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GST News

Expanding perspective and possibilities

Greetings from your Tax & Legal team at Deloitte Singapore. We hope that you and your loved ones are staying safe and healthy during these challenging times. As we navigate ourselves through this trying period, we are committed to giving you the support you need.

We are pleased to share the following with you:

New e-Tax Guide for GST on Transfer Pricing (TP) Adjustments

The Inland Revenue Authority of Singapore (IRAS) has recently released a new e-Tax Guide “Goods and Services Tax (GST): Transfer Pricing (TP) Adjustments” on 9 November 2020.

The new guide explains the GST treatment for adjustments to the transfer price of transactions made between related parties. We have summarised the salient points of the guide as follows:

GST Treatment for TP Adjustments

A TP adjustment may indicate that the original value of the supply or import of goods or services has been understated or overstated for GST purposes. Therefore, certain GST adjustments may be required as follows:

- TP adjustments resulting in an increase in the price of the supply or import of goods or services

An upward GST adjustment is required when the TP adjustment results in an increase in the original price of the supply or import of goods or services and the price increase is effected through the financial statements (i.e., recognising there is a change in the original value of the supply of goods or a change in the original value of the import of goods or services) **or** the TP adjustment is taxable or allowable for income tax purposes.

- TP adjustments resulting in a decrease in the price of the supply or import of goods or services

A downward GST adjustment is required when the TP adjustment results in a decrease in the price of the supply or import of goods or services and the price reduction is effected through the financial statements **and** the TP adjustment is taxable or allowable for income tax purposes.

The required GST adjustments will depend on the nature of the supply and import as follows:

Nature of the supply	Upward/downward GST adjustment
Past standard-rated supply	Increase/decrease the values of standard-rated supply and output tax (Box 1 and Box 6 of the GST return respectively).
Past zero-rated supply	Increase the value of zero-rated supply (Box 2 of the GST return). However, no GST adjustments are required if you are prepared to forgo the additional input tax claimable that will arise from the increased value of zero-rated supplies in your input tax apportionment formula. No GST adjustment is required for downward TP adjustment.
Past exempt supply	Increase the value of exempt supply (Box 3 of the GST return).

	No GST adjustment is required for downward TP adjustment.

*No GST adjustments are required if the supply of goods or services is out-of-scope.

Nature of the import	Upward/downward GST adjustment
Imported goods subject to GST	For upward TP adjustments where there is an increase in the value of the imported goods, you are required to submit the adjustments via Singapore Customs' (SC) Voluntary Disclosure Programme (VDP) and take up a short payment permit to pay the additional GST to SC upon their notification. To ease compliance burden, Singapore allows a single short payment permit to be taken up for the TP adjustment for each year of assessment (i.e., no need to attribute the TP adjustment to each import permit during the year of assessment). You should then increase the values of taxable purchases and input tax (Box 5 and Box 7 of GST return respectively) to claim the GST paid as your input tax based on your normal input tax recovery rules. If the import was made under a GST suspension/deferment scheme such as the Major Exporter Scheme where no import GST was previously paid, you should increase the value of taxable purchases (Box 5 of GST return). There is no need to submit the VDP and/or pay any additional GST to SC. In the case of downward TP adjustments by GST-registered businesses who have claimed in full the import GST paid earlier in their GST returns, no refund will be due to them for the overpaid amount. If the GST-registered businesses are not entitled to and have not claimed the import GST in full (for example, because the import GST was attributed to both exempt and taxable supplies), they can

	claim the overpaid GST in their GST returns. For non-GST registered businesses, they may apply to SC for a refund.
Imported services subject to reverse charge	For adjustments of services, the business should increase/decrease the values of standard-rated supplies and output tax (Box 1 and 6 of GST return respectively) and values of imported services and input tax (Box 14 and Box 7 of GST return respectively).

***No GST adjustments are required where the TP adjustment relates to non-taxable imports, such as imported investment precious metals and imported services (e.g., a zero-rated supply of services) that are not subject to reverse charge.

Administrative concession

The IRAS and SC recognise that the GST adjustments would not have an overall tax impact under certain circumstances. To reduce compliance costs on businesses, an administrative concession is granted to businesses where GST adjustments for TP adjustments are not required in the following circumstances:

Circumstances	Remarks
Taxable imports	Applies for businesses which are entitled to full input tax credit on the import of the goods or the imported services are not subject to reverse charge at the time when the TP adjustment is made. Businesses must be entitled to full input tax credit in the prescribed accounting period and relevant longer period when the TP adjustment is made. If the businesses belong to a GST group, the group must be entitled to full input tax credit.
Standard-rated supplies	The related party customer is entitled to full input tax credit on the supply made by the Supplier, and the Supplier is also entitled to full input tax credit on the purchases and

	expenses, at the time when the TP adjustment is made.
Zero-rated and exempt supplies	Businesses must be entitled to full input tax credit on the purchases and expenses at the time when the TP adjustment is made. If there is an increase in exempt supplies as a result of the TP adjustment, the supplier must be entitled to full input tax credit even after the increase.

***The administrative concession will not apply to imports of dutiable motor vehicles.

Businesses need **not** write in to IRAS or SC (for TP adjustments affecting import of goods) to request for the concession. Instead, Businesses should self-assess whether the conditions can be met.

If the concession applies and no GST adjustments are required, businesses need not issue an additional invoice or credit note to the customer for GST purposes or correct any past import or export permits. Businesses also need not make any adjustments in the GST returns. Businesses are still required to maintain the relevant supporting documents and records such as invoices issued to or received from the related party and produce them upon request by either authority.

Making GST Adjustments

The general time of supply rule will apply to the GST adjustments. As such, the necessary adjustments should be made in the prescribed accounting period:

- At the earlier of when issuing an invoice/credit note or receive payment in respect of the TP adjustment for the supplies; and
- At the earlier of when an invoice/credit note is issued or payment is made in respect of the TP adjustment for the imported services.

Note that there are some exceptions as follows:

Situation	Time of supply
Adjustment relating to reverse charge supplies	The adjustments should be made based on the same time of supply rule which is consistently applied for other reverse charge supplies, i.e., at the earlier of the posting date of the transaction in the business

	accounts or the payment date. Alternatively, if the business elects to account for GST on the reverse charge supplies at the end of the longer period, it should also make the required TP adjustments at the end of the longer period.
Adjustments to the accounting of additional output tax	If the business does not issue any invoice or receive any payment from the related party customer, it must make the GST adjustment in the GST return upon the lapse of 12 months from the date that the goods were removed or made available to the related party customer, or the services were performed. If the TP adjustment is made after the lapse of the 12 months, the business must make the GST adjustment in the prescribed accounting period where the TP adjustment is made.
Adjustments to the accounting of additional output tax on reverse charge supplies	If the business does not receive any invoice from or make any payment to the related party for the TP adjustments, it must make the GST adjustment in the GST return upon the lapse of 12 months from the performance of services.

Generally, penalties will not be imposed on GST adjustments arising from TP adjustments, provided that they are made per the abovementioned timeframe and where all the conditions below are met:

- Must cooperate fully with the IRAS or SC when queried on the TP adjustments; and
- Must pay or arrange with IRAS or SC to pay the additional GST and honour such arrangements till all payments are made.

Proxies to apportion the value of supplies of goods and services and imported services

Given that TP adjustments usually relate to transactions that span a period of time, it may be difficult to trace the TP adjustments to specific transactions. To ease compliance, the Comptroller of GST will allow businesses to make GST adjustments to the value of their supplies by apportioning the TP adjustments using the following proxies:

- The proportion of standard-rated, zero-rated, exempt or out-of-scope supplies: Identify the categories of transactions to which the TP adjustments relate, before applying the proxy.
- Amount of time spent/sales revenue supported/number of end customers serviced: This proxy is suitable for allocation of charges relating to services performed for regional or global entities. The proxy should again be applied only after the categories of transactions to which the TP adjustments relate are identified.

The proxy used should be consistently applied to all relevant transactions. For other proxies, businesses may seek approval from the Comptroller of GST by writing in to explain how the proxy reasonably reflects the type of supplies made.

Supporting records and documents to be maintained

The following records, where applicable, should be maintained for 5 years from the end of the prescribed accounting period in which the TP adjustment was made:

- Affected invoices and credit notes issued showing the amount of TP adjustment made and evidence that payment has been received, if any.
- Affected purchase invoices and evidence that payment has been made, if any.
- Affected import permits and price adjustments made to the shipments.
- Relevant contracts and agreements.
- Documentation to explain the proxies (if any) chosen for the allocation and apportionment of the TP adjustments. The documents should also clearly show the category of transactions that the TP adjustments relate to and the computation of the allocation to the GST adjustments.

These documents need not be submitted to the IRAS, unless requested.

Deloitte Singapore's View

Along with increasing globalisation, cross-border transactions between related parties are becoming more common. Tax authorities are also beginning to realise the customs and indirect tax implications caused by transfer pricing adjustments, which means businesses need to be aware of any transfer pricing adjustments they make to their related party transactions and assess the GST impact. The issuance of this e-Tax guide is timely and will be welcomed by GST taxpayers as it provides greater certainty and clarity on the treatment of TP adjustments for GST and customs purposes.

The administrative concession in allowing companies to take up a single short payment permit for the TP adjustment for each YA instead of having to attribute each TP adjustment to each import permit is an encouraging sign and one that is necessary to bridge the gap between tax and customs authorities. This will go a long way in assisting companies to reduce administrative burden, and save time and resources.

Fully taxable GST taxpayers (i.e., GST taxpayers who are entitled to full input tax recovery) will also be glad to know that they should not be required under the administrative concession to make GST adjustments on their TP adjustments and/or disclose to the SC. Hence, it should reduce GST compliance costs.

However, GST taxpayers should review their current processes to determine if all necessary TP adjustments can be picked up for GST reporting or for making a voluntary disclosure to the SC if they do not qualify for the administrative concession. If not, they should implement the necessary processes to manage TP adjustments not being picked up for GST reporting or not voluntarily disclosed to SC and expose themselves to hefty financial penalties.

If you have not however made a corresponding GST adjustment or made a voluntary disclosure to the SC in respect of your past TP adjustment and you do not qualify for the above-mentioned administrative concession, it is recommended that you approach the IRAS and/or SC as soon as possible to disclose the matter to them and also agree with them on the rectification procedures.

Contact

For more information on the above or any other GST/VAT matters, please contact either the listed contacts below, or any member of the Singapore Tax & Legal team.

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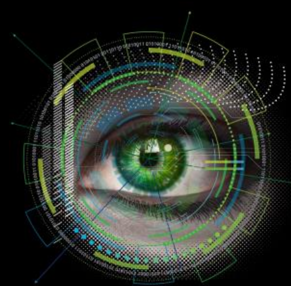

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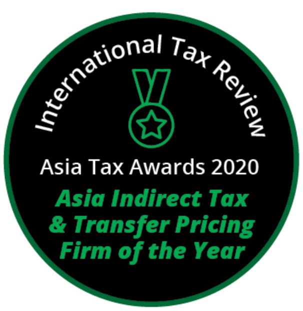

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