PART 3

GST on property

> Impact on the secondary house market and solutions to cope with the additional levy

WE are just days before the Goods and Services Tax (GST) kicks in and excitement, or anxiety, is in the air. By now, property developers should be in the know as the Customs Department has held a "hand-holding programme" to brief and address their GST queries. Our previous two articles also shared valuable insights and comments of professionals in the field on the "consumption tax", said to have a bigger impact on those who "consume" more. Property prices will go up unless developers are willing to accept lower gross margins to maintain competitive prices. The question is, will the secondary house market be affected?

OVERVIEW

At a briefing organised by Malaysian Institute of Estate Agents (MIEA), tax consultant and principal of KP Bose Sdn Bhd, plus former board member of the Financial Planning Association Malaysia KP Bose Dasan shared his views. "The impact of the new GST will be felt across the whole cross-section of society. It is a tax on sales and services, therefore a tax on all kinds of consumption. The final consumer is asked to pay 6% more for his goods and services. In fact, the government has made businesses its tax agent to collect GST. It expects to collect more than RM21 billion from it," he says. He adds that the word "consumption" does not appear in the GST Act. which does not include capital goods like properties, plant and equipment. "These are not the common everyday consumption items. They are fixed assets and investments.

"The key point in Malaysian GST is that there are so many important goods and services that are exempted from GST that the burden of taxation is now clearly spread between the final consumer and the business establishment. Private education, healthcare, transportation, financial services and residential property sales are exempted from GST but because these establishments cannot generally claim any input GST incurred, the cost of the input GST is borne by the establishments. There lies the dilemma for the businessman, which is to absorb the cost and lower his profit or to increase his price and pass on the cost to the consumer. An increase in price over 6% is tantamount to the same GST taxing effect," Bose informs.

By now, the majority of the *rakyat* would already be aware that there are three categories of supplied goods and services: standard-rated (6%), zero-rated (0%) and exempt. Most food stuff and basic services fall under the zero-rated category, therefore no GST will be charged or collected on these supplies and the business establishments can recover any GST input tax incurred on these items.

Goods and services under the standard-rated group will be charged 6% GST, which will be added onto the invoice price. The input GST incurred by the business establishment will be allowed as a refund, therefore, the business establishment is neutral. "It collects GST on behalf of the government from its sales and deducts any GST that it has incurred on its input," explains Bose. The problem lies with the exempt supplies, according to Bose. "No GST is collected from exempted supplies and any input GST incurred by the business is generally not allowed. So, businesses will have to decide to raise or not to raise their prices," says Bose and adds that in other countries, the number of exempt supplies is limited to financial services and residential property.

IMPACT ON SECONDARY HOUSE MARKET

In general parlance, Bose says that buying properties is not called consumption but purchasing of commercial property is, under GST. "Properties are generally held as investments or as fixed assets in a business. Properties already suffer taxation under the Real Property Gains Tax (RPGT) Act and its rental income under the Income Tax Act. Any transfer and financial arrangement also incurs Stamp Duty. To levy 6% more on the buyer of commercial properties is truly inflating prices. The developer who is in the business to buy land and develop properties is required to collect an additional 6% from buyers of commercial properties," Bose says. "The removal of sales tax helps but the GST incurred on residential property has to be absorbed by the business enterprise. Will they ... or will they pass on the GST to consumers in terms of higher prices? We'll have to wait and see," he says.

However, in the secondary market, the owner of an existing commercial property will be wondering, if and when he sells his property, if he is required to collect the 6% GST from the buyer. To answer this question, Bose directs attention to the scope of charge of GST. He asks that we consider these four elements:

1) Is it a taxable supply? The answer is yes, if it is a commercial property.
2) Is it from a taxable person. Answer: We do not know but if the value of the asset is more than RM500,000, then it is.
3) Is it a supply in the course and furtherance of business? Answer: No, the property is held as an investment, deriving investment income. The owner does not deal in properties.
4) Is the supply in Malaysia ... the answer is yes.

"There are all the elements but it fails in the 'in the course or furtherance of business' test. Hence no GST should be applied," Bose feels. "Rental of commercial properties should also satisfy all the elements. One would assume that if an owner of commercial properties derives more than RM500,000 in rental income, that would constitute business. Anyway, a commercial property inherited and which fetches more than RM500,000 of rent, cannot be assumed as 'in the course and furtherance of business'. Many in the real estate industry are wondering if a person owns a commercial property worth more than RM500,000, if they should account for GST when they sell their investment property. The answer is by right, no. But there can be cases where a person repeatedly buys and sells properties. In this case, the Customs will have a case, considering the many transactions by the person, as an enterprise. Trading and dealing in properties is business in nature, the carrying on of an enterprise, and therefore meets all the elements which subject it to GST," Bose states.

QUESTIONS AND SOLUTIONS

The implementation of GST is expected to generate an additional revenue of RM21 billion towards national income. While every Malaysian, as consumers, will in some way or other be affected by this consumer's tax, Bose poses a question to the planners and thinkers in government: "Instead of looking for this extra RM21 billion, why not cut RM21 billion from the national budget? If circumstances demand that you plan an austerity drive, where would you cut your expenditure?" he asks the government. "Sound fiscal management is mandatory in that instance," says Bose.

Although it is the Year of the Sheep, we need to take the bull by the horns as it is the people who will have to bear the brunt and absorb the additional costs. Still, the mixture of zero-rated, exempt and standard-rated supply of goods and services will certainly cause a stir in the Malaysian stomachs come April 1, 2015.

People's views on how to live with GST

1) Sharpen your negotiation skills and re-negotiate your salaries with your boss.
2) Purchase items that can sit on the shelf for the next 12 to 14 months before GST is implemented.
3) Relook at your banking, finance, mortgages and investments.
4) In all expenditure, cut back by 6%.
5) Consume when necessary, live simply, no impulse buys.
6) Cut on wastage, recycle or re-create.
7) Save on fuel, think before driving, carpool when possible.
8) Take advantage of discounts, bargains and good deals.
9) Stay home, read more, dine in and exercise in nature.
10) Instead of saving money, think of ways you can make more money.

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