

Goods and Services Tax (Amendment) Bill 2022

Bill No. /2022.

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 1993.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

EXPLANATORY STATEMENT

This Bill seeks to amend the Goods and Services Tax Act 1993.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 13 to insert new subsection (3A) to clarify that where a supply of goods is a Seventh Schedule supply of goods and a supply of goods that does not involve their removal from or to Singapore, the goods are treated as supplied in Singapore and the supply treated as not being a Seventh Schedule supply of goods.

Clause 3 amends section 14 to insert new subsection (3B) to clarify that, for purpose of determining whether a person has reached the registration threshold under paragraph 1B of the First Schedule, the values of the supplies mentioned in subsection (3A) must be taken into account. Subsection (3A) comes into operation on 1 January 2023 and provides as follows:

“(3A) Subsection (2) does not apply to the extent that the recipient pays an amount as tax or as reimbursement for tax —

- (a) on the supply of the goods or services in fact made to the recipient even though the supply was not chargeable to tax under section 8(1A); or
- (b) on the importation of the goods pursuant to section 8(4) as if they were not distantly taxable goods,

as the case may be.”

Subsection (3A) is intended to provide that no reverse charge supply arises if tax was (mistakenly) paid on the basis that tax was chargeable on the supply of distantly taxable goods or services as if it were a Seventh Schedule supply, or on the importation of goods as if they were not distantly taxable goods. It is not intended to affect a person’s liability to be registered under the Act.

Clause 4 amends section 16 to provide for increases in the tax rate as follows:

- (a) from 7% to 8% for the period from 1 January 2023 to 31 December 2023 (both dates inclusive);
- (b) from 8% to 9% from and including 1 January 2024.

Clause 4 further amends section 16(d) to clarify that the tax rates in section 16 also apply to reverse charge supplies.

Clause 5 amends section 17(4A) and the definition of “related services” in section 17(7) so as to include the situation where the supply of related services is not made by the person making the Seventh Schedule supply of goods.

Clause 6 amends section 20(2A), (2B) and (2D) to include references to purported supplies. These provisions were enacted in 2020 to deal with what is commonly known as “missing trader fraud”. There may be no actual supplies of goods or services involved in such fraud.

Clause 7 amends section 21(3)(c) and 21(3)(e), so that the zero-rating of the services comprising the arranging of the international transport of passengers and related insurance, and the arranging or facilitating of the booking of accommodation will depend on the place of belonging of the contractual person and the person directly benefitting from the services, as such services will then be zero-rated only if they fall within section 21(3)(j).

Clause 8 repeals and substitutes section 39 (Supplies spanning change of rate, etc.) and inserts new sections 39A to 39F. Sections 39 to 39F now come under Division 1 of a new Part 6A, with the existing section 40 under Division 2 of this new Part.

The new sections 39 to 39F re-organise the various provisions in the existing section 39. Each new section deals with a specific aspect of the existing section 39. Further, the new sections clarify how changes to the tax rate and the tax treatment of supplies affect a supply that spans any one or more such changes.

For example, a supply with a total value of \$1,000 spans both tax rate changes on 1 January 2023 and 1 January 2024:

Period	1 Dec to 31 Dec 2022	1 Jan 2023 to 31 Dec 2023	1 Jan 2024 to 31 Jan 2024
Value of services performed	\$100	\$750	\$150
Consideration received	-	\$900	\$100

If the supplier issues a tax invoice to the customer on 1 July 2023 for the entire period of the supply and —

- (a) if the supplier makes an election under section 39B(1) for \$100 to be subject to tax at 7% (the value of the services performed before 1 January 2023), then tax is chargeable at 8% on the remaining value of the supply of \$900. When the tax rate increases to 9% on 1 January 2024, the supplier must under section 39C adjust for tax to be chargeable at 9% on \$100 of the value of consideration received on or after 1 January 2024, which is lower than the value of services performed on or after 1 January 2024; and
- (b) if the supplier does not make an election under section 39B(1), the supplier must charge GST at 8% on the value of supply of \$1,000. When the tax rate is increased from 8% to 9% on 1 January 2024, the supplier must under section 39C adjust for tax to be chargeable at 9% on \$100 of

the value of consideration received on or after 1 January 2024, which is lower than the value of services performed on or after 1 January 2024.

In connection with the registration or deregistration of a person under the Act, the proposed amendments clarify that the rules for charging and accounting of tax in sections 11B(2), 11B(6), 11C(6) and 11C(7) continue to apply for supplies (including reverse charge supplies) straddling the date of registration or deregistration (as the case may be), and the date of a tax rate change.

Illustration: Supply spanning registration date and subsequent tax rate change on 1 January 2023

Date supply performed	Date of registration	Date of invoice	Date payment made
1 December 2022	15 December 2022	1 January 2023	31 January 2023

If a customer is not entitled to a full input tax claim, a registered person may, at the customer's request, apply section 11B(2) to regard the supply as taking place when it is performed. As the supply is performed on 1 December 2022 when the person is not registered, no tax is chargeable. If section 11B(2) does not apply, the registered person may elect to charge and account for tax at 7% at the time of issuance of the invoice on 1 January 2023 under section 39B(1) since the supply is performed before the tax rate change.

In a situation where the specified change occurs on or before the date the person is registered, section 39A(5) clarifies that the new sections 39 to 39F do not apply.

Illustration: Supply spanning tax rate change on 1 January 2023 and subsequent registration date

Date of invoice	Date of registration	Date supply performed	Date payment made
15 December 2022	10 January 2023	31 January 2023	31 March 2023

At the time of issuance of the invoice on 15 December 2022, no tax is chargeable as the person is not registered. The transitional provisions do not apply since the increase in the tax rate change took place before the date of registration of the person.

As for reverse charge supplies, where a recipient of reverse charge supplies applies section 11C(3), new section 39(6)(c) takes into account the date that the reverse charge supplies are entered into the books of account or other records of the recipient, when applying section 39B and 39C to those supplies.

Illustration : Application of section 39B(1) to recipient of reverse charge supplies applying section 11C(3)

Date supply performed	Date of posting into business accounts	Date payment made
15 December 2022	1 January 2023	31 January 2023

On 1 January 2023, the recipient may elect to account for tax at the old tax rate of 7% since the supply is performed before the date of the tax rate change.

Illustration: Application of section 39C to recipient of reverse charge supplies applying section 11C(3)

Date of posting into business accounts	Date payment made	Date supply performed
15 December 2022	22 January 2023	31 January 2023

On 15 December 2022, the recipient would have accounted for tax at 7% when the transaction is posted into its accounts. As no payment is made and no service is performed before 1 January 2023, the entire transaction will be subject to tax at 8%.

Clause 9 inserts new section 62C to provide for offences in connection with what is commonly known as “missing trader fraud”. The offences are in 2 tiers, each with a different level of culpability, and the level of penalty being commensurate with each level of culpability. In the first tier are the persons connected with the devising of the plan for the missing trader fraud and the directing of the plan, and who assist in carrying out the plan. These persons need not know of the entire plan or that it involves goods and services tax fraud; they simply need to know that they are carrying out a fraudulent purpose. In the second tier are the persons responsible for entities, who allow the entities to be used in the plan.

Clause 10 amends section 69 to include the new section 62C inserted under clause 9.

Clause 11 amends section 92 to provide that the new Division 1 of Part 6A applies to adjust the tax chargeable on a Seventh Schedule supply should the supply span further specified changes.

Clause 12 amends section 92A to provide for the application of the tax rates of 8% and 9% in the context of Seventh Schedule supplies of goods and new Seventh Schedule supplies of services.

Clause 13 amends section 93 to provide that the new Division 1 of Part 6A applies to adjust the tax chargeable on a reverse charge supply should the supply span further specified changes.

Clause 14 amends section 94 to provide for the application of the tax rates of 8% and 9% in the context of supplies of distantly taxable goods giving rise to reverse charge supplies.

Clause 15 deletes and substitutes sub-paragraph (a) of paragraph 15(1) of the Third Schedule so that paragraph 15 only applies in relation to a person mentioned in section 14(1)(b)(i) or the branch of a person mentioned in section 14(1)(b)(ii) that —

- (a) is not a registered person; or
- (b) is a registered (Seventh Schedule — pay only) person.

Clause 15 also inserts a new paragraph 16 in the Third Schedule, to provide for the value of a Seventh Schedule supply of services by a registered (Seventh Schedule — pay only) person to a customer who belongs in Singapore, where the supply was previously made by a taxable person who belongs in Singapore to the registered (Seventh Schedule — pay only) person, and the previous supply is not treated as a supply of international services under section 21(3).

Clause 16 makes consequential amendments to various provisions following the amendment to section 20 under clause 6, and the new section 62C inserted under clause 9.

Clause 17 provides a saving for the amendments made under clause 5 as the amendments are only intended to apply to a person liable to be registered under the Act on or after 1 January 2023.

EXPENDITURE OF PUBLIC MONEY

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