

National GST Conference 2016

May 31st ~ June 1, 2016



Manage “**GST**” towards
GST Compliant

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Day 1 Special Highlights and Comments

Issue	GST System Changes' Comment
2 years grace period for GST to be carried out	It is not a true statement. No such thing. Action will be taken from case to case basis.
Only one amendment in GST submission	Apply via TAP if you have valid reasons for more than one amendment
Late Payment Penalty	Late payment penalty is on the whole amount; not the balance to be paid RMCD considers De Minimis rules on the late payment penalty but subject to parliament reading and approval
Partial Special Refund without reason	Those businesses with partial special refund may write in for reasons
Under-declaration of importation	GST on importation is not allowed as input tax credit For example, under-declared new part after warranty repair
Reimbursement vs disbursement	Any thing which is not disbursement shall consider as reimbursement. For example, supply of secondment staff to subsidiaries as per Guide on Supply
Individual with commercial properties	It must register for GST when the conditions met. It is a deemed provision that the individual is carrying a business.
Power to assess	DG has no hesitate to exercise the power to asses (section 43 of GST Act 2014) when no GST return and payment from registrant.

Day 1 Highlights and Comments

Issue	Conference Consensus	GST System Changes' Comment
No of GST Registrants	412,715 (23/05/2016)	The number is going to increase
Underground economy	Motor vehicle repairs Cigarette Sales Wholesales Illegal logging	Due to issuance of tax invoice, all undeclared transactions in the past are surfacing. Merchants cannot manipulate the accounts
Compliance Level	Moderately high	Many countries have < 80% compliance on the first year of GST/VAT operation
Power to assess	DG of RMCD has no hesitate to exercise his right to make assessment	Section 43 Power to Assess had exercised since October 2015 and to be continued in the future
Special Refund	The allocation of refund is under-utilized	Reasons: <ul style="list-style-type: none"> • Unfamiliar with the Sales Tax Refund Mechanism • It splits into 8 installments – affect cash flow • The price has to bring down if sales tax refund is successful • Fear of Special Refund rejection

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Tourist Refund Scheme	Global Blue Tax Free scheme	TRS is mainly credit card and payment by cheque as the amount of refund is usually more than MYR300. Cash refund of less than MYR300 is sited
Input Tax Refund	Online = 14 days Manual = 28 days Still trying to fulfill the refund period gazette by law. Delay is due to "cheating" and RMCD sends the case to court Average refund in other country is 56 days	The case of MYR144 million input tax credit was fictitious and "cheating". RMCD has filed to the court as reference case. Stay tune to newspaper announcement.
Zero Rated Booklet	RMCD has a long list of zero rated items	Overseas GST mechanism has very little on zero rated items because all items are taxable. Only Malaysia has the longest list of zero rated items

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Special Refund	2,533 of 70,000 claims special refund	Those not claiming special refund use the approach of topping up 6% on the current stock price. Therefore did not see the price went down in the past
Price Control and Anti-profititeering Act	Effective Period – 01/01/2015 ~ 30/06/2016 Ministry is reviewing the effective period extension	Merchants will not subject to the Act after 30/06/2016. Indirectly, they may adjust and rise the price after 30/06/2016
Amendment to GST Return	ONLY one amendment is allowed and has to be submitted not later than the last day of the submission related to subsequent taxable period <More than one amendment needs approval through TAP>	Personal opinion is that the GST return amendment can do it once. But if you have valid reasons to review more than once, you can seek approval for amendment via TAP.

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Late Payment Penalty	Penalty is on the amount of tax due and payable; not on unpaid amount	For example, you pay 8000 out of 10000. Late payment penalty is calculated at 10000 @ 5% on the 1 st 30 days
Disbursement	Conference chairman added one condition: Disbursement must incur three parties	<ul style="list-style-type: none"> • Not a supply • Not entitled for input tax credit • Involves three parties <ul style="list-style-type: none"> • The provider • The agent • The recipient
Reimbursement	Conference chairman added that it is two parties transactions	<ul style="list-style-type: none"> • A supply • Entitle for input tax credit • As a principal and direct recovery from the recipient
Individual supply of commercial properties	<ul style="list-style-type: none"> • > 2 commercial properties • > 1 acre of commercial land • > 2 million ringgit at market price • Residential properties not required 	<ul style="list-style-type: none"> • Required for GST registration • Even though individual has infrequency of supplies, it did not prevent an activity from being treated as a business (David Wickens Properties Ltd (1982)

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Under-declared importation	Deputy DG mentioned that no input tax credit allowed for such transaction	You have to pay the shortage of GST on importation as per Guide on Import You may not entitle for input tax credit. But today mentioned that you are not allowed to claim input tax credit
Over-declared importation	No provision for the time being	You claim GST on importation as per payment made with K1 form and Customs Official Receipt
Drop Shipment or Exportation	If a LMW is selling to overseas but delivery within Malaysia and delivers to another LMW. <ul style="list-style-type: none"> Not qualified for relief 	<ul style="list-style-type: none"> Since the place of supply for goods of delivery is within Malaysia rather than exportation that leaves the border of Malaysia, it is standard rated supply Relief is not applicable between LMW
Warranty – Goods exported for repair	<ul style="list-style-type: none"> If new part is added or replaced, it is subject to GST importation If no replacement, then it is a relief from payment of tax 	<ul style="list-style-type: none"> It requires identification whether any new part of replacement added to the goods.

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Joint Audit between Customs and IRB	They plan for a joint audit	No comment
Bonded warehouse	Local goods sells to businesses located in the bonded warehouse is standard rated supply When the business withdraw the goods with K9 in the bonded warehouse is treated as GST on importation	This means that the customer is actually paying two times of GST. However, he can claim both input tax credit with tax invoice and K1. This is practical in O&G The process is subject to review

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Day 2 Highlights and Comments

Issue	Conference Consensus	GST System Changes' Comment
Singapore Audit & Compliance Experience	<p>4 level of IRAS Belief</p> <ul style="list-style-type: none"> • Voluntarily Compliant • Unaware • Negligent • Errant 	<p>Most of the businesses are voluntarily compliant. Education is necessary for unaware registrants to prevent non compliance. GST Audit is to detect the negligent that does not comply with regulation. However voluntarily disclosure shall help to reduce the penalty. Heavy penalties shall impose after series of investigation and enforcement to bring the errant to be compliant. Prosecutions to court are possible.</p>
GST Audit Landscape in Singapore	<ul style="list-style-type: none"> • Traditional adversarial approach • Mindset shift in tax compliance • Pro-active Engagement • Voluntarily compliance 	<ul style="list-style-type: none"> • GST Audit and impose penalty • Threaten for the consequence for non compliance • Education and Training • Public awareness • ASK – Assisted Self Review Kit • Dialog and Feedback • Public ruling and meeting • Reduce penalties within 12 months of disclosure • GST amendment is considered voluntarily disclosure • Voluntarily disclosure program • ACAP – Assisted Compliance Assurance Program

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Regulation 69 – GST Act	Correct of Errors	The time frame as determined and announced in the conference is not later than last day of the submission period
Goods and Services	Not a supply of goods means a supply of services	Either goods or services
Online Business Registration	Urge for those online business to do registration	Section 65(6) shall trigger a lot of agents from wechat, alibaba, taobao and etc for registration
Designated Areas	Section 154 excludes designated areas from Malaysia	Therefore it shall treat as ZRE with K2 or K3 form
Appeal to Tribunal	<p>It can trigger after:</p> <ol style="list-style-type: none"> 1. DG Decision is made 2. Person to apply 3. Tribunal fee is paid 	Follow the law
	Cannot refer to other court once Tribunal is set up except the case is abandoned	Follow the law

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Tribunal	Discuss substance of matter	Follow the law
High Court	Discuss procedure / process and judicial review	Follow the law
Merger of IRB and RMCD	Potential but not now	Time will tell
Likelihood for GST hike	Unlikely in the near future. For example, service tax was introduced in 1975 and was raised only once in 40 years	Ultimate target is 10%
Bitcoin and virtual currencies	Speaker mentioned that virtual currency is a form or legal tender or not. It is still referred to preliminary hearing from Court of Justice, European Union	Current interpretation from Singapore and Malaysia are treating virtual currencies and virtual items are supply of services instead of legal tender. EU accepts bitcoin and virtual currencies as legal tender but we do not have the issue yet

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Day 2 Special Highlights and Comments

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Appeal to Tribunal	<ul style="list-style-type: none"> DG Decision is made Person file a case Once accepted, the case cannot refer to other courts except it is abandoned 	<ul style="list-style-type: none"> Follow the law
Bitcoins and virtual currencies	<ul style="list-style-type: none"> Recognize in European countries as legal tender Not recognize in Malaysia as legal tender 	<ul style="list-style-type: none"> As such, virtual currencies are supply of services rather than exempt supplies of currencies
Singapore GST Audit Landscape	<ul style="list-style-type: none"> Traditional adversarial approach Mindset shift in tax compliance Pro-active Engagement Voluntarily compliance 	<ul style="list-style-type: none"> Penalties and GST Audit to enforce compliance Pre-filing review and self compliance Voluntarily disclosure GST-03 amendment is a form of voluntarily disclosure ASK and ACAP carried out by members of Singapore Institute of Accredited Tax Professionals
Australian GST Audit Experience	<ul style="list-style-type: none"> Risk focus Match data Refund and cash economy Complex issues 	<ul style="list-style-type: none"> Risk filters into ERP or accounting software Collating intelligence and data modelling Pattern analysis and risk models
Compliance challenge of existing system	<ul style="list-style-type: none"> Detail localization required Limited exception reporting Not GAF friendly 	<ul style="list-style-type: none"> Lack of understanding of the GAF Lack of Finance IT who is familiar with Finance and IT framework Lack of self-review initiatives

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Assisted Self Help Kit (ASK)	<ul style="list-style-type: none"> Diagnostic tools Self review Pre-filing or annual review 	<ul style="list-style-type: none"> Suitable for SME and corporates Avoid costly GST errors and mistakes Half yearly review or after change in GST laws Records keeping requirements
Assisted Compliance Assurance Program (ACAP)	<ul style="list-style-type: none"> Diagnostic for large corporates GST Risk Management GST Control Framework 	<ul style="list-style-type: none"> GST Control Framework <ul style="list-style-type: none"> Control environment Control activities System controls Change management Information and communication Monitoring and review
Person to carry out	<ul style="list-style-type: none"> CPM firm Tax affiliates Internal audit Jointly by CPA and IA 	<ul style="list-style-type: none"> Singapore Institute of Accredited Tax Professionals (SIATP) members

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GST Correspondence Audit	<ol style="list-style-type: none"> Informed taxpayer for GST Audit Encourage voluntarily disclosure Encourage using ASK Perform field audits 	<ul style="list-style-type: none"> Official communication GST Audit expectation
Preparation for GST compliance audit	<ul style="list-style-type: none"> Pre-audit During audit Post-audit 	<ul style="list-style-type: none"> Request scope of audit Request for expectation Inform management Interview Coordinative Apply for review Accept the consequence Not to repeat in the future



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Australian Audit experience	<ul style="list-style-type: none"> Risk focus Match data Refund and cash economy Complex issues 	<ul style="list-style-type: none"> Key risks are refunds, cash, evasion, system of reporting, property, financial supplies, international and overall governance Risk filters embeds into ERP and accounting software Match data in Malaysia maybe import and export to GST-03 via SMK Collating intelligence and data modelling to manage refund population Trend and patterns that are outside the norm Pattern analysis and risk models
Audit and compliance experience from CPA	<ul style="list-style-type: none"> More sophisticated audits using data interrogation 	<ul style="list-style-type: none"> Regulations Change in reporting environment Interactive Data Extraction and Analysis (IDEA)
Compliance challenge – existing systems	<ul style="list-style-type: none"> Detail localization required Limited exception reporting Not GAF friendly 	<ul style="list-style-type: none"> Lack of understanding of the GAF Lack of Finance IT who is familiar with Finance and IT framework Lack of self-review initiatives

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