GST TO SST | THE EDGE ctim

SST — little time for businesses to set wheels in motion

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The Goods and Services Tax (GST) was implemented on April 1, 2015, after a long and somewhat convoluted process since it was first mooted as a possibility to replace the previous consumption taxes — the Sales Tax and the Service Tax. However, GST's reign was short-lived, and it will be replaced with a Sales and Services Tax (SST) from Sept 1.

The Pakatan Harapan government's swift announcement to abolish GST caught businesses by surprise as not many had expected it to happen so soon. With less than two months to go, businesses are anxiously awaiting guidance and details of the new SST so as to set the wheels in motion.

The transition period for the shift from GST to SST is short as the draft bill is to be tabled in parliament next month. This means the nitty-gritty of the proposed legislation will only be available then, and businesses will have very little time to get ready. It is widely speculated that SST will be largely similar to the previous Sales Tax and Service Tax.

Fundamentally, there are many aspects that businesses must have ready when SST goes live, including the IT set-up, compliance management/requirements, education/training for relevant personnel, accounting and finance, and so forth. Notwithstanding this, it is certainly expected that as SST will be imposed at a single stage, the preparation/familiarisation will be much easier than it was for GST.

It is, nevertheless, imperative for the management and stakeholders to ensure that they are ready to face the potential challenges or issues that may impact their business.

As the draft bill was not available at the time of writing, this article will not cover the technical aspects but focus on the practical issues, among others, that businesses need to review and address following the reintroduction of SST.

Pricing

One of the significant differences between GST and the previous consumption taxes was the credit mechanism, better known as the input tax credit, under the former. The latter did not have a similar facility to allow businesses to set off or claim a refund of the input tax incurred. The effect of not having this facility is that the tax levied higher up the supply chain will result in a cascading effect.

Thus, if tax is levied at 10% at the manufacturer's level, the wholesaler who buys from the manufacturer will treat the 10% tax as his cost that will have an impact on his profit margin. He thus increases his profit margin, often times by more than the tax cost. This occurs again at each level of the supply chain. At the consumer's level, the cumulative cascading effect is that the tax would be more than the initial 10%. Since the tax is not shown separately, all that the consumer sees is an increase in the price of the product. There is no cascading effect under GST as the tax is eliminated via the input/output mechanism.

SST can therefore be distinguished from GST by the absence of the credit mechanism, the impact of which is that the prices of those products that fall within the former's ambit will be higher unless the rate is substantially lower than 6%.

The cascading effect of the tax will pose a challenge to setting the prices as businesses will have to factor in this new cost element that could vary from business to business. It would be a tricky situation for businesses to price their goods or services in this situation, especially for small players if they are to compete against the big players who can leverage business volume and so forth, and thus manage their costs more efficiently.

Some say the pricing impact would be less or neutral if a credit mechanism is available to businesses that are registered for SST. If this is done, then the tax is on value-added, which is universally termed as VAT or what we call GST. By definition, VAT/GST is on value-added while sales tax is on sales value. We cannot go back to square one, or can we?

On a related note, any long-term contracts entered into during the GST era or before should be revisited to determine if the pricing will be impacted going forward. If the SST incurred cannot be claimed as a credit and where the pricing is fixed with no room for adjustment, the profit margin or earnings will be adversely affected.

The rate of SST plays a crucial role in determining the appropriate pricing but it is fair to assume that the rate will not be higher than previously as the government is committed to managing the burden faced by the rakyat. The previous rates were 10% on average in respect of the Sales Tax and 6% in respect of the Service Tax.

Price Control and Anti-Profiteering Act

While setting the right pricing is important for businesses to remain competitive, they must not ignore the requirement to comply with the Price Control and Anti-Profiteering Act (PCAPA). Under it, it is an offence for traders/businesses to make unreasonably high profits.

It should be noted that the mechanism to determine unreasonably high profits has been amended to cover all forms of supplies, effective June 6. Before this, only specific household goods were covered.

This mechanism is based on a prescribed formula that PCAPA regulations stipulate, and many would agree that the formula is complicated. It is based on the mark-up percentage or the margin percentage of goods and services in a particular financial year or calendar year.

Although the law can be seen as somewhat harsh as it curtails free enterprise, it is necessary to minimise indiscriminate price increases by traders.

When GST was implemented, the Ministry of Domestic Trade, Co-operatives and Consumerism conducted inspections on businesses, which included examining business records to ensure compliance. Various offences were detected and most of the offences were related to price tagging, misleading price description, price increase and profiteering, and so forth.

Last year, the ministry issued close to 5,000 notices to offenders, comprising mainly retailers, supermarkets, restaurants and wholesalers. The enforcement initiatives undertaken should not be taken lightly as it is envisaged that similar inspections and investigations will be carried out pre and post-SST.

Therefore, businesses must be prepared from the PCAPA's standpoint as ignorance of the legal requirements is a potential cost to them.

Cash flow

Under the GST regime, some businesses were impacted by a delay in refunds, which was largely attributed to the additional time needed by the Royal Malaysian Customs Department (RMCD) to audit or verify their transaction records.

GST refunds that are still pending or were not approved by the RMCD must be dealt with swiftly before SST is implemented. Constant follow-up with the officer in charge might expedite the process but, more importantly, the information requested must be provided on a timely basis.

The cash-flow impact can be a costly affair to a business if the refund is prolonged; this will be an additional cost if not properly managed.

Previously, the Service Tax was due when the payment was received from customers or in 12 months from the date of the invoice, whichever was earlier. The Sales Tax, however, was payable upon the sale of goods.

By applying the same old rules, service providers should be least affected compared to Sales Tax registrants, given that the payment of tax is upon collection or 12 months later. From a cash-flow perspective, any amendment to the law to require the payment of the tax upon the issuance of the invoice will certainly hit businesses that provide credit terms.

To importers, cash flow will be an issue as the importation of goods will attract the Sales Tax unless an exemption is granted. Exemptions, more commonly known as CJ 5 facilities under the old Sales Tax, were previously available to manufacturers that imported goods for manufacturing taxable goods.

A further, and perhaps more problematic, cash-flow issue is for traders to maintain the same selling price under a contractual obligation as the Sales Tax incurred on inputs is not claimable as an input tax.

Depending on how the new legislation is drafted, the cash-flow impact arising from the above should not give rise to a severe effect if the gap between the date of supply and the date of payment received is appropriately managed.

Transitional issues

Certain transitional issues would potentially impact ongoing projects that extend beyond the SST's effective date.

For example, the requirement to make taxable supplies before the input tax is claimable will have a negative impact on businesses with a long gestation period. If there is no transitional/savings provision to enable said businesses to claim the GST incurred when the tax is repealed, the project cost for such operations will inflate.

Many more transitional issues will surface when the framework is finalised. Until then, businesses should review and determine if there are any potential issues for projects/transactions that extend beyond the implementation date of SST. If there is any, they must communicate with the Ministry of Finance/RMCD to highlight the issue and seek some form of remedy, if possible.

Accounting system

Unlike GST, the configuration of the accounting system for SST is expected to be straightforward. If the proposed SST legislation is basically similar to the previous consumption taxes, the investment required to tweak the system should be minimal.

Conclusion

The legislation of the previous consumption taxes was enacted in 1972 (for the Sales Tax) and 1975 (for the Service Tax). Back then, the Sales Tax was only relevant to the manufacturers while the Service Tax was only applicable to prescribed services. It should be noted that the highest-ever revenue collected under that regime was RM17 billion.

In other words, the base of the previous consumption taxes was rather narrow compared with GST's, which covered almost every aspect of transactions or supplies, and where the revenue collected was far more superior — an average of RM40 billion a year.

Thus, it is unlikely that the PH government can achieve its targeted revenue collection of RM30 billion under SST unless the tax base is broadened. This can be a conundrum for the government as too broad a base would mean more things will fall under SST's ambit, a reason why GST was rejected.

For now, the business community needs to get ready for the impending changes and ensure that transitional issues, coupled with new requirements under SST, are properly managed.

It is too early to assess the full impact of SST on the nation and the economy as a whole, as there has been hardly any consultation between the Ministry of Finance/RMCD with the professional accounting and tax bodies. However, the public seems to generally view it positively with the hope that the cost of living will fall. That, however, is another matter as indiscriminate price increases and profiteering have always been there and will continue to exist unless the authorities devise a more efficient way to enforce the relevant laws/regulations to control profiteering.

We watch this space with interest... E

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