduce the payment of sales tax.

For example, a licensed manufacturer sells its manufactured finished goods to its related entity at a price of RM100 and pays sales tax of RM10 (10%). The related entity in turn sells the goods to retailers at RM200 and thereafter, the retailer sells the goods to the final consumer at the price of RM250. The sales tax collected by the government is RM10 only.

Under the GST regime, the government can overcome the tax loss through the transfer pricing as GST is based on the final retail price irrespective of intermediary sales. Using the same example, GST to be collected by the government is RM15 (6% of RM250).

Shadow economy

One of the objectives for the introduction of the GST in 2015 was to combat the existence of a shadow economy. Businesses that operated in the shadow economy prior to the GST implementation would have to come forward and register for GST to enable them to claim the GST paid on their business inputs.

This not only brings them into the GST net, but perhaps also the income tax net for the first time, which contributes to more revenue for the government.

The reversal to the SST regime might lead businesses to go back to the shadow economy, which in turn, may result in less tax collection by the government.

Classification issue

SST is charged on selected taxable goods and services. This will give rise to classification issues — determining whether specific goods or services are subject to GST or vice versa.

For instance, one of the prescribed taxable services is the provision of consultancy services. However, there are no clear definitions in service tax legislation as to what constitutes taxable consultancy services.

Save and except for certain industries (such as the retailing industry having many stock keeping units), there are less classification issue in the GST regime as the tax is broad based and imposed on most goods and services.

Impact on consumers

Generally, it is anticipated that the reimplementation of SST might bring down prices as SST is to be imposed on selected goods and services only.

It is also important for the relevant authorities to ensure that businesses do not profiteer and pass the benefits of price reduction to the public at large.

Impact on businesses

Businesses will incur additional costs for the reimplementation of SST, for instance, upgrading of their accounting system and providing training for their employees. However, it is anticipated that the SST implementation cost would not be as substantial as compared to that incurred in implementing GST.

Impact on government's revenue collection

Since the introduction of GST in 2015, the tax revenue collected by the government is as follows:-

- 2015 — RM27 billion
- 2016 — RM41 billion
- 2017 — RM44 billion
- 2018 — RM45 billion (estimated for the whole year)

Meanwhile, the highest SST collected by the Government was RM17 billion in 2014. This means that the Government may be foregoing more than RM20 billion in tax a year with the reintroduction of SST.

In order to match the GST revenue collection, the government is expected to broaden the scope of taxable goods and services under the new SST legislation.

Otherwise, the government may have to tighten its belt or source for additional revenue through other viable means.

New SST legislation

To date, there are no details on the SST mechanism that is to be reimplemented, as the Finance Ministry and its related agencies are still studying its mechanism.

The new SST legislation and GST transitional provisions are expected to be tabled and passed in the July sitting of Parliament, which would concurrently repeal the Goods and Services Tax Act 2014.

It is hoped that the new SST legislation will be able to address the disadvantages of the previous SST regime and perhaps the government may consider introducing a hybrid GST and SST tax system. E

Chow Chee Yen and Joanne Hooi are members of the GST-SST Transformation Working Group