

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

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**Bill No. /2011.**

*Read the first time on .*

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) in 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) in 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 in relation to the grant of approval by the Comptroller for a warehouse or other premises to be an approved warehouse;

(b) where the approval is subject to any condition or requirement and the person who applied for the approval fails to comply with any such condition or requirement, for matters in relation to the payment to the Comptroller without demand by that person of the tax that would, but for section 21(3)(y) or 21C, be chargeable on the supplies referred to therein (whether made by that person or any other person) and taking 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 subsection 21A, the following sections:

#### **“Zero-rating 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 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 paid.

(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**

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

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

5 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;
- 10 (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 —

- 20 (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.

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

### **Amendment of section 27**

5. Section 27 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

30 “(1A) For the purposes of subsection (1)(a), goods imported by a taxable person in the course or furtherance of any business carried on by him includes goods imported through the taxable

5 person by a person carrying on a business in a country other than Singapore, where the taxable person also acts as agent of such a person in making claims for and receiving repayments of tax on the importation of the goods pursuant to regulations made under section 33A(3).”.

### **Amendment of section 33**

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

10 “(2A) For the purposes of subsection (2), goods supplied by a taxable person as agent for a person who is not a taxable person, shall be deemed to include goods produced by the taxable person from applying a treatment or process to the imported goods.”.

### **Amendment of section 37A**

15 7. Section 37A(2) of the principal Act is amended —

(a) by deleting paragraph (a) and substituting the following paragraph:

“(a) for the treated or processed goods —

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

(A) any taxable person approved by the Comptroller;

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

(C) a person for the intended destruction or disposal of such goods by that or any other person; or

30 (ii) to be exported to the satisfaction of the Comptroller,

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;” and

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(b) by deleting paragraph (c) and substituting the following paragraphs:

“(c) where a taxable person approved by the Comptroller delivers the goods to —

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

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(ii) a person for the destruction or disposal of the goods in circumstances where consideration for the goods is received from the person by the taxable person or the overseas person upon the destruction or disposal,

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for the taxable person to account for and pay tax in substitution for an overseas person, as if the taxable person had himself supplied the treated or processed goods to that customer or person, as the case may be, in the course or furtherance of his business;

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(d) upon such other conditions as may be prescribed in the regulations being satisfied, for goods which are —

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

(ii) delivered to the taxable person approved by the Comptroller for the purposes of carrying out any treatment or processing under a contract with and directly benefitting the overseas person,



to 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.”.

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### EXPLANATORY STATEMENT

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

Clause 1 relates to the short title and commencement.

Clause 2 amends section 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) 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) 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 may zero-rate the supplies relating to goods (sale or rental) made to an approved taxable customer (the approved marine customer) as long as the goods are for use or installation on a commercial ship that is wholly for international travel.

The new section 21B(1) empowers the Minister to make regulations to permit the supply relating to 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 the tax 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 paid.

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 the approved taxable persons 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”.

Clause 5 amends section 27 to extend its scope to allow tax on the importation of goods to be suspended when repayment of such tax is made through an agent in Singapore under section 33A.

Clause 6 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 7 makes various amendments to section 37A to enhance the ACMT scheme provided for therein.

Clause 7(a) amends section 37A(2)(a) to make reference to —

- (a) the delivery of the treated or processed goods to a person for the destruction or disposal thereof; and
- (b) the export of such goods,

both being to the satisfaction of the Comptroller.

Clause 7(b) amends section 37A(2)(c) to include the situation where the taxable person under the ACMT scheme delivers the treated or processed goods to another person for their destruction or disposal and consideration is received by him or the overseas person upon the destruction or disposal. In such an instance, section 37A(2)(c) provides for regulations to be made for the taxable person to be substituted for the overseas person in accounting for and paying tax on the supply of such goods.

Clause 7(b) also inserts a new paragraph (d) in section 37A(2). The new paragraph (d) 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 treatment or processing 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 treatment or processing services to the overseas person.

**EXPENDITURE OF PUBLIC MONEY**

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

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HD2/LYL/GST (Amd) Bill 2011-4 (jw 7.7.11)