

ANNEX: PROPOSED CHANGES TO THE GOODS AND SERVICES TAX ACT

S/N	Proposed Legislative Change	Brief Description of Proposed Legislative Change	Amendment to GST Act [Clause in Draft GST (Amendment) Bill 2020]
1	Measures to counter Missing Trader Fraud	<p>GST-registered businesses claim GST incurred on their purchases (“input GST”), and charge GST on their sales (“output GST”). The net GST collected (where output GST charged is more than input GST claimed) is payable by businesses to the Inland Revenue Authority of Singapore (“IRAS”).</p> <p>Missing Trader Fraud is a fraud scheme used by syndicates, where the seller absconds with GST charged on his sales (“Missing Trader”), while businesses along the supply chain continue to claim refund of GST on their purchases. Syndicates make the detection of the Missing Trader difficult, by interposing many businesses along the chain to deter IRAS from tracing back to the Missing Trader. It is critical that businesses undertake the necessary due diligence checks and follow-up actions to avoid being involved in such fraud. Missing Trader Fraud has been detected in Europe and IRAS has encountered such cases in Singapore.</p> <p>To deter Missing Trader Fraud, legislative amendments are proposed to:</p>	4, 6, 7, 10, 11, 12, 19 and 21

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		<p>(i) Allow the Comptroller of GST to deny a GST-registered business' input GST claim, if the business knew or should have known that his purchase was part of or connected with a fraudulent arrangement. The burden of proving that the business knew or should have known of the fraudulent arrangement lies on the Comptroller, with the standard of proof being the balance of probabilities. This is similar to the approach taken in the United Kingdom ("UK") and the European Union to safeguard tax revenue;</p> <p>(ii) Introduce a surcharge of 10% to be applied on the amount of input GST denied for a business who should have known that his purchase was part of or connected with a fraudulent arrangement. The UK has a similar practice. Existing criminal penalties in the GST Act will continue to be imposed on a business who knows that his purchase is part of or connected to a fraudulent arrangement and had his input GST denied;</p> <p>(iii) Exempt the Comptroller from the requirement to refund input GST within 3 months after the receipt by the Comptroller of all the information requested by the</p>	

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		<p>Comptroller, if the underlying purchase is suspected to be part of or connected with Missing Trader Fraud. Australia and New Zealand have similar practices; and</p> <p>(iv) Allow the Comptroller to (a) impose conditions on a business who is required to register for GST and cancel registration if any of the conditions imposed is breached; and (b) deregister or prevent a business from registering for GST. This measure allows the Comptroller to manage the risk of abuse of GST registration, and consequently the risk of defrauding the GST system. The UK similarly deregisters businesses who acted fraudulently or who knowingly facilitated a fraud.</p> <p>Under the draft Bill, these proposed amendments are to take effect from 1 January 2021.</p>	
2	Enhance IRAS's powers to seize goods for investigation of tax offences	Currently, IRAS can only seize goods in certain circumstances such as goods suspected to be used in fraud relating to the Tourist	2, 5, 13, 14, 15, 16 and 22

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		<p>Refund Scheme¹, or goods found to still be in Singapore after their supposed date of export.</p> <p>The proposed enhancement will allow specially authorised IRAS officers to seize goods that are (i) suspected to be used or intended to be used by a person to commit an offence under the GST Act; and (ii) suspected to constitute evidence of an offence under the GST Act or which may aid in any investigation or prosecution in connection with such offence.</p> <p>The seizure of goods will be supervised by the Court, who will decide whether the seized goods should be retained, disposed of, or returned to its owner after a certain prescribed time period. Empowering IRAS to seize goods that may be used to perpetrate fraud is an important measure in disrupting the operations of GST fraud schemes. Tax authorities in the UK and Australia are similarly empowered to seize goods for their investigations.</p> <p>Under the draft Bill, these proposed amendments are to take effect from 1 January 2021.</p>	

¹ Qualifying tourists buying goods from retailers who participate in the Tourist Refund Scheme are able to claim a refund of the GST paid on their purchases.

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3	Enhance the GST rules to counteract tax avoidance arrangements (“anti-avoidance rules”)	<p>Currently, the GST Act allows the Comptroller the discretion to disregard or vary arrangements that are carried out with tax avoidance as one of their main purposes and not for bona fide commercial reasons; and to make relevant tax adjustments to counteract any tax avoidance under that arrangement.</p> <p>To enhance the anti-avoidance rules and provide certainty to taxpayers on their tax liability, the proposed amendments seek to:</p> <ul style="list-style-type: none"> (i) include GST avoidance arrangements that would result in an earlier entitlement to input GST claims or unjustified bad debt relief claims; (ii) clarify that the Comptroller’s power to make tax adjustments under the anti-avoidance rules is subject to a statutory time limit of 5 years; (iii) clarify that taxpayers are required to pay the additional GST from the adjustment within one month from the date a notice of adjustment is served; and (iv) remove the discretion for the Comptroller to make adjustments to disregard or vary the arrangement. Once the Comptroller is satisfied that an arrangement is to avoid tax, the Comptroller will be required to make the adjustment. 	8 and 12

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		Under the draft Bill, these proposed amendments are to take effect from 1 January 2021.	
4	Surcharge for tax avoidance arrangements	<p>Currently, the tax adjustments made under the anti-avoidance rules only restore taxpayers to their initial tax position, as if the arrangement had not been entered into.</p> <p>To further deter tax avoidance arrangements, the draft Bill proposes a surcharge equal to 50% of the amount of additional GST imposed by the Comptroller as a result of the adjustments made to counteract the tax avoidance arrangement. A similar amendment will be proposed for the draft Income Tax (Amendment) Bill 2020.</p> <p>Under the draft Bill, the proposed surcharge is to apply to adjustments made to GST accounting periods starting on or after 1 January 2021.</p>	9 and 12
5	Clarify the GST treatment of claims	Section 90 of the GST Act currently allows a person to claim a refund of money that has been overpaid or erroneously paid as GST. Examples of such claims include GST that had been	18

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	relating to overpaid or erroneously paid GST	<p>incorrectly collected by non-GST registered businesses and GST that had been wrongly charged on non-taxable transactions (e.g. supplies that qualify for zero-rating or GST exemption).</p> <p>The proposed amendments clarify that:</p> <ul style="list-style-type: none"> (i) the claims must be made to the Comptroller within 5 years; (ii) the treatment of claims relating to overpaid or erroneously paid GST also applies to overpaid or erroneously paid GST on imports; and (iii) for GST overpaid or erroneously paid on imports, the claims must be made by and remitted to the person who had made the over or erroneous payment. <p>Under the draft Bill, these proposed amendments are to take effect from 1 January 2021.</p>	
6	Mandate electronic tax refunds	To harness digital technologies to transform how the Government serves the public, the proposed amendment introduces general provisions to prescribe mandatory electronic refunds of GST to taxpayers, unless the Minister or such other persons may otherwise permit. A similar amendment will be proposed for the	17

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		<p>draft Income Tax (Amendment) Bill 2020 to prescribe mandatory electronic refunds of corporate income tax by IRAS to companies.</p> <p>Under the draft Bill, the proposed amendment is to take effect from 1 January 2021, with regulations to prescribe mandatory electronic tax refunds for GST taxpayers sometime in 2021.</p>	
7	Amend secrecy provision to allow access to information necessary for administering public schemes	This proposed amendment allows the Comptroller to provide information to the CEO of IRAS or officers authorised by the CEO of IRAS for the purpose of administering public schemes, such as the Job Support Scheme. A similar amendment will be proposed for the draft Income Tax (Amendment) Bill 2020.	3 and 20