

Goods and Services Tax (Amendment) Act

Bill No. /2010.

Read the first time on

2010.

A BILL

intituled

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 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Repeal and re-enactment of sections 11 and 12 and new sections 11A, 11B and 12A**

2. Sections 11 and 12 of the Goods and Services Tax Act (referred to in this Act as the principal Act) are repealed and the following sections substituted therefor:

10 **“Time of supply: general provisions**

11.—(1) This section and sections 11A, 11B, 12 and 12A shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of this Act.

15 (2) A supply of goods or services shall be treated for the purposes of this Act as taking place at the time when the person making the supply —

(a) issues an invoice in respect of it; or

(b) receives any consideration in respect of it,

20 as the case may be, or whichever is earlier, to the extent that the supply is covered by the invoice or consideration.

(3) Notwithstanding subsection (2), where a supply is —

25 (a) a supply of goods consisting of the grant, assignment or surrender of any interest in or right over land (other than the grant of a tenancy or lease where the whole or part of the consideration for that grant is payable periodically and attributed to separate periods of the term of the tenancy or lease);

30 (b) a supply of goods or services made by a person who applies to the Comptroller for this subsection to apply in determining when his supplies of goods or services take place, and the Comptroller allows his application; or

(c) a supply of goods by an agent that is treated under section 33(2) as a supply by him as principal,

then, unless subsection (4) applies, the supply shall be treated for the purposes of this Act as taking place as follows:

(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) if the supply is a supply of services, at the time when the services are performed.

(4) If, before the time under subsection (3), the person making a supply referred to in that subsection —

(a) issues an invoice in respect of it; or

(b) receives any consideration in respect of it,

the supply shall be treated as taking place at the time the invoice is issued or the consideration is received, as the case may be, or whichever is the earlier, to the extent covered by the invoice or consideration.

(5) For the purpose of determining the time when a supply of goods or services is to be treated as taking place for the purposes of this Act, where a person provides a document to himself which purports to be an invoice in respect of a supply of goods or services to him by another person, the Comptroller may treat that invoice as an invoice issued by the other person as the supplier.

Time of supply: exceptions to sections 11(2) and (3)

11A.—(1) Section 11(2) and (3) shall not apply where any subsection herein applies, except to the extent specified in that subsection.

(2) For the purposes of paragraph 1(1) or (2) or 2 of the First Schedule, the supply shall be treated as taking place at the time when the person making the supply —

(a) issues an invoice in respect of it; or

(b) receives any consideration in respect of it,

as the case may be, or whichever is the earlier, to the extent that the supply is covered by the invoice or consideration.

(3) For the purposes of regulations made under section 19(13)(b) and (c), tax on a supply of goods or services made to a taxable person that he may count as his input tax shall be treated as taking place at the time when the person making the supply —

- (a) issues an invoice in respect of it; or
- (b) receives any consideration in respect of it,

as the case may be, or whichever is the earlier, to the extent that the supply is covered by the invoice or consideration.

(4) Where there is a supply of goods by virtue only of a transfer or disposal of assets under paragraph 5(1) of the Second Schedule, the supply shall be treated as taking place —

- (a) where the goods are transferred or disposed of as specified in that paragraph for no consideration, when the goods are transferred or disposed of as specified in that paragraph; and
- (b) where the goods are transferred or disposed of as specified in that paragraph for a consideration, in accordance with section 11(2) or (3), as the case may be.

(5) Where there is a supply of services by virtue only of paragraph 5(3) of the Second Schedule, the supply shall be treated as taking place —

- (a) where the goods are appropriated to the use mentioned in that paragraph for no consideration, on the last day of the supplier's prescribed accounting period, or of each such accounting period, in which the goods are made available or used; and
- (b) where the goods are appropriated to the use mentioned in that paragraph for a consideration, in accordance with section 11(2) or (3), as the case may be.

(6) If goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, a supply of the goods shall be treated as taking place 12 months after the removal unless the person from whom the goods are

removed has, before the expiry of the 12 month period, in respect of those goods —

- (a) issued an invoice; or
- (b) received any consideration,

5 in which case a supply of the goods shall be treated as taking place at the time the invoice is issued or the consideration is received, as the case may be, or whichever is the earlier.

Time of supply: exceptions to section 11(2)

10 **11B.**—(1) Section 11(2) shall not apply to the extent any subsection herein applies.

(2) Subject to subsection (7), where a person who is, or is required to be, registered under this Act makes to a person that is not a taxable person a supply of goods or services and —

- 15 (a) but for this subsection, the supply would under section 11(2) be treated as taking place after the date on which he is, or is required to be, registered under this Act; but
- (b) prior to that date —
 - (i) where the supply is a supply of goods, the goods were removed or made available; or
 - 20 (ii) where the supply is a supply of services, the services were performed,

25 then the person making the supply shall, if the person to whom the supply is made so requests, treat the supply as taking place when the goods were removed or made available, or the services were performed, as the case may be, and the supply shall be so treated for the purposes of this Act.

30 (3) Subject to subsection (7), where a person who makes a supply of goods or services is connected within the meaning of paragraph 3 of the Third Schedule with the person to whom the supply is made, and where —

- (a) in the case of a supply of goods, the goods have been removed or made available; or
- (b) in the case of a supply of services, the services have been performed,

then, the supply shall be treated as taking place at the end of 12 months after the goods have been removed or made available, or the services have been performed, as the case may be, to the extent that it is not covered by any invoice already issued or consideration already received.

(4) The Minister may by regulations prescribe supplies of goods or services which shall be excluded from subsection (3).

(5) Subject to subsections (3) and (7), where a person making a supply of goods or services and also makes a supply of financing services referred to in paragraph 1 of the Fourth Schedule to the recipient of the goods or services in respect of the supply of the goods or services, the supply of the goods or services shall be treated as wholly taking place at the time the invoice in respect of that first instalment is issued or the first instalment is paid, whichever is the earlier.

(6) Subject to subsection (7), where, pursuant to a supply of goods or services —

(a) a taxable person —

(i) allows the goods to be removed or makes the goods available; or

(ii) performs the services,

as the case may be, whether on a single occasion or on different occasions;

(b) the person then ceases to be a taxable person; and

(c) no invoice or consideration covering the whole of the supply has been issued or received, as the case may be, by the taxable person prior to the date when the person ceases to be a taxable person,

the supply of goods or services shall be treated as taking place on the day immediately before the day the person ceases to be a taxable person, to the extent that it is not covered by any invoice already issued or consideration already received.

(7) Subsections (2), (3), (5) and (6) shall not apply in relation to —

(a) any person whose application has been allowed by the Comptroller under section 11(3)(b); or

(b) any supply of goods referred to in section 11(3)(a) or (c).

Time of supply: directions and regulations

5 **12.**—(1) Notwithstanding sections 11, 11A and 11B, the Comptroller may, at the request of a taxable person, by direction in writing alter the time at which supplies made by the taxable person (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either —

(a) by directing that those supplies be treated as taking place —

10 (i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or

(ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur,

15 the resulting times or dates being in every case earlier than would otherwise apply; or

(b) by directing that those supplies shall (to the extent that they are not treated as taking place at the time any invoice is issued or any consideration is received in respect thereof) be treated as taking place —

20 (i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or

25 (ii) at the end of the relevant working period (as so defined).

(2) Notwithstanding sections 11, 11A and 11B, the Minister may by regulations —

30 (a) make provision with respect to the time at which (notwithstanding sections 11 and 38(4)) a supply is to be treated as taking place in cases where —

(i) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period;

(ii) it is a supply of goods for consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose; or

(iii) there is a supply to which sections 27, 37A and 38 apply; and

(b) prescribe when consideration for a supply of goods or services of a specified type, or provided in a specified manner, is to be regarded as having been received.

(3) Regulations made under subsection (2)(a) may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.

Time of supply: transitional provision

12A. Notwithstanding anything in sections 11, 11A, 11B or 12, the repealed sections 11 and 12 in force immediately before the coming into operation of section 2 of the Goods and Services Tax (Amendment) Act 2010 shall apply to any supply that is —

(a) a supply of goods pursuant to which the goods are removed or made available before 1st January 2011; or

(b) a supply of services pursuant to which the services are performed before 1st January 2011,

other than any supply to which regulations made under subsection (8) of that repealed section 12 applies.”.

Repeal and re-enactment of section 18

3. Section 18 of the principal Act is repealed and the following section substituted therefor:

“Value of imported goods

18.—(1) For the purposes of this Act and subject to the Third Schedule, the value of imported goods shall be determined as follows:

(a) subject to paragraph (b), the value of the goods shall be the aggregate of the following:

- (i) the value of the goods determined in accordance with such method of valuation as may be prescribed pursuant to section 22 of the Customs Act (Cap. 70); and
- (ii) so far as not already included in the value referred to in sub-paragraph (i), all taxes, duties and other charges levied either outside or, by reason of importation, within Singapore (except goods and services tax); and
- (b) where goods from outside Singapore enter Singapore under customs control and one or more supplies of those goods involve —
- (i) the goods being removed from a place under such customs control; or
- (ii) the goods being made available whilst under such customs control,
- the value of the goods shall be the aggregate of the following:
- (A) the value of the last of such supplies; and
- (B) so far as not already included in the value referred to in sub-paragraph (i) —
- (BA) all taxes, duties and other charges levied either outside or, by reason of importation, within Singapore (except goods and services tax); and
- (BB) all costs by way of commission, packing, transport and insurance and all other costs, charges and expenses incidental to the sale and the delivery of the goods up to the port or place of importation.
- (2) In the application of the Customs Act (Cap. 70), by virtue of section 26, to any goods which are not subject to either customs duty or excise duty, such goods shall be construed as being under “customs control” within the meaning of section 3(2) of the Customs Act as if they are dutiable goods.”.

Amendment of section 19

4. Section 19 of the principal Act is amended —

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

“(3A) For the purpose of subsection (3)(a)(ii), tax payable by a taxable person on the importation of goods shall not include any tax that is accountable pursuant to regulations made under section 27A until such time as the tax has in fact been accounted for in accordance with those regulations.”;

(b) by deleting the words “subsections (6) and (7)” in subsection (5) and substituting the words “subsections (5A), (6) and (7)”; and

(c) by inserting, immediately after subsection (5), the following subsection:

“(5A) In an accounting period —

(a) where the tax accounted for by the taxable person pursuant to regulations made under section 27A is equal to or exceeds the amount of credit or excess referred to in subsection (5), the amount of the credit or excess shall be nil; and

(b) where the tax accounted for is less than the amount of credit or excess, the amount of the credit or excess shall be the amount of the credit or excess less the amount of that tax.”.

Amendment of section 21

5. Section 21 of the principal Act is amended —

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

“(i) in the case of transport by air or land, where the transportation is —

(A) from a place outside Singapore to another place outside Singapore;

(B) from a place in Singapore to a place outside Singapore; or

(C) from a place outside Singapore to a place in Singapore; and

(ii) in the case of transport by sea, where the transportation is —

(A) from a place outside Singapore to another place outside Singapore; or

5 (B) from a place in Singapore or to a place in Singapore, and substantially outside Singapore;”;

10 (b) by deleting the words “paragraph (a)(ii) or (iii)” in subsection (3)(b) and substituting the words “paragraph (a)(i) and (ii) (other than in relation to any transportation that is from a place outside Singapore to another place outside Singapore)”;

(c) by deleting the words “For the purpose of subsection (3)” in subsection (4) and substituting the words “For the purpose of subsections (3), (6), (6A) and (6B)”;

15 (d) by deleting the definition of “ship” in subsection (4)(a) and substituting the following definition:

“ “ship” means any ship (including an oil rig) but does not include any ship —

20 (a) that is licensed under the Maritime and Port Authority of Singapore Act (Cap. 170A) as a passenger harbour craft or pleasure craft;

(b) in respect of which a vessel permit has been granted by the Public Utilities Board under regulations made under the Public Utilities Act
25 (Cap. 261); or

(c) that is designed or adapted for use for recreation or pleasure and is so used within Singapore (unless the use within Singapore is for such incidental purpose as the Comptroller may allow);”;

30 (e) by deleting paragraph (b) of subsection (6) and substituting the following paragraph:

“(b) has shipped them —

(i) for use as stores on an aircraft; or

(ii) for sale by retail as merchandise to persons carried on an aircraft,”;

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

“(6A) Subject to subsection (6B), a supply relating to goods is zero-rated where —

(a) the Comptroller is satisfied that the goods are —

10 (i) for use as stores on board a ship;

(ii) for installation on board a ship or a ship under construction;

(iii) for use in the maintenance or operation of a ship; or

15 (iv) for sale by retail as merchandise to persons carried on board a ship; and

(b) such other conditions or restrictions, if any, as may be prescribed by the Minister in regulations or as the Comptroller may impose are fulfilled.

20 (6B) Where there is a supply relating to goods for any purpose referred to in paragraph (a) of subsection (6A) in relation to any ship which is designed or adapted for use for recreation or pleasure, the supply is zero-rated under that subsection only if the Comptroller is satisfied that the goods are used outside of Singapore.”;

(g) by deleting the words “subsection (6)” in subsection (8) and substituting the words “subsection (6) or (6A)”;

(h) by deleting the words “subsection (6) or (7)” in subsection (8) and substituting the words “subsection (6), (6A), or (7)”.

30 **Amendment of section 23**

6. Section 23 of the principal Act is amended by deleting the section heading and substituting the following section heading:

“Relief on supply of certain goods under Margin Scheme”.

New section 27A

7. The principal Act is amended by inserting, immediately after section 27, the following section:

“Deferment of payment of tax on importation of goods

5 **27A.**—(1) The Minister may by regulations in relation to goods imported by any taxable person in the course or furtherance of any business carried on by him, permit those goods to be delivered or removed in accordance with those regulations notwithstanding that the tax chargeable on the importation has yet to be paid and
10 notwithstanding —

(a) any other provision of this Act; or

(b) any written law relating to customs or excise duties applicable in accordance with section 26.

(2) Regulations made under subsection (1) may require a taxable
15 person referred to in that subsection 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.

(3) The Comptroller may, for the protection of revenue, impose conditions in relation to any importation of goods referred to in
20 subsection (1).

(4) The Comptroller may publish the names and such other particulars of the taxable persons to whom regulations made under this section apply in such form of manner as he thinks fit.”.

Repeal and re-enactment of section 37

25 **8.** Section 37 of the principal Act is repealed and the following section substituted therefor:

“Goods under customs control

30 **37.**—(1) Subject to subsection (4), where goods from outside Singapore enter Singapore under customs control and one or more supplies of the goods involve —

(a) the goods being removed from a place under such customs control; or

- (b) the goods being made available whilst under such customs control,

then (except for the purposes of section 18(1)(b)) all such supplies of the goods shall be disregarded for the purposes of this Act.

5 (2) Subject to subsection (4), where —

- (a) goods are produced or manufactured whilst under customs control in the customs territory in a place specified in a licence granted under section 63(1) of the Customs Act (Cap. 70) or such produced or manufactured goods are mixed, whilst under customs control in the customs territory, with imported goods; and
- 10 (b) one or more supplies of the produced or manufactured goods, or those produced or manufactured goods mixed with imported goods, involve —
 - 15 (i) the goods being removed from a place under such customs control; or
 - (ii) the goods being made available whilst under such customs control,

then —

- 20 (A) all such supplies other than the last supply shall, except where the contrary intention appears, be disregarded for the purposes of this Act; and
- (B) the following shall apply in relation to the last supply:
 - 25 (BA) the supply shall be treated for the purposes of this Act as taking place at the time the goods are removed from such customs control;
 - (BB) the value of the supply shall be treated as including any customs duty or excise duty to which the goods are subject;
 - 30 (BC) the tax on the supply shall be payable at the duty point —
 - (I) in a case of goods that are subject to customs duty or excise duty, by the person required to

pay any such duty, unless otherwise prescribed; and

(II) in a case of goods that are not subject to customs duty or excise duty, by the person by whom the goods are removed.

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(3) Subject to subsection (4), where —

(a) imported goods that are under customs control (referred to in this section as the first-mentioned goods) are used to produce or manufacture other goods in the customs territory in a place specified in a licence granted under section 63(1) of the Customs Act (Cap. 70); and

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(b) no supplies of the other goods involve —

(i) the other goods being removed from a place under such customs control; or

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(ii) the other goods being made available whilst under such customs control,

then, when the other goods are removed from customs control —

(i) the first-mentioned goods shall be treated as having been removed from customs control at the time the other goods are produced or manufactured; and

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(ii) the tax payable on the importation of the first-mentioned goods shall be payable at the duty point pertaining to the other goods —

(A) if customs or excise duty is payable on the other goods, by the person who is required to pay the duty; and

25

(B) if no duty is payable, by the person by whom the other goods are removed,

unless otherwise prescribed.

(4) Notwithstanding subsections (1), (2) and (3), where —

(a) the goods referred to in subsections (1), (2)(a) and (3)(a) are brought under customs control into the customs territory and are thereafter —

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(i) brought to 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 goods continue to remain under customs control); and

(ii) brought to that place for the purpose of an auction, an exhibition or other similar event involving the display of goods;

(b) one or more supplies of the goods are made whilst they are in that place; and

(c) the goods are then removed directly from that place so as to be removed from customs control,

those supplies shall not be disregarded for the purpose of this Act and shall be chargeable to tax in accordance with the provisions of this Act (other than this section).

(5) The Minister may by regulations —

(a) provide that the goods referred to in subsection (1), (2)(a) or (3)(a) —

(i) may be removed from customs control without payment of the tax in such circumstances as may be prescribed; and

(ii) for such tax to be accounted for together with the tax chargeable on the supply of goods or services by him;

(b) provide for the licensing of warehouses or other places for the purposes of this section and such regulations may provide for the imposition of conditions thereon and the payment of any prescribed fee; and

(c) prescribe anything which may be prescribed under this section.

(6) In the application of the Customs Act (Cap. 70), by virtue of section 26, to any goods which are not subject to either customs duty or excise duty, such goods shall be construed as being under “customs control” within the meaning of section 3(2) of the Customs Act as if they are dutiable goods.

(7) In this section —

“customs territory” and “proper officer of customs” have the same meanings as in section 3(1) of the Customs Act;

“duty point”, in relation to any goods, means —

- 5 (a) in the case of goods which are subject to customs duty or excise duty or both customs duty and excise duty, the time when the customs duty or excise duty takes effect, whichever is the earlier; or
- 10 (b) in the case of goods which are not subject to either customs duty or excise duty, the time when the goods are removed from customs control.”.

Amendment of section 37A

9. Section 37A of the principal Act is amended —

15 (a) by deleting the words “which comprises the treatment or processing of goods for and to a person who belongs in a country other than Singapore to be disregarded” in subsection (1) and substituting the words “which comprises the treatment or processing of goods —

20 (a) under a contract with a person who belongs in a country outside Singapore and is not registered under this Act (referred to in this section as an overseas person); and

25 (b) which directly benefits a person who belongs in a country outside Singapore and is not registered under this Act (referred to in this section as an overseas person),

to be disregarded”;

(b) by deleting subsection (2) and substituting the following subsections:

30 “(2) Regulations made under subsection (1) may provide for the following:

 (a) for the treated or processed goods to be delivered only to —

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

(ii) the customer of an overseas person to whom the overseas person supplies the goods,

5 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 as if the taxable person had himself made a supply of
10 the goods in the course or furtherance of his business;

(b) for a taxable person approved by the Comptroller who receives the treated or processed goods from another approved person to declare, in such form and manner as the Comptroller may require, his receipt of those
15 goods;

(c) where a taxable person approved by the Comptroller delivers the goods to the customer of an overseas person referred to in paragraph (a)(ii), for the taxable person to account for and pay tax in substitution for
20 the overseas person, as if the taxable person had himself supplied the goods to that customer in the course or furtherance of his business.

(3) The Comptroller may publish the names and such other particulars of the taxable persons to whom regulations made
25 under this section apply in such form or manner as he thinks fit.”; and

(c) by deleting the words “for and to” in the section heading and substituting the word “of”.

Amendment of section 38

30 **10.** Section 38 of the principal Act is amended by deleting subsection (4) and substituting the following subsections:

“(4) Notwithstanding sections 11, 11A, 11B and 12, for the purposes of this section, a prescribed supply of goods or services shall be treated as taking place —

- (a) where the prescribed supply is a supply of goods, when the goods are removed or made available; and
- (b) where the prescribed supply is a supply of services, when the services are performed.

5 (4A) Section 12(1) shall not apply for determining the time when any prescribed supply of goods or services is to be treated as taking place.”.

Repeal and re-enactment of section 39

10 **11.** Section 39 of the principal Act is repealed and the following section substituted therefor:

“Supplies spanning change of rate, etc.

15 **39.**—(1) This section shall apply where there is a change in the tax rate in force under section 16 or a change in the descriptions of exempt or zero-rated supplies, notwithstanding any different result that may arise by virtue of the application of sections 11, 11A, 11B and 12.

(2) Subject to subsections (3) and (7), where, pursuant to a supply of goods or services —

- 20 (a) the goods are removed or made available, or the services are performed, as the case may be, before the change, and the invoice is issued or any consideration is received after the change; or
- (b) the invoice is issued or any consideration is received before the change, and the goods are removed or made available, or the services performed, as the case may be, after the change,

then the rate at which tax is chargeable on the supply, or any question whether it is zero-rated or exempt, shall, if the person making it so elects, be determined at the time when the goods are removed or made available, or the services are performed, as the case may be.

30 (3) Where, in relation to an invoice issued before the date an increase in tax rate comes into operation —

- (a) before that date, no consideration or only a part of the consideration was received; or
- (b) before that date —

- (i) no goods were removed or made available or only a part of the goods were removed or made available; or
- (ii) no services were performed or only a part of the services were performed,

5 then the rate at which tax is chargeable on the supply shall be as follows:

(A) tax shall be charged at the old tax rate on the higher of the following amounts:

10 (AA) any part consideration received before the date of change; or

(AB) the value of any goods removed or made available, or any services performed made before that date; and

15 (B) tax shall be charged at the new tax rate on the amount of the invoice less the amount on which tax is charged at the old tax rate under paragraph (A).

(4) For the purpose of subsection (3), an invoice referred to in that subsection shall, on the date the increase in tax rate comes into operation, cease to have effect to the extent of the amount on which tax is chargeable at the new tax rate under subsection (3)(B).

20 (5) Where an invoice that ceases to have effect under subsection (4) is a tax invoice, the person making the supply shall issue a new tax invoice specifying —

(a) the new tax rate; and

25 (b) the amount on which tax is chargeable at the new tax rate under subsection (3)(B),

and tax shall be chargeable on the supply to which the new tax invoice relates as if it were a separate supply.

30 (6) Nothing in subsection (2), (3), (4) or (5) shall affect any tax which (apart from those subsections) is chargeable on a supply to which an invoice referred to in subsection (3) relates, and such tax shall be accounted for and paid to the Comptroller as if those subsections had not been enacted.

(7) Where, in relation to an invoice issued before the date a supply ceases to be a zero-rated or an exempt supply —

(a) before that date, no consideration or only a part of the consideration was received; or

(b) before that date —

5 (i) no goods were removed or made available or only a part of the goods were removed or made available; or

(ii) no services were performed or only a part of the services were performed,

tax shall be chargeable at the rate applicable on that date on the amount of the invoice less the higher of the following amounts:

10 (A) any part consideration received before that date; or

(B) the value of any goods removed or made available, or any services performed made before that date.

15 (8) For the purpose of subsection (7), an invoice referred to in that subsection shall, on the date the supply ceases to be a zero-rated or an exempt supply, cease to have effect to the extent of the amount on which tax is chargeable under subsection (7).

(9) Where an invoice that ceases to have effect under subsection (8) is a tax invoice, the person making the supply shall issue a new tax invoice specifying —

20 (a) the tax rate applicable on the date the supply ceases to be a zero-rated or an exempt supply; and

(b) the amount on which tax is chargeable at that tax rate under subsection (7),

25 and tax shall be chargeable on the supply to which the new invoice relates as if it were a separate supply.

(10) Regulations made under section 41 may, in relation to any tax invoice which —

30 (a) relates to a supply in respect of which an election is made under this section and which was issued before the election was made; or

(b) ceases to have effect under subsection (4) or (8),

provide for the replacement or correction of that invoice (including the issue of a credit note).

(11) No election may be made under this section in respect of a supply to which paragraph 6 of the Second Schedule applies.

(12) For the purposes of this section, where only a part of the goods are removed or made available, or only a part of the services are performed, the value of the supply so partly made shall be such value as is, in the opinion of the Comptroller, reasonably attributable to the supply so partly made.

(13) In this section —

“new tax rate” means the tax rate applicable on the date an increase in tax rate comes into operation;

“old tax rate” means the tax rate applicable immediately before the date an increase in tax comes into operation.”

Amendment of section 41

12. Section 41 of the principal Act is amended —

(a) by deleting the word “and” at the end of subsection (1)(a);

(b) by deleting the full-stop at the end of paragraph (b) of subsection (1) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) provide for the circumstances in which a document by a taxable person purporting to be a tax invoice in respect of a supply of goods or services to him by another taxable person, is to be treated as a tax invoice required under paragraph (b) to be provided by the taxable person supplying the goods or services.”; and

(c) by deleting subsection (7) and substituting the following subsections:

“(7) At the end of a prescribed accounting period —

(a) the amount of tax due from any person that is his output tax after deduction of input tax allowable under section 20; or

(b) the amount due to any person under section 19(5),

as the case may be, shall be zero if the amount is less than \$5 or such other amount as the Minister may by order prescribe.

(8) At the end of a prescribed accounting period, the amount of tax due from a person that is tax accounted for by him pursuant to regulations made under section 27A shall be nil if it is less than \$5 or such other amount as the Minister may by order prescribe.”.

Amendment of section 42

13. Section 42 of the principal Act is amended —

(a) by deleting the words “an electronic service for —” in subsection (1) and substituting the words “for the following to be effected electronically.”;

(b) by deleting the words “declaration or document” in subsection (1)(b) and substituting the words “declaration, document, application or information”;

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

“(14) For the purposes of this section, “electronic service” means any service established or approved by the Comptroller for any or all of the purposes in sub-paragraph (1).”;

(d) by deleting the words “the electronic service” wherever they appear in section 42 and substituting the words “an electronic service”; and

(e) by deleting the words “any return, declaration or document” wherever they appear in section 42 and substituting the words “any return, declaration, document, application or information”.

Amendment of section 59

14. Section 59 of the principal Act is amended —

(a) by inserting, immediately after the words “output tax” in subsection (1)(a), the words “or any tax that is accountable pursuant to regulations made under section 27A”; and

(b) by inserting, immediately after the words “output tax” in subsection (2)(a), the words “or any tax that is accountable pursuant to regulations made under section 27A”.

Amendment of section 60

15. Section 60 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) Subsection (1) shall apply separately to —

- 5 (a) the output tax of a taxable person after deduction of input tax allowable under section 20; and
- (b) tax accountable by a taxable person pursuant to regulations made under section 27A.”.

Amendment of Third Schedule

10 **16.** Paragraph 13 of the Third Schedule to the principal Act is amended —

- (a) by renumbering that paragraph as sub-paragraph (1) of that paragraph;
- (b) by deleting the words “approved exclusively for residential purposes under the Planning Act” in sub-paragraph (1) and substituting the words “which is used or to be used principally for residential purposes”; and
- (c) by inserting, immediately after sub-paragraph (1), the following paragraph:
- 20 “(2) For the purpose of sub-paragraph (1), the Minister may, by order published in the *Gazette*, provide that any building, flat or tenement is to be included, or is not to be included, as a building, flat or tenement used or to be used principally for residential purposes.”.

Amendment of Fourth Schedule

25 **17.** The Fourth Schedule to the principal Act is amended —

- (a) by deleting sub-paragraph (c) of paragraph 2 and substituting the following sub-paragraph:
- “(c) any land or part thereof with any building, flat or tenement thereon, being a building, flat or tenement which is used or to
- 30 be used principally for residential purposes.”;
- (b) by deleting sub-paragraph (c) of paragraph 4(3) and substituting the following sub-paragraph:

“(c) any building, flat or tenement which is not used or to be used principally for residential purposes.”; and

(c) by inserting, immediately after sub-paragraph (3) of paragraph 4, the following sub-paragraph:

5 “(4) For the purpose of paragraphs 2(c) and 4(3)(c), the Minister may, by order published in the *Gazette*, provide that any building, flat or tenement is to be included, or is not to be included, as a building, flat or tenement used or to be used principally for residential purposes.”.

EXPLANATORY STATEMENT

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

Clause 1 relates to the short title and commencement.

Clauses 2 to 17 amend the Act for the following purposes:

- (a) Import and extent of goods and services tax (“tax”)
 - (i) Changes to the rules on the time of supply
 - [main amendments at clause 2, consequential amendments at clauses 10, 11 and 12(a) and (b)]
 - (ii) Changes to the rules on the value of supply in relation to imported goods
 - [clause 3]
 - (iii) Changes to clarify the rules on the value of supplies in special cases
 - [clause 16]
 - (iv) Changes to clarify the rules on exempt supplies involving premises used for residential purposes
 - [clause 17]
- (b) Reliefs
 - (i) Changes to the zero-rating of international services in relation to the marine industry
 - [clause 5]
 - (ii) Introduction of a new Import Goods and Services Tax Deferment Scheme (IGDS)
 - [main amendment at clause 7, consequential amendments at clauses 4, 12(c), 14 and 15]

- (c) Special Cases
 - (i) Changes to clarify the rules relating to supplies of goods in free trade zones and warehouses
[clause 8]
- (d) Miscellaneous changes
 - (i) Changes to clarify provisions for the Margin Scheme
[clause 6]
 - (ii) Changes to enhance the Approved Contract Manufacturer and Trader Scheme (ACMT)
[clause 9]
 - (iii) Changes to enhance the provisions relating to the electronic service
[clause 13]

Part 1 — Time of supply

Currently, sections 11 and 12 of the Act provide the rules for determining when a supply of goods or services is treated as taking place for the purposes of the “charge to tax”. Section 11 provides for the basic tax point as follows:

- (a) a supply of goods is treated as taking place —
 - (i) if the goods are to be removed, at the time of the removal;
 - (ii) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
 - (iii) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or 12 months after the removal, whichever is the earlier; and
- (b) a supply of services is to be treated as taking place at the time when the services are performed.

Under section 12, the basic tax point can be altered to an actual tax point as a result of the issue of an invoice or the payment of consideration, or otherwise in accordance with directions given by the Comptroller of Goods and Services (“the Comptroller”) or regulations made by Minister charged with the responsibility for finance (“the Minister”).

The rules for determining when a supply of goods or services is treated as taking place are to be simplified such that the time of supply will primarily be determined in accordance with when an invoice is issued or consideration is received for the supply, whichever is the earlier.

Main amendments

Clause 2 repeals the existing sections 11 and 12 and substitutes new sections 11, 11A, 11B, 12 and 12A.

The new section 11(1) provides that the new sections 11 to 12A will apply in determining the time when a supply takes place for *all purposes of the Act*. Accordingly, where a supply would, under the new time of supply rules be treated as taking place after a person is, or becomes liable to be, registered under the Act, the supply is chargeable to tax even though the supply may, apart from the new time of supply rules, take place before the person is, or becomes liable to be, so registered.

The new section 11(2) provides for the primary test by which the time of supply is to be determined.

The new section 11(3) provides for certain instances in which the primary test will not be used. Instead, the new section 11(3) and (4) provides for an alternative test, *viz.* the earliest of the following:

- (a) when an invoice is issued;
- (b) when consideration is received; and
- (c) when —
 - (i) in the case of a supply of goods, the goods are removed or made available; or
 - (ii) in the case of a supply of services, the services are performed.

The instances in which this alternative test will be used are —

- (a) where the supply is of goods consisting of the grant, assignment or surrender of any interest in or right over land (other than grants of tenancies and leases);
- (b) where a taxpayer applies to the Comptroller to be allowed to use the alternative test and the Comptroller allows his application; and
- (c) where the supply is of goods by an agent who is treated under section 33(2) of the Act as having supplied the goods as principal.

The new section 11(5) provides that the Comptroller may treat any invoice issued by a recipient of goods or services as an invoice issued by the supplier thereof in determining the time when the supply of the goods or services took place for the purposes of the Act. This provides for situations where the supplier does not issue an invoice.

The new section 11A provides for specific tests to be applied notwithstanding anything in the new section 11 (whether section 11(2), or section 11(3) and (4)) except to such extent as may be specified in the new section 11A.

The new section 11A(2) makes it clear that, for the purpose of determining a person's liability to be registered, the test for determining the time of supply will be the primary test (even though at the time of the supply under the primary test, the person is not a taxable person).

The new section 11A(3) provides that the primary test is to apply to supplies made to a taxable person prior to his becoming a taxable person, or, in the case of a taxable person that is a body corporate, prior to the incorporation of the body corporate, for the

purpose of allowing the taxable person to count the tax on that supply to him as his input tax.

The new section 11A(4) and (5) provides for the test to be applied in the case of transfers or disposals of the assets of a business, or where the assets are put to private or non-business use.

The new section 11A(6) provides for the test to be applied in the case of a supply of goods where, at the time the goods are removed, it is not known whether there will be a supply of the goods.

The new section 11B provides for specific tests to be applied notwithstanding anything in the new section 11(2).

Where the new section 11(2) applies, and as a result of section 11(1), if a person is, or is required to be, registered under the Act, his supplies are chargeable to tax if the invoice for the supply is issued and consideration is received for the supply on or after the date the person is, or is required to be, registered under the Act. This is notwithstanding that, in the case of a supply of goods, the goods were removed or made available prior to that date or, in the case of a supply of services, the services were performed prior to that date. However, the new section 11B(2) requires the person to treat the supply as nevertheless having taken place prior to his being registered or being required to be registered so as not to be chargeable to tax, if the person to whom the supply is made so requests.

The new section 11B(3) provides for a supply between connected persons to be treated as taking place 12 months after the goods have been removed or made available, or services performed, as the case may be, if no invoice is issued or consideration received during that period. This provision is an anti-avoidance measure and the Minister may, under the new section 11B(4), make regulations to prescribe the supplies that may be excluded from the application of the new section 11B(3).

The new section 11B(5) provides that, where goods or services are provided under a financing arrangement which amounts to a supply of financing services referred to in paragraph 1 of the Fourth Schedule, the supply of the goods or services will be treated as *wholly* taking place when the invoice for the first instalment under the financing arrangement is issued or the first such instalment paid. The time of supply of the financing arrangement itself will fall to be determined in accordance with section 11.

The new section 11B(6) provides for the test for determining when a supply is to be treated as having taken place in relation to a taxable person that becomes de-registered. Under the new subsection, where, pursuant to a supply of goods or services —

- (a) goods are removed or made available or services performed, as the case may be, before the taxable person becomes de-registered;
- (b) the taxable person then becomes de-registered; and
- (c) the invoice for those goods or services is issued or consideration for those goods or services is received on or after the person is de-registered,

the supply of those goods or services will be treated as having been made on the day immediately prior to the day the person becomes de-registered so as to be chargeable to tax.

The new section 11(7) provides that the new section 11B(2), (3), (5) and (6) will not apply in relation to —

- (a) any person whose application has been allowed by the Comptroller under section 11(3)(b); or
- (b) any supply of goods referred to in the new section 11(3)(a) or (c).

The new section 12(1) empowers the Comptroller to give directions to vary the time of supply as provided for in the tests set out in sections 11, 11A and 11B if so requested by the taxpayer. This provision currently exists as section 12(5).

The new section 12(2)(a) empowers the Minister to make regulations to vary the time of supply as provided for in the tests set out in sections 11, 11A and 11B. The new section 12(2)(a) currently exists as section 12(8)(a), (b) and (d) (regulations currently made under the existing section 12(2)(c) will be replaced by the new section 11A(5)). The new section 12(2)(b) additionally empowers the Minister to make regulations to provide for when consideration for a supply will be regarded as having been received, depending on the type of consideration and the manner in which it is provided.

The new section 12(3) currently exists as section 12(9).

The new section 12A is a transitional provision. It provides for the existing sections 11 and 12 to continue to apply in certain circumstances.

Consequential amendments

Clauses 10, 11 and 12(a) and (b) amend section 38 (Customers to account for tax on certain supplies), repeal and substitute section 39 (Supplies spanning change of rate, etc.) and amend section 41 (Accounting for and payment of tax), respectively, to make consequential amendments arising from the new sections 11, 11A, 11B and 12 inserted by clause 2. The amendment made by clause 12(a) and (b) takes into account the deletion of the existing section 12(4) pursuant to clause 2.

Part 2 — Value of imported goods

Under section 8 of the Act, tax on imported goods is “charged, levied and payable as if it were customs duty or excise duty and as if all goods imported into Singapore are dutiable and liable to customs duty or excise duty”. Under section 10 of the Customs Act (Cap. 70), customs duty and excise duty is “charged, levied and paid ... on [certain] goods imported into the customs territory or manufactured in Singapore”. Under section 3(1) of the Customs Act, “customs territory” is defined as meaning “Singapore and the territorial waters thereof but excluding any free trade zone”.

Under section 27 of the Customs Act, customs duty and excise duty must, in general, be paid before the goods can be removed from customs control. Under section 3(2) of the Customs Act, goods are “deemed to be under customs control while they are deposited or held in any free trade zone, Government warehouse, licensed warehouse, or bottling warehouse or post office or in any vessel, train, vehicle or aircraft or any

place from which they may not be removed except with the permission of the proper officer of customs”. Goods are under customs control outside the customs territory if they are in a free trade zone, and are under customs control in the customs territory if they are in any place referred to in section 3(2) of the Customs Act that is not in a free trade zone.

Clause 3 repeals and re-enacts section 18 to bring the test for determining the value of imported goods for the purposes of tax in line with that generally used for the determining the value of goods for the purposes of customs duty and excise duty (currently, the test adopted in relation to both customs duty and excise duty is the same). This is provided for in the new section 18(1)(a).

For purposes of tax, however, regard must also be had to any increase in value of the goods as a result of their being supplied in Singapore prior to the tax on their importation being paid. This is provided for in the new section 18(1)(b).

In the case of both paragraphs (a) and (b) of the new section 18(1), the value of the imported goods must also include any tax, duty or other charge levied outside or, by reason of importation, within Singapore (other than any goods and services tax). In the case of paragraph (b) of the new section 18(1), for the avoidance of doubt, the value of the goods must also include all costs by way of commission, packing, transport and insurance and all other costs, charges and expenses incidental to the sale and delivery of the goods up to the port or place of importation.

The new section 18(2) expands the concept of “customs control” so as to cover goods to which the concept of “customs control” under the Customs Act would not apply on the basis that the goods are not subject to customs duty or excise duty under that Act.

Part 3 — Value of supplies in special cases in relation to premises used for residential purposes

Currently, paragraph 13 of the Third Schedule (Valuation — Special Cases) refers to buildings, flats and tenements being “approved exclusively for residential purposes under the Planning Act” (Cap. 232).

Clause 16(b) amends paragraph 13 in the Third Schedule to clarify that the paragraph applies in relation to buildings, flats and tenements “used or to be used principally for residential purposes”. Buildings, flats and tenements are treated as being used or to be used principally for residential purposes if there is some permanency to the use or proposed use of those premises for purposes of accommodation by a person and the purpose of accommodation is the main purpose. Examples would be premises used as the home or dwelling place of a person. Clause 16(c) empowers the Minister to provide, by order published in the *Gazette*, what may be included as buildings, flats and tenements used or to be used principally for residential purposes, and what will not be treated as buildings, flats and tenements used or to be used principally for residential purposes. This is to provide clarity, particularly where there may be doubt as to whether there is sufficient permanency in the use of premises for purposes of accommodation, or whether the purpose of accommodation is the main purpose.

*Part 4 — Exempt supplies in relation to premises
used for residential purposes*

Clause 17(a) and **(b)** makes the same amendments to paragraphs 2 and 4 of the Fourth Schedule (Exempt Supplies), respectively, as clause 16(b) makes to paragraph 13 of the Third Schedule, for the same reasons. Clause 17(c) gives the same power to the Minister in relation to the Fourth Schedule as clause 16(c) gives in relation to the Third Schedule.

Part 5 — Zero-rating: marine industry

Clause 5 makes various amendments to section 21 (Zero-rating for exports and international services) to provide for the enhancements to the zero-rating of supplies of goods and services in connection with the marine industry.

Clause 5(a) deletes sub-paragraphs (i), (ii) and (iii) of subsection (3)(a), which currently refer to transportation —

- “(i) from a place outside Singapore to another place outside Singapore;
- (ii) from a place in Singapore to a place outside Singapore; or
- (iii) from a place outside Singapore to a place in Singapore;”.

New sub-paragraphs (i) and (ii) are substituted therefor. The new sub-paragraph (i) comprises the current sub-paragraphs (i), (ii) and (iii) for the purposes of transportation by air and land. For the purposes of transportation by sea, the new sub-paragraph (ii)(A) is the same as the existing sub-paragraph (i), and the new sub-paragraph (ii)(B) replaces the existing sub-paragraphs (ii) and (iii) with transportation by sea that is —

- “(ii)(B) from a place in Singapore or to a place in Singapore, and substantially outside Singapore”.

The new sub-paragraph not only covers the existing sub-paragraph (ii) and (iii) (transportation by sea that is from a place in Singapore to a place outside Singapore, or *vice versa*, would invariably be substantially outside Singapore), but also includes “round-trips” (that is, trips that begin and end in Singapore), if the trips are substantially outside Singapore (for instance, “cruises to nowhere”).

Clause 5(b) makes a consequential amendment to subsection (3)(b) arising from the amendment to section 21(3)(a) under clause 5(a).

Clause 5(c) makes a technical as well as a consequential amendment to subsection (4). The technical amendment is the inclusion of the reference to subsection (6) as the definitions in subsection (4) are relevant to subsection (6). The consequential amendment is the inclusion of subsections (6A) and (6B), inserted under clause 5(f), for which the definitions in subsection (4) are also relevant.

Clause 5(d) deletes and substitutes the definition of “ship” in subsection (4) to enlarge the current definition to include ships that are designed or adapted for use for recreation or pleasure. However, such ships must only be used outside of Singapore (for this purposes, any use in Singapore that is incidental to the use outside Singapore — for instance, any travel into or out of Singapore, and any temporary stay in Singapore, as part of an itinerary that is otherwise outside Singapore — will be

disregarded). The exclusion of ships designed or adapted for use for recreation or pleasure and so used in Singapore is set out in paragraph (iii) of the new definition of “ship”. The exclusion at paragraph (i) of the new definition is an existing exclusion and the exclusion at paragraph (ii) is a new exclusion that takes into consideration vessel permits issued by the Public Utilities Board for vessels permitted to be used in reservoirs and catchment areas.

Clause 5(e) amends subsection (6) (which deals with the zero-rating of the supply of goods) by deleting paragraph (b) of that subsection (6) and substituting a new paragraph (b). The new paragraph (b) is the same as the existing one except that the new paragraph (b) is limited in its application to aircraft. This is because the zero-rating of supplies relating to goods (both sale and rental) in relation to ships is set out in the new subsections (6A) and (6B) inserted by clause 5(f).

Clause 5(f) inserts new subsections (6A) and (6B).

The new subsection (6A) provides for the zero-rating of supplies relating to goods (both sale and rental) in relation to ships if the goods are for use as stores on board a ship or if the goods are for sale by retail as merchandise to persons carried on a ship. Additionally, the new subsection (6A) provides that supplies relating to goods in relation to ships are zero-rated if the goods are for installation on board a ship (including if it is a ship under construction) or the goods are for use in the maintenance or operation of a ship.

The new subsection (6B) limits the application of the new subsection (6A) in relation to ships designed for use for recreation or pleasure (that come within the new definition of “ship” inserted by clause 5(d)). Supplies of goods in relation to such ships will be zero-rated only if the Comptroller is satisfied that the goods are used outside of Singapore.

Clause 5(g) and (h) makes consequential amendments to subsection (8) arising from the new subsection (6A) and (6B) inserted by clause 5(f).

Part 6 — IGDS

A new scheme is being introduced: the Import Goods and Services Tax Deferment Scheme (IGDS). Under the IGDS, goods that have been imported into Singapore may be removed from customs control without payment of tax chargeable on the importation of the goods, and the tax will be paid at a later point in time.

Under the IGDS, the tax (IGDS tax) will have to be accounted for and paid in the same manner that output tax is currently accounted and paid for. In section 19(3)(b), output tax is defined as “tax on supplies which a taxable person makes”. The accounting for and payment of such tax is provided for under regulations made under section 41. So as not to make any changes to the concept of output tax as it currently exists, the IGDS tax is to be accounted for and paid as a component separate from output tax, and not as part of output tax. However, the IGDS tax may still be claimed as input tax and netted off against output tax in certain circumstances. In section 19(3)(a), input tax is defined as —

“ (i) tax on the supply to him of any goods or services; and

- (ii) tax paid or payable by him on the importation of any goods, being (in either case) goods or services used or to be used for the purpose of any business carried on or to be carried on by [a taxable person]”.

Main amendment

Clause 7 inserts a new section 27A to provide for the IGDS.

The new section 27A(1) empowers the Minister to make regulations to permit goods imported by a taxable person in the course or furtherance of any business carried on by him to be delivered or removed notwithstanding that tax chargeable on the importation of the goods is not paid.

The new section 27A(2) provides that the Minister may make regulations to require a taxable person to account for and pay the IGDS tax in such form and manner, and within such time and to such person, as may be prescribed.

The new section 27A(3) empowers the Comptroller to impose conditions in relation to the import of goods referred to in the new section 27A(1) for the protection of revenue.

The new section 27A(4) empowers the Comptroller to publish the names and other particulars of taxable persons under the IGDS.

Consequential amendments

Clause 4 makes various consequential amendments to section 19 (Credit for input tax against output tax) arising from the new section 27A inserted under clause 7.

Clause 4(a) inserts a new subsection (3A) to provide that the IGDS tax cannot be treated as input tax until such time as it is in fact accounted for pursuant to regulations made under the new section 27A.

Clause 4(b) makes a consequential amendment to subsection (5) arising from the new subsection (5A) inserted by clause 4(c).

Clause 4(c) inserts a new subsection (5A) to provide that any refund that the Comptroller is liable to pay to a taxpayer after the input tax of the taxable person has been netted off against the output tax of the taxable person (as provided for in subsection (5)), is to be reduced by the amount of the IGDS tax that has been accounted for.

Clause 12(c) makes a consequential amendment to section 41 (Accounting for and payment of tax) arising from the new section 27A inserted under clause 7 by deleting the existing subsection (7) and substituting new subsections (7) and (8).

The new subsection (7) makes it clear that, where the amount of a person’s *output* tax is, after deduction of any refund due to the person under section 19(5), less than \$5 or such other prescribed amount, the amount will be treated as zero. The new subsection (8) provides that where the amount of *the IGDS tax* accounted for by a taxable person is less than \$5 or such other prescribed amount, it will be treated as zero. The new subsections preserve the differentiation between a person’s output tax and his IGDS tax.

Clause 14 makes consequential amendments to section 59 (Penalty for incorrect return) arising from the new section 27A inserted under clause 7. Currently, section 59(1)(a) and (2)(a) refer to any person who —

“(a) makes an incorrect return by omitting or understating any output tax or by overstating any input tax of which he is required by this Act to make a return”.

Clause 14 inserts a reference to the IGDS tax after the reference to output tax in both subsections (1)(a) and (2)(a) of section 59 to extend the application of section 59 to the IGDS tax.

Clause 15 makes a consequential amendment to section 60 (Penalty for failure to pay or make returns within prescribed period) arising from the new section 27A inserted under clause 7. Clause 15 inserts a new subsection (1A) to make it clear that the penalty of “5% of the amount of tax payable” applies to output tax (after deduction of input tax) and the IGDS tax separately, in other words, 5% in respect of the amount of output tax (after deduction of input tax) payable, and 5% in respect of the amount of the IGDS tax payable.

*Part 7 — Supplies of goods in free trade zones
and warehouses*

Currently, under section 37(1) and (2), where supplies of goods relate to goods brought into Singapore and the supplies take place whilst the goods are in certain warehouses or, by virtue of the existing section 37(7), in the free trade zone, all such supplies are disregarded except the last supply. Under the existing section 37(2B), the goods will be regarded as remaining in those warehouses if they are removed for purposes of any auction, exhibition or similar event involving the display of goods and returned to any of those warehouses upon the conclusion of that event.

Clause 8 repeals and re-enacts section 37 to clarify the conceptual basis for the tax treatment of supplies of goods in the free trade zones and certain warehouses. Under the new section 37, reference is no longer made to the goods being subject to a warehousing regime or being in a free trade zone, but to being under customs control. This is because customs control, already in existence in the Customs Act (Cap. 70) (see under Part 1, Division 2) is a concept that covers goods in warehouses relevant to the scheme and free trade zones, as well as the movement of goods between such places.

The new subsection (1) provides that, where goods are brought into Singapore under customs control, all supplies of such goods will be disregarded so long as those supplies involve —

- (a) the goods being removed from a place under such customs control, whether to another place under such customs control or out of such customs control; or
- (b) the goods being made available whilst under such customs control.

The new subsection (1) will apply only in relation to goods brought in from outside Singapore under customs control and which remain under such customs control. Accordingly, regard must be had to the origin of the goods.

The new subsection (1) does not deal with tax on the importation of the goods, which will continue to be levied, charged and paid in accordance with the other provisions of the Act.

The new subsection (2) provides that, where goods that are produced or manufactured whilst under customs control in a certain place in the customs territory are mixed, whilst still under such customs control, with goods that have been imported, all supplies of such goods will be disregarded so long as those supplies involve —

- (a) the goods being removed from a place under such customs control to another place under such customs control; or
- (b) the goods being made available whilst under such customs control,

other than the last of such supplies. Accordingly, the effect of the new subsection (2) is to impose tax on the last supply.

The new subsection (3) provides that, where imported goods are used to produce or manufacture other goods while under customs control in a certain place in the customs territory, and there is no supply of the other goods as referred to in that subsection, the imported goods are treated as being removed from customs control when the other goods are produced or manufactured. Tax on the importation of the imported goods is payable at the time the other goods are so removed.

The new subsection (4) essentially provides for matters covered by the existing subsection (2B).

The new subsection (5) empowers the Minister to make regulations for matters in connection with the new section 37. This provision currently exists as section 37(3).

The new subsection (6) expands the concept of “customs control” so as to cover goods to which the concept of “customs control” under the Customs Act would not apply on the basis that the goods are not subject to customs duty or excise duty under that Act.

The new subsection (7) defines terms used in the new section 37.

Part 8 — Margin scheme

Clause 6 deletes the existing section heading of “Relief on supply of certain secondhand goods” for section 23, and substitutes a new section heading to better describe the purpose of the section.

Part 9 — ACMT

Clause 9 makes various amendments to section 37A (Treatment or processing of goods for and to a person belonging in a country other than Singapore) to enhance the ACMT scheme provided for therein. Under the ACMT scheme, a local taxable person makes a supply to an overseas person comprising the treatment or processing of goods. The overseas person makes a supply of the treated or processed goods to his customer.

Clause 9(a) amends subsection (1) to clarify that the supply comprising the treatment or processing of goods is a supply —

- (a) made under a contract with a person who belongs outside of Singapore and is not a registered person; and
- (b) which directly benefits a person who belongs outside Singapore and is not a registered person.

As is the case with section 21(3)(j), (k) and (s), the first person referred to can be the same as the second person referred to, or the 2 persons can be different persons.

Clause 9(b) deletes the existing subsection (2) and substitutes new subsections (2) and (3).

The new subsection (2) enhances the regulation-making power of the Minister as follows:

- (a) The new subsection (2)(a) empowers the Minister to make regulations for purposes of anti-avoidance;
- (b) The new subsection (2)(b) replaces the regulation-making provision in the existing subsection (2) and clarifies that a taxable person under the ACMT scheme need only declare his receipt of treated or processed goods, and not account for tax as if there were supplies to and by him of the same;
- (c) The new subsection (2)(c) empowers the Minister to make regulations for the taxable person under the ACMT scheme who delivers the treated or processed goods to the customer of the overseas person to be substituted for the overseas person in accounting for and paying tax on the supply of the goods to the customer of the overseas person.

The new subsection (3) empowers the Comptroller to publish the names and other particulars of taxable persons under the ACMT scheme.

Clause 9(c) makes a consequential amendment to the section heading of section 37A arising from the amendment by clause 9(a).

Part 10 — Electronic service

Clause 13 makes various amendments to section 42 (Electronic service). The amendments enhance the provisions of section 42 as the electronic service is no longer simply used for the filing of returns, but also allows for the making of applications for refunds under the Tourist Refund Scheme (This scheme is set out in Part VII of the Goods and Services Tax (General) Regulations (Rg 1)).

EXPENDITURE OF PUBLIC MONEY

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