GST – HERE IT COMES!

Big boys ready, but not the smaller businesses

No grace period for GST compliance, so businesses that aren't ready need to act fast

BY BEN SHANE LIM

Love it or hate it, ready or not, the Goods and Services Tax (GST) is now a reality. The Royal Malaysian Customs Department's director of GST Datuk Subromaniam Tholasy acknowledges that many businesses may not be ready, especially the small and medium enterprises (SMEs), such as sundry shops. But the tax reform waits for no one and there is no grace period for compliance.

Even so, the Customs Department is extending its GST hand-holding programme to May to ensure that all companies are able to file their first GST forms. "The big boys are definitely ready. We are not worried about them," says Subromaniam.

"But if you look at the GST registration profile, more than 18,000 companies registered on Dec 31 last year [the deadline for registration]. I am pretty sure most of them are not ready for GST."

Subromaniam says the Customs Department had invited more than 100,000 SMEs to take part in the GST hand-holding programme, but only 60,000 turned up. Furthermore, many of the business owners did not stay for the full two-day course, leaving after a day or even half a day, he adds.

For the time being, his biggest concern is getting businesses to file their tax forms on time — monthly for the big boys with revenues of more than RM5 million and quarterly for businesses with revenues of less RM5 million. Since the first filing is due in May (for the month of April), there are still two months left for businesses to participate in the hand-holding programme and comply with GST requirements, Subromaniam points out.

"We will be sending out emails and even calling up businesses to remind them to file their GST forms on time," he says.

The Customs Department has been helping businesses prepare for GST, so those that do not take the new tax regime seriously and fail to comply may be in for a rude shock when they get audited. Unlike Singapore's two-year grace period for GST implementation, Subromaniam is adamant that Malaysia "gets it right the first time".

"Let me make it very clear: there is no grace period at all. Why let people make mistakes? We want to prevent these mistakes. We don't want to do firefighting during the GST era," he explains.

This could mean very costly fines for businesses that fail to comply. "A business owner may make a mistake without knowing it, especially in the first year. You won't even know about the mistakes until an audit comes up, which could be a year later, or up to seven years down the line. The fines would be huge," says Raja Kumaran, executive director at PricewaterhouseCoopers Taxation Services Sdn Bhd.

"If a business cheats, the book should be thrown at it. But everyone makes mistakes, and businesses that make genuine mistakes should be given consideration," he says.

The intention is not to punish genuine mistakes, says Subromaniam, but it is hard to distinguish between the two. "When it comes to the application of the law, ignorance is not an excuse," he points out.

"For those thinking of engaging in fraudulent activities, look at Section 69. The minimum fine is 10 times the tax evaded, and the maximum is 20 times, for the first offence. For subsequent offences, the fine starts at a minimum of 20 times, up to 40 times the tax evaded," he adds.

The Customs Department hopes to detect mistakes in the company's filings at an early stage, genuine or otherwise, with the IT system it has in place, Subromaniam says. "I can't give too much details, but we have a sound system in place. Nothing is perfect at first, of course, but we are confident the system will be able to detect potential fraud and mistakes in the GST filings."

Unlike other countries, the Customs Department has the advantage of being able to roll out GST together with IT systems that facilitate filing and auditing. In fact, Subromaniam points out that of the 353,000 companies that have registered, fewer than 200 filed their applications manually.

"What no one talks about is that when the International Monetary Fund officials came over in April last year, they were surprised and impressed with our system. It is something many countries do not have. Singapore did not have an IT system like this in place in 1994 when it introduced GST, and it encountered all sorts of problems," he says. "Now, anyone with Internet access can file his GST returns and pay online."

With this system in place, the Customs Department expects a high rate of compliance from businesses. Subromaniam expects to collect up to 90% of the potential tax revenue.

"We have no trouble getting businesses to comply with the sales and service tax (SST), so GST should not be very different. The country has already been moving towards self-policing for income tax, so I don't foresee any problem with GST collections," he says.

Nonetheless, businesses may find it confusing at times to comply with the ever evolving GST guidelines over the past 17 months leading up to implementation. On top of that, the tax regime has been criticised for being excessively complicated.

"The law is very rigid, but the Customs Department is very open and the Ministry of Finance is willing to listen to industries," says Subromaniam, explaining why there have been a number of changes to the interpretations of GST over the past few months.

One recent change saw businesses being given up to 60 days from April 1 to pay for their existing inventories in order to claim SST refunds. This helps with their cash flow. Prior to this, businesses would have been required to fully pay for their stock in hand by March 31 in order to claim SST refunds.

"Is GST excessively complicated? Yes. Many sections of the Act requires the director-general's permission, which may be cumbersome for businesses," says PwC's Raja.

"For example, keeping records in Malaysia or overseas. As long as you keep the records and produce it when you get audited, you shouldn't need to write to the Customs Department for permission.

"The same goes for simplified tax invoices. But in this case, everyone who wants to submit a simplified tax invoice needs to write in, which ends up being an onerous administrative process," he adds.

Putting aside the debate on which good should be standard rated, zero-rated and tax-exempt, Raja says using tariff classifications has made the zero-rated order excessively complicated. "It is tricky when the zero-rated order is linked to tariff classifications. If you look at the zero-rated order, a layman would find it difficult to understand it. These are Brussels classifications, which are the best in the world. It is very clear and definite, but a bit too complicated for the average business owner," he adds.

"If you want to zero-rate chicken or rice, it would be more convenient to say chicken is zero-rated. It is not necessary to put the tax codes in there," he says. But under the zero-rated order, the word chicken does not appear. Instead, it reads under code 0207.11, "of fowls of the species Gallus domesticus".

However, Subromaniam argues that the tax codes are required because not all goods — for example, not all cooking oils — are zero-rated. He points out that the Customs Department has released a simplified Sundry Goods Guide on its website explaining the common consumables that are taxable and those that are not.

That said, it seems that many businesses on the ground are still not ready for GST. E

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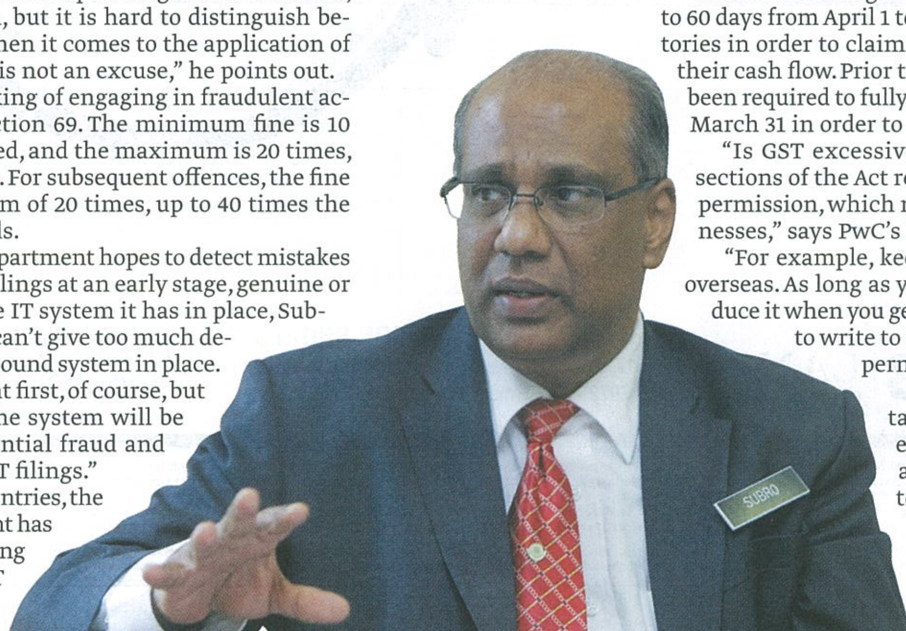

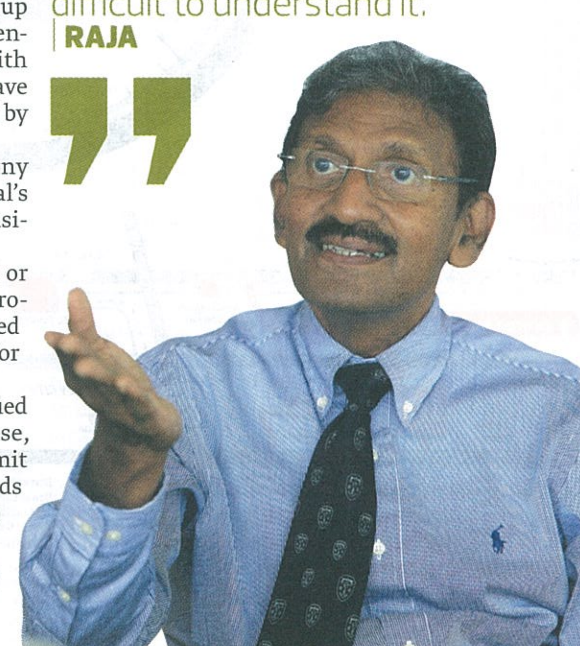

SUBROMANIAM (SHAHRIN YAHYA/THE EDGE), RAJA (MOHD IZWAN MOHD NAZAM)