

Goods and Services Tax (Amendment) Bill

Bill No. /2017.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Goods and Services Tax Act (Chapter 117A of the 2005 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 is the Goods and Services Tax (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 12

2. Section 12(2) of the Goods and Services Tax Act (called in this Act the principal Act) is amended by deleting the words “and 38” in paragraph (a)(iii) and substituting the words “, 38 and 38A”.

Amendment of section 38

10 3. Section 38 of the principal Act is amended —

(a) by deleting the words “it shall be for the person supplied, on the supplier’s behalf, to account for and pay tax on the prescribed supply, and not for the supplier” in subsection (2) and substituting the words “then, it is for the person supplied to account for and pay tax on the prescribed supply as if the person supplied was the supplier, and the supplier must not claim or collect tax on the prescribed supply from the person supplied”;

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(b) by inserting, immediately after the subsection (2), the following subsection:

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“(2A) Nothing in subsection (2) prevents section 78(2) from applying to the person making the prescribed supply of goods or services if, despite that subsection, the person issues an invoice for the prescribed supply of goods or services showing it as taking place with tax chargeable on it.”; and

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(c) by deleting the comma at the end of paragraph (c) of subsection (5) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

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“(d) goods consisting in furniture, furnishings, fittings, appliances or effects that are supplied together

with any goods or services mentioned in paragraph (c).”

New section 38A

5 4. The principal Act is amended by inserting, immediately after section 38, the following section:

“Customers to account for tax on relevant supplies of prescribed goods or services

10 **38A.**—(1) This section applies in circumstances where a taxable person (called in this section the supplier), makes a relevant supply of goods or services to a person (called in this section the customer) who is registered under this Act at the time when the relevant supply is made.

15 (2) Where the relevant supply of goods or services is made by the supplier in connection with the carrying on by the customer of any business, then, it is for the customer to account for and pay tax on the relevant supply as if the customer were the supplier, and the supplier must not claim or collect tax on the relevant supply from the customer.

20 (3) Nothing in subsection (2) prevents section 78(2) from applying to the supplier if, despite that subsection, the supplier issues an invoice for the relevant supply of goods or services showing it as taking place with tax chargeable on it.

25 (4) So much of this Act and of any written law as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay goods and services tax apply for the purposes of this section in relation to the customer, as if the tax were tax on a supply made by the customer.

30 (5) If the relevant supply of goods or services is not made by the supplier to the customer in connection with the carrying on by the customer of any business, the customer must notify the supplier of that fact; and if the customer fails to do so, the customer must, unless otherwise allowed by the Comptroller —

- (a) pay to the Comptroller without demand the amount of tax chargeable on the relevant supply to which the failure relates; and
- (b) include the amount of tax mentioned to in paragraph (a) as output tax in the customer's return.

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(6) Where, in the opinion of the Comptroller, the consideration for the relevant supply changes on or after the supply is made, then the Comptroller may, for the protection of revenue, require the supplier or the customer of the relevant supply, or both of them, to make such adjustments to the tax accounted for or paid, or to be accounted for or paid, by either of them, in such form and manner as the Comptroller may require; and the supplier and the customer must comply with the Comptroller's requirement.

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(7) The Minister may make regulations under this section —

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- (a) to prescribe a supply of goods or services for the purposes of the definition of "relevant supply of goods or services" in subsection (10), by reference to one or both of the following:

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- (i) any use which is made of the goods or services;
- (ii) any other matter whether or not related to description or characteristic of the goods or services.

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- (b) to prescribe any relevant supply of goods or services as an excepted supply;
- (c) to provide for any threshold that the consideration for any supply of goods or services must exceed before it is a relevant supply of goods or services;
- (d) generally for the purpose of carrying out the provisions of this section.

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(8) The regulations made under subsection (7) may make different provisions for different circumstances.

(9) This section does not apply to any supply of goods or services prescribed as a prescribed supply under section 38.

(10) In this section —

“excepted supply” means any supply of goods or services that is prescribed as an excepted supply;

5 “relevant supply of goods or services” means any supply of goods or services that is prescribed for the purpose of this definition, and —

(a) the supply is a taxable but not a zero-rated supply;

(b) the supply is not an excepted supply; and

10 (c) the consideration for the supply exceeds any threshold that is prescribed for the purpose of this definition for that type of supply.”.

Amendment of section 41

5. Section 41 of the principal Act is amended —

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

“*(b)* require any taxable person supplying goods or services to any other person to provide the other person with an invoice (called in this section a tax invoice if it is required by the regulations to be provided to a taxable person) containing statements of such particulars as may be specified in the regulations, including but not limited to any of the following:

20 (i) particulars of the supply;

25 (ii) the tax chargeable on it;

(iii) the person by whom the goods or services are supplied;

(iv) the person to whom the goods or services are supplied;”;

30 (b) by inserting, immediately after subsection (1), the following subsection:

- 5 “(1A) Regulations made under subsection (1)(b) may, instead of prescribing any statement of particulars to be included in an invoice, provide that the Comptroller may, for the protection of revenue, direct any taxable person in writing to include in any invoice (whether or not a tax invoice) issued by the person, statements of particulars that are prescribed, or required by the Comptroller.”; and
- (c) by deleting the words “tax invoice” in subsection (2) and substituting the word “invoice”.

10 **Amendment of section 42**

6. Section 42 of the principal Act is amended —

- (a) by deleting subsection (7) and substituting the following subsection:
- 15 “(7) Subject to section 87, where regulations made under subsection (13) permit the Comptroller to serve through the electronic service any notice, direction, order, permit, receipt or other document on a person that has been assigned an account with the electronic service, the Comptroller may serve it on the person by transmitting an electronic record of it to the person’s account with the electronic service.”;
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- (b) by inserting, immediately after the words “electronic service” in subsection (8)(a), the words “in accordance with regulations made under subsections 13(ba) and (13A), and section 87”;
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- (c) by inserting, immediately after paragraph (b) of subsection (13), the following paragraph:
- 30 “(ba) the circumstances in which the Comptroller may serve any notice, direction, order, permit, receipt or other document through the electronic service on a person that has been assigned an account with the electronic service;”
- (d) by deleting the words “given his consent for a notice, a direction, an order, a permit, a receipt or any other document

to be served on him” in subsection (13)(c) and substituting the words “been served with a notice, a direction, an order, a permit, a receipt or any other document”; and

(e) by inserting, immediately after subsection (13), the following subsection:

“(13A) Regulations made for the purpose of subsection (13)(ba) —

(a) may provide for service of any notice, direction, order, permit, receipt or other document through the electronic service in circumstances where —

(i) the person consents to such service; or

(ii) the Comptroller gives the person notice of the Comptroller’s intention of such service and the person does not refuse such service;

(b) may make provision with respect to the provision of any notice of the Comptroller’s intention, or the person’s consent or refusal, mentioned in paragraph (a), including —

(i) the matters to be stated in the notice; and

(ii) the time within which, and the form and manner in which, the consent or refusal must be received by the Comptroller;

(c) may make provision with respect to when the consent or refusal of the person takes effect, or as to when the Comptroller must give effect to such consent or refusal; and

(d) may make provision for any matter necessary or incidental to the purposes in subsection (13)(ba) and paragraphs (a) to (c).”.

Amendment of section 46

7. Section 46 of the principal Act is amended —

(a) by deleting the words “tax invoices” in subsection (1)(c) and (d) and substituting in each case the word “invoices”;

(b) by inserting, immediately after subsection (1), the following subsection:

5 “(1A) Without affecting subsection (1), the Comptroller may, for the protection of revenue, direct in writing any person to keep records of the model and serial numbers of any goods purchased by or supplied by the person; and the person must comply with the direction.”;

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

15 “(3AA) Without affecting subsection (3), the Comptroller may direct in writing any person to keep or preserve, or both keep and preserve, by any electronic means specified in the direction, any records under subsection (1) or (1A) of the person as the Minister may prescribe; and the person must comply with the direction.”; and

20 (d) by deleting the words “so preserved” in subsection (3A) and substituting the words “preserved in accordance with subsection (3) or (3AA)”.

Amendment of section 60

8. Section 60 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

25 “(2) If any return is not made by a taxable person by the expiry of the period prescribed in regulations made under section 41 for the return, that person must pay a penalty that is the sum total of the following, not exceeding in any case \$10,000:

(a) \$200;

30 (b) \$200 for each completed month that the taxable person continues not to make the return, commencing from the expiry of the period prescribed.”.

Amendment of section 87

9. Section 87 of the principal Act is amended —

- 5 (a) by deleting the words “notice, direction, order or document in subsection (1) and substituting the words “notice, direction, order, permit, receipt or other document”;
- 10 (b) by deleting the words “where the person has given his consent for it to be served on him through the electronic service” in subsection (1)(d) and substituting the words “through the electronic service in accordance with regulations made under section 42(13)(ba) and (13A)”;
- (c) by deleting subsection (3A) and substituting the following subsection:
- 15 “(3A) Where a notice, direction, order, permit, receipt or other document is served on any person through the electronic service under subsection (1)(d), the notice, direction, order, permit, receipt or other document is deemed to have been served at the time when an electronic record of that notice, direction, order, permit, receipt or other document enters the person’s account with the electronic service.”; and
- 20 (d) by deleting the words “Where a person has given his consent for any notice referred to in subsection (4) or (6) to be served on him through the electronic service” in subsection (7) and substituting the words “Where any notice mentioned in subsection (4) or (6) may be served on any person through the electronic service under subsection (1)(d)”.
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Amendment of Fourth Schedule

10. The Fourth Schedule to the principal Act is amended —

- 30 (a) by deleting the words “or “Rural Centre and Settlement” ” in paragraph 2(a) of Part I; and
- (b) by deleting sub-paragraphs (b) and (c) of paragraph 2 of Part I and substituting the following sub-paragraphs:

- 5 “(b) any land where the supply is made by the Government or such public authority as may be approved by the Minister or such other person as the Minister may appoint, and the land —
- (i) is approved exclusively for residential or condominium development; and
- (ii) is vacant, or has any building on it that is required by the Government or the public authority to be demolished; or
- 10 (c) any land or part of any land with any building on the land or part, being a building which is used or to be used principally for residential purposes, but not if —
- (i) the land or part is supplied by the Government or such public authority as may be approved by the Minister or such other person as the Minister may appoint;
- 15 (ii) the land or part is not approved exclusively for residential or condominium development; and
- (iii) the building is required by the Government or the public authority to be demolished.”; and
- 20 (c) by inserting, immediately after the definition of “non-residential property” in paragraph 1 of Part III, the following definition:
- 25 “ “public authority” means a body established or constituted by or under a public Act to perform or discharge a public function;”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Goods and Services Tax Act (Cap. 117A).

Clause 1 relates to the short title and commencement.

Clause 2 makes a consequential amendment to section 12(2)(a)(iii) in light of the new section 38A inserted *vide* clause 4.

Clause 3 amends section 38(2) to clarify that the customer is to account for and pay the tax as if the customer were the supplier, and that the supplier must not account for or pay the tax. The clause also amends section 38 to enable the supply of furniture, furnishings, fittings, appliances or effects supplied together with any

land or interest in or right over the land, to be a prescribed supply to which customer accounting under section 38 applies.

Clause 4 inserts a new section 38A to provide for customer accounting on relevant supplies of goods or services made to a customer in connection with the carrying on of any business of the customer. Under this section, where relevant supplies of goods or services are subject to customer accounting —

- (a) the customer (and not the supplier) accounts for and pays the tax on the relevant supply;
- (b) the normal time of supply provisions, *viz.*, sections 11, 11A, 11B and 12 apply, unless regulations are made under section 12(2)(a)(iii) to change these time of supply rules (see clause 2);
- (c) the supplier must issue a tax invoice to the customer for the supply with the details prescribed under section 41(1)(b) for the tax invoice; and
- (d) if the customer fails to notify the supplier that the supply is not made in connection with the carrying on of any business by the customer, customer accounting will still apply and the customer is still required to account for the output tax on the supply, although the customer may not be entitled to claim input tax in relation to such supply.

Clause 5 amends section 41 to clarify that regulations may be made to provide for the contents of invoices issued by taxable persons even to persons who are not taxable persons. The clause further inserts a new subsection (1A) to enable regulations to provide that the Comptroller of Goods and Services Tax (“Comptroller”) may direct that certain statements of particulars be included in an invoice, for the protection of revenue.

Clause 6 amends section 42 to enable regulations to be made to provide for matters relating to the service by the Comptroller on a person of any notice, direction, order, permit, receipt or other document through the electronic service. In particular, the amendments to section 42 permit regulations to be made to provide for an “opt-out” scheme for such service under which a person who is notified by the Comptroller that any document will be served on him through the electronic service will be so served unless he notifies the Comptroller that he does not wish to be so served.

Clause 7 amends section 46 to clarify that a taxable person is to keep records of all invoices (and not only tax invoices) issued or received by the taxable person, and to enable the Comptroller to direct any person to keep or preserve any records mentioned in section 46(1) by electronic means.

Clause 8 amends section 60 to enable a penalty of \$200 to be imposed on a taxable person so long as the taxable person has not made a return by the due date for the making of the return (the new section 60(2)(a)). Currently, the \$200 penalty is payable only if the return is not made until after the expiry of a period of one month following the due date, but is payable for each completed month in

which the taxable person continues not to make the return. The current penalty remains (under the new section 60(2)(b)) and is payable in addition to the amount under the new section 60(2)(a).

Clause 9 makes consequential amendments to section 87 as a result of the amendments to section 42 *vide* clause 6.

Clause 10 amends the Fourth Schedule by —

- (a) removing the reference to the zone “Rural Centre and Settlement” in paragraph 2(a) of Part I, as this zone is no longer in use;
- (b) extending the exemption for vacant land approved exclusively for residential or condominium development in paragraph 2(b) of Part I, to land so approved on which there is a building that is required by the Government or public authority making the supply, to be demolished;
- (c) excluding from the exemption in paragraph 2(c) of Part I, land that is not approved to be used exclusively for residential purposes in certain circumstances; and
- (d) inserting a definition of “public authority” in paragraph 1 of Part III.

EXPENDITURE OF PUBLIC MONEY

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

Note 1: LYL/GST (Amdt) Bill 2017 (v01.14) (KL 11.5.17)