

# Goods and Services Tax (Amendment) Bill

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**Bill No. /2019.**

*Read the first time on 2019 .*

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 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 2

2. Section 2(1) of the Goods and Services Tax Act (called in this Act the principal Act) is amended by inserting, immediately after the definition of “account with the electronic service”, the following definitions:

10 ““accountant” means a public accountant within the meaning of the Accountants Act (Cap. 2);

“advocate and solicitor” means an advocate and solicitor within the meaning of the Legal Profession Act (Cap. 161);”.

### 15 New section 2A

2. The principal Act is amended by inserting, immediately after section 2, the following section:

#### “Digital payment tokens

20 2A.—(1) Subject to subsections (2) and (3), a reference in this Act to a digital payment token is a reference to any digital representation of value that has all of the following characteristics:

- (a) it is expressed as a unit;
- (b) it is fungible;
- 25 (c) it is not denominated in any currency, and is not pegged by its issuer to any currency;
- (d) it can be transferred, stored or traded electronically;
- (e) it is, or is intended to be, a medium of exchange accepted by the public, or a section of the public,

without any substantial restrictions on its use as consideration.

(2) A reference in this Act to a digital payment token does not include any of the following:

- 5           (a) money;
- (b) anything which, if supplied, would be an exempt supply under Part I of the Fourth Schedule for a reason other than being a supply of one or more digital representations of value having the characteristics mentioned in subsection (1);
- 10           (c) anything which —
- (i) gives an entitlement to receive, or an entitlement to direct the supply of, goods or services from a specific person or persons; and
- 15           (ii) ceases to function as a medium of exchange after the entitlement has been used.

(3) The Minister may by order in the *Gazette* do any of the following:

- 20           (a) add to the characteristics, or modify or remove any characteristics, in subsection (1) of digital payment tokens for the purposes of this Act, whether generally or for specific circumstances;
- (b) add to the exclusions, or modify or remove any exclusion, in subsection (2).”.

25   **Amendment of section 14**

**4.** Section 14 of the principal Act is amended —

(a) by deleting sub-paragraph (i) of subsection (1)(a) and substituting the following sub-paragraph:

30           “(i) supplied by a person who belongs in a country other than Singapore, and received by a person (called in this section the recipient) who —

(A) belongs in Singapore;

(B) is a registered person, or is not a registered person but is liable to be registered under paragraph 1 or 1B of the First Schedule; and

(C) is not receiving the services as an individual in the private or personal capacity of the individual; or”;

(b) by deleting the words “not entitled to claim the full amount of input tax credit under sections 19 and 20” in subsection (1)(b) and substituting the words “, under sections 19 and 20, not entitled to claim in full any input tax that is not excluded from being claimed”; and

(c) by deleting subsections (5) and (6) and substituting the following subsections:

“(5) Where a recipient who is a registered person is not within subsection (1)(b), the recipient may elect for all supplies to the recipient made in the circumstances under subsection (1)(a) to be treated as supplies of services to which subsection (2) applies (despite subsection (1)(b) not applying).

(6) Where a recipient who is a registered person receives any supply of services excluded or to any extent excluded under the Eight Schedule that is made by a person mentioned in subsection (1)(a), the recipient may elect for all supplies of such services to be treated as supplies of services to which subsection (2) applies (and not so excluded from subsection (2) under subsection (3)).”.

### **Amendment of section 15**

**5.** Section 15(7) of the principal Act is amended by deleting the words “for determining” and substituting the words “by which a supplier may determine”.

### **Amendment of section 17**

6. Section 17 of the principal Act is amended —

- 5 (d) by deleting the words “supplied by the person or branch mentioned in section 14(1)(a) or member of the group mentioned in section 30(1A), without any deduction of any amount required to be withheld as tax under the Income Tax Act (Cap. 134) (if applicable)” in subsection (3A) and substituting the words “in fact supplied that gave rise to the reverse charge supply”;
- 10 (e) by inserting, immediately after subsection (3A), the following subsection:
- “(3AA) Where a reverse charge supply arises from services supplied by a person or branch mentioned in section 14(1)(a) or member of the group mentioned in section 30(1A), for the purpose of determining the consideration for the services in fact supplied, any amount required to be withheld as tax under the Income Tax Act (Cap. 134) (if applicable) must not be deducted.”; and
- 15 (f) by deleting the words “the recipient may deduct from the value of the reverse charge supply an amount equal to any cost that relates to any of the following that is included as part of the consideration for the services in fact supplied” in subsection (3B) and substituting the words “for the purpose of determining the consideration for the services in fact supplied, any of the following that is included as part of the consideration for the services in fact supplied may be deducted”.
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### **Amendment of section 28A**

7. Section 28A(1) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph:

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“(b) section 32(1);”.

### **Amendment of section 30**

3. Section 30(4) of the principal Act is amended by inserting, immediately after the word “fit” in paragraph (d), the words “including, where all members of the group are taxable persons registered under paragraph 1B of the First Schedule, a condition that none of the members must claim for any input tax to which the member is entitled under this Act”.

### **Amendment of section 33**

9. Section 33 of the principal Act is amended by deleting subsection (1) and substituting the following subsections:

“(1) Where a person does not have his usual place of residence in Singapore and the person is accountable for any tax, or has duties imposed on the person by or under this Act, then the person (called in this section the overseas registrant) —

- (a) must, if he is not a registered (pay-only) person; and
- (b) may, if he is a registered (pay-only) person,

appoint an agent, a manager or a factor (called in this section the section 33(1) agent) who belongs in Singapore to act on behalf of that overseas registrant, in matters by reference to which that overseas registrant is accountable or on whom the duties are imposed.

(1A) The section 33(1) agent —

- (a) is substituted for the overseas registrant as the person accountable for the tax; or
- (b) is under an obligation to discharge any duties imposed on the overseas registrant by or under this Act,

as the case may be.

(1B) The overseas registrant must —

- (a) notify the Comptroller in writing of the section 33(1) agent appointed by the overseas registrant; and
- (b) where there is —

- (i) a change in any detail of the section 33(1) agent notified under paragraph (a); or
- (ii) a change of the section 33(1) agent appointed by the overseas registrant,

5 the overseas registrant must notify the Comptroller in writing of the change not less than 30 days before the date of the change.

(1C) The Comptroller may waive the requirement under subsection (1) subject to such conditions as the Comptroller may impose.

10 (1D) The Comptroller may at any time direct an overseas registrant to replace a section 33(1) agent of the overseas registrant with another section 33(1) agent.”.

#### **Amendment of section 44**

**10.** Section 44 of the principal Act is amended —

- 15 (a) by inserting, immediately after the word “money” in subsection (1), the words “or digital payment tokens”; and
- (b) by inserting, immediately after the word “moneys” in subsection (1A), the words “and digital payment tokens”.

#### **Amendment of section 56**

20 **11.** Section 56 of the principal Act is amended —

- (c) by deleting the words “and in appeals to, or in cases stated for the opinion of, the High Court and in appeals from decisions of the High Court under section 54” in subsection (1);
- 25 (d) by deleting the words “, the High Court or the Court of Appeal, as the case may be,” in subsection (2);
- (e) by deleting the words “or the Court” in subsection (2);
- (f) by deleting the words “, the High Court or the Court of Appeal” wherever they appear in subsection (3);
- 30 (g) by deleting the word “identity” in subsection (3) and substituting the word “name”; and

(h) by deleting the words “of Review and Supreme Court” in the section heading.

### **Amendment of section 62**

5 **12.** Section 62 of the principal Act is amended by inserting, immediately after subsection (5), the following subsections:

“(6) In relation to a Seventh Schedule supply, a person (X) commits an offence if —

- (a) X belongs in Singapore under section 15 and is not a registered person;
- 10 (b) X provides any information (whether or not to the person making the supply) for the purpose of the supply;
- (c) X wilfully provides the information with intent to induce the person making the supply into determining that —
  - 15 (i) X does not belong in Singapore for purposes of the supply; or
  - (ii) X is a registered person; and
- (d) the person making the supply is so induced into making the determination mentioned in paragraph (c).

(7) For the purpose of subsection (6), where —

- (a) X purchases the supply using a device; and
- (b) a mobile country code, IP address or other information identifies the physical location of the device at the time X makes the purchase,

then X, in using the device, is treated as having provided such information.

(8) A person who is guilty of an offence under subsection (6) shall be liable on conviction —

- 30 (a) to a fine that is the total of the following:



- (i) an amount equal to 3 times the amount of the tax chargeable on the supply;
- (ii) an amount not exceeding \$10,000; or
- (b) to imprisonment for a term not exceeding 7 years, or to both.”.

#### **New section 62A**

4. The principal Act is amended by inserting, immediately after section 62, the following section:

#### **“Penalties for misrepresenting status of person**

10 **62A.**—(1) This section applies in relation to a Seventh Schedule supply made to a person who belongs in Singapore under section 15 and is not a registered person.

(2) The person commits an offence if the person provides information (whether or not to the person making the supply) that is false as to —

- (a) where the firstmentioned person belongs under section 15; or
- (b) whether the firstmentioned person is a registered person.

20 (3) A person who is guilty of an offence under subsection (2) shall be liable on conviction to a fine that is the total of the following:

- (a) an amount equal to the amount of tax chargeable on the supply; and
- (b) an amount not exceeding \$10,000.”.

#### **Amendment of section 64A**

14. Section 64A(2) of the principal Act is amended by deleting the word “Where” and substituting the words “Subject to subsection (3), where”.

### **Amendment of section 84**

**15.** Section 84 of the principal Act is amended —

- 5           (a) by deleting the words “made in the course or furtherance of a business” in subsections (1)(f)(i) and (2A)(a)(i) and substituting in each case the words “(whether or not made in the course or furtherance of a business), that is relevant for the purposes of this Act”; and
- (b) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:
- 10                       “(a) any information concerning his or any other person’s income, assets or liability, or concerning his or any other person’s transactions (whether or not made in the course or furtherance of a business), that is relevant for the purposes of this Act; or”.
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### **Repeal and re-enactment of sections 92 and 93**

**5.** Sections 92 and 93 of the principal Act are repealed and the following sections substituted therefor:

#### **“Temporary arrangements for Seventh Schedule supplies**

- 20       **92.**—(1) Where an agreement provides (expressly or impliedly) for a Seventh Schedule supply to be performed progressively and continuously over a period —
- (a) if the agreement was made before 19 February 2018, tax is not chargeable on the supply; and
- 25       (b) if the agreement was or is made on or after 19 February 2018 but before 1 January 2020, tax is chargeable on the supply to the extent the services are performed on or after 1 January 2020.
- (2) Tax chargeable under subsection (1)(b) must be accounted for in the return for the accounting period in which the later of
- 30       the following falls:
- (a) 1 January 2020;

(b) the day on which the person making the supply is registered in accordance with the First Schedule,

to the extent the services are covered by any invoice issued or consideration received before 1 January 2020.

5 (3) Where an invoice for a Seventh Schedule supply was or is issued on or after 19 February 2018 but before 1 January 2020, tax is chargeable on the supply to the extent of —

(a) the amount of the invoice received on or after 1 January 2020; or

10 (b) the value of the services to which the invoice relates performed on or after 1 January 2020, if lower.

(4) Subsection (3) does not apply if the whole amount of the invoice is received, or the whole of the services is performed, before 1 January 2020.

15 (5) Tax chargeable under subsection (3) must be accounted for in the return for the accounting period in which the later of the following falls:

(a) 1 January 2020;

20 (b) the day on which the person making the supply is registered in accordance with the First Schedule.

(6) Where an invoice for a Seventh Schedule supply is issued on or after 1 January 2020 —

(a) tax is chargeable on the supply to the extent of the amount of the invoice received on or after that date; but

25 (b) the taxable person may elect for the tax to be chargeable only to the extent of the value of the services performed on or after that date, if lower.

30 (7) Subsection (6) does not apply if the whole amount of the invoice is received, and the whole of the services is performed, on or after 1 January 2020.

(8) For the purposes of this section, where only a part of the services under a Seventh Schedule supply is performed, the value

of the part is such value as is, in the opinion of the Comptroller, reasonably attributable to the part.

### **Temporary arrangements for reverse charge supplies**

5 **93.**—(1) Where an invoice for a supply in fact made that gives rise to a reverse charge supply was or is issued on or after 19 February 2018 but before 1 January 2020, tax is chargeable on the reverse charge supply to the extent of —

- (a) the amount of the invoice paid on or after 1 January 2020; or
- 10 (b) the value of the services to which the invoice relates performed on or after 1 January 2020, if lower.

(2) Subsection (1) does not apply if the whole amount of the invoice is paid, or the whole of the services to which the invoice relates is performed, before 1 January 2020.

15 (3) Tax chargeable under subsection (1) must be accounted for in the return for the accounting period in which the later of the following falls:

- (a) 1 January 2020;
- 20 (b) the day on which the person making the supply is registered in accordance with the First Schedule.

(4) Where an invoice for a supply in fact made that gives rise to a reverse charge supply is issued on or after 1 January 2020 —

- 25 (a) tax is chargeable on the reverse charge supply to the extent of the amount of the invoice paid on or after that date; but
- (b) the taxable person may elect for the tax to be chargeable only to the extent of the value of the services performed on or after that date, if lower.

30 (5) Subsection (4) does not apply if the whole amount of the invoice is paid, and the whole of the services performed, on or after 1 January 2020.

(6) For the purposes of this section, where only a part of the services in fact supplied is performed, the value of the part is such value as is, in the opinion of the Comptroller, reasonably attributable to the part.”.

5 **Amendment of First Schedule**

6. The First Schedule to the principal Act is amended —

- (a) by inserting, immediately after the words “Seventh Schedule supplies” in paragraph 1A(1)(a)(ii) and (b)(ii), the words “other than exempt supplies,”;
- 10 (b) by deleting the word “or” at the end of paragraph 8(1)(a)(ii)(A); and
- (c) by inserting, immediately after sub-paragraph (B) of paragraph 8(1)(a)(ii), the following sub-paragraph:
- 15 “(C) digital payment tokens in exchange for currency or other digital payment tokens referred to in paragraph 1B of Part I of the Fourth Schedule, where the supplies of the digital payment tokens are supplies of international services under section 21(3); or”.
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**Amendment of Third Schedule**

7. The Third Schedule to the principal Act is amended —

- (a) by inserting, immediately after sub-paragraph (1) of paragraph 1, the following sub-paragraphs:
- 25 “(1A) Without affecting paragraph 1, where —
- (a) a supply mentioned in section 14(1)(a) or 30(1A) is made for a consideration in money;
- (b) the value of the supply is (apart from this paragraph) less than its open market value; and
- 30 (c) the person making the supply is connected with the recipient of the supply,
- the Comptroller may direct that the value of the supply is to be taken to be its open market value.

(1B) For the purpose of sub-paragraph (1A)(c), the person making the supply is, as the case may be —

- (a) the member of a group under section 30 that belongs in a country other than Singapore;
- 5 (b) the person who belongs in a country other than Singapore; or
- (c) the branch of the person in a country other than Singapore through which the person carries on any business.”; and
- 10 (b) by inserting, immediately after the words “other than Singapore currency” in paragraph 11(1), the words “or in digital payment tokens”.

### **Amendment of Part I of Fourth Schedule**

8. Part I of the Fourth Schedule to the principal Act is amended by inserting, immediately after paragraph 1A, the following paragraph:

15 “Digital payment tokens

1B. The exchange of digital payment tokens for currency or other digital payment tokens.”.

### **Amendment of Seventh Schedule**

9. The Seventh Schedule to the principal Act is amended —

- 20 (a) by inserting, immediately after the words “paragraph 5(3)(b)” in paragraph 3(2)(c), the words “or 6(2)(b)”;
- (b) by inserting, immediately after paragraph 5, the following paragraph:

25 **“Supplies to registered persons allowed to be treated as that of operator of electronic marketplace**

6.—(1) Subject to any conditions imposed by the Comptroller, the Comptroller may, at the request of an operator of an electronic marketplace that belongs in Singapore, grant approval for the operator to be chargeable to tax on the following supplies:

- 30 (a) for an operator without an election made under paragraph 5(1), supplies of digital services made by any

overseas underlying supplier through the electronic marketplace to a registered person;

- 5 (b) for an operator with an election made under paragraph 5(1), supplies of digital services made by any overseas underlying supplier or any local underlying supplier through the electronic marketplace to a registered person.

10 (2) Where the operator is granted approval under paragraph (1), then a supply of digital services made by an overseas underlying supplier or a local underlying supplier (as the case may be) mentioned in that paragraph through the electronic marketplace to a registered person is treated as being 2 supplies, namely —

- 15 (a) a supply of services from the overseas underlying supplier or local underlying supplier to the operator of the electronic marketplace; and  
 (b) a supply of digital services by the operator of the electronic marketplace to the registered person.”.

### **Amendment of Eighth Schedule**

**10.** The Eighth Schedule to the principal Act is amended by deleting paragraph 2 and substituting the following paragraph:

20 “2.—(1) Without affecting paragraph 1, services are excluded for the purpose of section 14(1)(a)(i) and (ii) to the extent that such services were previously supplied by a taxable person who belongs in Singapore to the overseas supplier who subsequently supplied such services to the recipient, if —

- 25 (a) where the previous supply to the overseas supplier was not zero-rated under section 21, tax was charged on the previous supply; and  
 (b) the value (A) of the services charged by the overseas supplier to the recipient does not exceed the value (B) of the services previously supplied as charged by the taxable person who belongs  
 30 in Singapore to the overseas supplier.

(2) To avoid doubt, the exclusion under sub-paragraph (1) does not apply if A exceeds B, and the value of the supply of services not so excluded is to be treated as A - B.”.

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## **EXPLANATORY STATEMENT**

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

Clause 2 amends section 2(1) to insert new definitions of “accountant” and “advocate and solicitor”.

Clause 3 inserts a new section 2A to provide for what is a digital payment token for the purposes of the Act.

Clause 4(a) deletes and substitutes sub-paragraph (i) of section 14(1)(a) to clarify that reverse charge supplies arise in relation to all recipients who are registered or liable to be registered under paragraphs 1 and 1B of the First Schedule to the Act, except where the supply is to the recipient as an individual in the individual’s personal or private capacity.

Clause 4(b) amends section 14(1)(b) to clarify that the entitlement to claim input tax in full is in relation to such input tax as is not excluded from being claimed under sections 19 and 20.

Clause 4(c) deletes and substitutes subsections (5) and (6) of section 14 to clarify that the supply of services is treated as a supply of services under section 14(2), where the recipient makes the relevant election to treat himself as a recipient under section 14(1)(a) or to disregard the exclusions in the Eighth Schedule to the Act.

Clause 5 amends section 15(7) to clarify that the matters provided for in the regulations are intended only for the purposes of the person supplying Seventh Schedule supplies to use in determining whether the customer of the person belongs in Singapore.

Clause 6 makes various amendments to section 17 to clarify that the value of a reverse charge supply is the value of the supply in fact made that gives rise to the reverse charge supply, and that the requirements currently set out in section 17(3A) and (3B) apply to determine the value of the supply in fact made.

Clause 7 deletes and substitutes paragraph (b) of section 28A(1) to allow group registration for registered (pay-only) persons.

Clause 8 amends section 30(4)(d) to empower the Comptroller of Goods and Services Tax (the Comptroller) to impose, for purposes of group registration, a condition prohibiting members of the group from making any claims for input tax that the member might otherwise be entitled to claim under the Act.

Clause 9 deletes and substitutes subsection (1) of section 33 and inserts new subsections (1A) to (1D). The new subsection (1) clarifies that an overseas registrant must appoint a section 33(1) agent, unless the overseas registrant is a registered (pay-only) person. In the latter case, the appointment of such agent is optional. The new subsections (1A) to (1D) provide for the consequences of the appointment, and the powers of the Comptroller, in connection with the appointment.



Clause 10 amends section 44(1) and (1A) to extend the existing receipt issuing requirements to consideration received in digital payment tokens.

Clause 11 makes various amendments to section 56 to remove the requirement for appeals before the Supreme Court to be heard in camera.

Clauses 12 and 13 amend section 62 and insert a new section 62A, respectively, to provide for new offences on the part of a customer of a Seventh Schedule supply who belongs in Singapore under section 15 of the Act and is not a registered person.

For the offence under section 62, the person (X) must have wilfully provided information for the purposes of the supply with the intent of inducing the person making the supply into determining (in accordance with any regulations made under section 15(7) for the purposes of the person making the supply) that X does not belong in Singapore or is a registered person. For this offence, if X uses a device to make the purchase and there is a mobile country code, IP address or other information used in connection with the device that identifies the physical location of the device for the purposes of the purchase, then X provides such information for the purposes of the supply.

The new section 62A provides for a strict liability offence where false information is given concerning where the person belongs under section 15 of the Act, or whether the person is a registered person.

Clause 14 makes a technical amendment to section 64A(2).

Clause 15 amends section 84 to extend the power of the Comptroller to require information to be provided to the Comptroller, to transactions that are not made in the course of or in furtherance of a person's business.

Clause 16 repeals and re-enacts sections 92 and 93. The new sections 92 and 93 follow the intent of the existing sections 92 and 93 to provide for transitional matters relating to the imposition of tax on overseas services, but allow for the fact that services have been performed under the relevant supplies to be factored in in determining the amount of tax chargeable on the supplies.

Clause 17(a) amends paragraph 1A(1)(a)(ii) and (b)(ii) in the First Schedule to remove the need to take into account the value of exempt supplies in determining whether the threshold of \$100,000 in value of Seventh Schedule supplies is exceeded.

Clause 17(b) and (c) amends paragraph 8(1)(a)(ii) of the First Schedule to apply the same treatment to supplies of digital payment tokens, as is applied to exempt supplies that may be zero-rated.

Clause 18(a) inserts new sub-paragraphs (1A) and (1B) in paragraph 1 of the Third Schedule to clarify the meaning of connected persons in the context of a reverse charge supply.

Clause 18(b) amends paragraph 11(1) of the Third Schedule to extend the existing foreign exchange reporting requirements to any sum relevant for determining value, that is expressed in digital payment tokens.

Clause 19 inserts a new paragraph 1B in Part I of the Fourth Schedule to exempt from tax the exchange of digital payment tokens for currency or other digital payment tokens.

Clause 20 amends the Seventh Schedule to allow an operator of a local electronic marketplace to account for and pay tax on supplies of digital services made through the marketplace to registered persons. Unlike the election under paragraph 5 of the Seventh Schedule, approval of the Comptroller is required.

Clause 21 deletes and substitutes paragraph 2 of the Eighth Schedule to clarify that services supplied by an overseas supplier to a recipient are excluded for the purpose of section 14(1)(a)(i) and (ii) to the extent that the same services were previously supplied by a taxable person belonging in Singapore to the overseas supplier and the previous service was subject to tax, and to provide for the value of those services if not so excluded.

#### EXPENDITURE OF PUBLIC MONEY

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

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