

# **Goods and Services Tax (Amendment) Bill**

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**Bill No. 39/2020.**

*Read the first time on 6 October 2020.*

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 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 5

2. Section 5(3) of the Goods and Services Tax Act (called in this Act the principal Act) is amended by inserting, immediately after the word “sections” in paragraph (a), “83A,”.

### Amendment of section 6

10 3. Section 6 of the principal Act is amended —

(a) by inserting, immediately after subsection (6B), the following subsections:

“(6C) Despite anything in this section, the Comptroller —

15 (a) may furnish to —

(i) the chief executive officer of the Inland Revenue Authority of Singapore established under section 3 of the Inland Revenue Authority of Singapore Act (Cap. 138A); or

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(ii) an officer duly authorised by the chief executive officer,

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any information required for the performance of the official duties of the chief executive officer or authorised officer in administering any of the public schemes specified in Part 1 of the Sixth Schedule; and

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(b) may allow the chief executive officer or authorised officer such access to any records or documents as may be

necessary for the performance of those official duties.

(6D) The Minister may by order in the *Gazette* amend Part 1 of the Sixth Schedule.”; and

(b) by inserting, immediately after the words “specified in” in subsection (7), the words “Part 2 of”.

### **Amendment of section 20**

4. Section 20 of the principal Act is amended by inserting, immediately after subsection (2), the following subsections:

“(2A) Despite subsection (1), a taxable person is not entitled to credit for any input tax on any supply made to the taxable person which the taxable person knew or should have known was a part of any arrangement to cause loss of public revenue (whether or not the loss was in fact caused).

(2B) For the purpose of subsection (2A), an arrangement to cause loss of public revenue is an arrangement comprising 2 or more supplies (whether or not the supplies are in the same chain of supply or in different chains of supply), the effect of which is that one or more persons evade or avoid paying any amount of tax, or is able to seek to obtain any credit for or refund of tax which the person or persons would not otherwise be able to obtain.

(2C) Illustrations of an arrangement mentioned in subsection (2A) are set out in the Ninth Schedule, and the Minister may by order in the *Gazette* amend the Ninth Schedule.

(2D) For the purposes of this Act, a taxable person should have known that a supply made to the taxable person was a part of an arrangement mentioned in subsection (2A) if —

(a) the circumstances connected with the supply made to the taxable person or with a supply made by the taxable person, or both, carried a reasonable risk of the supply being a part of such arrangement; and

(b) the taxable person, before making a claim for credit for the input tax on the supply to the person —

(i) did not take reasonable steps to ascertain whether the supply was a part of such arrangement; or

5 (ii) took reasonable steps to ascertain whether the supply was a part of such arrangement and —

(A) concluded that the supply was not a part of such arrangement and the conclusion is not one that a reasonable person would have made;

10 (B) was unable to conclude that the supply was not a part of such arrangement; or

(C) did not make any conclusion as to whether the supply was or was not a part of such arrangement.

15 (2E) To avoid doubt —

(a) subsection (2D) applies in a case mentioned in paragraph (b)(i) of that subsection even if a reasonable person, after having taken reasonable steps, would have concluded that the supply was not a part of an arrangement mentioned in subsection (2A); and

20 (b) subsection (2D) applies in a case mentioned in paragraph (b)(ii)(B) or (C) of that subsection even if a reasonable person would have concluded that the supply was not a part of an arrangement mentioned in subsection (2A).

25 (2F) To avoid doubt, where —

(a) the taxable person took reasonable steps to ascertain whether the supply was a part of an arrangement mentioned in subsection (2A) and concluded that the supply was not a part of such arrangement; and

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- (b) the conclusion is one that a reasonable person would have made,

then, the person is not a person who should have known that the supply was a part of such arrangement, for the purposes of this Act.

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(2G) The circumstances for the purposes of subsection (2D) include the following:

- (a) any of the supplies in question is not a supply which the taxable person would ordinarily enter into, given the nature and extent of the taxable person's business;

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- (b) the value of any of the supplies in question is substantially in excess of the value of the assets of the business carried on by the taxable person or the risks required to be borne by the taxable person for the supply;

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- (c) the reasonableness or commerciality of any of the supplies in question is questionable, for instance, where there is a ready supplier to the taxable person and a ready buyer from the taxable person for the same goods or services in circumstances where the need for the taxable person as an intervening supplier is unnecessary;

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- (d) the consideration for the supply to the taxable person, or for any supply by the taxable person to a buyer, are pre-determined, or the profit of the taxable person is guaranteed;

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- (e) the arrangement for payment of the consideration for the supply to the taxable person does not accord with usual business practice;

- (f) the taxable person has little or no knowledge of or past dealing with the supplier to the taxable person or the buyer from the taxable person, or both.”.

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## **Amendment of section 25**

5. Section 25(2) of the principal Act is amended —

- (a) by inserting the word “and” at the end of paragraph (f); and
- (b) by deleting paragraph (g).

## 5 **New section 45A**

6. The principal Act is amended by inserting, immediately after section 45, the following section:

### **“Surcharge on supplies forming part of arrangements causing loss of public revenue**

10 **45A.—(1) Where —**

- (a) a taxable person enters into a supply that the taxable person should have known was a part of an arrangement mentioned in section 20(2A); and
- (b) the taxable person makes a claim for credit for the input tax on the supply,

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then, without affecting the power of the Comptroller to make an assessment under section 45(1) or (2) on the basis that the taxable person is not entitled to credit for the input tax because of section 20(2A), a surcharge equal to 10% of the amount of the input tax is imposed on the taxable person and is recoverable by the Comptroller from the taxable person as a debt due to the Government.

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(2) Nothing in this section prevents the applicability of section 20(2A) to a case, or any action of the Comptroller under subsection (1) in a case, from being questioned in an appeal against an assessment mentioned in subsection (1) in accordance with Part VIII.

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(3) Despite any objection under section 49 to or appeal under Part VIII lodged against an assessment of the Comptroller mentioned in subsection (1), the surcharge must be paid to the Comptroller —

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(a) within one month after the date a written notice of the surcharge is served in accordance with section 87(1) on the taxable person; and

(b) in the manner stated in the notice.

(4) The Comptroller may, in the Comptroller's discretion, and subject to any term and condition (including the imposition of interest on the surcharge) as the Comptroller may impose, extend the time within which the payment of the surcharge is to be made.

(5) The Comptroller may, for good cause, remit wholly or in part any surcharge payable to the Comptroller under this section.

(6) If, upon any objection under section 49 to or appeal under Part VIII lodged against an assessment mentioned in subsection (1), the assessment is varied or annulled, then the surcharge is correspondingly increased, reduced or annulled (as the case may be), and —

(a) if the surcharge is increased, subsections (1), (3), (4) and (5) apply to the increase in amount of the surcharge as they apply to the surcharge; or

(b) if the surcharge is reduced or annulled and it has already been paid to the Comptroller, the amount of the reduction or the entire amount (including any interest paid to the Comptroller on the amount) must be refunded.”.

#### **Amendment of section 46**

7. Section 46(1) of the principal Act is amended by deleting the word “and” at the end of paragraph (f), and by inserting immediately thereafter the following paragraph:

“(fa) where applicable, records of the reasonable steps taken by the taxable person to determine whether or not the supply made to the taxable person was a part of an arrangement mentioned in section 20(2A);”.

## Amendment of section 47

8. Section 47 of the principal Act is amended —

(a) by deleting the word “Where” in subsection (1) and substituting the words “Subsection (1A) applies where”;

5 (b) by deleting the word “or” at the end of subsection (1)(c);

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

10 “(d) to obtain for any person any credit for or refund of input tax or any increase of such credit or refund —

(i) which would not otherwise have been obtained; or

15 (ii) which would not otherwise have been obtained at the time at which it was obtained; or

(e) to obtain for any person any refund of tax chargeable, or any increase of any refund of tax chargeable, on a claim made in the case of a bad debt pursuant to regulations made under section 25, which would not otherwise have been obtained.”;

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(d) by deleting the words “the Comptroller may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustments as he considers appropriate so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement.” in subsection (1);

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

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“(1A) Without affecting any validity that the arrangement may have in any other respect or for any other purpose, the Comptroller must disregard or vary the arrangement and make any adjustment that



the Comptroller considers appropriate so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement.

(1B) An adjustment under subsection (1A) includes an adjustment that results in one or more of the following (called in this section and section 47A additional tax):

- (a) an increase in the amount of the tax payable by a person in relation to any prescribed accounting period; 10
- (b) a reduction in the amount of credit for input tax claimed by a person under sections 19 and 20 in relation to any prescribed accounting period;
- (c) a reduction in the amount of the refund of tax chargeable, on a claim made by a person in the case of a bad debt pursuant to regulations made under section 25 in relation to any prescribed accounting period.”; 15 20
- (f) by deleting the words “Without prejudice to the generality of subsection (1)” in subsection (2) and substituting the words “Without affecting subsection (1A)”;
- (g) by inserting, immediately after subsection (2), the following subsections: 25

“(2A) An adjustment under subsection (1A) must not be made more than 5 years after the end of the prescribed accounting period in relation to which the adjustment is to be made.

(2B) Nothing in this section prevents the applicability of subsection (1) to a case, or any action of the Comptroller under subsection (1A) in a case, from being questioned in an appeal under Part VIII lodged against an assessment. 30

(2C) Despite any objection under section 49 to or appeal under Part VIII lodged against any additional tax, the additional tax must be paid to the Comptroller —

5                   (a) within one month after the date a written notice of the adjustment is served in accordance with section 87(1) on the person to whom the adjustment is made; and

10                   (b) in the manner stated in the notice.

(2D) The Comptroller may, in the Comptroller’s discretion, and subject to any term and condition (including the imposition of interest on the additional tax) as the Comptroller may impose, extend the time specified in subsection (2C) within which payment is to be made.”;

15                   (h) by inserting, immediately after the words “this section” in subsection (3), the words “and section 47A”;

20                   (i) by deleting paragraph (b) of the definition of “tax advantage” in subsection (3) and substituting the following paragraph:

                          “(b) any entitlement, earlier entitlement or increase in entitlement of a person to a credit for or refund of input tax;”;

25                   (j) by deleting the word “or” at the end of paragraph (c) of the definition of “tax advantage” in subsection (3);

30                   (k) by deleting the full-stop at the end of paragraph (d) of the definition of “tax advantage” in subsection (3) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

                          “(e) any entitlement or increase in entitlement of a person to a refund of tax chargeable, on a claim made in the case of a bad debt

pursuant to regulations made under section 25.”;

(l) by deleting the word “shall” in subsection (4) and substituting the word “does”; and

(m) by deleting the word “may” in the section heading and substituting the word “to”.

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### **New section 47A**

9. The principal Act is amended by inserting, immediately after section 47, the following section:

#### **“Surcharge on adjustments under section 47**

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**47A.**—(1) This section applies where any additional tax is imposed on a person under section 47(1A) in respect of a prescribed accounting period starting on or after 1 January 2021.

(2) In a case mentioned in subsection (1), a surcharge equal to 50% of the amount of the additional tax is imposed on the person and is recoverable by the Comptroller from the person as a debt due to the Government.

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(3) Despite any objection under section 49 to or appeal under Part VIII lodged against the additional tax, the surcharge must be paid to the Comptroller —

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(a) within one month after the date a written notice of the surcharge is served in accordance with section 87(1) on the person to whom the surcharge is imposed; and

(b) in the manner stated in the notice.

(4) The Comptroller may, in the Comptroller’s discretion, and subject to any term and condition (including the imposition of interest on the surcharge) as the Comptroller may impose, extend the time within which payment of the surcharge is to be made.

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(5) The Comptroller may, for good cause, remit wholly or in part any surcharge or interest payable to the Comptroller under this section.

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(6) If, upon any objection under section 49 or appeal under Part VIII, any additional tax is varied or annulled, then the surcharge is correspondingly increased, reduced or annulled (as the case may be), and —

- 5           (a) if the surcharge is increased, subsections (2), (3), (4) and (5) apply to the increased amount of the surcharge as they apply to the surcharge; or
- (b) if the surcharge is reduced or annulled and it has already been paid to the Comptroller, the amount of the reduction or the entire amount (including any interest paid to the Comptroller on the amount) must be refunded.”.
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### **Amendment of section 52**

10. Section 52 of the principal Act is amended —

- 15           (a) by deleting the word “The” in subsection (3) and substituting the words “Subject to subsection (3A), the”; and
- (b) by inserting, immediately after subsection (3), the following subsection:

20                               “(3A) Where the appeal to the Board is in connection with the applicability of section 20(2A) to a claim for credit for input tax on a supply made to a taxable person, the Comptroller must show on a balance of probabilities that —

- 25                               (a) the supply was a part of an arrangement mentioned in section 20(2A); and
- (b) the taxable person knew or should have known that the supply was a part of such arrangement.”.

### **Amendment of section 59**

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11. Section 59 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) This section does not apply in relation to a claim for credit for input tax on a supply which a taxable person should have known was a part of an arrangement mentioned in section 20(2A).”.

## **Amendment of section 60**

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**12.** Section 60 of the principal Act is amended —

(a) by deleting the words “If any tax is not paid by a taxable person within the periods prescribed in regulations made under section 41” in subsection (1) and substituting the words “If any tax (including any additional tax mentioned in section 47(1B)) is not paid within the periods prescribed in regulations made under section 41 or within the period specified in section 47(2C) (as may be extended under section 47(2D))”;

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

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“(1B) Subsection (1)(a) and (b) applies to any surcharge and interest payable under section 45A or 47A (as the case may be) that is not paid within the period prescribed in that section, as it applies to any tax not paid by a taxable person within the period mentioned in subsection (1).”; and

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

“(3) In this section, “tax” includes any interest imposed under section 47(2D).”.

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## **Amendment of section 82**

**13.** Section 82 of the principal Act is amended by deleting subsection (7) and substituting the following subsection:

“(7) A reference in this section to tax due from a person under this Act includes —

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(a) an amount which becomes payable to the Comptroller by a tourist or a person holding himself out to be a

tourist, after the approval for the refund of the amount is revoked under a scheme for the refund established by regulations made under section 25; and

(b) any surcharge, and any interest on any tax or surcharge, under section 45A, 47 or 47A.”.

### **Amendment of section 83A**

**14.** Section 83A of the principal Act is amended —

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

“(1) Without affecting section 21(8) and except where any written law relating to customs or excise duties on imported goods under section 26 applies, any specially authorised officer may seize, or prohibit the disposal of or dealing in, any goods (including the receptacle or package in which the goods are found) —

(a) which are suspected to have been used or intended to be used to commit an offence under this Act; or

(b) which are suspected to constitute evidence of an offence under this Act or which may aid in any investigation or prosecution in connection with such offence.”;

(b) by deleting the words “authorised person” in subsection (2) and substituting the words “specially authorised officer”; and

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

“(7) If a specially authorised officer seizes any goods in the exercise of any power under subsection (1), the specially authorised officer must make a report of the seizure to a District Judge or Magistrate at the earlier of the following times:

(a) when the specially authorised officer considers that the goods are not relevant for the purposes of any investigation, inquiry, trial or other proceeding under this Act;

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(b) one year after the date of seizure of the goods.

(8) Subsection (7) does not apply if, by the earlier time mentioned in that subsection —

(a) the goods have been dealt with under subsection (3) or (4);

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(b) the goods have been released under subsection (5); or

(c) the goods have been forfeited or released under section 83B.

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(9) Subject to subsection (10) and to any provisions on forfeiture, confiscation, destruction or delivery in any other written law under which goods may be seized, the District Judge or Magistrate must, upon receiving a report mentioned in subsection (7), make such order as the District Judge or Magistrate thinks fit for —

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(a) the disposal of the goods;

(b) the delivery of the goods to the person entitled to possession of the goods; or

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(c) if the person in paragraph (b) cannot be ascertained, the custody and production of the goods.

(10) The District Judge or Magistrate must not make an order under subsection (9) if —

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(a) there is any pending court proceeding under any written law in relation to the goods; or

- (b) the District Judge or Magistrate is satisfied that the goods are relevant for the purposes of any investigation, inquiry, trial or other proceeding under any written law.”.

5 **Amendment of section 83B**

15 **15.** Section 83B of the principal Act is amended —

- (a) by deleting the word “All” in subsection (1) and substituting the words “Subject to section 83J, all”;
- 10 (b) by inserting, immediately after the words “convicted of the offence” in subsection (3), the words “; and in the absence of such proof, the court may order the release of the goods to a person determined by the court”; and
- (c) by deleting subsection (4) and substituting the following subsections:

15 “(4) The court may, in an order for the forfeiture of goods under this section or by a subsequent order, further provide for the disposal of the goods in any manner as the court thinks fit.

20 (5) If an order is made under this section in a case in which an appeal lies, the order must not, except where the goods are perishable, be carried out until the period allowed for the appeal has lapsed or the appeal has been dealt with.”.

**Repeal of section 83C**

25 **16.** Section 83C of the principal Act is repealed.

**Amendment of section 83E**

**17.** Section 83E(1) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph:

“(b) has in the person’s possession any goods —

- 30 (i) used or intended to be used by any person to obtain any refund pursuant to regulations made under section 25, in circumstances that



constituted or would constitute an offence under section 62 or 63; or

- (ii) that may aid in any investigation or prosecution in connection with such offence; or”.

### **Amendment of section 86**

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**18.** Section 86 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) Without affecting subsection (1), the Minister may make regulations to prescribe the mode of payment for any refund under this Act in relation to any person or class of persons.”.

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### **Amendment of section 90**

**19.** Section 90 of the principal Act is amended —

(a) by deleting subsection (1);

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

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“(1AA) Subject to subsections (1AB) and (1C), where any person makes a claim in accordance with subsection (1B) that any money was overpaid or erroneously paid by the person as tax chargeable on the importation of goods under this Act (whether such goods were imported by the person or by another person), it is lawful for the Comptroller to refund such money to the person if it is proved to the satisfaction of the Comptroller that the money was overpaid or erroneously paid by the person as tax chargeable on the importation of those goods.

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(1AB) Despite subsection (1AA) and subject to subsections (1AC) and (1C), where —

(a) it is proved to the satisfaction of the Comptroller that —

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(i) any person (*X*) has overpaid or erroneously paid any money as tax chargeable on the importation of goods under this Act; and

5 (ii) the person making the claim to the Comptroller is a taxable person (*Y*) who has reimbursed *X* or otherwise provided *X* with funds for the whole or any part of that money paid by *X*; and

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(*b*) *X* has not received from the Comptroller the amount claimed by *Y*,

then, it is lawful for the Comptroller to refund or pay to *Y* the money overpaid or erroneously paid.

15 (1AC) Nothing in subsection (1AB) entitles *Y* to any refund in excess of the reimbursement or funds provided by *Y* for the purpose of *X*'s payment as tax chargeable on the importation of goods, less the correct amount of the tax.

20 (1AD) To avoid doubt, nothing in subsection (1AB) prevents *X* from claiming under subsection (1AA) any part of the overpayment or erroneous payment not claimed by *Y* under subsection (1AB).”;

25 (*c*) by inserting, immediately after the words “subsection (1A)” in subsection (1B), the words “, (1AA) or (1AB)”;

(*d*) by deleting the word “and” at the end of subsection (1B)(*b*)(i);

30 (*e*) by deleting the full-stop at the end of sub-paragraph (ii) of subsection (1B)(*b*) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

“(iii) in the case of a claim referred to in subsection (1AA), the date on which

the tax chargeable on the importation of the goods concerned was paid by the claimant; and

(iv) in the case of a claim referred to in subsection (1AB), the date on which the tax chargeable on the importation of the goods concerned was paid by X.”; and

(f) by inserting, immediately after the words “subsection (1A)” in subsection (1C), the words “, (1AA) or (1AB)”.

### **Amendment of First Schedule**

**20.** The First Schedule to the principal Act is amended —

(a) by inserting, immediately after sub-paragraph (2) of paragraph 4, the following sub-paragraphs:

“(3) Despite paragraphs 1(1), 1A(1) and 1B(1), the Comptroller may, if the Comptroller thinks fit, refuse the registration of any person for the protection of revenue.

(4) The Comptroller may, if the Comptroller thinks fit, subsequently register the person mentioned in sub-paragraph (3) with effect from such date as the Comptroller may determine if the person is liable to be registered under paragraph 1, 1A or 1B on that date.

(5) If the Comptroller registers any person under sub-paragraph (4) —

(a) the Comptroller must notify the person; and

(b) the effective date of the registration must not be earlier than 30 days after the Comptroller has notified the person of the registration.”;

(b) by inserting, immediately after sub-paragraph (2) of paragraph 5, the following sub-paragraphs:

“(2A) Despite paragraphs 1(1), 1A(1) and 1B(1), the Comptroller may, if the Comptroller thinks fit, refuse the registration of the person for the protection of revenue.

(2B) The Comptroller may, if the Comptroller thinks fit, subsequently register the person mentioned in sub-paragraph (2A) with effect from such date as the Comptroller may determine if the person is liable to be registered under paragraph 1, 1A or 1B on that date.

(2C) If the Comptroller registers any person under sub-paragraph (2B) —

(a) the Comptroller must notify the person; and

(b) the effective date of the registration must not be earlier than 30 days after the Comptroller has notified the person of the registration.”;

(c) by inserting, immediately after sub-paragraph (2) of paragraph 6, the following sub-paragraphs:

“(3) Despite paragraphs 1(2), 1A(2) and 1B(2), the Comptroller may, if the Comptroller thinks fit, refuse the registration of the person for the protection of revenue.

(4) The Comptroller may, if the Comptroller thinks fit, subsequently register the person mentioned in sub-paragraph (3) with effect from such date as the Comptroller may determine if the person is liable to be registered under paragraph 1, 1A or 1B on that date.

(5) If the Comptroller registers any person under sub-paragraph (4) —

(a) the Comptroller must notify the person; and

(b) the effective date of the registration must not be earlier than 30 days after the Comptroller has notified the person of the registration.”;

(d) by inserting, immediately after paragraph 7, the following paragraph:

“7A.—(1) The Comptroller may at any time, if the Comptroller thinks fit —

(a) impose any condition on any registration of a person under paragraph 1, 1A or 1B for the protection of revenue; and

(b) vary, add to or remove any condition so imposed.

(2) Any condition under sub-paragraph (1) may be imposed wholly or partly by reference to, or without reference to, any

condition prescribed for the purposes of paragraph 1, 1A or 1B, as the case may be.

(3) The Comptroller may cancel the registration of the person if the person is in breach of any condition imposed under sub-paragraph (1).”; 5

(e) by deleting the words “subject to such conditions as the Comptroller may think fit to impose, and” in paragraph 8(1);

(f) by deleting sub-paragraph (3) of paragraph 8 and substituting the following sub-paragraphs: 10

“(3) The Comptroller may at any time, if the Comptroller thinks fit —

(a) impose any condition on the registration of the person; and

(b) vary, add to or remove any condition so imposed. 15

(3A) Any condition under sub-paragraph (3) may be imposed wholly or partly by reference to, or without reference to, any condition prescribed for the purposes of this paragraph.”;

(g) by deleting the words “sub-paragraph (1)” in paragraph 8(4) and substituting the words “sub-paragraph (3)”; 20

(h) by deleting the words “subject to such conditions as the Comptroller may think fit to impose, and” in paragraph 9(1);

(i) by deleting sub-paragraph (3) of paragraph 9 and substituting the following sub-paragraphs: 25

“(3) The Comptroller may at any time, if the Comptroller thinks fit —

(a) impose any condition on the registration of the person; and 30

(b) vary, add to or remove any condition so imposed.

(3A) Any condition under sub-paragraph (3) may be imposed wholly or partly by reference to, or without reference to, any condition prescribed for the purposes of this paragraph.”;

(j) by deleting the words “sub-paragraph (1)” in paragraph 9(4) and substituting the words “sub-paragraph (3)”; and

(k) by inserting, immediately after paragraph 14, the following paragraph:

“14A. The Comptroller may cancel the registration of a person if any supply made to or by the person is a part of an arrangement mentioned in section 20(2A).”.

### **Repeal and re-enactment of Sixth Schedule**

**21.** The Sixth Schedule to the principal Act is repealed and the following Schedule substituted therefor:

#### **“SIXTH SCHEDULE**

Section 6

#### **PART 1**

#### **PUBLIC SCHEMES UNDER SECTION 6(6C)**

1. Wage credit scheme.
2. Jobs support scheme.

#### **PART 2**

#### **DISCLOSURE OF NAMES AND PARTICULARS OF PERSONS AND PLACES UNDER SECTION 6(7)**

1. Approved warehouses for the purposes of section 21(3)(y) or 21C.
2. Taxable persons approved under section 21B(1).
3. Taxable persons to whom regulations made under section 27, 27A or 37A apply.
4. Approved persons referred to in section 37B.
5. Refiners referred to in paragraph 2(a)(iii)(B) of Part III of the Fourth Schedule.”.

### **New Ninth Schedule**

**22.** The principal Act is amended by inserting, immediately after the Eighth Schedule, the following Schedule:

## “NINTH SCHEDULE

Section 20(2C)

### ILLUSTRATIONS OF ARRANGEMENTS FOR PURPOSES OF SECTION 20(2A)

#### *Illustration 1 — Missing trader in supply chain*

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Persons A, B and C are registered under this Act. Person A supplies goods to Person B at a price that includes tax chargeable on the supply. Person B supplies the same goods to Person C at a higher price (to earn a profit margin for Person B) that includes tax chargeable on the supply. Person C exports the goods to an overseas Person D at a price that does not include tax chargeable on the supply to Person D (on the basis that an export of goods would be a zero-rated supply).

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Person C claims a refund for the input tax paid to Person B and Person B accounts for the output tax on Person B’s supply to Person C (less the input tax paid to Person A). Person A fails to account for the output tax on Person A’s supply to Person B and becomes untraceable.

15

The arrangement causes loss of public revenue as a refund is made to Person C while Person A does not account for the output tax due from Person A.

This illustration applies equally to a supply of services, and if there are 2 or more intermediaries in the supply chain between Person A and Person C.

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#### *Illustration 2 — Obstruction and obfuscation by intermediary*

Persons A, B and C are registered under this Act. Person A supplies goods to Person B at a price that includes tax chargeable on the supply. Person B supplies the same goods to Person C at a higher price (to earn a profit margin for Person B) that includes tax chargeable on the supply. Person C exports the goods to an overseas Person D at a price that does not include tax chargeable on the supply to Person D (on the basis that an export of goods would be a zero-rated supply).

25

Person C claims a refund for the input tax paid to Person B and Person B accounts for the output tax on Person B’s supply to Person C (less the input tax paid to Person A). Person A fails to account for the output tax on Person A’s supply to Person B, and Person B obfuscates the identity of Person A (for instance, by Person B becoming untraceable or keeping poor records).

30

The arrangement causes loss of public revenue as a refund is made to Person C while Person A does not account for the output tax due from Person A.

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This illustration applies equally to a supply of services, and if there are 2 or more intermediaries in the supply chain between Person A and Person C.

*Illustration 3 — Inflation of value of supply*

Persons A, B and C are registered under this Act. Person A supplies goods to Person B at a price that includes tax chargeable on the supply. Person B supplies the same goods to Person C at a higher price (to earn a profit margin for Person B) that includes tax chargeable on the supply. Person C exports the goods to an overseas Person D at a price that does not include tax chargeable on the supply to Person D (on the basis that an export of goods would be a zero-rated supply).

The price charged by Person A to Person B for the goods is grossly excessive because the goods are counterfeit, of a poorer quality than described in the supply, or of a lower quantity than described in the supply.

Person C claims a refund for the input tax paid to Person B and Person B accounts for the output tax on Person B's supply to Person C (less the input tax paid to Person A). Given the inflated value of the goods, the refund is larger than what would otherwise be given. Person A fails to account for the output tax on Person A's supply to Person B, and it is not possible to recover the output tax from Person A (for instance, because Person A has little assets).

The arrangement causes loss of public revenue as, firstly, the refund to Person C is excessive, and, secondly, a refund is made to Person C while Person A does not account for the output tax due from Person A.

This illustration applies equally to a supply of services, and if there are 2 or more intermediaries in the supply chain between Person A and Person C.

*Illustration 4 — Offsetting input tax against tax on supplies made in another supply chain*

Persons A, B and C are registered under this Act. Person A supplies goods to Person B at a price that includes tax chargeable on the supply. Person B supplies the same goods to Person C at a higher price (to earn a profit margin for Person B) that includes tax chargeable on the supply. Person C exports the goods to an overseas Person D at a price that does not include tax chargeable on the supply to Person D (on the basis that an export of goods would be a zero-rated supply).

Person C sets off the input tax paid to Person B against the output tax charged on other supplies made to Person E (who is registered under this Act) to reduce the amount of the output tax otherwise payable by Person C to the Comptroller.



Person B accounts for the output tax on Person B's supply to Person C (less the input tax paid to Person A). Person A fails to account for the output tax on Person A's supply to Person B and it is not possible to recover the output tax from Person A.

The arrangement causes loss of public revenue as Person C has reduced the amount of the output tax otherwise payable by Person C to the Comptroller when Person C sets off the input tax paid to Person B against the output tax charged on other supplies made to Person E, while Person A does not account for the output tax due from Person A.

This illustration applies equally to a supply of services, and if there are 2 or more intermediaries in the supply chain between Person A and Person C.

*Illustration 5 — Assumption of identity of trader*

Person A is not registered under this Act. Persons B, C and D are registered under this Act. Person A supplies goods to Person B using Person D's registration details, at a price that includes tax chargeable on the supply. Person B supplies the same goods to Person C at a higher price (to earn a profit margin for Person B) that includes tax chargeable on the supply. Person C exports the goods to an overseas Person E at a price that does not include tax chargeable on the supply to Person E (on the basis that an export of goods would be a zero-rated supply).

Person C claims a refund for the input tax paid to Person B and Person B accounts for the output tax on Person B's supply to Person C (less the input tax paid to Person A).

The arrangement causes loss of public revenue as a refund is made to Person C while Person D does not account for any output tax to the Comptroller since Person D did not actually make the supply of goods to Person B.

This illustration applies equally to a supply of services, and if there are 2 or more intermediaries in the supply chain between Person A and Person C.”.

**Miscellaneous amendments**

**23.** The principal Act is amended —

(a) by deleting the word “from” in the following provisions and substituting in each case the word “after”:

Sections 19(15) (definition of “initial specified period” and paragraphs (a)(ii) and (b)(ii) of the definition of

“subsequent specified period”), 25(2)(b), 45(5)(a) and (b) and (10B), 46(2)(a) and (b), 51(1)(a) and 90(1B)(b);  
 (b) by deleting the word “from” in section 30(3) and substituting the words “with effect from”;

5 (c) by deleting subsection (4) of section 32 and substituting the following subsection:

“(4) Where a taxable person dies, or goes into liquidation or receivership, or becomes bankrupt or incapacitated, the Comptroller may, for the period —

10 (a) beginning on the date of the death, liquidation, receivership, bankruptcy or incapacity; and

(b) ending on the date immediately before —

15 (i) the date another person is registered in respect of the taxable supplies made or intended to be made by that taxable person in the course or furtherance of that taxable person’s business; or

20 (ii) in the case of incapacity, the date the incapacity ceases,

deem any person carrying on that business to be a taxable person.”;

25 (d) by deleting the words “days of” in the following provisions and substituting in each case the words “days after”:

Sections 32(6), 49(2), 51(1)(b) and (3), 60(1)(b) and 79(4)(a)(i) and (ii), (c) and (d)(ii) and paragraphs 11 and 15(2)(a) and (b) and (3) of the First Schedule;

30 (e) by deleting the words “commencing from the expiry of the period prescribed” in section 60(2)(b) and substituting the words “commencing on the day immediately after the last day of the period prescribed”;

- (f) by deleting the words “commencing from” in section 61(i) and substituting the words “beginning on”;
- (g) by deleting the words “at the place” in section 89(2B) and substituting the words “in the manner”;
- (h) by deleting sub-paragraph (2) of paragraph 4 of the First Schedule and substituting the following sub-paragraph: 5
- “(2) The Comptroller must register any such person (whether or not the person so notifies the Comptroller) with effect from —
- (a) the day immediately after the end of the month that follows the month in which the 30th day falls; or 10
- (b) such earlier date as may be agreed between the Comptroller and the person.”;
- (i) by deleting the words “30 days of the beginning of that period” in paragraph 5(1) of the First Schedule and substituting the words “30 days after the first day of that period”; 15
- (j) by deleting sub-paragraph (2) of paragraph 5 of the First Schedule and substituting the following sub-paragraph:
- “(2) Subject to sub-paragraph (3), the Comptroller must register any such person (whether or not the person so notifies the Comptroller) with effect from — 20
- (a) the day immediately after the end of the 30 days; or
- (b) such earlier date as may be agreed between the Comptroller and the person.”; 25
- (k) by deleting the words “30 days of the time when” in paragraph 6(1) of the First Schedule and substituting the words “30 days after the day on which”;
- (l) by deleting the words “time when” in paragraph 6(2) of the First Schedule and substituting the words “day on which”; 30
- (m) by deleting the word “from” in paragraph 6(b) of Part I of the Fifth Schedule and substituting the words “beginning on”; and

- (n) by deleting the word “from” in paragraphs 13(2) and 15 of Part I of the Fifth Schedule and substituting in each case the words “with effect from”.

### Validation

5     **24.**—(1) This section applies where the Comptroller has, during the period from 18 February 2020 to the date of commencement of section 3 of the Goods and Services Tax (Amendment) Act 2020 (called in this section the appointed date) (both dates inclusive) —

(a) furnished to —

10             (i) the chief executive officer of the Inland Revenue Authority of Singapore established under section 3 of the Inland Revenue Authority of Singapore Act; or

(ii) an officer duly authorised by the chief executive officer,

15             any information required for the performance of the official duties of the chief executive officer or authorised officer in administering the public scheme known as the Jobs Support Scheme; or

20             (b) allowed the chief executive officer or authorised officer such access to any records or documents as may be necessary for the performance of those official duties.

25             (2) An act mentioned in subsection (1)(a) or (b) is taken to have been validly carried out in accordance with section 6(6C) of the principal Act as in force on the appointed date, as if that provision were in force at the material time.

### Saving

**25.** Section 15 applies to goods whether seized before, on or after the date that the section comes into operation.

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## 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 amends section 5 (Responsibility of Comptroller and delegation of powers) to extend the powers that a specially authorised officer may be authorised to exercise, to those under section 83A.

Clause 3 amends section 6 (Official secrecy) to insert new subsections (6C) and (6D). The new subsection (6C) enables the Comptroller of Goods and Services Tax (the Comptroller) to share tax information with various officers of the Inland Revenue Authority of Singapore, and to afford them access to tax information, to enable them to carry out their official duties in administering the public schemes specified in Part 1 of the Sixth Schedule (as amended by clause 21). The new subsection (6D) empowers the Minister for Finance (the Minister) to amend Part 1 of the Sixth Schedule by order in the *Gazette*. The clause also makes a consequential amendment to section 6(7), in light of the repeal and re-enactment of the Sixth Schedule.

Clause 4 amends section 20 (Input tax allowable under section 19) to insert new subsections (2A) to (2G), to disentitle a taxable person from claiming any credit for input tax on a supply made to the taxable person, if the taxable person knew or should have known that the supply was a part of what is commonly known as “missing trader fraud”. Illustrations (non-exhaustive) of missing trader fraud are set out in the Ninth Schedule (inserted by clause 22). The new subsections (2D) and (2E) provide for who is regarded as a person who “should have known” of this.

Clause 5 makes a consequential amendment to section 25 (Refund or remission of tax in certain cases). Paragraph (g) of section 25(2) is no longer necessary in light of the amendments to section 83A (under clause 14).

Clause 6 inserts a new section 45A to provide for the imposition of a surcharge on a taxable person who makes a claim for any credit for input tax in respect of a supply to the taxable person which the taxable person should have known was a part of an arrangement under the new section 20(2A).

Clause 7 amends section 46 (Duty to keep records) to require a taxable person to keep records of the reasonable steps taken by the taxable person to ascertain whether or not a supply made to the taxable person is a supply mentioned in the new section 20(2A).

Clause 8 amends section 47 (Comptroller may disregard certain transactions and dispositions) —

- (a) to require the Comptroller to disregard or vary a tax avoidance arrangement described in the section and to make adjustments in order

to counteract any tax advantage obtained or obtainable by the person under that arrangement;

- (b) to provide for additional grounds on which the Comptroller must make adjustments;
- (c) to provide for a time limit of 5 years after the end of a prescribed accounting period in respect of which the Comptroller may make an adjustment;
- (d) to provide that the issue of whether subsection (1) applies to a case, and any action by the Comptroller under subsection (1A) in a case, may be questioned in an appeal against an assessment in accordance with Part VIII;
- (e) to require payment of any additional tax arising from any adjustment to be made within one month after the date of service on the person of a written notice of the adjustment; and
- (f) to amend the section heading to properly reflect the intent of the section.

Clause 9 inserts a new section 47A to provide that if the Comptroller makes any adjustment under section 47, a surcharge equal to 50% of the amount of any additional tax imposed on a person as a result of the adjustment is recoverable from the person as a debt due to the Government.

Clause 10 amends section 52 (Hearing and disposal of appeals) to insert a new subsection (3A) to provide that, in an appeal to the Goods and Services Tax Board of Review in connection with the applicability of the new section 20(2A) to a claim for any credit for input tax on a supply made to a taxable person, the onus is on the Comptroller to show on a balance of probabilities that the supply was a part of an arrangement mentioned in that provision, and that the taxable person knew or should have known of the same.

Clause 11 amends section 59 (Penalty for incorrect return) to insert a new subsection (3) to exclude from the section a claim for credit for input tax on a supply which a taxable person should have known was a part of an arrangement mentioned in the new section 20(2A). This is because the taxable person is already liable to a surcharge under the new section 45A (inserted by clause 6).

Clause 12 makes consequential amendments to section 60 (Penalty for failure to pay or make returns within prescribed period) arising from the amendments to section 47 (under clause 8) and the new section 47A (inserted by clause 9). The clause amends subsection (1) so as to apply to the additional tax mentioned in section 47(1B). The clause also inserts a new subsection (1B) to impose the late payment penalty on surcharges and interest payable under the new sections 45A and 47A.

Clause 13 deletes and substitutes subsection (7) of section 82 (Recovery of tax from persons leaving Singapore) so as to apply the section to surcharges and interest payable under sections 45A, 47 and 47A.

Clauses 14 and 15 amend sections 83A (Seizure of goods) and 83B (Goods liable to seizure liable to forfeiture), respectively, to expand and clarify the circumstances in which goods may be seized, and to include safeguards for the goods so seized, similar to the safeguards in the Criminal Procedure Code (Cap. 68). Currently, seizure of goods under section 83A is only applicable in the context of sections 21(8) and 25(2)(g).

Clause 16 repeals section 83C (Goods seized in respect of which there is no prosecution, deemed to be forfeited if not claimed within one month) as the section is no longer necessary in light of the amendments to sections 83A and 83B under clauses 14 and 15, respectively.

Clause 17 makes a consequential amendment to subsection (1)(b) of section 83E (Arrest of persons) in light of the deletion of section 25(2)(g) (under clause 5).

Clause 18 amends section 86 (Orders and regulations) to empower the Minister to make regulations to provide for the mode of payment for refunds under the Act.

Clause 19 amends section 90 (Return of tax or penalty overpaid or erroneously paid) by deleting subsection (1) (which requires certain claims to be made within 6 years) such that all claims made under the section must be made to the Comptroller within 5 years (as provided in subsection (1B)). The clause also inserts new subsections (1AA) to (1AD) to make express provision for the refund of any money overpaid or erroneously paid as tax chargeable on the importation of goods under the Act, and to provide, in circumstances where a person who paid that tax was reimbursed by a taxable person for the payment, which person is entitled to, and the extent of, the refund.

Clause 20 amends the First Schedule (Registration) to empower the Comptroller to impose conditions on the compulsory registration of a person as a taxable person, to make technical amendments to the power to impose conditions on the voluntary registration of a person as a taxable person, and to clarify that new conditions may be imposed at any time (and not just at the point of registration).

Clause 21 repeals and re-enacts the Sixth Schedule to allow for public schemes to be specified for the purposes of the new section 6(6C).

Clause 22 inserts a new Ninth Schedule to provide for illustrations (non-exhaustive) of the arrangements to which the new section 20(2A) applies.

Clause 23 makes the following miscellaneous amendments to the Act:

- (a) clause 23(a) to (f) and (h) to (n) amends various provisions in the Act to clarify when a period of time is to be calculated from, in particular, whether the time period includes or excludes a particular day;
- (b) clause 23(g) amends section 89(2B) to accommodate the different types of payment methods available.

Clause 24 validates the Comptroller's provision of and grant of access to any information to the chief executive officer of the Inland Revenue Authority of Singapore or an officer duly authorised by the chief executive officer, that is required for the performance of the official duties of the chief executive officer or authorised officer in administering the Jobs Support Scheme. Such an act is considered to be validly carried out as if the new section 6(6C) were in force at the material time.

Clause 25 makes a saving provision in respect of the amendments under clause 15.

## EXPENDITURE OF PUBLIC MONEY

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

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