

■ BY MAJELLA GOMES



GOOD GOVERNANCE FOR GST

How should
PUBLIC PRACTITIONERS
manage
governance and
business issues
pertaining to GST?

GST has been touted as a means for public practice firms to diversify their practice and sources of revenue and reduce their dependence on the bread-and-butter of audit and assurance. However, have public practice firms embraced this message? How is their preparation and implementation coming along given that GST will be effective on 1 April 2015?

“The main issue with GST implementation is that there is a lot of interpretation to be taken into account,” MIA Council Member Dr. Veerinderjeet

Singh said, moderating the session on *Preparing for GST: Governance & Business Issues* at the recent MIA Public Practitioners Forum. “This could impact public practice and businesses quite extensively, and lead to a change in the way firms do business. There are different tax risks associated with the implementation of GST: transactional, procedural and compliance, operational, financial, market and reputation, and personal risks as well, where directors of the company may be personally liable for the taxes of the company.” While

practitioners may make different interpretations, these must be backed by principles that have to be followed. “GST impacts on every line in the P&L statement,” he cautioned, “so the transition into a GST environment has to be carefully managed.”

ENSURE ROBUST GST MANAGEMENT SYSTEMS

Remember that Malaysia’s GST system is designed to be fit for purpose. GST in Malaysia has many items that are to be GST-exempt or zero-rated, divulged Robert Tsang, GST Partner of Deloitte Singapore. Dato’ Subromaniam Tholasy, Director of Royal Malaysian Customs’ GST Division, confirmed that the Zero Rate and Exempt Orders will be gazetted soon. These elements warrant robust GST management systems that have to be put in place from the outset, Tsang warned practitioners; also do not simply copy the process in another country. Our system is different from say the Singapore model – prepare accordingly.

Agreeing with Tsang, Dato’ Subromaniam confirmed that Singapore had one of the simplest GST models in the world, while the Australian model was quite similar to Malaysia’s. “Tax administrators usually want minimal exemptions,” he affirmed. “But we don’t want to do that for basic items.”

He conceded that there would be some impact on revenue with the implementation of GST, but added that sectors which provided services direct to consumers will be exempted. Pointing out that the guidelines on the Customs portal that were supposed to help businesses deal with GST were still drafts, Dr. Singh urged practitioners to provide feedback.



Dr. Veerinderjeet Singh, Robert Tsang, Dato’ Subromaniam Tholasy, Anand Raj

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PROFITEERING NOT TOLERATED

GST is not a license for companies to profiteer. “In terms of the law, there is a Price Control Act which controls profiteering,” clarified Anand Raj, Partner, Shearn Delamore & Co. “Accountants should be careful when advising clients in this respect. They cannot charge unreasonably high prices for their goods, and some prices cannot be increased at all, even if contracts allow for it. It’s more than just putting

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clauses into contracts where the clauses don't exist. General clauses may not be good enough."

Although guidelines for anti-profiteering were yet to be issued, the authorities will consider unreasonable price increases as profiteering, and sellers may be charged for it. Dr. Singh cautioned that it was incumbent upon the seller to justify increases, or be deemed to be profiteering.

Tsang's advice was to look at how GST had been introduced in other countries. "All this has to be dealt with in a proportional way," he said. "Look carefully at your own business. What should your pricing strategy look like? Have you done enough to mitigate the impact of GST?"

Penalties for non-compliance are of course a tool to enforce good GST governance and prevent profiteering and misbehaviour. Dr. Singh confirmed that penalties were high, but could be appealed if the taxpayer felt they were unfair. Raj opined that high penalties were regressive and did not take into consideration the level of severity or circumstances surrounding the mistake. Take note of liability and accountability for errors and mistakes. "Everyone is liable if a company commits an offence, from the person who prepares the

accounts, to the director who signs off on it," he said. "How provisions are worded, and how they will be enforced, will be an issue."

Tsang advised better discipline about the issuance of credit notes and documentation, as a great deal more paperwork will be required with the implementation of GST. "More documentation means more focus will be needed," he said. "Also, GST is like many things in life. Things which are unclear at the beginning of the GST implementation exercise your business embarks on will become clearer and things which seemed obvious may become less clear. Customs needs to put out statements to clarify things, and ask taxpayers to tell them what is unclear, so Customs can respond. Businesses need to protect themselves by disclosing what they do for GST accounting."

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Dr. Singh urged practitioners to do research first, before asking questions on the Customs website. "Customs and IRB are already dealing with many issues," he explained. "Don't ask simple questions which can be answered by information which is already available in the public domain." He conceded that professional bodies were doing training but at this point, there was no way of telling exactly how much was being absorbed.

DON'T FORGET TO REGISTER

Dato' Subromaniam mentioned that as of 10 September 2014, a total of 33,000 companies had registered, so "if you want to seek clarification, quote your GST tax registration number; it will help us to attend to your queries faster," he said. He reminded practitioners to voluntarily register for GST by 31 December 2014, after which they will be forced to do so by law.

He added that some companies with annual turnovers below the threshold had voluntarily applied for registration, and some applications were yet to be approved because they were subject to Customs' internal procedures.

Dato' Subromaniam said that of the 33,000 firms which had registered, 99% had done so electronically, which would expedite GST refunds. "Refunds can be done within 14 days with online registration," he confirmed. "If not, it takes 28 days."

Refunds, Tsang added, should be processed transparently. "It's a new world," he concluded. "You cannot afford to make mistakes. If you get the first refund claim wrong, you may find your subsequent refunds denied, so establish your credibility from day one. Get it right, and get it right early." ■

