



Missing Trader Fraud in Singapore

Updates To The GST Tax Act To Deter MTF

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Missing Trader Fraud (MTF) has cost the European Union around EUR 60 billion annually¹,

while more than 300 GST-registered businesses in Singapore have been suspected of being involved in MTF totalling S\$450 million in tax as at 2019². What is MTF? It is a form of fraud on the tax authorities in countries that have value-added tax systems and causes loss of public revenue.

[To safeguard public funds and investigate tax offences, Parliament has recently passed amendments to the Goods and Services Tax \(GST\) Act to counteract MTF in Singapore.](#)

GST SYSTEM AND MISSING TRADER FRAUD

In Singapore, a GST-registered supplier is required to charge and collect GST on its supplies of goods and services to the buyer. The GST collected (known as output tax) must then be paid to IRAS. As GST is to be borne only by the final consumer, the GST-registered supplier can make a claim for the GST paid to its own suppliers (known as input tax) and set off such input tax against its output tax payment to IRAS. The difference between input tax and output tax is the net GST payable to IRAS (or the net GST refundable by IRAS).

MTF arrangements seek to exploit the inherent design of the GST regime, where GST-registered suppliers are required to collect the GST paid by the buyer on behalf of the tax authorities.

In a typical MTF arrangement, a person (the “missing trader”) would collect output tax from its customers and abscond without handing over such tax to the tax authorities, while the other parties in the supply chain continue to make input tax claims on purchases they had made, resulting in a loss of revenue to the State. Alternatively, the missing trader may also obtain from the tax authorities an input tax credit claim on purported supplies which it never received before absconding.

Syndicates often interpose additional businesses (including unsuspecting legitimate businesses) along the supply chain to make it more difficult for the tax authorities to detect the MTF arrangements. Increasingly sophisticated variants of MTF arrangements are also being employed by syndicates to defraud the tax authorities, such as carousel fraud and contra-trading fraud.

¹ Ministry of Finance (2020) “[Second Reading Speech by Lawrence Wong, Second Minister for Finance and Minister for Education, on Goods and Services Tax \(Amendment\) Bill 2020](#)” (3 November 2020), Ministry of Finance; <https://www.mof.gov.sg>

² Tang See Kit (2020) “[More power for taxman to seize goods for investigations among changes to GST Act](#)” (3 November 2020), Channel News Asia; <https://www.channelnewsasia.com>

IMPACT OF MTF ON SUPPLIERS

Persons directly involved in MTF may be prosecuted under the GST Act. However, in practice, it is often difficult for the tax authorities to prosecute such persons as they would have long absconded by the time the fraud is discovered. As a result, the parties that are typically implicated when an MTF arrangement is discovered are the other suppliers along the supply chain. While these suppliers may be innocent and may not have been involved in the MTF, they would generally be subject to detailed audit and may have their input tax claims withheld and/or denied by IRAS (on the basis that the purported business of trading in the goods were not genuine business transactions).

“Before the recent amendment to the GST Act, the central issue was whether IRAS could deny input tax credit of innocent traders in a supply chain that has been tainted by MTF, given that there was no provision in the GST Act that expressly disallow input tax claims for such scenarios,” shared Liu Hern Kuan, Head of Tax, Tan Peng Chin LLC, at a webinar organised by the [Singapore Chartered Tax Professionals](#). “There would no longer be any doubt after the amendment takes effect on 1 January 2021 – a taxpayer’s input tax claims will be denied in cases where it knew or “should have known” that the supply made to it was part of an arrangement to cause loss of public revenue”.

AMENDMENTS TO THE GST ACT

KNEW OR “SHOULD HAVE KNOWN”

Following the amendments to the GST Act, a taxpayer’s input tax claim hinges on whether it knew or “should have known” that the supply made to it was part of an arrangement to cause loss of public revenue. It is noted that this measure is similar to the approach taken in the United Kingdom and the European Union.

To decide whether the taxpayer “should have known”, the first question is whether the circumstances of the supply are such that there was a reasonable risk of the supply being part of an MTF arrangement. If the answer is yes, the taxpayer must be able to show that it has taken reasonable steps to determine if the supply made to it was part of the fraudulent arrangement, and has come to a reasonable conclusion that the supply was not part of such a fraudulent arrangement. These are very much questions of fact based on the background circumstances.

DENIAL OF INPUT TAX CLAIMS AND SURCHARGE

Where there is an MTF arrangement, if the taxpayer fails to take reasonable steps to assess the arrangement, or (even after taking reasonable steps) did not arrive at any reasonable conclusion, the taxpayer would be taken to “should have known” that the arrangement was fraudulent. Accordingly, the taxpayer’s input tax claim may be denied. In addition, the Comptroller of GST may also impose a surcharge of 10% on the amount of input tax claimed.

BURDEN OF PROOF

In his [Second Reading Speech on Goods and Services Tax \(Amendment\) Bill 2020](#), Lawrence Wong, Second Minister for Finance and Minister for Education, indicated that the burden of proving that the taxpayer knew or “should have known” of a fraudulent arrangement lies with the Comptroller, with the standard of proof being the balance of probabilities.

However, it is noted that if the taxpayer disagrees with the Comptroller’s decision, it will have to appeal to the GST Board of Review, where the burden of proof lies with the taxpayer.

REASONABLE STEPS TO PROTECT AGAINST MTF

In view of the amendments to the GST Act, businesses must ensure that they are not in any way connected to an MTF arrangement. Generally, businesses should be wary of deals that seem too good to be true (such as unsolicited approaches from organisations offering an easy profit for no apparent risk), or high-value deals offered by newly established or unknown suppliers.

Some reasonable steps that businesses could take to avoid being involved in a fraudulent arrangement include:

- 1) Ensuring the legitimacy of the customers and suppliers by checking their identification, background, and experience in the business (for example, verifying GST registration with IRAS, getting credit and background checks from independent third parties, making a personal visit to the supplier's or customer's premises, and obtaining signed third-party trade references);
- 2) Examining payment arrangements and avoiding arrangements that have higher risks of being linked to money-laundering activities (such as cash-only transactions and where payment deposited is immediately transferred out or withdrawn);
- 3) Understanding the market (such as whether the volume and value of goods transacted are unusual for that specific industry);
- 4) Verifying the goods and ensuring commercial viability of the transaction (for example, knowing the brand, manufacturer, country of origin, condition of goods and assessing if the volume and value of goods traded are reasonable).

Importantly, businesses should undertake due diligence before entering into a business transaction. It is now mandated that businesses keep records of the reasonable steps undertaken to determine if a supply to him was part of an MTF arrangement.

There is no doubt that the new requirements on MTF would increase the compliance burden on businesses. The million-dollar question is how much due diligence is enough to protect oneself against MTF, without antagonising suppliers and customers and losing businesses opportunities. While there is no one-size-fits-all answer as it depends on each organisation's resources and risk profile, taxpayers could take heart from Minister Wong's response to Members of Parliament that the Comptroller will take into account all the facts and circumstances of each case, including the firm's status (as an SME) "where relevant in considering what is reasonable"³.

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³ Tang See Kit (2020) "[More power for taxman to seize goods for investigations among changes to GST Act](#)" (3 November 2020), Channel News Asia; <https://www.channelnewsasia.com>

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