

Goods and Services Tax (GST) – Missing Trader Fraud Arrangements

What is a Missing Trader Fraud (MTF) Arrangement?

The objective of such an arrangement is to defraud IRAS and cause loss of tax revenue. A MTF arrangement is an arrangement comprising two or more supplies (sale of goods) under which one or more persons can evade or avoid paying any amount of GST to Inland Revenue Authority of Singapore (IRAS) or are able to obtain any credit for or refund of GST from IRAS which the person or persons would not otherwise be able to obtain.¹

MTF arrangements may take many forms – The Goods and Services Tax Act (GST Act) itself contains five illustrations under which such fraud may be perpetuated.²

In an illustration of a typical MTF arrangement provided by IRAS, a Missing Trader sells goods locally and charges Goods and Services Tax (GST) on the sale. This missing trader may be GST-registered. The GST is collected from the buyer but is not reported to nor paid to IRAS by the missing trader. The buyer will in turn sell the goods to a customer and claim from IRAS the input tax which he has paid to the missing trader. The Missing Trader may control the entities in the supply chain including the customer. Eventually, the goods will be exported out of Singapore and no GST is charged (zero-rated). This arrangement results in IRAS losing tax revenue through refunding input tax paid without collecting the GST output tax from the missing trader.³

Change in GST legislation effective from 1 January 2021

Generally, a business (a GST-registered business) which is registered for Goods and Services Tax (GST) will usually be able to claim GST input tax paid to suppliers or Customs which are directly attributable to taxable supplies made by the business. These GST input tax claims are subject to certain conditions including having supporting invoices addressed by the supplier to the GST-registered business.

¹ Section 20(2B) of the Goods and Services Tax Act.

² Ninth schedule of the Goods and Services Tax Act.

³ For a more detailed illustration by IRAS, see https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/GST/GST-registered_businesses/Getting_it_right/Audits_by_IRAS/Attachment%20A_Illustration%20on%20Missing%20Trader%20Fraud%20and%20Case%20Studies.pdf

With effect from 1 January 2021, the GST legislation has been changed to impose additional conditions for claiming of GST input tax. A GST-registered business will not be entitled to claim a refund the input tax paid on any purchase which it knew or should have known to be a part of a MTF arrangement. This will apply even if the other conditions for claiming GST input tax have been met.

The main risk to legitimate GST-registered businesses arising from this new requirement is not being able to claim a refund of input tax paid to a missing trader, even if it was unaware that the transaction was part of a MTF arrangement. There are therefore potential financial losses from not meeting this new requirement.

The Knowledge Principle – If you should have known

The Knowledge Principle may apply to deny input tax claims. A GST-registered business will not be allowed to claim a refund of the input tax paid if it knew or should have known that the purchase was a part of any MTF arrangement.⁴ Under certain circumstances, the GST-registered business will be assumed to have known that the purchase was part of an MTF arrangement.

Such an assumption may arise when the following conditions are met:

- (a) the circumstances connected with the entity's transactions carried a reasonable risk of being a part of such arrangement; and
- (b) before claiming a refund of the input tax, the GST-registered business —
 - (i) did not take reasonable steps to ascertain whether the transaction was a part of such arrangement; or
 - (ii) took reasonable steps to ascertain whether the transaction was a part of such arrangement and —
 - (A) concluded that the transaction was not a part of such arrangement and the conclusion is not one that a reasonable person would have made;
 - (B) was unable to conclude that the transaction was not a part of such arrangement; or
 - (C) did not make any conclusion as to whether the transaction was or was not a part of such arrangement.⁵

⁴ Section 20(2A) of the Goods and Services Tax Act.

⁵ Based on section 20(2D) of the Goods and Services Tax Act

Implications on GST-registered businesses

The change in GST legislation imposes additional responsibilities on GST-registered businesses when making their claims for refund of input tax paid to its suppliers. They are now required to assess the risk of whether its transactions are part of a MTF arrangement, ascertain whether it is part of such an arrangement and must be able to reasonably conclude that it is not part of such an arrangement.

It does not matter if the GST-registered business does not have actual knowledge that the transactions are part of such an arrangement. If it can be shown that the GST-registered business should have known that it has been part of a MTF arrangement, its input tax claim will be disallowed. It is an objective test – i.e. whether another reasonable person would have made the same conclusion as the GST-registered business.

It should be noted that the GST-registered business is required to form an affirmative conclusion that a transaction is not part of a MTF arrangement, and that it is reasonable to come to such a conclusion. If the GST-registered business did not make any conclusion or could not conclude that the transaction is not part of a MTF arrangement, it will fail the test.

What you need to do

GST-registered businesses are now required to take reasonable steps to ensure that they are not dealing with traders that are part of an MTF arrangement.

IRAS has issued guidance to GST-registered businesses on how they may recognise and respond to the risk indicators for a MTF arrangement and how the Knowledge Principle may apply to deny input tax claims.⁶ The three-pillar approach from IRAS includes performing risk assessments, due diligence checks and responding to the risks and results of the checks. All GST-registered businesses should familiarise themselves with the guidance contained in the IRAS e-Tax guide and apply them in the conduct of their business. Business processes, including those relating to new suppliers and new customers, may need to be changed or enhanced.

⁶ IRAS e-Tax guide – GST: Guide on Due Diligence Checks to Avoid Being Involved in Missing Trader Fraud, as of 21 February 2021, this is available at https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax_Guides/etax%20guide_Due%20Diligence%20Checks%20to%20Avoid%20Being%20Involved%20in%20Missing%20Trader%20Fraud.pdf

We can help you

Non-compliance with the new requirements from 1 January 2021 may result in claim for refund of GST input tax being disallowed by IRAS and consequent financial losses. IRAS conducts audit on GST returns and may disallow input tax claims on transactions that are part of a MTF arrangement.

We will be happy to provide more information on this new requirement. We can also provide training and consultancy on implementation of the due diligence procedures that may be required in addressing the Knowledge Principle. If required, we may review your business procedures and determine if any changes required to reduce the risks of non-compliance with the new legislation.

Contact

Wee Kong Eng
MTax, CA (Singapore), CIA, Dip. in Law, ATP (Income tax & GST)
K E Wee & Associates PAC, Public Accountants and Chartered Accountants
Email: kongeng@kewee.com.sg
Mobile: +65 97552868
Office: +65 67200950 ext 115
Internet: www.kewee.com.sg

Disclaimer

Information is subject to change. This is not a comprehensive guide and information may have been summarized, simplified or paraphrased to suit scenarios more commonly applicable to our clients and for easy understanding. Any opinion or interpretations are solely those of K E Wee & Associates PAC and may be subject to agreement with the relevant authorities. We disclaim all liabilities arising from any inaccuracy that may be contained in the above information.