Goods And Services Tax (GST)

GOODS AND SERVICES TAX ACT 2014

Organised by JPWP KL

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A Brief History of VAT

• German businessman Dr. Wilhelm Von Siemens is credited with coming up with the idea of a VAT in the 1920s.¹

• What was only an idea has since been built into a system by the so-called father of VAT, Maurice Lauré, who was then the joint director of the French tax authorities. The VAT was implemented in France in 1954.
In 2001, **South Africa** extended zero rating to paraffin (a fuel used by most poor households), but this proved to be inefficient as suppliers absorbed most of the benefits and did not pass it on to consumers as intended.\(^4^0\)

In 2009, **France** dropped the VAT rate from 19.6 percent to 5.5 percent for supplies of restaurant and catering services\(^4^1\) on the assumption that restaurants would reduce prices substantially, raise wages, or create new jobs (and would improve compliance).\(^4^2\) **30 percent of the VAT cut has been passed on to customers.**
## ASEAN countries that have implemented GST/VAT

<table>
<thead>
<tr>
<th>No.</th>
<th>Country</th>
<th>GDP Per Capita (2011,USD)</th>
<th>Year Implemented</th>
<th>Original Rate (%)</th>
<th>Current Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Malaysia</td>
<td>22,256 (2013)</td>
<td>1 April 2015</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>1</td>
<td>Indonesia</td>
<td>3,495</td>
<td>1984</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>Thailand</td>
<td>4,972</td>
<td>1992</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>3</td>
<td>Singapore</td>
<td>46,241</td>
<td>1993</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Philippines</td>
<td>2,370</td>
<td>1998</td>
<td>10</td>
<td>12</td>
</tr>
<tr>
<td>5</td>
<td>Cambodia</td>
<td>897</td>
<td>1999</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>6</td>
<td>Vietnam</td>
<td>1,407</td>
<td>1999</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>7</td>
<td>Laos</td>
<td>1,320</td>
<td>2009</td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>
Federal Government’s Perspective

GST Impact
GST impact

GST is able to address the inherent weaknesses of SST

<table>
<thead>
<tr>
<th>SST</th>
<th>GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Cascading and compounding effects</td>
<td>• Eliminated</td>
</tr>
<tr>
<td>• No complete tax relief for export</td>
<td>• Exports are zero-rated and eligible to claim input tax</td>
</tr>
<tr>
<td>• Transfer pricing</td>
<td>• Tax at multi stages addresses the issue of transfer pricing</td>
</tr>
<tr>
<td>• Sales tax productivity has been declining over the last 7 years</td>
<td>• Tax productivity expected to increase from 0.18 % under SST to 0.33 % under GST</td>
</tr>
</tbody>
</table>
Impact of GST on consumers

- Issue – individual earning below RM3,000 per month and not paying income tax will now have to pay consumption tax under GST

- The fact is: Those earning below RM3,000 and not paying income tax
  - already paid tax on their consumption under sales tax and service tax (SST)

  ✓ RM79.57 per month
  ✓ RM70.08 per month

MOF Simulation

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Impact of GST on consumers

• MYTH 1: The timing of GST implementation is not appropriate → should only be implemented after the country achieved the high income nation status

• Actually

  ✓ GST implementation is one of the way towards achieving the high income nation status

  ✓ a high income nation should have:

    ➢ comprehensive, effective, transparent, and business friendly tax system

    ➢ high compliance business community e.g. record keeping

  ✓ 146 countries have implemented GST/VAT including low income countries
Impact of GST on consumers

- **MYTH 2:** When GST is implemented, inflation would increase and this would have a negative impact on the *Rakyat*

- Actually
  
  ✓ GST at 6% would have a minimum impact on inflation
  ✓ 0.10% decrease in Consumer Price Index (CPI) after the implementation

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| 8 | CPI components will decrease between 0.08% & 2.71%.
|---|---|
| 5 | CPI components will increase between 0.67% & 2.21%.

MOF Simulation

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• MYTH 3: *Rakyat* is not confident that the Government can address the price increase effectively

• **Unnecessary price increase will be addressed through**
  ✓ the introduction of Price Control & Anti-Profiteering Act 2010
    ➢ 1 April 2011
  ✓ an effective monitoring and enforcement
  ✓ the issuance of shoppers’ guide
  ✓ hypermarket to be the price setter
  ✓ an effective communication strategy
  ✓ consumers exercising their right as consumers
MYTH 4: High initial and compliance cost on the businesses after GST implementation

• High compliance cost will not be too significant due to
  ✓ Less bureaucratic procedures
  ✓ in Malaysia - 40% of the businesses which are potential GST registrants have already been registered under SST
    ➢ minor changes to the accounting system
    ➢ Government will consider giving free GST accounting software to the SMEs

• GST is not a cost to the industry
  ✓ GST paid on the business inputs can be claimed as tax credit

• Threshold Income RM500,000
  ✓ Small businesses will be excluded from GST
  ✓ about 124,000 (22%) establishments will be registered under GST
MYTH 5: GST give negative impacts on the businesses cash flow

• Cash flow is not a major issue to industries because tax paid is still claimable even though payment for purchases have not been fully made:
  ✓ due to invoice credit method
  ✓ provision of monthly taxable period

• No matching between input and output
  ✓ all purchases and acquisition are readily claimable

• Special schemes provided under GST
  ✓ ATS, ATMS, AJS, group registration etc.

• GST paid is allowed to be offset automatically if no payment received within 6 months
  ✓ under SST – a separate application is needed
MYTH 6: The Government’s ability to pay GST refund within the stipulated time frame

- The Government will ensure that GST refund will be paid within the stipulated time frame
  - Refund is guaranteed within 14 or 28 workings days and will be provided in the GST Legislation (first time in Malaysia)
  - GST Refund Fund to be established
    - To ensure enough cash flow for GST refund
  - Automated refund process
    - Human intervention is minimal
  - Businesses risk profile being prepared
    - Only businesses with high risk will go through the audit process before refund is being made to the businesses
Impact of GST on Malaysian economy

Malaysian products and services will be more competitive abroad

• All exports are zero-rated
  ✓ exports of goods, commodities
  ✓ international services

Promote more tourists to visit and to spend in Malaysia

• Tourist refund scheme
  ✓ at international airport

• Designated area
  ✓ Labuan, Langkawi and Tioman
  ✓ no GST
Special schemes provided under GST

- Approved Trader Scheme (ATS)
- Approved Toll Manufacturer Scheme (ATMS)
- Approved Jeweller Scheme (AJS)
- Warehousing Scheme (WS)
- Relief for second-hand Scheme (Margin Scheme)
- Tourist Refund Scheme (TRS)
- Flat Rate Scheme (FRS)
GST Outcome
**GST outcome**

1. More tax revenue
   - Widen tax base
   - More effective and reduce leakages (due to multi-stage tax collection)
   - Move in tandem with GDP growth

2. Higher tax compliance
   - Greater tax revenue to finance development and social projects

3. Opportunity to improve revenue mix
   - Reduce dependency on petroleum revenue
   - Reduce dependency on income tax revenue
Revenue Projection

LHDN
- 2014: 130 billion
- 2015: 142.6 billion

Customs
- 2014: 33 billion
- 2015: 37 billion
GST is a laser-sharp tool

→ It has the mechanism to boost any chosen sector of the economy:
  • Improve export competitiveness (due to zero-rated)
  • Boost tourism (because of GST refund)

→ It has the mechanism to protect selected segment of the Rakyat, especially the low income via zero-rated and exempt mechanisms

→ The proposed GST model is progressive
  • Tax burden for poor (2.17%) and low income group (2.43%) are lower than high income group (2.74%)
5 Transparent pricing

- Consumer knows whether the item is taxable or not
- Consumer knows the tax elements in the price they paid

6 Reduced cost of doing business

- Saving in non capital inputs
- All inputs are claimable
- Less bureaucracy and red tape
CURRENT STATUS
MANY BUSINESSES ARE NOT READY FOR GST

- Mandatory registration is still poor. 62,000 businesses under the mandatory category are still not registered.
- WEF 1 March 2015, 5000 custom officers are conducting field audit to “HELP” businesses to register with RM15,000 penalty loading.
- This exercise will generate MINIMUM ONE billion RINGGIT of revenue for the Government.
Based on 7 sessions competency seminar conducted for the construction industry and property developers, most NOT ready with respect to:

- Mindset
- Accounting system not up to date
- First time attending the seminar
- Staff still not aware to handle GST processes.
Major Burning Issues

* Effect Cash Flow of business

* Effect normal business transaction
  * Credit Term → Cash on Delivery [CoD]

* 7 types of Stiff Penalties Loading
  * Criminal Proceedings

Penalty rate is much higher than LHDN
Why Resist the GST?

**Transaction costs**
- Compliance requirements more stringent
- Cost of doing business increases

**Inflation**
- Transaction costs rise
- Prices rise

**Scope**
- Greater scope / Wider tax base
- More goods and services are taxed
Why Resist the GST?

Increasing cost of living
- Especially for low-income
- More burden on the Rakyat

Large income gap
- People have to pay for the failure of government financial management.

The government taking advantage
- Financial problems
- An opportunity to increase the income of the country
Why Resist the GST?

Discriminate between rich and poor people

- GST will impact lower income individuals much more than high-income individuals.

Burden the citizen

- The calculation of input and output tax requires more time.

Affect Malaysia’s economy

- May result in inflation as general price level rises.
GST
Burning Issues
Q & A
Burning Issues

✓ Tax Administration Costs
✓ Tax Compliance:
  ✓ Documentations, system, company & staff readiness.
  ✓ GST compliance is much higher than Income Tax
✓ Tax Gap
✓ Royal Customs:
  ✓ Staff & System readiness
  ✓ Enforcement Procedures readiness
Types of Penalties under the GST Act 2014
GST Registration / GST03

Taxable Period:
* 1 month
* 3 months
* 6 months
Sec. 21 (5) Where a taxable person fails to comply with subsection (1) or (3)——

(a) the Director General shall register him on the date as the Director General may determine but not earlier than the date his liability to be registered became known or made known to the Director General; and

(b) the person shall be liable to pay a late registration penalty equal to the specified percentage of the tax which should have been paid from the date he should have been registered to the date he is registered and hereinafter referred to as late registration period.

<table>
<thead>
<tr>
<th>No. of Days Late</th>
<th>Rate of Penalty</th>
<th>Cumulative Penalty Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-30 days</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>31-60 days</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>61-90 days</td>
<td>3%</td>
<td>13%</td>
</tr>
<tr>
<td>91-120 days</td>
<td>3%</td>
<td>16%</td>
</tr>
<tr>
<td>121-150 days</td>
<td>3%</td>
<td>19%</td>
</tr>
<tr>
<td>151-180 days</td>
<td>3%</td>
<td>22%</td>
</tr>
<tr>
<td>181 days or more</td>
<td>3%</td>
<td>25%</td>
</tr>
</tbody>
</table>
GST Return GST 03

Taxable Period:
- 1 month
- 3 months
- 6 months

Section 41 of the GST Act 2014
MUST submit GST03 no matter what!

Mandatory and Voluntary Registered Business
• **Non - Submission**

41.(7) Any person who contravenes section 41 commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

• **False Declaration**

94. Any person who—

(a) makes an incorrect return by omitting from the return any information;
(b) understates any output tax or overstates any input tax in a return; or
(c) gives any incorrect information in relation to any matter affecting his own liability to tax or the liability to tax of any other person,

commits an offence and shall, on conviction, be liable—

(A) to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both; and
(B) to a penalty equal to the amount of tax which has been undercharged or would have been so undercharged if the return or information had been accepted as correct.

50k and/or 3 years

50k and/or 3 years + 100% penalty
GST Return GST 03

• Penalty for evasion of tax, fraud

95. (1) Any person who with intent to evade or to assist any other person to evade tax—

(a) omits from a return any information in relation to any matter affecting the amount of his or the other person’s chargeability to tax;
(b) makes any false statement or entry in any return;

…………………………………………

commits an offence and shall, on conviction, be liable—

(A) for the first offence, to a fine of not less than ten times and not more than twenty times the amount of tax or to imprisonment for a term not exceeding five years or to both; and

(B) for a second or subsequent offence, to a fine of not less than twenty times and not more than forty times the amount of tax or to imprisonment for a term not exceeding seven years or to both:

10 x --> 20x
and/or 5 years

20 x --> 40x
and/or 7 years

*Compoundable offence under Reg. 111
*Section 127 provided compound amount :

not exceeding 50% of the amount of the maximum fine.
• Where a taxable person has made an error in declaring the GST return, he can furnish an amended GST return by using the GST-04 form.

• The amended GST return can only be submitted if the amendment is made not later than the last date to furnish the GST return.

• After the last date of furnishing the GST return, any declaration to rectify the amendment should be made through a voluntary disclosure.
A voluntary disclosure is a statement of information given by the taxable person regarding his mistake or error related to GST matters.

Where a taxable person has made an error or a mistake in relation to his GST obligations, he can make a voluntary disclosure in writing to the Director General.

The Director General may reduce the amount of penalty in case of voluntary disclosure. The amount of reduction of penalty is dependent on the circumstances of the case.

Discounted penalty only takes effect only when voluntary disclosure is made after the last date of furnishing the return.
VOLUNTARY DISCLOSURE

CONDITIONS OF REDUCED PENALTY ON VOLUNTARY DISCLOSURE – ADMINISTRATIVE RULING

• Return for the related taxable period has been submitted.

• Application is made within 36 months from the Payment Due Date.

• To enjoy discounted penalty, payment on VD must be made in full within 14 days.

• Failure to pay : revoke discount = full penalty is imposed.
GST RETURN AMENDMENT / GST04

VOLUNTARY DISCLOSURE

<table>
<thead>
<tr>
<th>TIME RANGE (MONTHS)</th>
<th>NORMAL LATE PENALTY (%)</th>
<th>REDUCED RATE (%)</th>
<th>DISCOUNTED PENALTY RATE ON VD (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ 6 mths</td>
<td>22</td>
<td>50</td>
<td>11</td>
</tr>
<tr>
<td>&gt; 6 mths - ≤ 12 mths</td>
<td>25</td>
<td>40</td>
<td>15</td>
</tr>
<tr>
<td>&gt; 12 mths - ≤ 24 mths</td>
<td>25</td>
<td>30</td>
<td>17.5</td>
</tr>
<tr>
<td>&gt; 24 mths - ≤ 36 mths</td>
<td>25</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>&gt; 36 mths</td>
<td>25</td>
<td>Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>
“Furnishing of returns and payment of tax”

(5) Any taxable person who is required to furnish a return under this section shall pay to the Director General the amount of tax due and payable by him in respect of the taxable period to which the return relates not later than the last day on which he is required to furnish the return.

**GST Regulations 20XX**

“Regulation 49 – Payment of tax, penalty or any charge”
Non – Payment

41.(7) Any person who contravenes section 41 commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

*Compoundable offence under Reg. 111
*Section 127 provided compound amount: not exceeding 50% of the amount of the maximum fine.
“Penalty for late payment”

45. (1) Where any tax due and payable remains unpaid by any taxable person after the last day on which it was due and payable under subsection 41(5), the taxable person shall be subject to the following percentage of late payment penalty:

(a) five percent if within thirty days;

(b) additional five percent after thirty days but not exceeding sixty days; and

(c) additional three percent for every subsequent thirty days or part thereof,

and subject to a maximum of twenty-five percent.
# Payment

<table>
<thead>
<tr>
<th>DAY</th>
<th>RATE</th>
<th>TOTAL RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>30 days or less</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>31-60</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>61-90</td>
<td>3%</td>
<td>13%</td>
</tr>
<tr>
<td>91-120</td>
<td>3%</td>
<td>16%</td>
</tr>
<tr>
<td>121-150</td>
<td>3%</td>
<td>19%</td>
</tr>
<tr>
<td>151-180</td>
<td>3%</td>
<td>22%</td>
</tr>
<tr>
<td>More than 180 days</td>
<td>3%</td>
<td>25%</td>
</tr>
</tbody>
</table>
A registered person can claim the input tax in the GST Return (GST 03) to be furnished to JKDM. If the amount of input tax EXCEEDS the amount of output tax, the difference will be refunded.

S38(3) provides 2 situations of refund where
• Output tax = Zero, (Zero – Input Tax)
• Input Tax > Output tax

REFUND of input tax will be made within
• 14 working days – online submission
• 28 working days – manual submission (Reg.52)
Conclusion

• Sir Roger Douglas (N.Z Minister of Finance 1984 – 1988) made a statement that the success of the GST can be traced to 5 key process elements

  ✓ the political will
  ✓ the right people
  ✓ the way in which the proposal was packaged
  ✓ an effective consultative process
  ✓ an effective communication process