

Goods and Services Tax (Amendment) Bill

Bill No. 28/2014.

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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 may be cited as the Goods and Services Tax (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2(1) of the Goods and Services Tax Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “authorised person”, the following definition:

““bare trustee” means a trustee who —

- 10 (a) holds any goods, intellectual property rights or licence to use any intellectual property rights, on trust for the business of —
 - (i) persons carrying on the business in partnership; or
 - 15 (ii) a person that is a club, an association, a society or an organisation;
- (b) has no interest in the goods, rights or licence other than that by reason of the office and legal title as trustee; and
- 20 (c) has no duty to perform in relation to the goods, rights or licence, other than to act in accordance with instructions given by the persons or person, as the case may be, for any supply relating to the goods, rights or licence;”.

25 New section 10A

3. The principal Act is amended by inserting, immediately after section 10, the following section:

“Making of supply: bare trustees

30 **10A.** For the purposes of this Act, any supply made by a bare trustee relating to any goods, intellectual property rights or licence to use any intellectual property rights held by the bare trustee, is to be treated as a supply made by the persons or person

for whose business the bare trustee holds the goods, rights or licence.”.

Amendment of section 19

4. Section 19 of the principal Act is amended by inserting, immediately after subsection (14), the following subsection:

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“(14A) For the purposes of this section, where a supply of any goods or intellectual property rights is made by way of a sale, lease or licence of any interest in or right over the goods or intellectual property rights to a bare trustee (with such interest or right to be held as a bare trustee), the supply to the bare trustee is to be treated as a supply made to the persons or person for whose business the bare trustee holds the interest or right.”.

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Amendment of section 21

5. Section 21 of the principal Act is amended by deleting the words “supply relating to goods” in subsections (6A) and (6B) and substituting in each case the words “sale or letting on hire of goods”.

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Amendment of section 21B

6. Section 21B of the principal Act is amended —

(a) by deleting the words “supply relating to goods” in subsection (1) and substituting the words “sale or letting on hire of goods”; and

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(b) by deleting the words “supplies relating to goods” in the section heading and substituting the words “sale or letting on hire of goods”.

Amendment of section 27

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7. Section 27(2) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) provide that goods imported by a taxable person in the course or furtherance of any business carried on by the taxable person (as referred to in subsection (1)(a)) may, subject to such requirements (including conditions,

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whether precedent or subsequent) as may be prescribed,
include —

- (i) imported goods which are consigned to the taxable person as recipient in order for the taxable person to make supplies using or in relation to those goods, other than supplies referred to in section 22; or
- (ii) goods which are imported in the circumstances referred to in section 33B;”.

Amendment of section 27A

8. Section 27A(2) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) provide that goods imported by a taxable person in the course or furtherance of any business carried on by the taxable person (as referred to in subsection (1)) may, subject to such requirements (including conditions, whether precedent or subsequent) as may be prescribed, include —

- (i) imported goods which are consigned to the taxable person as recipient in order for the taxable person to make supplies using or in relation to those goods, other than supplies referred to in section 22; or
- (ii) goods which are imported in the circumstances referred to in section 33B; and”.

New section 33B

9. The principal Act is amended by inserting, immediately after section 33A, the following section:

“Claiming of input tax on import of processed goods

33B.—(1) The Minister may by regulations make provision for a taxable person to claim any tax paid or payable by the taxable person on the importation of goods as input tax under section 19

(as if the whole of the input tax were allowable under section 20), where the importation occurs in the following circumstances:

(a) the taxable person makes a supply to his customer who is —

(i) a person who belongs in Singapore; or 5

(ii) a taxable person who does not belong in Singapore;

(b) the supply comprises the application of any process to, or the carrying out of any process on, goods which the taxable person's customer consigns to the taxable person in Singapore; 10

(c) in connection with the supply, the taxable person removes the goods to a country outside Singapore for a process to be applied to or carried out on the goods; and

(d) the taxable person then imports the goods back into Singapore after the process in paragraph (c) has been applied to or carried out on the goods. 15

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

(a) prescribe the conditions (including conditions subsequent) to which a claim for the deduction of an amount of tax pursuant to that subsection is subject; and 20

(b) require the taxable person to repay to the Comptroller, if any such condition is not satisfied, the amount of tax allowed to the taxable person in such form and manner, and in such time, as may be prescribed. 25

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

(4) In this section, “process”, in relation to goods, includes (but is not limited to) any treatment. 30

(5) For the purposes of this section, the customer is treated as belonging in Singapore if the customer —

(a) has in Singapore a business establishment or some other fixed establishment and no such establishment elsewhere;

(b) has no such establishment in any country but his usual place of residence is in Singapore; or

(c) has such establishments both in Singapore and elsewhere and among which the establishment of the customer that is most directly concerned with the supply referred to in subsection (1) being made to him, is in Singapore.

(6) For the purposes of subsection (5) —

(a) a customer carrying on a business through a branch or an agency in any country is to be treated as having a business establishment there; and

(b) “usual place of residence”, in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.”.

Amendment of Second Schedule

10. The Second Schedule to the principal Act is amended by inserting, immediately after paragraph 8, the following paragraph:

“9. In paragraphs 5 and 7 —

(a) a reference to a person carrying on a business includes a reference to any persons or person, as the case may be, carrying on a business for which a bare trustee holds any goods; and

(b) a reference to goods forming part of the assets of the business carried on by a person includes a reference to goods held by a bare trustee for the business of the persons or person, as the case may be.”.

EXPLANATORY STATEMENT

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

Clause 1 relates to the short title and commencement.

Clauses 2, 3 and 4 amend section 2(1), insert a new section 10A and amend section 19, respectively, to provide for the situation where any goods, intellectual property rights or licence to use any intellectual property rights, is held by a bare trustee of a non-legal entity (NLE), namely, a partnership (or a limited partnership, when read with section 3A), or any club, association, society or organisation. Currently, such NLEs are unable to claim input tax on supplies made to the bare trustee. To put NLEs on par with legal entities with regard to the tax implications of supplies relating to goods, intellectual property rights and licences to use intellectual property rights, supplies of the same made to and supplies relating to the same made by the bare trustee on behalf of such NLEs are deemed to be made to and made by, respectively, the NLEs instead. Consequently, such NLEs will be able to claim input tax and will be required to charge output tax *vis-à-vis* the deemed supplies. Such supplies by the bare trustee will also be relevant in determining the eligibility and liability of the NLEs for registration under the Act pursuant to the First Schedule thereto.

Clauses 5 and 6 amend sections 21(6A) and (6B) and 21B, respectively, to clarify that the reference to a supply relating to goods in those provisions is a reference to a sale or letting on hire of goods, and not any other service that may be performed in relation to goods.

Clauses 7 and 8 amend sections 27(2) and 27A(2), respectively, to extend the application of those sections to goods referred to in the new section 33B.

Clause 9 inserts a new section 33B to empower the Minister for Finance to make regulations providing for the claiming of input tax by a taxable person on the amount of goods and services tax paid on the re-importation of goods that were previously exported by the taxable person for value-added processes to be performed on the goods.

Clause 10 inserts a new paragraph 9 to the Second Schedule to extend the application of paragraphs 5 and 7 thereof to goods held by a bare trustee (as defined in the amendment inserted *vide* clause 2).

EXPENDITURE OF PUBLIC MONEY

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