

Goods and Services Tax (Amendment) Bill

Bill No. 16/2011.

Read the first time on 17th October 2011.

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.—(1) This Act may be cited as the Goods and Services Tax (Amendment) Act 2011 and shall, with the exception of section 2, come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Section 2 shall be deemed to have come into operation on 1st January 2011.

Amendment of section 11

2. Section 11 of the Goods and Services Tax Act (referred to in this Act as the principal Act) is amended —

(a) by deleting paragraphs (i) and (ii) of subsection (3) and substituting the following paragraphs:

“(i) in the case of a supply of goods —

(A) if the goods are to be removed, at the time of the removal; and

(B) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied; and

(ii) in the case of a supply of services, at the time when the services are performed,

to the extent that the supply is covered by the goods that are removed or made available, or the services that are performed, as the case may be.”; and

(b) by deleting paragraphs (a) and (b) of subsection (4) and substituting the following paragraphs:

“(a) the invoice is issued or the consideration is received; or

(b) where both events occur, the first of the 2 events occurs,

to the extent that the supply is covered by the invoice or consideration.”.

Amendment of section 21**3. Section 21 of the principal Act is amended —**

(a) by deleting the word “or” at the end of subsection (3)(w);

(b) by deleting the full-stop at the end of paragraph (x) of subsection (3) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(y) prescribed services supplied directly in connection with prescribed goods —

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

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

if, at the time the prescribed services are performed, the prescribed goods are —

(A) at an approved warehouse; or

(B) at any place from which they may not be removed except with the permission of the proper officer of customs (and by virtue of which the prescribed goods remain under customs control), if —

(BA) the goods have been brought to that place from an approved warehouse for the purpose of an auction, an exhibition or other similar event involving the display of goods; and

(BB) the goods will be returned to any approved warehouse after the auction or exhibition or other similar event involving the display of goods.”;

(c) by inserting, immediately after the definition of “aircraft” in subsection (4)(a), the following definition:

““approved warehouse” means a warehouse or other premises approved by the Comptroller as an approved warehouse;” and

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

“(7A) The Minister may by regulations provide for the following:

(a) for matters relating to the grant of approval by the Comptroller for a warehouse or other premises to be an approved warehouse;

(b) where such approval is subject to any condition or requirement and the person to whom the approval is granted fails to comply with any such condition or requirement, for matters relating to the payment to the Comptroller without demand by that person of the tax that would, but for subsection (3)(y) or section 21C, be chargeable on the supplies that are referred to therein (whether made by that person or any other person) and that take place during such period as may be prescribed, commencing on or after the date of the failure.

(7B) The Comptroller may publish such details of approved warehouses in such form or manner as he thinks fit.”.

New sections 21B and 21C

4. The principal Act is amended by inserting, immediately after section 21A, the following sections:

“Zero-rating of supplies relating to goods to approved taxable person in shipping or marine industry

21B.—(1) The Minister may by regulations, in relation to a supply relating to goods for a prescribed purpose made by any taxable person to a taxable person in the shipping or marine

industry who is approved by the Comptroller, permit the supply to be zero-rated.

(2) Where a supply by a taxable person is zero-rated under subsection (1), then, whether or not tax would be chargeable on the supply apart from this section —

(a) no tax shall be charged on the supply; but

(b) it shall in all other respects be treated as a taxable supply,

and accordingly the rate at which tax is treated as charged on the supply shall be nil.

(3) Regulations made under subsection (1) may —

(a) require the taxable person approved by the Comptroller and to whom a supply referred to in subsection (1) has been made to account for the tax on the supply that would, but for regulations made under subsection (1), be chargeable on the supply, in such circumstances, and in such form and manner and within such time, as may be prescribed; and

(b) where any requirement of the regulations is not complied with or in such other circumstances as may be prescribed, require an amount equivalent to the tax that would, but for subsection (1), be chargeable on the supply to be accounted for.

(4) The Comptroller may, for the protection of revenue, impose conditions or restrictions in relation to any supply referred to in subsection (1).

(5) The Comptroller may publish the names and such other particulars of the taxable persons approved by the Comptroller under subsection (1) in such form or manner as he thinks fit.

Zero-rating of grant or assignment of lease, tenancy or licence to occupy land

5 **21C.**—(1) The grant or assignment by any taxable person of a lease, tenancy or licence to occupy land where the lease, tenancy or licence —

- (a) is granted or assigned under a contract with a person who belongs in a country outside Singapore; and
- (b) directly benefits a person who belongs in a country other than Singapore,

10 shall be zero-rated if —

- (i) the taxable person has made an application to and the Comptroller has approved the application for a warehouse or other premises to be an approved warehouse;
- 15 (ii) the whole of the land which is the subject of the lease, tenancy or licence is part of the approved warehouse; and
- (iii) the land which is the subject of the lease, tenancy or licence is used by the taxable person in his business of storing prescribed goods other than the goods of the taxable person.

(2) Where a supply by a taxable person is zero-rated under subsection (1), then, whether or not tax would be chargeable on the supply apart from this section —

- 25 (a) no tax shall be charged on the supply; but
- (b) it shall in all other respects be treated as a taxable supply,

and accordingly the rate at which tax is treated as charged on the supply shall be nil.

30 (3) In this section, “approved warehouse” has the same meaning as in section 21(4)(a).”.

Amendment of section 27

5. Section 27(2) of the principal Act is amended —

(a) by inserting, immediately before paragraph (a), the following paragraph:

5 “(a) provide that goods imported by a taxable person
in the course or furtherance of any business
carried on by him (as referred to in
subsection (1)(a)) may, where such requirements
as may be prescribed are satisfied, include
10 imported goods which are consigned to the
taxable person as recipient in order for the
taxable person to make supplies (other than
supplies referred to in section 22) using or in
relation to those goods;” and

15 (b) by re-lettering the existing paragraph (a) as paragraph (aa).

Amendment of section 27A

6. Section 27A of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) Regulations made under subsection (1) may —

20 (a) provide that goods imported by a taxable person in the
course or furtherance of any business carried on by
him (as referred to in subsection (1)) may, where such
requirements as may be prescribed are satisfied,
include imported goods which are consigned to the
25 taxable person as recipient in order for the taxable
person to make supplies (other than supplies referred
to in section 22) using or in relation to those goods;
and

30 (b) require a taxable person referred to in subsection (1) to
account for and pay the tax chargeable on the
importation of the goods in such form and manner,
within such time and to such person as may be
prescribed.”.

Amendment of section 33

7. Section 33 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

5 “(2A) For the purposes of subsection (2), goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person shall be deemed to include goods which, following their import, undergo a treatment or process for the purposes of the supply.”.

Amendment of section 37A

10 **8.** Section 37A of the principal Act is amended —

(a) by deleting the words “which comprises the treatment or processing of goods” in subsection (1) and substituting the words “which involves any process (including but not limited to any treatment) being applied to or carried out on goods”;

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(b) by inserting, immediately after the words “to be disregarded for the purposes of this Act” in subsection (1), the words “(other than for the purposes of section 27(2)(a))”;

(c) by inserting, immediately after the word “following” in subsection (2), the words “in relation to goods to or on which a process has been applied or conducted”;

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(d) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

 “(a) for the goods —

25 (i) to be delivered to the satisfaction of the Comptroller only to —

 (A) any taxable person approved by the Comptroller; or

30 (B) the customer of an overseas person to whom the overseas person supplies the goods;

(ii) to be exported to the satisfaction of the Comptroller; or

(iii) if the goods are of such type or description as may be prescribed, to be destroyed or disposed of to the satisfaction of the Comptroller by the taxable person or any other person,

and, where any taxable person (including a taxable person referred to in subsection (1)) fails to do so, for the taxable person to pay to the Comptroller an amount equal to the tax that would have been payable if the taxable person had himself made a supply of the goods in the course or furtherance of his business;”;

(e) by deleting the words “the treated or processed goods” in subsection (2)(b) and substituting the words “the goods”;

(f) by deleting paragraph (c) of subsection (2) and substituting the following paragraph:

“(c) where a taxable person approved by the Comptroller, to the satisfaction of the Comptroller —

(i) delivers the goods to the customer of the overseas person referred to in paragraph (a)(i)(B); or

(ii) in relation to such of those goods which are of such type or description as may be prescribed, destroys or disposes of the goods or delivers them to another person for the destruction or disposal, in circumstances where consideration for the goods is received by the taxable person or the overseas person upon the destruction or disposal,

for the taxable person to account for and pay tax in substitution for the overseas person, as if the

taxable person had himself supplied the goods in the course or furtherance of his business.”;

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

5 “(2A) Regulations made under subsection (1) may provide that, upon such conditions as may be prescribed being satisfied, where the goods are —

(a) supplied to the overseas person in Singapore; and

10 (b) delivered to the taxable person approved by the Comptroller for the purposes of any process being applied to or carried out on the goods under a contract with and directly benefitting the overseas person,

15 the goods shall be treated as having been supplied to the taxable person in the course or furtherance of his business for the purpose of the taxable person claiming input tax on the supply of the goods under section 19 as if the whole of the input tax were allowable under section 20.

20 (2B) A person who belongs in a country outside Singapore referred to in subsection (1)(a) or (b) may, for the purposes of determining his liability to be registered under this Act, disregard any supply of goods made by him if —

25 (a) the tax on such supply is to be accounted for by the taxable person approved by the Comptroller pursuant to subsection (2)(c); or

30 (b) in a case where a taxable person has applied to be but is not yet approved by the Comptroller, the tax on such supply would be accounted for by the taxable person pursuant to subsection (2)(c) if the taxable person were to be so approved,

as the case may be.”; and

- (h) by deleting the words “Treatment or processing of goods” in the section heading and substituting the words “Process applied to or carried out on goods”.

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 11(3) and (4) to clarify that, for supplies falling under section 11(3), the supply is treated as taking place to the extent that the supply is covered by the removal of the goods, the making available of the goods, the performance of the service, the invoice issued or the consideration received, as the case may be.

Clause 3 amends section 21 to provide for matters relating to a new zero-rating relief. Under this relief, prescribed services, such as storage services, are zero-rated if they are provided to a person belonging overseas and performed on prescribed goods stored at an approved warehouse or at premises to which the goods are removed for purposes of any auction, exhibition or similar event involving the display of goods and thereafter returned to an approved warehouse. The relief is premised on the goods being mostly owned by persons belonging overseas, with the goods being in Singapore primarily for storage for an extended period of time before eventually leaving Singapore. If the goods enter the local market, they will be treated as any other goods and the normal tax treatment will be applied.

To provide for the relief, the clause —

- (a) inserts a new paragraph (y) in section 21(3) to provide for the zero-rating of prescribed services;
- (b) inserts a new definition of “approved warehouse” in section 21(4)(a);
- (c) inserts a new subsection (7A) to empower the Minister to make regulations in relation to the approval of any warehouse or other premises as an approved warehouse, and the payment, in certain circumstances, of tax that would, but for the new sections 21(3)(y) and 21C, be chargeable; and
- (d) inserts a new subsection (7B) to enable the Comptroller of Goods and Services Tax (the Comptroller) to publish details of approved warehouses.

Clause 4 inserts new sections 21B and 21C.

The new section 21B provides for a new Approved Marine Customer Scheme (AMCS). Under the scheme, any taxable supplier can zero-rate the supplies relating to goods (sale or rental) made to an approved taxable customer in the shipping or marine industry (the approved marine customer) as long as the goods are for a prescribed purpose.

The new section 21B(1) empowers the Minister to make regulations to permit the supply relating to certain goods made by any taxable person to an approved marine customer to be zero-rated.

The new section 21B(2) provides that, where a supply by a taxable person is zero-rated under the new section 21B(1), no tax will be charged on the supply but it will in all other respects be treated as a taxable supply and the tax charged on the supply will be nil, whether or not tax would be chargeable on the supply apart from this section.

The new section 21B(3) provides that the Minister may make regulations to require the approved marine customer to account for tax in such circumstances, in such form and manner and within such time as may be prescribed, and to provide that, where any requirement of the regulations is not complied with or in such other circumstances as may be prescribed, an amount equivalent to the tax that would (but for the new section 21B(1)) be chargeable on the supply to be accounted for.

The new section 21B(4) empowers the Comptroller to impose conditions or restrictions in relation to any supply referred to in the new section 21B(1) for the protection of revenue.

The new section 21B(5) empowers the Comptroller to publish the names and other particulars of approved marine customers under the AMCS.

The new section 21C provides for another aspect of the zero-rating relief referred to in clause 3. Whilst section 21(3)(y) deals with the supply of, *inter alia*, storage services, the new section 21C deals with the grant or assignment of a lease, tenancy or licence to occupy land, *viz*, a storage facility, which is treated as a supply of goods for the purpose of the Act.

The new section 21C(1) provides for the circumstances in which an operator of an approved warehouse may zero-rate his grant or assignment of a lease, tenancy or licence of his storage facility.

The new section 21C(2) provides that, where a supply by an operator of an approved warehouse is zero-rated under the new section 21C(1), no tax will be charged on the supply but it will in all other respects be treated as a taxable supply and the tax charged on the supply will be nil, whether or not tax would be chargeable on the supply apart from this section.

The new section 21C(3) provides for the definition of “approved warehouse”.

Clauses 5 and 6 amend section 27(2) and section 27A(2), respectively, to empower the Minister to make regulations under those sections to extend the scope of those sections to allow tax on the importation of goods to be suspended and deferred, respectively, in respect of goods that are not imported in the course or furtherance of the business of a taxable person seeking the suspension or deferral, but which are consigned to the taxable person to enable him to make certain supplies using or in relation to those goods. The tax will be suspended or deferred, as the case may be, only if requirements prescribed in the regulations are satisfied.

Clause 7 amends section 33 to extend its scope to allow local agents to recover tax on the importation of goods notwithstanding that there is a change in nature or form of the imported goods subsequently supplied by the local agent.

Clause 8 makes various amendments to section 37A to enhance the Approved Contract Manufacturer and Trader Scheme (the ACMT scheme) provided for therein.

Clause 8(a), (c), (e) and (h) makes technical changes to subsections (1) and (2) and the section heading of section 37A. In particular, the changes made *vide* clause 8(a) and (h) are to better reflect the scope of activities covered by the ACMT scheme.

Clause 8(b) amends subsection (1) of section 37A. This amendment is consequential to the amendment to section 27(2) made *vide* clause 5(a), to clarify that the supplies that may be disregarded under section 37A are still relevant for the purposes of the new section 27(2)(a).

Clause 8(d) amends section 37A(2)(a) to make reference to —

- (a) the export of goods to which a process has been applied or on which a process has been carried out; and
- (b) the destruction or disposal of certain such goods,

both being to the satisfaction of the Comptroller.

Clause 8(f) amends section 37A(2)(c) to include in the situations in which a taxable person under the ACMT scheme may be required to account for tax in substitution for the overseas person, a situation where consideration is received by the taxable person or the overseas person upon the destruction or disposal of certain goods to which a process has been applied or on which a process has been carried out.

Clause 8(g) inserts new subsections (2A) and (2B).

The new subsection (2A) provides that where goods are supplied to the overseas person in Singapore and delivered to the taxable person under the ACMT scheme for the purpose of applying a process to or carrying out a process on goods under a contract with and directly benefitting the overseas person and prescribed conditions are satisfied, regulations may be made to provide for the

goods to be treated as having been supplied to the taxable person in the course or furtherance of his business for the purpose of claiming input tax on them under section 19 as if the whole of the input tax is allowable under section 20. The provision makes clear, for the avoidance of doubt, that the taxable person under the ACMT scheme can claim input tax in full on the goods locally supplied to the overseas person and delivered locally for use by the taxable person in his supply of processing services to the overseas person.

The new subsection (2B) provides that, in determining the liability of a person who belongs in a country outside Singapore referred to in section 37A(1)(a) or (b) to be registered under the Act, certain supplies of goods made by the person may be disregarded.

EXPENDITURE OF PUBLIC MONEY

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