

Goods and Services Tax (Amendment) Bill

Bill No. 59/2004.

Read the first time on 19th October 2004.

A BILL

intituled

An Act to amend the Goods and Services Tax Act (Chapter 117A of the 2001 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Goods and Services Tax (Amendment) Act 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2(1) of the Goods and Services Tax Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the definition of “authentication code” and substituting the following definitions:

10 “account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Comptroller to that person for the storage and retrieval of electronic records relating to that person;

15 “authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;”;

(b) by deleting the definition of “database report”;

(c) by deleting the definition of “electronic notice” and substituting the following definitions:

25 “electronic record” has the same meaning as in the Electronic Transactions Act (Cap. 88);

“electronic service” means the electronic service provided by the Comptroller under section 42(1);”;

(d) by deleting the definition of “registered user”.

Amendment of section 21

30 3. Section 21 of the principal Act is amended —

(a) by deleting paragraphs (j), (k) and (l) of subsection (3) and substituting the following paragraphs:

“(j) services supplied —

(i) under a contract with a person who belongs in a country outside Singapore; and

(ii) which directly benefit a person who belongs in a country other than Singapore and who is outside Singapore at the time the services are performed,

not being services which are supplied directly in connection with —

(A) land or any improvement thereto situated inside Singapore; or

(B) goods situated inside Singapore at the time the services are performed, other than goods referred to in paragraph (g);

(k) prescribed services supplied —

(i) under a contract with a person wholly in his business capacity (and not in his private or personal capacity) and who in that capacity belongs in a country outside Singapore; and

(ii) which directly benefit a person wholly in his business capacity (and not in his private or personal capacity) and who in that capacity belongs in a country other than Singapore;

(l) prescribed services in connection with —

(i) the handling of ships or aircraft; or

(ii) the handling or storage of goods carried in any ship or aircraft;”;

(b) by deleting paragraph (s) of subsection (3) and substituting the following paragraph:

“(s) services supplied —

(i) under a contract with a person who belongs in a country outside Singapore; and

(ii) which directly benefit a person who belongs in a country other than Singapore,

relating to the co-location in Singapore of computer server equipment belonging to the person referred to in sub-paragraph (i) or (ii).”;

(c) by deleting the definition of “designated area” in subsection (4)(a); and

(d) by inserting, immediately after subsection (4), the following subsection:

“(4A) For the purposes of subsection (3)(j), (k) and (s), the person with whom the contract is made and the person who directly benefits from the services may be the same person or different persons.”.

Amendment of section 24

4. Section 24 of the principal Act is amended by deleting subsection (4) and substituting the following subsection:

“(4) The Minister may, having regard to any international agreement or arrangement and subject to such conditions as he may impose, give to any person —

(a) relief from, or a remission or refund of, the whole or part of any tax chargeable on the importation of goods or supply of goods or services by him; or

(b) a refund of the whole or part of any tax on the supply of goods or services to him —

(i) which, if he were a taxable person, would be his input tax; or

(ii) for which, as a taxable person, he is not entitled to any credit as input tax under this Act,

if the relief, remission or refund appears to the Minister to be necessary or expedient to give effect to the agreement or arrangement.”.

Repeal and re-enactment of section 27

5. Section 27 of the principal Act is repealed and the following section substituted therefor:

“Importation and supply of goods by taxable persons

- 5 **27.**—(1) The Minister may by regulations —
- (a) in relation to goods imported by any taxable person in the course or furtherance of any business carried on by him, permit those goods to be —
- 10 (i) delivered or removed without payment of the tax chargeable on the importation; or
- (ii) delivered or removed, and supplied to any other person, without payment of the tax chargeable on the importation or on the supply; and
- (b) in relation to goods supplied by any taxable person in the course or furtherance of any business carried on by him to another taxable person, permit those goods to be supplied without payment of the tax chargeable on the supply.
- 15 (2) Regulations made under subsection (1) may —
- (a) require a taxable person referred to in that subsection to account for the tax chargeable on the importation or supply of the goods in such form and manner and within such time as may be prescribed, notwithstanding such tax is not payable; and
- 20 (b) where any requirement of the regulations is not complied with or in such other circumstances as may be prescribed, require the tax chargeable on the importation or supply to be paid.
- 25 (3) The Comptroller may, for the protection of revenue, impose conditions or restrictions in relation to any import or supply of goods referred to in subsection (1).
- 30 (4) The Comptroller may publish the names and such other particulars of the taxable persons to whom regulations made under this section apply in such form or manner as he thinks fit.”

Amendment of section 41

6. Section 41(4) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph:

- 5 “(b) for the keeping of accounts in electronic form in a computer,
and for —
- (i) the making and submission of returns; and
 - (ii) the making of declarations to verify such returns,
through the electronic service;”.

Repeal and re-enactment of section 42

10 7. Section 42 of the principal Act is repealed and the following section substituted therefor:

“Electronic service

42.—(1) The Comptroller may provide an electronic service for —

- (a) the registration of taxable persons;
- 15 (b) the filing or submission of any return, declaration or document; and
- (c) the service of any notice, direction, order, permit, receipt or document by the Comptroller.

20 (2) For the purposes of the electronic service, the Comptroller may assign to any person —

- (a) an authentication code; and
- (b) an account with the electronic service.

(3) Any person may —

- 25 (a) register himself, or request to cancel his registration, as a taxable person; or
- (b) file or submit any return, declaration or document, if he is required to do so,

through the electronic service.

30 (4) Any agent who is authorised by his principal in the prescribed manner may —

- (a) register his principal, or request to cancel his principal's registration, as a taxable person; or
- (b) file or submit any return, declaration or document on behalf of his principal,

5 through the electronic service.

(5) Where any return, declaration or document is filed or submitted on behalf of any person under subsection (4) —

- (a) it shall be deemed to have been filed or submitted with the authority of that person; and
- 10 (b) that person shall be deemed to be cognizant of all matters therein.

(6) Where any return, declaration or document is filed or submitted through the electronic service using the authentication code assigned to any person before that person has requested, in the prescribed manner, for the cancellation of the authentication code —

- (a) the return, declaration or document shall, for the purposes of this Act, be presumed to have been filed or submitted by that person unless he adduces evidence to the contrary; and
- 20 (b) where that person alleges that he did not file or submit the return, declaration or document, the burden shall be on him to adduce evidence of that fact.

(7) Where any person has given his consent for any notice, direction, order, permit, receipt or other document to be served on him through the electronic service, the Comptroller may serve that document on that person by transmitting an electronic record of that document to that person's account with the electronic service.

(8) Notwithstanding any other written law, in any proceedings under this Act —

- 30 (a) an electronic record of any return, declaration or document that was filed or submitted, or any notice, direction, order, permit, receipt or document that was served, through the electronic service; or

(b) any copy or print-out of that electronic record, shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

(i) is certified by the Comptroller to contain all or any information filed, submitted or served through the electronic service in accordance with this section; and

(ii) is duly authenticated in the manner specified in subsection (10) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

(9) For the avoidance of doubt —

(a) an electronic record of any return, declaration or document that was filed or submitted, or any notice, direction, order, permit, receipt or document that was served, through the electronic service; or

(b) any copy or print-out of that electronic record, shall not be inadmissible in evidence merely because the return, declaration or document was filed or submitted, or the notice, direction, order, permit, receipt or document was served, without the delivery of any equivalent document or counterpart in paper form.

(10) For the purposes of this section, a certificate —

(a) giving the particulars of —

(i) any person whose authentication code was used to file, submit or serve the return, declaration, notice, direction, order, permit, receipt or document; and

(ii) any person or device involved in the production or transmission of the electronic record of the return, declaration, notice, direction, order, permit, receipt or document, or the copy or print-out thereof;

(b) identifying the nature of the electronic record or copy thereof; and

- (c) purporting to be signed by the Comptroller or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(11) Where the electronic record of any return, declaration, notice, direction, order, permit, receipt or other document, or a copy or print-out of that electronic record, is admissible under subsection (8), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

(12) The Comptroller may, for the purposes of the electronic service, approve the use of any symbol, code, abbreviation or notation to represent any particulars or information required under this Act.

(13) The Minister may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing —

- (a) the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service;
- (b) the procedure for the correction of errors in, or the amendment of, any return, declaration or document that is filed or submitted through the electronic service;
- (c) the manner in which a person who has given his consent for a notice, a direction, an order, a permit, a receipt or any other document to be served on him through the electronic service shall be notified of the transmission of an electronic record of that document to his account with the electronic service;
- (d) the manner in which authentication codes are to be assigned; and
- (e) anything which may be prescribed under this section.”.

Amendment of section 50

8. Section 50 of the principal Act is amended —

(a) by deleting subsections (4) and (4A) and substituting the following subsections:

5 “(4) The Minister may appoint from amongst the members of the Board —

(a) a Chairman of the Board; and

(b) such number of Deputy Chairmen of the Board as the Minister thinks fit.

10 (4A) No person may be appointed as Chairman of the Board or Deputy Chairman of the Board unless he is either qualified to be a District Judge or is a public accountant within the meaning of the Accountants Act 2004 (Act 4 of 2004).

(4B) Meetings of the Board shall be presided by —

15 (a) the Chairman of the Board;

(b) in the absence of the Chairman of the Board —

(i) where there is only one Deputy Chairman of the Board present, the Deputy Chairman; and

20 (ii) where there is more than one Deputy Chairman of the Board present, such Deputy Chairman as may be chosen by the Deputy Chairmen present; and

25 (c) where neither the Chairman of the Board nor any Deputy Chairman of the Board is present, such member of the Board as may be chosen by the members present.”;

(b) by deleting subsection (6) and substituting the following subsections:

30 “(6) All the powers, functions and duties of the Board may be exercised, discharged and performed by any committee of the Board consisting of not less than 3 members of the Board, at least one of whom shall be the Chairman of the Board or a Deputy Chairman of the Board.

(6A) Any act, finding or decision of any such committee shall be deemed to be the act, finding or decision of the Board.”;

(c) by deleting the words “the Minister, or by any officer authorised in that behalf by the Minister,” in subsection (7) and substituting the words “the Chairman of the Board”; and

(d) by deleting subsection (8) and substituting the following subsections:

“(8) All matters coming before the Board or a committee of the Board at any sitting thereof shall be decided by a majority of votes of the members of the Board present and, in the event of an equality of votes, the Chairman of the Board, the Deputy Chairman of the Board or such other member as may be presiding, as the case may be, shall have a second or casting vote.

(8A) Meetings of a committee shall be presided by —

(a) where the Chairman of the Board is a member of the committee, the Chairman; and

(b) where the Chairman of the Board is not a member of the committee and —

(i) there is only one Deputy Chairman of the Board on the committee, the Deputy Chairman; or

(ii) there is more than one Deputy Chairman of the Board on the committee, such Deputy Chairman as the Chairman may determine.

(8B) Where the Chairman of the Board or any Deputy Chairman of the Board, as the case may be, is absent from any meeting of a committee at which he ought under subsection (8A) to be presiding, the meeting shall be presided by —

(a) where there is only one Deputy Chairman who is a member of the committee present, the Deputy Chairman;

(b) where there is more than one Deputy Chairman who is a member of the committee present, such Deputy

Chairman as may be chosen by the Deputy Chairmen present; and

- (c) where there is no Deputy Chairman who is a member of the committee present, such member of the Board as may be chosen by the members present.”.

Amendment of section 51

9. Section 51 of the principal Act is amended —

- (a) by deleting subsection (2) and substituting the following subsections:

“(2) A notice of appeal shall contain —

- (a) an address for service;
 (b) a list of the names of any members of the Board to whom the appellant objects; and
 (c) the reasons for such objection.

(2A) An appellant shall not be entitled to object to the Chairman of the Board or any Deputy Chairman of the Board and to more than one-third of the total number of members of the Board.”;

- (b) by inserting, immediately after the word “objects” in subsection (3), the words “and the reasons for such objection”;

- (c) by inserting, immediately after the words “Chairman of the Board” in subsection (3A), the words “or any Deputy Chairman of the Board”; and

- (d) by deleting subsections (4) and (5) and substituting the following subsections:

“(4) The Chairman of the Board, or such Deputy Chairman of the Board as the Chairman may authorise, shall determine whether the reason for any objection to any member under subsection (2) or (3) is valid.

(4A) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is valid, the member of the Board in respect of whom the objection was made shall not attend the hearing of the appeal of the appellant.

(4B) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is not valid, the Chairman or Deputy Chairman shall reject that objection and inform the appellant or the Comptroller accordingly.

(4C) Where an objection has been rejected by the Chairman of the Board or a Deputy Chairman of the Board under subsection (4B), the member of the Board in respect of whom that objection was made may attend the hearing of the appeal of the appellant.

(4D) The decision of the Chairman of the Board or a Deputy Chairman of the Board under subsection (4) shall be final.

(5) The Chairman of the Board may, in his discretion and on such terms as he thinks fit, permit any person to proceed with an appeal notwithstanding that the notice of appeal or petition of appeal was not lodged within the time limited therefor by this section, if it is shown to the satisfaction of the Chairman that the person was prevented from lodging the notice or petition in due time owing to absence, sickness or other reasonable cause and that there has been no unreasonable delay on his part.”.

Amendment of section 62

10. Section 62(4) of the principal Act is amended by deleting the words “computer service established under section 42” and substituting the words “electronic service”.

Amendment of section 87

11. Section 87 of the principal Act is amended —

(a) by deleting paragraph (d) of subsection (1) and substituting the following paragraph:

“(d) where the person has given his consent for it to be served on him through the electronic service, by transmitting an electronic record of it to his account with the electronic service.”;

(b) by inserting, immediately after subsection (3), the following subsection:

“(3A) Where a person has given his consent for a notice to be served on him through the electronic service, the notice shall be deemed to have been served at the time when an electronic record of the notice enters his account with the electronic service.”;

(c) by deleting the words “Except for a notice served by electronic transmission in accordance with section 42,” in subsection (4) and substituting the words “Subject to subsection (7),”;

(d) by deleting the words “Any notice” in subsection (6) and substituting the words “Subject to subsection (7), any notice”; and

(e) by inserting, immediately after subsection (6), the following subsection:

“(7) Where any person has given his consent for any notice referred to in subsection (4) or (6) to be served on him through the electronic service, the notice need not be signed if it is served on him by transmitting an electronic record of the notice to his account with the electronic service.”.

Amendment of section 89

12. Section 89 of the principal Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

“(1) The Comptroller may, on the ground of poverty or where it is just and equitable to do so, give to any person or class of persons —

(a) relief from, or a remission or refund of, the whole or part of any tax chargeable on the importation of goods or supply of goods or services by that person or class of persons;

(b) a refund of the whole or part of any tax on the supply of goods or services to that person or class of persons —

(i) which, if he or they were taxable persons, would be his or their input tax; or

(ii) for which, as a taxable person or as taxable persons, he or they would not be entitled to any credit as input tax under this Act; or

- (c) relief or remission from the whole or part of any penalty payable by that person or class of persons.
- (2) The Minister may give to any person or class of persons —
- 5 (a) relief from, or a remission or refund of, the whole or part of any tax chargeable on the importation of goods or supply of goods or services by that person or class of persons;
- (b) a refund of the whole or part of any tax on the supply of goods or services to that person or class of persons —
- 10 (i) which, if he or they were taxable persons, would be his or their input tax; or
- (ii) for which, as a taxable person or as taxable persons, he or they would not be entitled to any credit as input tax under this Act; or
- 15 (c) relief or remission from the whole or part of any penalty payable by that person or class of persons.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Goods and Services Tax Act (Cap. 117A) for the following main purposes:

- (a) to clarify various matters relating to the supply of international services which qualify for zero-rating of tax;
- (b) to enable the Minister for Finance (the Minister) to provide by regulations for a new scheme under which tax chargeable on the supply of goods need not be paid;
- (c) to clarify the power of the Minister and the Comptroller of Goods and Services Tax (the Comptroller) to give relief from or to refund or remit tax or penalties imposed under the Act in certain instances;
- (d) to provide for an electronic service for the registration of taxable persons, the filing or submission of returns, declarations and documents by any person or his agent, and the service of notices, directions, orders, permits, receipts and documents by the Comptroller;
- (e) to enable a notice, a direction, an order, a permit, a receipt or any other document to be served on a person by transmitting an electronic record of that document to the person’s account with the electronic service; and

- (f) to provide for the appointment of Deputy Chairmen of the Goods and Services Tax Board of Review (the Board).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) by inserting new definitions of “account with the electronic service”, “electronic record” and “electronic service”, by re-introducing the definition of “authentication code” and by deleting the definitions of “database report” and “registered user” as a result of the repeal and re-enactment of section 42 by clause 7.

Clause 3 amends section 21(3)(j), (k) and (s) to clarify that the services to qualify thereunder as international services are those supplied under a contract with a person who belongs outside of Singapore and which directly benefit a person who belongs outside Singapore. The clause further inserts a new section 21(4A) to clarify that these 2 persons can be the same or different persons.

The clause also amends section 21(3)(l) to allow the Minister to prescribe certain services in connection with the handling of ships or aircraft, or the handling or storage of goods carried in ships or aircraft, as international services (without the need for the services to be carried out within a free trade zone or a designated area of a port, a terminal or an airport). The clause further deletes the definition of “designated area” in section 21(4) which is consequently no longer necessary.

Clause 4 amends section 24(4) to clarify that the Minister, in order to give effect to any international agreement or arrangement, may, in addition to granting relief from or remissions of tax chargeable on imports of goods or supplies of goods or services, grant refunds of such tax (including refunds of tax to a person to whom goods or services are supplied, which tax would, if he were a taxable person, be his input tax, or for which, as a taxable person, he would not be entitled to any credit as input tax under the Act).

Clause 5 repeals and re-enacts section 27 to enable the Minister to make regulations to permit certain goods to be supplied by a taxable person to another taxable person without payment of tax on the supply. This power is in addition to the existing power of the Minister to make regulations relating to the delivery or removal, or delivery or removal and supply, of certain imported goods without payment of tax on the importation or on the supply.

Clause 6 makes a consequential amendment to section 41(4) as a result of the repeal and re-enactment of section 42 by clause 7.

Clause 7 repeals and re-enacts section 42 —

- (a) to provide for an electronic service for the registration of taxable persons, the filing or submission of returns, declarations and documents by any person or his agent, and the service of notices, directions, orders, permits, receipts and documents by the Comptroller; and
- (b) to make an electronic record of any return, declaration, notice, direction, order, permit, receipt or other document, or any copy or print-out thereof, admissible in court as evidence of the facts stated therein if certain conditions are satisfied.

Clause 8 amends section 50 —

- (a) to empower the Minister to appoint as Chairman of the Board and Deputy Chairmen of the Board persons who are qualified to be a District Judge or who are accountants from among the Board members;
- (b) to enable a Deputy Chairman to preside at Board meetings in the absence of the Chairman, and a member of the Board to preside at the meetings in the absence of the Chairman and Deputy Chairmen;
- (c) to empower the Chairman to nominate the members of a committee of the Board and to provide that a committee of the Board (which exercises, discharges and performs the powers, functions and duties of the Board) must include at least the Chairman or a Deputy Chairman;
- (d) to specify that the Chairman, the Deputy Chairman or such other member as may be presiding at a Board or a committee meeting will have the second or casting vote where there is an equality of votes in a particular matter before the Board or the committee; and
- (e) to specify the person who is to preside at every meeting of a committee of the Board.

Clause 9 amends section 51 —

- (a) to require that a notice of appeal to the Board must include the reasons of the appellant for objecting to any member of the Board;
- (b) to provide that the Comptroller is required to provide reasons for objecting to any member;
- (c) to provide that the appellant and the Comptroller will not be entitled to object to any Deputy Chairman of the Board;
- (d) to enable the Chairman or a Deputy Chairman authorised by the Chairman to determine whether the reasons for objecting to any member are valid, and if the reasons are valid, the member objected to must not attend the hearing of the appeal; and
- (e) to enable the Chairman, in certain circumstances, to permit any person to proceed with his appeal notwithstanding his notice of appeal or petition of appeal was not lodged within the time limit specified in the section.

Clause 10 makes a consequential amendment to section 62(4) as a result of the repeal and re-enactment of section 42 by clause 7.

Clause 11 amends section 87 to provide for any notice, direction, order or other document to be served by transmitting an electronic record of that document to a person's account with the electronic service, if the person has given his consent for that document to be served on him through the electronic service.

Clause 12 amends section 89(1) and (2) to enable the Comptroller and the Minister to give to any person or class of persons, in addition to remissions of any tax chargeable on the import of goods or the supply of goods or services, or any penalties payable, relief from such tax or penalties. Refunds of such tax may also be given (including refunds of tax to a person or class of persons to whom goods or services are supplied, which tax would, if he or they were taxable persons, be his or their input tax, or for which, as a taxable person or as taxable persons, he or they would not be entitled to any credit as input tax under the Act).

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
