

GST – a year in retrospect

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The first year since the introduction of the Goods and Services Tax (GST) in Malaysia has been an interesting one. It has gone far better than could have been expected. At the same time, it has brought to light concerns that were not anticipated but which had a significant impact.

Many of these issues arose through the drafting of the law, resulting in different views on the way it could, or should, be applied. What can we learn from the “good” and “could be improved” aspects, and how can businesses work with the authorities to address their concerns? To find out, we have identified the “good” and “could be improved” aspects.

The Royal Malaysian Customs Department benefited from a number of attempts to introduce GST in Malaysia before the time was right. This allowed it to assess the impact that it would have on the economy, and address the issues from a Malaysian context.

In considering the “good” outcomes, the implementation benefited from planning and preparation by Customs, which helped with the overall success. During the lead up to the introduction of the law, Customs prepared the taxpayers on how GST would be imposed and gave its views on technical and practical issues. A wide variety of guides dealing with Customs’ perception of how GST should be applied were issued. For most small to medium enterprises, these guides served as a useful indicator of what to expect well before the legislation was released.

Once released, Customs commenced intensive courses for practitioners as well as more senior accounting staff to train them on the details of the legislation. This was to equip tax agents with the basic skills required to assist their clients, so that they could assist with queries and calls for assistance from less sophisticated businesses.

The department also tried dealing with business associations to address their issues as well as to understand their concerns. This was more successful with some industries than with others, with several significant changes implemented just days

before April 1 last year.

Soon after GST was implemented, Customs started to issue guidance in the form of a Director-General’s Decision (DG Decision), mostly dealing with practical and/or technical issues, where “solutions” were considered to be of a more general application. This had the potential to be very useful.

For the most part, the introduction of GST in Malaysia was fairly well handled. So what could have been improved since its introduction, or in the future?

It is clear that the legislation deals with most areas one would expect in a tax of this nature. However, in considering the finer details, the treatment does not always match the expectations created by the guides. Customs did a great job in releasing a lot of guides but many were in draft form and took a lot of time to be updated to keep up with changes in the understanding of the legislation. A more efficient process for updating the guides would be useful to keep taxpayers up to date.

On a practical level, the director-general has wide discretion to make fundamental decisions that can impact the treatment under the law. An early example was the treatment of voluntary registration where an entity is clearly conducting a business, but it took longer than 12 months before making taxable supplies.

In many cases, the DG denied applications for voluntary registration, and when accepted, imposed a restriction preventing the business from claiming back GST incurred until it commenced making taxable supplies.

This had an impact on activities as diverse as property and infrastructure construction, oil and gas exploration and support activities, as well as plantation development, and it may be years before they are able to make taxable supplies. While there has been some movement with regard to this restriction, it is still subject to the DG’s discretion. The hope is that Customs can adopt a more accommodative approach to business.

While the availability of DG Decisions can

be useful, unfortunately, they tend to apply to very specific situations. Unlike such decisions in other countries, the DG gives no information as to the rationale for the decision (and facts provided are not comprehensive).

As a result, DG Decisions could be improved to provide more explanation as to the rationale. This would serve to educate taxpayers and assist them in applying the DG Decisions more broadly. This would also reduce the need for taxpayers to seek further guidance or appeal decisions that create additional costs for both Customs and the taxpayers.

There have also been some instances where decisions have not been made after a considerable period, or decisions issued that were not very clear about the outcome. Taxpayers requiring certainty in business decisions need clarity, and ideally, Customs should try its best to provide that. However, as the law is new and there is considerable uncertainty, we must acknowledge the department does not have an easy job. However,

taxpayers who have to comply with the law for the first time would also find it difficult.

Finally, just as in Australia when it introduced GST, Customs officials are still learning about the intricacies of the tax and do not necessarily have sufficient commercial experience. We have seen Customs officials reaching out to their counterparts in foreign jurisdictions to widen their knowledge of audit practices. It would also be beneficial for them to connect with or recruit staff from industry to increase their knowledge of industry practices. This will ease the gap between the department and taxpayers and make interaction all the easier.

Clearly, one year on, things are improving but there is more that can be done to make our GST system more efficient. ■

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