IRAS WARNS AGAINST TAX EVASION

IRAS takes a serious view of errant taxpayers, who do not comply with the need to submit proper tax returns or have wilful intent to evade tax. In the most recent case, Xing Wang Ji Roasted Meat Wholesale Pte Ltd ("XWJ") was convicted in Court on 21 November 2014 of tax evasion. One of its directors was also convicted of assisting XWJ to evade tax and in addition to paying fine and penalty; he was sentenced to 6 weeks' jail.

In this article, we explore what is tax evasion, why IRAS takes tough stance against tax evaders and how acts of tax evasion are detected by IRAS. Last but not least, we also revisit some of the publicised prosecutions in 2014 to better understand what constitute tax evasion and its consequences.

IRAS generally believes that the majority of the taxpayers are compliant and errant taxpayers belong to the minorities who intentionally cheat or evade tax. Tax evasion is defined as "a deliberate action by someone to provide inaccurate and incomplete information about their activities in order to reduce their tax liabilities or to obtain tax credits and refunds that they do not qualify for".

As such behaviour is unfair towards compliant taxpayers who are contributing their fair share towards nation building; IRAS do not hesitate to take action against tax evaders. Penalties for tax evasion can be up to four times the amount of tax evaded and in certain situations, like in the case of XWJ, jail terms may also be imposed. It is also pertinent to note that where fraud has been committed, IRAS can even take the tax evaders to task for periods beyond the five-year statutory time-bar.

Acts of tax evasion are normally uncovered by IRAS through regular audits whose objective is to identify individuals and businesses that do not comply with the relevant tax laws. During such audits, IRAS utilises data analytics, including data-mining and profiling, industry comparison, etc, to detect and identify taxpayers who omit or under-declare their taxes.

In order to better illustrate what constitute an offence and the consequences thereof, a summary of some recent prosecution cases in 2014 is compiled in Table 1. It can be noted from Table 1 that some of these acts of tax evasion arose not only from elaborate schemes but also from simple acts.

To conclude, taxpayers are responsible for the information that they have declared in their tax returns and GST-registered businesses must ensure that they have complied with the GST law and regulations.

For negligent or ignorant taxpayers who have not given due attention to their tax obligations, these businesses or individuals are encouraged to self-review their income tax and GST matters. Any past tax mistakes detected, including the impact and quantum of these mistakes, ought to be immediately disclosed to IRAS. In the spirit of encouraging voluntary compliance, such mistakes are viewed differently from tax evasion, and these voluntary disclosures are considered by IRAS as mitigating factors when assessing the additional tax liabilities arising from these mistakes. Thereafter, taxpayers are expected to be compliant and not repeat their tax mistakes moving forward.

If you wish to understand more on the topics of tax evasion or inquire on the Voluntary Disclosure Programme, please feel free to approach:

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TABLE 1: SUMMARY OF PROSECUTION CASES

(Source: IRAS – Media Releases and Speeches)

Case	Errant Acts	Consequences & Penalties	Comments
21 Nov 2014 *Xing Wang Ji Roasted Meat Wholesale Pte Ltd ("XWJ")*	a) Issuance of non-standard invoices to customers who did not want to pay GST b) Failure to declare correct and complete sales income earn resulting in: • Understatement of sales income and income tax amounting to S$3.5 million and S$110,600 respectively over 3 years of assessment • Understatement of output tax totalling more than $220,000	XWJ: • Fine - S$42,000 Director A, director of XWJ: • Jail – 6 weeks • Tax and penalty - S$354,961.76 Director B involved in tax evasion: • IRAS is reviewing appropriate action to be taken	There are instances where GST-registered businesses feel oblige to give in to customers' request not to charge GST. In such cases, businesses shall have to absorb the GST and is thus required to impute the output tax based on the sales amount accepted by the customer. Tax invoices shall then be raised accordingly.
29 Oct 2014 *Junling Construction & Engineering Pte Ltd ("JCE")*	a) Omission of output GST amounting to S$96,600 collected for sale of non-residential property in 2011 b) Failure on the part of the director of JCE to ensure accuracy of GST return	JCE: • Penalty – S$191,268 • Fine – S$2,000 Director of JCE: • Penalty – S$191,268 • Fine – S$2,000	GST-registered businesses have to account for GST collected on the sale of non-residential properties as an output tax in their GST returns. Both the preparer and the approver of the GST returns are also responsible for the accuracy of the returns.
29 Aug 2014 *Chuan Kok Trading Co ("partnership")*	The Managing Partner: a) Deliberately withhold full sales records from outsourced accountants for their preparation of the partnership's accounts and income tax returns, resulting in understatement of the partnership's income by S$483,091 and $481,950 in YA2005 and YA2006 respectively b) Deliberately inflate business expenses in the partnership's accounts so as to claim more tax deductions that the partnership was entitled to c) Under-report partnership income in individual income tax returns for YA2005 and YA2006 d) Fail to report correct GST output tax for the omitted sales	Managing Partner: • Taxes and penalty – S$784,264.18 • Jail – 20 days + 6 months for non-payment of penalty of S$177,315.09 Other partners: • Taxes and penalty – S$510,459.58	Businesses are advised to disclose all documents and information necessary for accounting purposes so as to ensure that the financial statements prepared are complete and thus, reflect a true and accurate financial position of the business.

TABLE 1: SUMMARY OF PROSECUTION CASES – cont'd
(Source: IRAS – Media Releases and Speeches)

Case	Errant Acts	Consequences & Penalties	Comments
10 Jul 2014 *GST Fraud involving 10 different entities*	a) Collusion with accomplices using multiple shell entities with the intention to defraud the Comptroller of GST b) Submission of inflated and fictitious GST refunds claims totalling S$428,368.53 c) Assisting accomplices to inflate and obtain fictitious GST refunds totalling S$493,693.16 over a period of 21 months d) Falsification of documents to assist an accomplice's business to make fraudulent claims in GST returns amounting to S$31,130.38	Mastermind of the fraud: • Taxes and penalty – S$1.2 million • Jail – 15 months	Though there is no mention of the penalties payable by the accomplices, with IRAS taking a serious view of such fraudulent acts, it is highly probable that the accomplices would similarly have to pay their fair share of fines and penalties.
11 Apr 2014 *Creative Engineering Works Pte Ltd ("CEW")*	a) Deliberately cancelled genuine invoices amounting to S$599,389.77 to avoid registering for GST b) Arising from the wilful actions, S$154,535.16 of GST not account for between 1 June 2006 and 31 December 2008	CEW: • Taxes and Penalty – Approx S$170,000 • Fine – S$5,500	Businesses ought to regularly assess if they need to register GST. They must register for GST if their turnover for the preceding four quarters (regardless of the financial year end) or expected turnover for the next 12 months exceeds S$1 million. Businesses are required to register within 30 days of the date where the 12-monthly turnover crosses the S$1 million mark. Deliberate and wilful actions to avoid GST registration are considered tax evasion.