

# **Goods and Services Tax (Amendment) Act 2018**

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**Bill No. /2018.**

*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) and to make a consequential amendment to the Income Tax Act (Chapter 134 of the 2014 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 is the Goods and Services Tax (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

#### 5 **Amendment of section 2**

2. Section 2(1) of the Goods and Services Tax Act (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “quarter”, the following definitions:

10 ““registered person” means a person registered under this Act;

“registered (section 8(1A) supplies — full) person” means a taxable person who —

15 (a) belongs in a country other than Singapore and is registered under this Act by virtue of —

(i) paragraph 1A of the First Schedule; or

(ii) paragraph 8(1)(c) of the First Schedule; and

20 (b) is an approved person under section 28A;

“registered (section 8(1A) supplies — pay only) person” means a taxable person who —

25 (a) belongs in a country other than Singapore and is registered under this Act by virtue of —

(i) paragraph 1A of the First Schedule; or

(ii) paragraph 8(1)(c) of the First Schedule; and

(b) is not an approved person under section 28A;

“reverse charge supply” means a supply of services treated as having been made by the recipient of those services, under section 14(2);

5 “Seventh Schedule supply” means any supply of services of a type, and made (whether or not in Singapore) in the circumstances, described in Part 1 of the Seventh Schedule;

10 “specially authorised officer” means an officer authorised under section 5(3)(a) to exercise the powers mentioned in that provision;

“specially authorised customs officer” means an officer of customs authorised under section 5(3)(b) to exercise the powers mentioned in that provision;” and

15 (b) by inserting, immediately after the definition of “taxable person”, the following definition:

““taxable (section 8(1A) supplies) person” means a person who —

20 (a) is a taxable person by virtue of paragraph 1A of the First Schedule; or

(b) is registered under this Act by virtue of paragraph 8(1)(c) of the First Schedule;”.

### **Amendment of section 5**

25 **3.** Section 5 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) The Comptroller may —

30 (a) authorise any suitably qualified officer of the Inland Revenue Authority of Singapore charged with duties of investigation to exercise any power in sections 83E, 83F, 83G, 83H, 83J and 84(1A), (1B), (1C) and (1D); and

- (b) authorise any officer of customs under the Customs Act (Cap. 70) to exercise any power in sections 83E (except subsection (2)), 83F and 83G.”.

#### **Amendment of section 6**

5 **4.** Section 6 of the principal Act is amended —

- (a) by deleting subsections (6A) and (6B) and substituting the following subsections:

10 “(6A) Despite anything in this section, the Comptroller may furnish to the head of a law enforcement agency any information —

(a) that may be required by the law enforcement agency for the purpose of an investigation or prosecution of a person for an offence specified in the First Schedule or Second Schedule to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A); or

(b) that the Comptroller has reasonable grounds to suspect affords evidence of the commission of such an offence.

(6B) The following persons, namely:

(a) the head of a law enforcement agency to whom any information is furnished under subsection (6A) for the purpose of an investigation or prosecution of a person for an offence mentioned in subsection (6A)(a);

(b) any person under the command of the head of the law enforcement agency; and

(c) any person to whom such information is disclosed in compliance with this subsection,

must not disclose to any other person such information except where it is necessary for the purpose of an investigation or a prosecution for that offence, and any

person who contravenes this subsection shall be guilty of an offence.”; and

(b) by inserting, immediately after subsection (9), the following subsection:

- 5           “(10) In this section —
- “law enforcement agency” means —
- (a) the Singapore Police Force;
  - (b) the Commercial Affairs Department;
  - (c) the Central Narcotics Bureau;
  - 10       (d) the Corrupt Practices Investigation Bureau; and
  - (e) any other authority charged with the responsibility of investigating any offence specified in the First Schedule or Second Schedule to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act; and
- “head of any law enforcement agency” means —
- (a) in relation to the Singapore Police Force, the Commissioner of Police;
  - 20       (b) in relation to the Commercial Affairs Department, the Director;
  - (c) in relation to the Central Narcotics Bureau, the Director;
  - 25       (d) in relation to the Corrupt Practices Investigation Bureau, the Director; and
  - (e) in relation to any other law enforcement agency, its head or director or equivalent.”.

#### **Amendment of section 7**

- 30       **5.** Section 7 of the principal Act is amended —
- (a) by deleting the words “in Singapore”; and

(b) by deleting the words “into Singapore”.

### **Amendment of section 8**

6. Section 8 of the principal Act is amended —

5 (a) by inserting, immediately after subsection (1), the following subsection:

“(1A) Without affecting subsection (1), tax shall be charged on any Seventh Schedule supply where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.”; and

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

“(2A) A taxable supply is —

15 (a) for subsection (1), a supply of goods or services made in Singapore other than an exempt supply; and

(b) for subsection (1A), a Seventh Schedule supply other than an exempt supply.”.

### **Amendment of section 10**

20 7. Section 10 of the principal Act is amended by inserting, immediately after the words “all forms of supply” in subsection (2)(a), the words “and reverse charge supplies”.

### **Amendment of section 11**

8. Section 11 of the principal Act is amended —

25 (a) by inserting, immediately after “11B,” in subsection (1), “11C,”;

(b) by inserting, immediately after the word “services” in subsection (2), the words “(other than a reverse charge supply)”; and

30 (c) by inserting, immediately after the words “when a supply of goods or services” in subsection (5), the words “(other than a reverse charge supply)”.

### **Amendment of section 11A**

5 **9.** Section 11A(2) of the principal Act is amended by deleting the words “paragraphs 1(1) and (2) and 2” and substituting the words “paragraphs 1(1) and (2), 1A(1) and (2) and 2 (in relation to sub-paragraph (2)(a)(i) of that paragraph”.

### **Amendment of section 11B**

**10.** Section 11B(3) of the principal Act is amended by inserting, immediately after the words “subsection (7)”, the words “and section 11C(5)”.

### **10 New section 11C**

**11.** The principal Act is amended by inserting, immediately after section 11B, the following section:

#### **“Time of supply: reverse charge supplies**

15 **11C.—(1)** This section applies to determine when a reverse charge supply of a recipient mentioned in section 14 takes place for the purposes of this Act.

(2) Subject to subsections (3), (4), (5) and (6), the reverse charge supply takes place (including for the purposes of paragraph 1B of the First Schedule) when —

20 (a) the person or branch mentioned in section 14(1) that in fact supplies the services to the recipient issues an invoice, or the recipient pays any consideration for those services; or

(b) where both events occur, the first of the 2 events occurs,  
25 to the extent that the supply of services is covered by the invoice or consideration.

(3) Despite subsection (2), where the recipient is registered under this Act, the recipient may, for any period during which the recipient receives services that are the subject of the  
30 recipient’s reverse charge supplies, treat each of those reverse charge supplies as taking place at the earlier of —

(a) the date on which the supply in fact made to the recipient and giving rise to that reverse charge supply is entered into the books of account or other records of the recipient; and

5 (b) the date on which the recipient pays any consideration for that supply,

to the extent that the supply of services is covered by the entry or consideration.

(4) Where —

10 (a) the recipient, being one who is or is required to be registered under this Act, receives services mentioned in section 14(1);

(b) but for this subsection, the reverse charge supply would under section 14(2) be treated as taking place after the date on which he is, or is required to be, registered under this Act; and

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(c) the Comptroller is satisfied that the services had been performed prior to that date,

then the recipient may treat the reverse charge supply as taking place when the services in paragraph (a) were performed (to the extent of the performance), and the reverse charge supply is so treated for the purposes of this Act.

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(5) Where the reverse charge supply arises under section 14(2) from —

25 (a) a supply of services mentioned in section 14(1)(a)(i) that is between connected persons within the meaning of paragraph 3 of the Third Schedule;

(b) a supply of services mentioned in section 14(1)(a)(ii);  
or

30 (c) a supply of services between members of a group under section 30,

then the reverse charge supply takes place at the end of 12 months after the services have been performed, to the extent



that it is not covered by any invoice already issued or consideration already paid.

(6) Where —

- 5        (a) services are in fact performed by the person or branch mentioned in section 14(1)(a), whether on a single occasion or on different occasions;
- (b) the recipient then ceases to be a taxable person; and
- 10       (c) no invoice or consideration covering the whole of the supply has been issued or paid, as the case may be, before the recipient ceases to be a taxable person,

the reverse charge supply is treated as taking place on the day immediately before the day the recipient ceases to be a taxable person, to the extent that it is not covered by any invoice already issued or consideration already paid.

15       (7) Despite subsections (2) to (6), where —

- (a) a longer period (mentioned in section 20(4) for the purposes of the adjustment of input tax claims of the recipient) is applicable under this Act to a recipient; and
- 20       (b) the recipient satisfies such other criteria as the Comptroller may specify,

then —

- 25       (i) the recipient may elect to treat its reverse charge supplies that would (but for this subsection) take place in the longer period, as taking place on the day immediately after the last day of the longer period; and
- 30       (ii) if the recipient makes such an election and ceases on any day in a longer period to be a taxable person (called in this paragraph the day of cessation), its reverse charge supplies that would (but for this subsection) take place in the longer period but before the day of cessation, is treated as taking place on the day immediately before the day of cessation.

(8) An election under subsection (7)(i) must be made in the form and manner, and within the time, required by the Comptroller.”.

### **Amendment of section 12**

5 **12.** Section 12 of the principal Act is amended —

- (a) by deleting the words “and 11B” in subsections (1) and (2) and substituting the words “, 11B and 11C”;
- (b) by inserting, immediately after the words “time at which supplies made” in subsection (1), the words “or received”;
- 10 (c) by inserting, immediately after the word “received” in subsection (1)(b) and (2)(b), the words “or paid”; and
- (d) by inserting, immediately after “11B” in subsection (2)(a), “, 11C”.

### **Repeal and re-enactment of section 14**

15 **13.** Section 14 of the principal Act is repealed and the following section substituted therefor:

#### **“Reverse charge on supplies received from abroad**

**14.—**(1) This section applies in the following circumstances:

- 20 (a) any service that is not excluded or to the extent it is not excluded under the Eighth Schedule, is —
  - (i) supplied by a person who belongs in a country other than Singapore, and received by a person (called in this section the recipient) who belongs in Singapore for the purposes of any business carried on by him; or
  - 25 (ii) supplied by a branch of a person in a country other than Singapore through which the person carries on any business, and received by a branch of the person in Singapore through which the person
  - 30 (called in this section the recipient) carries on any business; and

5           (b) the recipient is not entitled to claim the full amount of input tax credit under sections 19 and 20 for the prescribed accounting period or longer period mentioned in section 20(4)(b) in which the services are received.

10           (2) Subject to subsection (3), all the same consequences follow under this Act (and particularly so much as charges tax on a supply and entitles a taxable person to credit for input tax) as if the recipient had himself supplied the service in Singapore in the course or furtherance of his business, and that supply were a taxable supply.

          (3) Reverse charge supplies are not to be taken into account as supplies made by the recipient when determining the allowance of input tax in his case under section 20(1).

15           (4) A recipient that is not within subsection (1)(b) may elect to be treated as a recipient to whom subsection (2) applies.

20           (5) Where a recipient under subsection (2) also receives any service that is excluded or that is to any extent excluded under the Eighth Schedule, which services are supplied to the recipient by a person or branch mentioned in section 14(1)(a), the recipient may elect for the supply of the service to be a supply of services to the recipient under section 14(1)(a).

25           (6) An election under subsection (4) or (5) must be made in the form and manner, and within the time, required by the Comptroller.

          (7) For the purposes of this section, a head office is treated as a branch.

30           (8) The Minister may make regulations to provide for the circumstances in which subsection (2) does not apply despite subsection (1)(a)(ii) and (b) being satisfied.

          (9) The Minister may by order amend the Eighth Schedule.”.

#### **Amendment of section 15**

**14.** Section 15 of the principal Act is amended —

- (a) by inserting, immediately after the word “recipient” in subsection (2), the words “(including a recipient mentioned in section 14(1) or a recipient who has elected to have section 14(2) applied to him)”; and
- 5 (b) by inserting, immediately after subsection (6), the following subsection:
- “(7) The Minister may make regulations to provide for the matters for determining whether a customer receiving a Seventh Schedule supply belongs in Singapore.”.

10 **Amendment of section 17**

**15.** Section 17 of the principal Act is amended —

- (a) by inserting, immediately after the word “supply” in subsection (2), the words “(other than one from which a reverse charge supply arises)”; and
- 15 (b) by inserting, immediately after the words “If the supply” in subsection (3), the words “(including one from which a reverse charge supply arises)”; and
- (c) by inserting, immediately after subsection (3), the following subsections:
- 20 “(3A) A reverse charge supply has a value that is of an amount equal to the consideration for the services supplied by the person or branch mentioned in section 14(1)(a) or member of the group mentioned in section 30(1A), without any deduction of any amount required to be
- 25 withheld as tax under the Income Tax Act (Cap. 134) (if applicable).
- “(3B) Where the reverse charge supply of a recipient under section 14(2) arises from —
- (a) a supply of services mentioned in
- 30 section 14(1)(a)(ii); or
- (b) a supply of services between members of a group under section 30,

the recipient may deduct from the value of the reverse charge supply an amount equal to any cost that relates to any of the following that is included as part of the consideration for the services in fact supplied:

- 5 (i) any salary or wages relating to the employees of (as the case may be) —
- (A) the branch outside Singapore making the supply of services; or
  - 10 (B) the member of the group outside Singapore making the supply of services;
- (ii) interest;
- 15 (iii) any proportionate amount of mark-up in respect of such salary or wages and interest in sub-paragraphs (i) and (ii), respectively.

(3C) For purposes of the application of the Third Schedule where the reverse charge supply arises from a supply of services mentioned in section 14(1)(a)(ii), the branch mentioned in section 14(1)(a)(ii) and the recipient are treated as connected with each other.”; and

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(d) by inserting, immediately after the word “services” in subsection (4), the words “(including one from which a reverse charge supply arises)”.

#### **Amendment of section 19**

25 **16.** Section 19 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (3) and substituting the following paragraph:

“(a) “input tax”, in relation to a taxable person, means the following:

- 30 (i) tax on the supply to him of any goods or services;

(ii) tax on the reverse charge supply treated as made by him (as a recipient) to himself under section 14(2);

(iii) tax paid or payable by him on the importation of any goods,

being (in any such case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him; and”;

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

“(4) Where —

(a) goods or services supplied to a taxable person;

(b) services that are the subject of a reverse charge supply of a taxable person; or

(c) goods imported by a taxable person,

are used or to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes, tax on supplies and importations must be apportioned so that only so much as is referable to his business purposes is counted as his input tax.”; and

(c) by inserting, immediately after subsection (10), the following subsection:

“(10A) Where the Comptroller makes any payment under subsection (5), the Comptroller may deduct from the payment any expenses that the Comptroller may incur in making the payment.”.

## **Amendment of section 21**

**17.** Section 21 of the principal Act is amended —

(a) by deleting sub-paragraph (ii) of subsection (3)(j) and substituting the following sub-paragraph:

“(ii) which directly benefit —

(A) a person who belongs in a country other than Singapore and who is outside Singapore at the time the services are performed; or

5 (B) a registered person who belongs in Singapore;”;

(b) by deleting sub-paragraph (ii) of subsection (3)(k) and substituting the following sub-paragraph:

“(ii) which directly benefit —

10 (A) a person wholly in his business capacity (and not in his private or personal capacity) and who in that capacity belongs in a country other than Singapore; or

15 (B) a registered person who belongs in Singapore;”;

(c) by deleting sub-paragraph (ii) of subsection (3)(s) and substituting the following sub-paragraph:

“(ii) which directly benefit —

20 (A) a person who belongs in a country other than Singapore; or

(B) a registered person who belongs in Singapore;”;

25 (d) by deleting sub-paragraph (ii) of subsection (3)(y) and substituting the following sub-paragraph:

“(ii) which directly benefit —

(A) a person who belongs in a country other than Singapore; or

30 (B) a registered person who belongs in Singapore;”;

(e) by inserting, immediately after subsection (9), the following subsection:

“(10) This section does not apply to Seventh Schedule supplies.”.

**Amendment of section 21A**

**18.** Section 21A of the principal Act is amended —

- 5       (a) by inserting, immediately after the words “registered person” in subsection (1), the words “or is a registered (section 8(1A) supplies — pay only) person”; and
- (b) by inserting, immediately after subsection (2), the following subsection:

10               “(3) This section does not apply to Seventh Schedule supplies.”.

**Amendment of section 21B**

**19.** Section 21B of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

15               “(5) This section does not apply to Seventh Schedule supplies.”.

**Amendment of section 25**

**20.** Section 25(2) of the principal Act is amended by inserting, immediately after paragraph (d), the following paragraphs:

- 20       “(da) provide for the circumstances in which, instead of a refund of any amount being made to a person, the amount may or is to be used to reduce the whole or any part of any tax due or which may become due from the person under this Act, by the whole or any part of such amount and to further provide that —
- 25               (i) the amount of the tax due from the person is reduced by the amount of the reduction; and
- (ii) the amount of the reduction is, to the extent of that amount, deemed to have been refunded to the
- 30               person by the Comptroller;



(db) provide that, where the Comptroller makes any refund to a person, the Comptroller may deduct from the refund any expenses that the Comptroller may incur in making the refund;”.

5 **Amendment of section 28**

**21.** Section 28 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

10 “(3) Section 38A applies to relevant supplies of goods and services made by, and made to, the Government in the course or furtherance of a business, as if the Government is a taxable person registered under this Act at the time the supplies are made.”.

**New section 28A**

15 **22.** The principal Act is amended by inserting, immediately after section 28, the following section:

**“Application to persons registered by virtue of Seventh Schedule supplies**

20 **28A.**—(1) Subject to subsections (2) and (5), the following do not apply to a registered (section 8(1A) supplies — pay only) person:

- (a) Part IV;
- (b) sections 30 and 32(1);
- (c) section 44 in relation to the Seventh Schedule supplies of the person;
- 25 (d) any regulations relating to invoices and receipts, and the display of prices, for the Seventh Schedule supplies of the person.

(2) The person may apply to the Comptroller for all provisions mentioned in subsection (1) to apply to the person.

30 (3) The application must be in such form and manner, and be made within such time, as the Comptroller may require.

(4) The Comptroller may approve the application subject to such conditions as the Comptroller may impose.

5 (5) Upon approval of the application, the provisions mentioned in subsection (1) apply to the person subject to such modifications as may be prescribed in regulations made under section 86.”.

### **Amendment of section 30**

**23.** Section 30 of the principal Act is amended —

10 (a) by deleting the word “Where” in subsection (1) and substituting the words “Subject to subsection (1A), where”; and

(b) by inserting, immediately after subsection (1), the following subsection:

15 “(1A) Where a supply made by one member of the group to another member of the group is a supply of services that would, but for subsection (1)(a), give rise to a reverse charge supply under section 14(2), the supply —

(a) is not disregarded; and

20 (b) is treated as made to the representative member as the recipient mentioned in section 14.”.

### **Amendment of section 33**

**24.** Section 33 of the principal Act is amended —

(a) by deleting subsections (2), (2A), (2B) and (2C) and substituting the following subsections:

25 “(2) For the purposes of this Act, goods imported by a taxable person and supplied by him as agent for a person that —

(a) is not a taxable person; or

30 (b) is a taxable (section 8(1A) supplies) person other than a registered (section 8(1A) supplies — full) person,

may be treated as imported and supplied by the taxable person as principal.

(2A) For the purposes of subsection (2), goods imported by a taxable person and supplied by him as agent for a person that —

(a) is not a taxable person; or

(b) is a taxable (section 8(1A) supplies) person other than a registered (section 8(1A) supplies — full) person,

are deemed to include goods which, following their import, undergo a treatment or process for the purposes of the supply.

(2B) For the purposes of this Act, goods that are —

(a) imported by an agent (“A”) that is a taxable person, for a person (“P”) that —

(i) is not a taxable person; or

(ii) is a taxable (section 8(1A) supplies) person other than a registered (section 8(1A) supplies — full) person; and

(b) supplied for *P* by another agent (called in this section a substituted agent) that is a taxable person, appointed by *P* to take custody of the goods imported by *A*,

may be treated as imported by *A* as principal and supplied by the substituted agent as principal.

(2BA) A person is not a substituted agent for the purposes of subsection (2B) unless the Comptroller has been informed, in such form and manner as the Comptroller may require, of the person’s appointment as such.

(2C) For the purposes of subsection (2B), unless the Comptroller otherwise allows, goods supplied by the substituted agent for *P* where *P* —

(a) is not a taxable person; or

(b) is a taxable (section 8(1A) supplies) person other than a registered (section 8(1A) supplies — full) person,

5 do not include goods which, following their import, undergo a treatment or process.”;

(b) by deleting subsection (3) and substituting with the following subsection:

10 “(3) For the purposes of subsections (2)(a) and (2B)(a)(i), a person who does not belong in Singapore may be treated as not being a taxable person if as a result he will not be required to be registered by virtue of paragraph 1 of the First Schedule.”;

(c) by inserting the word “and” at the end of subsection (5)(a);

15 (d) by deleting the word “; and” at the end of subsection (5)(b) and substituting a full-stop; and

(e) by deleting paragraph (c) of subsection (5).

### **Amendment of section 33A**

20 **25.** Section 33A(1) of the principal Act is amended by inserting, immediately after the words “other than Singapore”, the words “other than any registered (section 8(1A) supplies — full) person”.

### **Amendment of section 33B**

**26.** Section 33B(1) of the principal Act is amended —

25 (a) by deleting the words “a taxable person to claim any tax paid or payable by the taxable person” and substituting the words “a taxable person other than a registered (section 8(1A) supplies — pay only) person to claim any tax paid or payable by such taxable person”;

30 (b) by deleting the words “the taxable person” wherever they appear in paragraphs (a), (c) and (d) and substituting the words “such taxable person”;

(c) by inserting, immediately after the word “Singapore” in paragraph (a)(ii), the words “other than a registered (section 8(1A) supplies — pay only) person”; and

5 (d) .by deleting the words “the taxable person’s” in paragraph (b) and substituting the words “such taxable person’s”.

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

27. Section 37A(1) of the principal Act is amended by deleting paragraphs (a) and (b) and substituting the following paragraphs:

10 “(a) under a contract with a person who —

(i) belongs in a country outside Singapore and is not a registered person; or

(ii) is a registered (section 8(1A) supplies — pay only) person,

15 (referred to in this section as an overseas person); and

(b) which directly benefits a person who —

(i) belongs in a country outside Singapore and is not a registered person; or

(ii) is a registered (section 8(1A) supplies — pay only) person,

20 (referred to in this section as an overseas person),”.

### **Amendment of section 37B**

25 28. Section 37B(1) of the principal Act is amended by deleting sub-paragraph (i) of paragraph (b) and substituting the following sub-paragraph:

“(i) goods are consigned by a person who —

(A) belongs in a country outside Singapore and is not a registered person; or

(B) is a registered (section 8(1A) supplies — pay only) person,

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5 (referred to in this section as an overseas person) to an approved person for refining into any investment precious metal by an approved refiner (including where the approved person is also the approved refiner); and”.

### **Amendment of section 46**

**29.** Section 46 of the principal Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

10 “(1AA) Any person who is required to account for tax on a reverse charge supply must, in addition to the records referred to in subsection (1), maintain the following:

(a) sufficient records of the reverse charge supply to enable the following particulars to be ascertained:

15 (i) the name and address of the person or branch mentioned in section 14(1)(a) or member of the group mentioned in section 30(1A) whose supply gave rise to the reverse charge supply (called in this section the overseas supplier);

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(ii) the date on which, or the period during which, the services under the supply made by the overseas supplier were in fact received;

25 (iii) a description of the services in fact supplied;

(iv) the consideration for the supply made by the overseas supplier;

30 (v) the time by which payment of the consideration for the supply made by the overseas supplier is required;

(vi) the reference number of any invoice relating to the supply made by the overseas supplier;

- (vii) any contract, agreement or arrangement entered into in respect of the supply made by the overseas supplier;
- 5 (viii) where any invoice, contract, agreement or arrangement is in a foreign language, a translation of the same into English, if the Comptroller requires; and
- (ix) such other records as may be prescribed; and
- 10 (b) where an election under section 11C(7)(i) or 14(4) or (5) has been made, a record of the election and such information and supporting documents relating to the election, in such form and manner, as required by the Comptroller.”;
- 15 (b) by inserting, immediately after the words “subsection (1)” in subsection (1A), the words “or (1AA)”;
- (c) by inserting, immediately after subsection (1A), the following subsections:
- 20 “(1B) Where the taxable person is an operator of an electronic marketplace mentioned in the Seventh Schedule, the duty of the operator to keep records under this section includes records relating to —
- (a) where paragraph 3(1)(b)(ii)(B) of the Seventh Schedule applies, all supplies of digital services of the relevant overseas underlying supplier, whether
- 25 made to any person belonging in Singapore or not belonging in Singapore; and
- (b) where the operator makes an election under paragraph 5 of the Seventh Schedule, all supplies of digital services of any local underlying supplier
- 30 (that are treated as made to the operator), whether in fact made to any person belonging in Singapore or not belonging in Singapore.

(1C) Despite subsection (1), a registered (section 8(1A) supplies — pay only) person need not keep records of supplies of goods or services made to the person or imports of goods by the person.”; and

- 5 (d) by deleting the words “subsection (1) or (1A)” in subsection (3AA) and substituting the words “subsection (1), (1AA), (1A) or (1B)”.

#### **Amendment of section 64**

**30.** Section 64 of the principal Act is amended —

- 10 (a) by deleting subsection (2); and  
 (b) by deleting the word “invoices” in the section heading and substituting the word “services”.

#### **New section 64A**

15 **31.** The principal Act is amended by inserting, immediately after section 64, the following section:

#### **“Offences in relation to unauthorised collections of tax or amounts attributable to tax**

20 **64A.**—(1) Subject to subsection (3), where any person collects or attempts to collect from any other person any amount as tax or as being attributable to tax, the person shall be guilty of an offence and shall on conviction —

- (a) pay a penalty equal to 3 times the amount which the person collected or attempted to collect; and  
 (b) shall be liable to a fine not exceeding \$10,000.

25 (2) Where any person, without reasonable excuse or through negligence, collects or attempts to collect from any other person any amount as tax or as being attributable to tax, the person shall be guilty of an offence and shall on conviction —

- 30 (a) pay a penalty equal to 3 times the amount which the person collected or attempted to collect; and



(b) shall be liable to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 3 years, or to both.

(3) Subsections (1) and (2) do not apply to —

- 5 (a) a specified person;
- (b) a person who is appointed for the due administration of this Act or any assistant employed in connection with the assessment and collection of tax; or
- 10 (c) a person who is not appointed for the due administration of this Act or any assistant employed in connection with the assessment and collection of tax, but represents or holds himself out as such.

(4) Where any specified person, without reasonable excuse or through negligence, collects or attempts to collect from any other person —

- 15 (a) any amount as tax or as being attributable to tax, where no tax is chargeable under this Act; or
- (b) any amount in excess of the tax chargeable under this Act that the specified person is permitted to collect under this Act,
- 20

then the specified person shall be guilty of an offence and shall on conviction —

- (i) pay a penalty equal to —
- 25 (A) for an offence under paragraph (a), 3 times the amount which the person collected or attempted to collect; and
- (B) for an offence under paragraph (b), 3 times the amount which the person collected or attempted to collect, that is in excess of the amount the specified person was permitted to collect under this Act; and
- 30

- (ii) shall be liable to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 3 years, or to both.

(5) In this section, “specified person” means any of the following:

- (a) a person registered under this Act;
- (b) a person treated for the purposes of section 30 as a member of a group;
- (c) a person treated as a taxable person under this Act;
- (d) an agent appointed under section 79;
- (e) a person authorised under any subsidiary legislation made under this Act to issue an invoice or a receipt showing an amount of tax.”.

#### **Amendment of section 65**

32. Section 65 of the principal Act is amended —

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

“(b) not being a person appointed for the due administration of this Act or any assistant employed in connection with the assessment and collection of tax but represents or holds himself out as such, collects or attempts to collect tax under this Act,”; and

- (b) by deleting the words “authorised and unauthorised persons” in the section heading and substituting the words “persons administering Act, etc.”.

#### **Repeal and re-enactment of section 83E and new sections 83F, 83G, 83H, 83I and 83J**

33. Section 83E of the principal Act is repealed and the following sections substituted therefor:

### “Arrest of persons

5 **83E.**—(1) The Comptroller, a specially authorised officer or a specially authorised customs officer (called in this section and sections 83F to 83I an arresting officer) may arrest without warrant any person whom the arresting officer reasonably believes —

- 10 (a) is committing or attempting to commit, or employing or aiding any person to commit, or is abetting the commission of, any offence under section 62 or 63 in connection with any refund sought or obtained pursuant to regulations made under section 25;
- (b) has in his possession any goods liable to seizure pursuant to regulations made under section 25(2)(g)(i); or
- 15 (c) has committed an offence under section 62 or 63 in connection with any refund sought or obtained pursuant to regulations made under section 25.

20 (2) Without affecting subsection (1), an arresting officer (other than a specially authorised customs officer) may arrest without warrant any person whom he reasonably believes —

- (a) has committed any offence under section 62 or 63; or
- (b) is doing any of the following:
- (i) destroying or attempting to destroy any document or thing;
- 25 (ii) deleting or attempting to delete any information contained in any thing;
- (iii) resisting or attempting to resist the taking of any document or thing by the arresting officer,
- 30 being any document, thing or information that may be relevant to an investigation of an offence under this Act, or that may be required as evidence in proceedings for an offence under this Act.

(3) An arresting officer may search or cause to be searched an arrested person.

(4) A woman must not be searched except by a woman.

5 (5) An arresting officer making an arrest must, without unnecessary delay and subject to subsection (8) and the regulations mentioned in subsection (10), take or send an arrested person before a Magistrate's Court.

10 (6) An arresting officer must not detain in custody an arrested person for a longer period than under the circumstances of the case is reasonable.

(7) Such period must not exceed 48 hours, excluding the time necessary for the journey from the place of arrest to the Magistrate's Court.

(8) An arrested person must not be released except —

- 15 (a) on the person's own bond; or  
(b) on bail by a Magistrate or an arresting officer; or  
(c) under the special order in writing by a Magistrate or an arresting officer.

20 (9) If any arrested person escapes, he may, at any time afterwards, be arrested in accordance with this section and section 83F.

(10) The Minister may make regulations under section 86 to provide for —

- 25 (a) any matter relating to the release of any person on any bond, bail, or special order under subsection (8); and  
(b) the arrest of any person with or without warrant by an arresting officer for a breach of the conditions of a bond, bail or special order or other specified circumstances.

### **No unnecessary restraint**

**83F.**—(1) In making an arrest, an arresting officer must touch or confine the body of a person to be arrested unless the person submits to arrest by word or action.

5 (2) If the person forcibly resists or tries to evade arrest, the arresting officer may use all reasonable means necessary to make the arrest.

(3) An arrested person must not be subject to more restraint than is necessary to prevent the person's escape.

10 (4) An arresting officer may use handcuffs or any similar means of restraint on an arrested person to prevent the person from —

(a) inflicting any bodily injury to himself or others;

(b) damaging any property;

15 (c) creating any disturbance; or

(d) escaping from custody.

(5) The handcuffs or means of restraint must not be used for the purpose of punishment.

### **Arresting officer to be armed**

20 **83G.** An arresting officer may be provided with such batons and accoutrements as may be necessary for the effective discharge of his duties under sections 83E and 83F.

### **Search of place entered by person sought to be arrested**

25 **83H.**—(1) This section does not apply to a specially authorised customs officer.

(2) If an arresting officer has reason to believe that a person to be arrested under section 83E is inside any building or place and demands entry to that building or place, any person residing in or in charge of the building or place must allow the arresting officer free entry and provide all reasonable facilities for a search  
30 in it.

(3) If entry to that building or place cannot be gained under subsection (2), it is lawful for the arresting officer to enter and search the building or place.

5 (4) After stating his authority and purpose and demanding entry to a building or place, the arresting officer who is unable to obtain entry may, for the purposes of subsection (3), break open any outer or inner door or window or use any other reasonable means to gain such entry.

### **Arrested person may be orally examined**

10 **83I.**—(1) An arresting officer may examine orally a person arrested under section 83E.

(2) A person examined by an arresting officer need not state anything which —

15 (a) the person is under any statutory obligation (other than sections 128, 128A, 129 and 131 of the Evidence Act (Cap 97)) to observe secrecy; or

(b) is subject to legal privilege.

(3) A statement made by an arrested person must —

(a) be reduced in writing;

20 (b) be read over to the person;

(c) if the person does not understand English, be interpreted to the person in a language that the person understands; and

(d) after correction (if necessary), be signed by the person.

25 (4) Any person who, without reasonable excuse, fails or refuses to answer any question when examined under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

30 (5) The generality of the term “reasonable excuse” in subsection (4) is not affected by subsection (2).

(6) Except as provided under subsection (2), it is not a defence to a charge under subsection (4) for a failure or refusal to provide any information demanded an arresting officer that the person is under a duty of secrecy in respect of that information (called in this section a displaced duty of secrecy).

(7) A person who in good faith provides information demanded by an arresting officer under subsection (1) is not treated as being in breach of a displaced duty of secrecy.

(8) No civil or criminal action for a breach of a displaced duty of secrecy, other than a criminal action for an offence under subsection (9), lies against the person mentioned in subsection (7) for providing any information if he had done so in good faith in compliance with a demand of an arresting officer under subsection (1).

(9) Any person who, in purported compliance with a demand of an arresting officer under subsection (1), provides any information known to the person to be false or misleading in a material particular —

(a) without indicating to the arresting officer that the information is false or misleading and the part that is false or misleading; and

(b) without providing correct information to the arresting officer if the person is in possession of, or can reasonably acquire, the correct information,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

### **Disposal of item furnished or seized**

**83J.**—(1) Any item furnished to or seized by the Comptroller or an officer authorised by the Comptroller under sections 81 and 84 must —

(a) where the item is produced in any criminal proceedings, be dealt with in accordance with section 364 of the Criminal Procedure Code 2010; or

(b) in any other case, be dealt with in accordance with subsections (2) to (4).

5 (2) The Comptroller or an officer authorised by the Comptroller must serve a notice on the owner of the item instructing the owner to take custody of it within the period specified in the notice, which must be at least 48 hours after the date of service of the notice.

10 (3) If the owner fails to take custody of the item within the period specified in the notice, or where the owner is unknown or cannot be found, then —

(a) if the item is a document (other than one specified in paragraph (d) or (e) of the definition of “document” in section 81(5)), then the item may be disposed of in such manner as the Comptroller directs; or

15 (b) if the item is any thing not specified in paragraph (a), the Comptroller must make a report of this to a Magistrate.

20 (4) The Magistrate to whom a report is made under paragraph (3)(b) may order the item to be forfeited or disposed of in such manner as the Magistrate thinks fit.

(5) Nothing in this section affects any right to retain or dispose of any property which may exist in law part from this section.”.

#### **Amendment of section 84**

**34.** Section 84 of the principal Act is amended —

25 (a) by deleting paragraph (f) of subsection (1) and substituting the following paragraph:

“(f) shall be entitled to require a person in or at the building or place, and who appears to the Comptroller or officer to be acquainted with —

30 (a) any facts or circumstances concerning the person’s or another person’s transactions made in the course or furtherance of a business; or



(b) any facts or circumstances that are relevant to an investigation of, or the prosecution of a person for, an offence under this Act,

to do any or both of the following:

- 5 (i) answer any question to the best of that person's knowledge, information and belief;
- (ii) to take reasonable steps to produce a document for inspection.”;

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

“(1A) The Comptroller or a specially authorised officer may, for the purpose of investigating an offence under section 62 or 63, break open any outer or inner door or window, or use any other reasonable means, to gain entry to a building or place

15

(1B) The Comptroller or a specially authorised officer may only exercise the power under subsection (1A) if —

- 20 (a) he has reason to believe that there is in that building or place any document or thing that may be, or that contains information that may be —
- (i) relevant to the investigation; or
- (ii) required as evidence in proceedings for the offence being investigated;
- 25 (b) he has reason to believe that the document or thing is likely to be concealed, removed or destroyed, or the information is likely to be deleted, by any person; and
- (c) he is unable to gain entry to that building or place after stating his authority and purpose and demanding such entry.
- 30

(1C) To avoid doubt, the Comptroller or a specially authorised officer who has gained entry to a building or place by exercising his power under subsection (1A), may

exercise any of his powers under subsection (1) after such entry.

(1D) The Comptroller or a specially authorised officer may, after gaining entry into a building or place under subsection (1) or (1A) for the purpose of investigating an offence under this Act, search or caused to be searched a person found in the building or place for any document or thing which may be relevant for the investigation, or is required as evidence in proceedings for that offence.

(1E) A woman must not be searched except by a woman.

(2) The Comptroller may by notice require any person to give orally, in writing, or through the electronic service —

(a) any information concerning his or any other person's income, assets or liability that is relevant for the purposes of this Act or concerning his or any other person's transactions made in the course or furtherance of a business; or

(b) any information that is relevant for an investigation of, or the prosecution of a person for, an offence under this Act.”;

(c) by deleting the words “For the purposes of this Act, the” in subsection (2A) and substituting the word “The”; and

(d) by deleting paragraphs (a) and (b) of subsection (2A) and substituting the following paragraphs:

“(a) provide, to the best of that person's knowledge, information and belief —

(i) any information concerning the person's or any other person's transactions made in the course or furtherance of a business; or

(ii) any information that is relevant for an investigation of, or the prosecution of a person for, an offence under this Act; or

- (b) take reasonable steps to produce for inspection any document concerning such transactions, or that contains such information.”.

### **Amendment of section 89**

5 **35.** Section 89 of the principal Act is amended —

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

10 “(d) relief from, or a remission or refund of, the whole or part of any tax on a reverse charge supply.”;

- (c) by deleting the word “or” at the end of subsection (2)(b)(ii);  
 and

15 (d) by deleting the full-stop at the end of paragraph (c) of subsection (2) and substituting the word “; or”, and by inserting, immediately thereafter the following paragraph:

“(d) relief from, or a remission or refund of, the whole or part of any tax on a reverse charge supply.”.

### **Amendment of section 90**

20 **36.** Section 90 of the principal Act is amended —

- (a) by deleting the words “the person” wherever it appears in subsection (1A) and substituting in each case the word “the claimant”;

25 (b) by inserting, immediately after the word “refund” wherever it appears in subsection (2), the words “or payment”; and

- (c) by deleting subsection (3) and substituting the following subsections:

30 “(3) The Comptroller may, instead of making a refund or payment of any amount to a claimant under this section, reduce the whole or any part of any tax due or which may

become due from the claimant under this Act, by the whole or any part of such amount and —

(a) the amount of the tax due from the claimant shall be reduced by the amount of the reduction; and

5 (b) the amount of the reduction shall, to the extent of that amount, be deemed to have been refunded or paid to claimant by the Comptroller.

(4) Where the Comptroller makes any refund or payment to a claimant, the Comptroller may deduct from the refund or payment any expenses that the Comptroller may incur in making the refund or payment.

(5) Except as provided in this section, a person is not entitled to any refund or payment of any money which has been overpaid or erroneously paid by the person as tax or penalty under this Act.”.

### **Repeal and re-enactment section 91 and new sections 92 and 93**

37. Section 91 of the principal Act is repealed and the following sections substituted therefor:

#### **“Temporary arrangements for supplies of services mentioned in section 8(1A) and reverse charge supplies: registration**

91.—(1) Where, on or before 22 October 2019, a person knows or could with reasonable diligence have known that he will be liable on 1 January 2020 to be registered —

25 (a) by virtue of paragraph 1A(1)(b) of the First Schedule; or

(b) by virtue of paragraph 1B(1)(b) of the First Schedule, he must notify the Comptroller of that fact within the period between 1 October 2019 to 1 November 2019 (both dates inclusive), or within such longer time as the Comptroller may allow, and the Comptroller must register the person with effect from 1 January 2020.

(2) Where, during the period from 23 October 2019 to 31 December 2019 (both dates inclusive), a person knows or could with reasonable diligence have known that he will be liable on 1 January 2020 to be registered —

5           (a) by virtue of paragraph 1A(1)(b) of the First Schedule;  
or

          (b) by virtue of paragraph 1B(1)(b) of the First Schedule,  
he must notify the Comptroller of that fact no later than  
31 January 2020, or within such longer time as the Comptroller  
10          may allow, and the Comptroller must register the person with  
effect from 1 February 2020 or from such earlier date as may be  
agreed between the Comptroller and him.

**Temporary arrangements for supplies of services  
mentioned in section 8(1A): scope of tax and time of supply**

15          **92.**—(1) Tax is not charged on any supply of services  
mentioned in section 8(1A) that takes place before  
1 January 2020.

          (2) Despite subsection (1), tax is charged on any supply of  
services mentioned in section 8(1A) to the extent the services are  
20          performed on or after 1 January 2020 pursuant to an  
agreement —

          (a) made on or after 19 February 2018 and before  
1 January 2020; and

          (b) that provides (expressly or impliedly) for the supply of  
25          services to be performed progressively and  
continuously over a period that begins before, on or  
after 1 January 2020.

          (3) Where subsection (2) applies, the supply of services is  
treated as being made as follows:

30          (a) on 1 January 2020 — to the extent the services are  
performed on or after 1 January 2020 and covered by  
any invoice issued or consideration received before

1 January 2020, if the person is a registered person on 31 December 2019;

5 (b) on 1 January 2020 — to the extent the services are performed on or after 1 January 2020 and covered by any invoice issued or consideration received before 1 January 2020, if the person is registered on 1 January 2020 by virtue of paragraph 1A(1)(b) of the First Schedule under section 91(1);

10 (c) on 1 February 2020 or an earlier date (as the case may be) under section 91(2) — to the extent the services are performed on or after 1 February 2020 or the earlier date and covered by any invoice issued or consideration received before 1 February 2020 or the earlier date, if the person becomes liable for registration on 15 1 January 2020 by virtue of paragraph 1A(1)(b) of the First Schedule and is registered on 1 February 2020 or the earlier date under section 91(2);

20 (d) on 1 March 2020 — to the extent the services are performed on or after 1 March 2020 and covered by any invoice issued or consideration received before 1 March 2020, if the person is a registered person by virtue of paragraph 1A(1)(a) of the First Schedule on 1 March 2020.

25 (4) Subject to subsection (2), where, before 1 January 2020, an invoice is issued for a supply of services mentioned in section 8(1A) and before 1 January 2020 —

(a) no consideration or only a part of the consideration for the supply is paid; or

30 (b) no services are performed or only a part of the services are performed,

tax is chargeable on the supply of services on the amount of the invoice less the higher of the following amounts:

(i) any part consideration paid before 1 January 2020;

(ii) the value of any services performed before 1 January 2020.

(5) The supply of services in subsection (4) is treated as taking place as follows:

- 5 (a) on 1 January 2020 — if the person is a registered person on 31 December 2019;
- (b) on 1 January 2020 — if the person is registered on 1 January 2020 by virtue of paragraph 1A(1)(b) of the First Schedule under section 91(1);
- 10 (c) on 1 February 2020 or an earlier date (as the case may be) under section 91(2) — if the person becomes liable for registration on 1 January 2020 by virtue of paragraph 1A(1)(b) of the First Schedule and is registered on 1 February 2020 or the earlier date under section 91(2);
- 15 (d) on 1 March 2020 — if the person is a registered person on 1 March 2020 by virtue of paragraph 1A(1)(a) of First Schedule.

**Temporary arrangements for reverse charge supplies:  
scope of tax and time of supply**

20 **93.**—(1) Tax is not charged on any reverse charge supply under section 14(2) that takes place before 1 January 2020.

(2) Despite subsection (1), where, before 1 January 2020, an invoice is issued for a supply of services that gives rise to a reverse charge supply under section 14(2) and before 1 January 2020 —

- (a) no consideration or only a part of the consideration for the supply is paid; or
- (b) no services are performed or only a part of the services are performed,
- 30

tax is chargeable on the reverse charge on the amount of the invoice less the higher of the following amounts:

- (i) any part consideration paid before 1 January 2020;

(ii) the value of any services performed before 1 January 2020.

(3) The reverse charge supply in subsection (2) is treated as taking place as follows:

- 5 (a) on 1 January 2020 — if the recipient is a registered person on 31 December 2019;
- (b) on 1 January 2020 — if the recipient is registered on 1 January 2020 by virtue of paragraph 1B(1)(b) of the First Schedule under section 91(1);
- 10 (c) on 1 February 2020 or an earlier date (as the case may be) under section 91(2) — if the recipient becomes liable for registration on 1 January 2020 by virtue of paragraph 1B(1)(b) of the First Schedule and is registered on 1 February 2020 or the earlier date under
- 15 section 91(2);
- (d) on 1 March 2020 — if the recipient is a registered person on 1 March 2020 by virtue of paragraph (1B)(1)(a) of First Schedule.”.

### **Amendment of First Schedule**

20 **38.** The First Schedule to the principal Act is amended —

- (a) by inserting, immediately after the words “taxable supplies” in paragraph 1(1)(b), 2(b) and 3(a) and (b), the words “made in Singapore”;
- (b) by deleting sub-paragraphs (4) and (5) of paragraph 1 and substituting the following sub-paragraph:
- 25 “(4) In determining the liability of a person to register by virtue of this paragraph, the taxable supplies referred to in this paragraph exclude any reverse charge supplies of the person.”;
- (c) by inserting, immediately after paragraph 1, the following paragraphs:
- 30 “1A.—(1) A person who belongs in a country other than Singapore and makes any Seventh Schedule supply is liable to be registered —



- (a) at the end of the year 2019 or any subsequent calendar year, if in that year —
- (i) the total value of all his taxable supplies, and supplies outside Singapore which would have been taxable supplies if made in Singapore, has exceeded \$1 million; and
  - (ii) the total value of his Seventh Schedule supplies has exceeded \$100,000; or
- (b) at any time on or after 1 January 2020, if there are reasonable grounds for believing that, in the period of 12 months then beginning —
- (i) the total value of all his taxable supplies, and supplies outside Singapore which would have been taxable supplies if made in Singapore, will exceed \$1 million; and
  - (ii) the total value of his Seventh Schedule supplies will exceed \$100,000.
- (2) Where a business carried on by a taxable person who belongs in a country other than Singapore and who makes any Seventh Schedule supply, is transferred on or after 1 January 2020 as a going concern to another person who belongs in a country other than Singapore and the transferee is not registered at the time of the transfer, then the transferee becomes liable to be registered at that time if —
- (a) in the calendar year immediately preceding the calendar year in which the time of transfer falls —
- (i) the total value of all his taxable supplies, and supplies outside Singapore which would have been taxable supplies if made in Singapore, has exceeded \$1 million; and
  - (ii) the total value of his Seventh Schedule supplies has exceeded \$100,000; or
- (b) there are reasonable grounds for believing that, in the period of 12 months then beginning —
- (i) the total value of all his taxable supplies, and supplies outside Singapore which would have been taxable supplies if made in Singapore, will exceed \$1 million; and

(ii) the total value of his Seventh Schedule supplies will exceed \$100,000.

(3) A person is not liable to be registered by virtue of sub-paragraph (1)(a)(i) or (2)(a)(i) at the end of any calendar year if the Comptroller is satisfied that, in the next calendar year —

(a) the total value of his taxable supplies, and supplies outside Singapore which would be taxable supplies if made in Singapore, will not exceed \$1 million; or

(b) the value of his Seventh Schedule supplies will not exceed \$100,000 in the next calendar year.

(4) Where a person is liable to be registered by virtue of this paragraph and paragraph 1, the Comptroller must register the person in accordance with paragraph 1 rather than this paragraph.

(5) If a person registered by virtue of this paragraph subsequently becomes liable to be registered by virtue of paragraph 1, the person must inform Comptroller —

(a) within 30 days after the date on which the person becomes so liable; or

(b) if no particular day is identifiable as the day on which the person becomes so liable, within 30 days after the end of the quarter in which the person becomes so liable.

1B.—(1) A person who receives services mentioned in section 14(1)(a), but is not registered is liable to be registered —

(a) at the end of the year 2019 or any subsequent calendar year, if in that year the total value of the supply of all such services received by him in Singapore has exceeded \$1 million, and the person is not entitled to claim the full amount of input tax credit under sections 19 and 20 in that calendar year; or

(b) at any time on or after 1 January 2020, if there are reasonable grounds for believing that the total value of the supply of such services received by him in Singapore in the period of 12 months then beginning will exceed \$1 million, and the person is not entitled to claim the full amount of input tax credit under sections 19 and 20 in that period of 12 months.

(2) Where a business carried on by a taxable person who received services mentioned in section 14(1)(a) was transferred on or after 1 January 2020 as a going concern to another person and the

transferee is not registered at the time of the transfer, the transferee becomes liable to be registered at that time if —

- 5 (a) the total value of all supplies of services received by him in Singapore in the calendar year immediately preceding the year of the time of transfer has exceeded \$1 million, and the person is not entitled to claim the full amount of input tax credit under sections 19 and 20 in that calendar year; or
- 10 (b) there are reasonable grounds for believing that the total value of all supplies of services received by him in Singapore in the period of 12 months then beginning will exceed \$1 million, and the person is not entitled to claim the full amount of input tax credit under sections 19 and 20 in that period of 12 months.

15 1C.—(1) In determining the value of a person’s supplies for the purposes of paragraphs 1(1)(a) or (2)(a), 1A(1)(a) or (2)(a) or 1B(1)(a) or (2)(a), supplies made at a time when he was previously registered shall be disregarded if —

- 20 (a) his registration was cancelled otherwise than under paragraph 14; and
- (b) the Comptroller is satisfied that before his registration was cancelled he had given the Comptroller all the information the Comptroller needed in order to determine whether to cancel the registration.

25 (2) In determining the value of a person’s supplies for the purpose of paragraphs 1 and 1A, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied shall be disregarded.”;

- (d) by deleting the word “paragraph 1” in paragraph 2(1) and substituting the words “paragraphs 1, 1A and 1B”;
- 30 (e) by deleting sub-paragraph (a) of paragraph 2(2) and substituting the following sub-paragraph:
  - “(a) that he —
    - (i) is making or has made taxable supplies; or
    - (ii) is a recipient within section 14(1);”;
- 35 (f) by inserting, immediately after the words “taxable supplies” in paragraph 2(2)(b), the words “or receives services mentioned in section 14(1)(a) (as the case may be)”;

- (g) by inserting, immediately after the words “taxable supplies of” in paragraph 2(2)(c), the words “or the services mentioned in section 14(1)(a) received for (as the case may be)”;
- 5 (h) by inserting, immediately after the word “paragraph 1” in paragraph 2(2)(c), the word “, 1A or 1B”;
- (i) by inserting, immediately after the words “making taxable supplies” in paragraph 2(4), the words “or receiving services mentioned in section 14(1)(a) (as the case may be)”;
- 10 (j) by inserting, immediately after the words “taxable supplies” in paragraph 2(4)(a), the words “or receives the services mentioned in section 14(1)(a) (as the case may be)”;
- (k) by inserting, immediately after the words “taxable supplies made” in paragraph 2(5), the words “or services mentioned in section 14(1)(a) received (as the case may be)”;
- 15 (l) by deleting paragraph 3 and substituting the following paragraphs:
- “3. A person that is registered by virtue of paragraph 1 ceases to be liable to be so registered at any time if the Comptroller is satisfied that —
- 20 (a) in the period of 12 months then beginning, the value of the person’s taxable supplies will not exceed \$1 million; and
- (b) sub-paragraph (a) applies for a reason other than that the person will cease making taxable supplies, or will suspend making them for a period of 30 days or more.
- 25 3A. A person that is registered by virtue of paragraph 1A ceases to be liable to be so registered at any time if the Comptroller is satisfied that —
- (a) in the period of 12 months then beginning —
- 30 (i) the total value of his taxable supplies, and supplies outside Singapore which would be taxable supplies if made in Singapore, will not exceed \$1 million; or
- (ii) the value of his Seventh Schedule supplies will not exceed \$100,000; and
- 35 (b) sub-paragraph (a) applies for a reason other than that the person will cease making taxable supplies or supplies

which would be taxable supplies if made in Singapore, or will suspend making them for a period of 30 days or more.

3B. A person that is registered under paragraph 1B ceases to be liable to be so registered at any time if —

- 5                   (a) the Comptroller is satisfied that the value of his supplies mentioned in section 14(1) that will be so received in the period of 12 months then beginning will not exceed \$1 million; or
- 10                   (b) the person is entitled to claim the full amount of input tax credit under sections 19 and 20 in the period of 12 months mentioned in sub-paragraph (a).

15                   3C. In determining the value of a person’s supplies for the purposes of paragraphs 3 and 3A, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied must be disregarded.”;

(m) by inserting, immediately after the words “paragraph 1(1)(a)(ii)” in paragraph 4(1A), the words “, 1A(1)(a) or 1B(1)(a)”;

20                   (n) by deleting the words “A person who by virtue of paragraph 1(1)(b) is liable to be registered by reason of the value of his taxable supplies” in paragraph 5(1) and substituting the words “Subject to section 91(1) or (2) (as applicable), a person who by virtue of paragraph 1(1)(b), 1A(1)(b) or 1B(1)(b) is liable to be registered”;

25                   (o) by deleting sub-paragraph (3) of paragraph 5 and substituting the following sub-paragraph:

                  “(3) Where there are reasonable grounds for believing that, in the first 30 days of the period —

30                   (a) for a person liable to be registered by virtue of paragraph 1(1)(b), the value of such a person’s taxable supplies will exceed \$1 million;

                  (b) for a person liable to be registered by virtue of paragraph 1A(1)(b) —

35                   (i) the total value of all his taxable supplies, and supplies outside Singapore which would have been taxable supplies if made in Singapore, will exceed \$1 million; and

(ii) the total value of his Seventh Schedule supplies will exceed \$100,000; or

5 (c) for a person liable to be registered by virtue of paragraph 1B(1)(b), the total value of services mentioned in section 14(1)(a) received by him in Singapore will exceed \$1 million,

then, the Comptroller may, if he thinks fit, register the person with effect from the beginning of the period.”;

10 (p) by inserting, immediately after the word “paragraph 1(2)” in paragraph 6(1), the words “, 1A(2) or 1B(2)”;

(q) by deleting the word “or” at the end of paragraph 7(a);

(r) by deleting the comma at the end of sub-paragraph (b) of paragraph 7 and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

15 “(c) by virtue of sub-paragraphs (1)(a) and (2)(a) of paragraph 1A; or

(d) by virtue of sub-paragraphs (1)(a) and (2)(a) of paragraph 1B,”;

20 (s) by deleting the comma at the end of sub-paragraph (b) of paragraph 8(1) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

“(c) is a person not belonging in Singapore and makes or is treated as making Seventh Schedule supplies; or

25 (d) is a recipient within section 14(1),”;

(t) by inserting, immediately after the words “taxable supplies” in paragraph 8(4), the words “or receive services mentioned in section 14(1)(a) (as the case may be)”;

30 (u) by deleting paragraph 10 and substituting the following paragraph:

“(10) A person registered under paragraph 4, 5, 6 or 8 who (as the case may be) —

(a) ceases to make or have the intention of making taxable supplies; or

(b) ceases to receive or have the intention of receiving services mentioned in section 14(1)(a),

must notify the Comptroller in writing of that fact and the date thereof within 30 days of the day on which he does so.”;

5 (v) by inserting, immediately after the words “taxable supplies” in paragraph 12(2), the words “or receive services mentioned in section 14(1)(a) (as the case may be)”;

(w) by inserting, immediately after sub-paragraph (1) of paragraph 15, the following sub-paragraph:

10 “(1A) Despite the preceding provisions of this Schedule, where a person who is or intends to be a recipient under section 14(2), satisfies the Comptroller that he makes substantial zero-rated supplies out of his total taxable supplies (excluding any reverse charge supplies), the Comptroller may, if he thinks fit and on that  
15 person’s request, exempt him from registration until it appears to the Comptroller that the request should no longer be acted upon or is withdrawn.”;

(x) by inserting, immediately after the words “supplies made” in paragraph 18(1), the words “or, for services mentioned in  
20 section 14(1)(a), received”; and

(y) by inserting, immediately after the words “taxable supplies” in paragraph 19, the words “or receiving services mentioned in section 14(1)(a) (as the case may be)”.

### **Amendment of Third Schedule**

25 **39.** The Third Schedule to the principal Act is amended —

(a) by inserting, at the end of the paragraph heading of paragraph 11, the words “: general”; and

(b) by inserting, immediately after paragraph 11, the following paragraph:

30 “Foreign exchange: Seventh Schedule supplies

11A.—(1) This paragraph applies in relation to any Seventh Schedule supply.

(2) Where any sum relevant for determining value is expressed in a currency other than Singapore currency, it is to be converted into

Singapore currency at the selling rate of exchange prevailing in Singapore at one of the following times at the option of the taxable person:

- (a) the time of the supply;
- 5 (b) the last day of the prescribed accounting period applicable to the supply;
- (c) the time of the filing of the return in relation to the supply;
- (3) An option chosen by the taxable person must be applied —
- 10 (a) in relation to all Seventh Schedule supplies made by the taxable person; and
- (b) unless the Comptroller otherwise allows, for at least 2 years after the first time the option is used.”.

### **New Seventh and Eighth Schedule**

15 **40.** The principal Act is amended by inserting, immediately after the Sixth Schedule, the following Schedules:

“

## SEVENTH SCHEDULE

Section 8(1A)

### PART 1

20 **SUPPLIES FOR THE PURPOSES OF SECTION 8(1A)**

#### **Interpretation**

1.—(1) In this Schedule —

“customer”, in relation to a supply of any digital service, means a person who receives the supply other than —

- 25 (a) as a person registered under this Act; and
- (b) in the course or furtherance of any business carried on by the person;

“electronic marketplace” means a medium that —

- 30 (a) allows suppliers to make supplies available to customers by electronic means; and



(b) is operated by electronic means,  
but not any medium that is solely for processing any payment for  
any supply;

“local underlying supplier”, in relation to a supply of digital services,  
means a supplier of any digital service that belongs in Singapore and  
makes the supply through an electronic marketplace;

“overseas underlying supplier”, in relation to a supply of digital  
services, means a supplier of any digital service that belongs in a  
country other than Singapore and makes the supply through an  
electronic marketplace.

(2) To avoid doubt, in this Part, a person that is only the internet service  
provider for an electronic marketplace, is not an operator of the electronic  
marketplace.

#### **Meaning of “digital service”**

2.—(1) For the purposes of this Schedule, “digital service” means any  
service supplied over the Internet or other electronic network and the nature  
of which renders its supply essentially automated with minimal or no human  
intervention, and impossible without the use of information technology  
and —

- (a) includes any of the following:
- (i) any digital product;
  - (ii) any software or software update;
  - (iii) any image, text or information, or the making available of  
any database;
  - (iv) any music, film or game;
  - (v) any distance teaching through any pre-recorded medium or  
e-learning;
  - (vi) any website supply, web hosting, automated or digital  
maintenance of any programme;
  - (vii) any service providing or supporting a business or personal  
presence on any electronic network;
  - (viii) any search engine or automated helpdesk service;
  - (ix) any listing service for the right to put goods or services for  
sale on any online market or auction house;
  - (x) any live streaming service;

- (xi) any advertising service on any intangible media platform, where the Comptroller is satisfied that the advertisement is intended to be substantially promulgated in Singapore;
  - (xii) any support service performed, through electronic means, for arranging or facilitating the completion of underlying transactions; but
- (b) does not include any of the following (except to the extent included under paragraph (a)):
- (i) any telecommunication service as defined in the Fifth Schedule to the Goods and Services Tax (International Services) Order (O 1);
  - (ii) any advertising service on any intangible media platform, where the Comptroller is satisfied that the advertisement is intended to be substantially promulgated outside Singapore.
- (2) The Minister may by order in the *Gazette* amend sub-paragraph (1).

#### **Supplies for the purposes of section 8(1A)**

- 3.—(1) For the purpose of section 8(1A) —
- (a) the type of supply of services is any supply of digital services; and
  - (b) the circumstances in which the supply of digital services is made, are any of the following circumstances:
    - (i) the supply is made to a customer who belongs in Singapore, and the taxable person belongs in a country other than Singapore;
    - (ii) the supply is made to a customer who belongs in Singapore, and the taxable person is —
      - (A) an overseas underlying supplier; or
      - (B) the operator of an electronic marketplace treated under paragraph 4 as making the supply instead of an overseas underlying supplier;
    - (iii) the supply is a supply mentioned in paragraph 5(3)(b).
- (2) A supplier of any digital service must treat a person to whom the digital service is supplied as being a customer, unless the person provides to the supplier the unique identifier allocated by the Comptroller to the person upon the registration of the person under this Act.

### **Supply treated as that of operator of electronic marketplace**

4.—(1) For the purpose of paragraph 3(1)(b)(ii)(B), an operator of an electronic marketplace is treated as making the supply of digital services to a customer instead of the overseas underlying supplier making the supply through the electronic marketplace of the operator, if any of the following conditions are satisfied:

- 5 (a) the operator authorises the consideration for the supply to be charged to the customer;
- (b) the operator authorises the delivery of the supply to the customer;
- 10 (c) the operator sets the terms and conditions under which the supply is made;
- (d) the documentation provided to the customer identifies the supply as being made by the operator;
- 15 (e) the operator and the overseas underlying supplier have agreed in writing that the operator is chargeable to tax on such supply.

(2) If more than one operator of an electronic marketplace is treated under sub-paragraph (1) as making the supply of digital services —

- (a) the first operator that authorises the charging of or receives consideration for the supply is treated as making the supply; and
- 20 (b) if no operator exists that meets the requirement in sub-paragraph (a), then the first operator that authorises delivery of the supply is treated as making the supply.

(3) For the purposes of this paragraph —

- 25 (a) an operator authorises the charging of consideration for a supply of digital services where it influences whether, at what time, or under which preconditions the customer can make payment for the supply of digital services; and
- (b) an operator authorises the delivery of a supply of digital services where it influences whether, at what time, or under which preconditions the delivery is made.
- 30

(4) This paragraph applies whether or not the operator of the electronic marketplace is a supplier of digital services that belongs in Singapore.

### **Elected supplies of operator of electronic marketplace**

5.—(1) Subject to such conditions as the Comptroller may impose, an operator of an electronic marketplace to which paragraph 4 applies may elect to also be chargeable to tax on all supplies of digital services made by local

underlying suppliers through the electronic marketplace to customers who belong in Singapore.

5 (2) An election made under sub-paragraph (1) must be made by notifying the Comptroller in such form and manner and within such time as the Comptroller may require.

(3) Where an election under sub-paragraph (1) has been made in accordance with sub-paragraph (2), then a supply of digital services made by a local underlying supplier through the electronic marketplace to a customer who belongs in Singapore is treated as being 2 supplies, namely:

10 (a) a supply of services from the local underlying supplier to the operator of the electronic marketplace; and

(b) a supply of digital services by the operator of the electronic marketplace to the customer who belongs in Singapore.

15 (4) Where the operator of an electronic marketplace belongs in a country other than Singapore, then the supply of services mentioned in sub-paragraph (3)(a) is treated as a supply of services that are international services under section 21.

## EIGHTH SCHEDULE

Section 14(1)

20 SERVICES EXCLUDED FOR PURPOSES OF SECTION 14(1)

1. The following services are excluded for the purpose of section 14(1):

(a) any services the supply of which would, if the supply of the services were made by a taxable person in Singapore, be an exempt supply under section 22 and the Fourth Schedule;

25 (b) any services the supply of which would, if the supply of the services were made by a taxable person in Singapore, be a supply of international services which is zero-rated under section 21(1);

30 (c) any services the supply of which is attributable to taxable supplies under regulations made under section 20, unless the taxable person claiming input tax in respect of the first-mentioned supply may apply a fixed input tax recovery rate or formula for all input tax claimed by him.

2. Without affecting the generality of paragraph 1, services are excluded for the purpose of section 14(1) to the extent that —

- 5
- (a) such services were previously supplied by a taxable person who belongs in Singapore to the overseas supplier who subsequently supplied such services to the recipient; and
  - (b) tax was charged on such previous supply to the overseas supplier, where such supply was not zero-rated under section 21 or exempt under section 22.”.

### **Consequential amendment to the Income Tax Act**

10 **41.** Section 15(1) of the Income Tax Act (Cap. 134) is amended by inserting, immediately after the words “that Act” in paragraph (m), the words “, but not any amount of output tax paid or payable on a reverse charge supply under section 14(2) of that Act, to the extent that credit of such amount as input tax is not allowed under that Act”.

## EXPLANATORY STATEMENT

This Bill seeks to amend the Goods and Services Tax Act to —

- (a) extend the goods and services tax (“tax”) to overseas services;
- (b) enhance administration and enforcement of the Act; and
- (c) provide for an amendment to section 28 of the Act.

The Bill also makes a consequential amendment to the Income Tax Act (Cap. 134).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert various new definitions.

### TAX ON OVERSEAS SERVICES

Clauses 5, 6, 13 and 40 amend sections 7 and 8, repeal and re-enact section 14, and insert new Seventh Schedule and Eighth Schedule, respectively, to provide for tax to be charged on overseas services. Tax is charged on overseas services as follows:

- (a) on any supplies of services of a type, and made in the circumstances, described in the new Seventh Schedule (Seventh Schedule supplies) and provided to a person belonging in Singapore, if the supply is a taxable supply made by a taxable person in the course or furtherance of any business carried on by the person;
- (b) through the reverse charge mechanism provided for in the repealed and re-enacted section 14, under which services (to the extent the services are not excluded under the new Eighth Schedule) supplied from outside Singapore to a recipient in Singapore, gives rise to a “reverse charge supply” of those services deemed to have been made by the recipient to himself. The reverse charge supply is chargeable to tax as if the recipient had supplied the services in Singapore in the course or furtherance of his business, and the supply were a taxable supply.

#### *Supplies of services under section 8(1A)*

Clause 9 makes a consequential amendment to section 11A as a result of amendments to the First Schedule to the Act under clause 38.

Clause 14(b) inserts new subsection (7) in section 15 to empower the Minister to make regulations for the purpose of determining where customers receiving Seventh Schedule supplies belong.

Clause 17(e) inserts a new subsection (10) in section 21 to exclude its application to Seventh Schedule supplies.

Clause 18 amends section 21A(1) to extend its application to certain persons registered under the Act by virtue of the Seventh Schedule supplies of the person,

and inserts a new subsection (3) in section 21A to exclude its application to Seventh Schedule supplies.

Clause 19 inserts a new subsection (5) in section 21B to exclude its application to Seventh Schedule supplies.

Clause 22 inserts a new section 28A to provide that only certain provisions in the Act and regulations made under the Act apply to persons registered under the Act by virtue of their Seventh Schedule supplies, unless the persons apply to have, and are approved by the Comptroller to have, the whole Act applied to them.

Clauses 24 to 28 amend sections 33, 33A, 33B, 37A and 37B to provide for the extent to which the sections apply in relation to persons making Seventh Schedule supplies.

Clause 29(c) inserts new subsections (1B) and (1C) in section 46 to clarify the extent of the duty of taxable persons making Seventh Schedule supplies, in keeping records of their transactions.

Clause 39 makes a technical amendment to the heading of paragraph 11 in the Third Schedule, and inserts a new paragraph 11A (with its own heading) to set out a specific rule relating to foreign exchange in relation to Seventh Schedule supplies.

#### *Reverse charge supplies*

Clause 7 makes a clarifying amendment to section 10 in relation to reverse charge supplies.

Clauses 8, 10 and 12 amend sections 11, 11B and 12, respectively, to take into consideration the new section 11C (inserted under clause 11) that provides for the time of supply rules specific to reverse charge supplies.

Clause 11 inserts a new section 11C to provide for time of supply rules specific to reverse charge supplies.

Clause 15 inserts new subsections (3A) and (3B) in section 17 to provide for the valuation of services in reverse charge supplies, and makes amendments clarifying the application of section 17(2), (3) and (4) to reverse charge supplies.

Clause 16(a) deletes and substitutes paragraph (a) of section 19(3) to provide for input tax of a recipient on a reverse charge supply of the recipient (as the reverse charge supply is also treated as made to the recipient). Clause 16(b) deletes and substitutes subsection (4) of section 19 to include reverse charge supplies.

Clause 17(a), (b), (c) and (d) amends section 21(3) to provide that, amongst other conditions, a supply of services that directly benefits a registered person who belongs in Singapore may now qualify as international services under section 21(3)(j), (k), (s) or (y).

Clause 23 makes a consequential amendment to subsection (1) of section 30, and inserts a new subsection (1A) in section 30, so that supplies of services made

by a member of a group that belongs in a country other than Singapore to another member of the group that belongs in Singapore, are not disregarded if the supplies give rise to a reverse charge supplies.

Clause 29(a) inserts a new subsection (1AA) in section 46 to provide for the additional records that a person who has to account for tax on a reverse charge supply, must keep. Clause 29(b) and (d) makes consequential amendments to section 46(1A) and (3AA) respectively.

Clause 35 amends section 89 to provide for reliefs, remissions and refunds to be granted by the Commissioner of Goods and Services Tax (“the Comptroller”) or the Minister for Finance, in relation to reverse charge supplies.

Clause 41 makes a consequential amendment to section 15(1) of the Income Tax Act (Cap. 134) to clarify that deductions of irrecoverable input tax arising from reverse charge supplies are not prohibited.

#### *Miscellaneous*

Clause 37 repeals and re-enacts section 91 and inserts new sections 92 and 93 to provide for transitional matters relating to the imposition of the tax on overseas services.

Clause 38 amends the First Schedule to provide for matters relating to the registration of persons making or receiving overseas supplies.

#### ENHANCING ADMINISTRATION AND ENFORCEMENT OF ACT

Clause 3 inserts a new subsection (3) in section 5 to empower the Comptroller —

- (a) to authorise certain officers of the Inland Revenue Authority of Singapore to exercise the powers of forced entry, search of persons, and arrest, conferred by the amendments made for new section 84(1A) to (1D), 83E to 83H and 83J; and
- (b) to authorise any officer of customs under the Customs Act (Cap. 70) to exercise the powers under the new sections 83E (except subsection (2)), 83F and 83G.

Clause 4 amends section 6 to empower the Comptroller to disclose information to the head of any law enforcement agency any information —

- (a) required for the purpose of investigating an offence specified under the First or Second Schedule of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A); or
- (b) that the Comptroller has reasonable grounds to suspect affords evidence of the commission of any such offence.

Any onward disclosure by the head of the law enforcement agency or a person under his command, as well as by a person who has been given such information



under the exception, is prohibited except where it is necessary for the investigation or prosecution of the offence for which the information was first disclosed to the head of the law enforcement agency.

Clause 16(c) inserts new subsection (10A) in section 19 to provide that the Comptroller may deduct, from payments made under the section, expenses incurred in making the payments.

Clause 20 amends section 25(2) to empower the Minister to make regulations providing for refunds under the section to be applied in reduction of any tax that is or may become due from a person, instead of making the refund to the person, and for the Comptroller to deduct from refunds, expenses incurred in making the refunds.

Clauses 30, 31 and 32 rationalise the offences relating to unauthorised collections of tax.

Clause 30 deletes subsection (2) of section 64, as the offence in this subsection is replaced by the offences in the new section 64A inserted by clause 31.

Clause 32 amends section 65 to confine the section to —

- (a) persons appointed to administer the Act and assistants employed in connection with the assessment and collection of tax; and
- (b) persons, not being persons under paragraph (a), who represent or hold themselves out as such.

Clause 31 inserts a new section 64A which covers persons (other than those mentioned in section 65) who collect or attempt to collect any amount as tax or as attributable to tax, when they are not permitted to do so under the Act.

Clause 33 repeals and re-enacts section 83E and inserts new sections 83F to 83J to empower the Comptroller, specially authorised officers and specially authorised customs officers (each called an arresting officer) to arrest persons for certain offences, and to search and examine arrested persons.

The new section 83E empowers an arresting officer to arrest without a warrant a person in certain circumstances. For a specially authorised customs officer, the circumstances relate to the offences under section 62 and 63 of the Act in connection with refunds sought or obtained pursuant to regulations made under section 25. For other arresting officers, the circumstances are that the arresting officer has reason to believe that the person sought to be arrested —

- (a) has committed an offence under section 62 or 63; or
- (b) is destroying or attempting to destroy any document or thing, is deleting or attempting to delete any information contained in any thing, or is resisting or attempting to resist the taking of any document or thing, being any document, thing or information that may be relevant to an

investigation of an offence under the Act, or that may be required as evidence in proceedings for any offence under the Act.

The new section 83E also provides for the maximum period an arrested person may be detained, the power to search the person, and the release of the person on provision of bail or bond.

The new section 83F provides that an arresting officer may use any reasonable means necessary to make an arrest if the person forcibly resists or tries to evade arrest. If necessary, the arrested person may be restrained using handcuffs or similar means of restraint.

The new section 83G provides that an arresting officer may be armed with batons and other accoutrements for the effective discharge of his or her duties under sections 83E and 83F.

The new section 83H provides that an arresting officer may enter and search a building or place if the arresting officer has reason to believe that a person liable to be arrested is inside the building or place.

The new section 83I provides that an arresting officer may examine orally an arrested person. An arrested person, when examined, need not state anything which he is under any statutory obligation to observe secrecy, or which is subject to legal privilege. The section provides for immunities against liability for information that is disclosed in breach of any other duty of secrecy.

The new section 83I also criminalises the failure by an arrested person to answer any question, or provide false or misleading information, during the examination.

The new section 83J provides for the disposal of items furnished to or seized by the Comptroller or an officer authorised by the Comptroller in the exercise of information gathering powers under section 81 or 84 and not produced in criminal proceedings.

Clause 34 amends section 84 to empower the Comptroller or an officer authorised by the Comptroller, to obtain from a person on any premises to which the Comptroller or officer has gained entry in exercise of his or her powers under that section, information that is relevant to an investigation of an offence under the Act, or to the prosecution of a person for such offence. The Comptroller may also give notice to a person to provide such information to the Comptroller by a specified means, including when attending before the Comptroller or an authorised officer.

Clause 34 further amends section 84 to empower the Comptroller and specially authorised officers, to gain entry by force to any building or place. This power is only exercisable if the Comptroller or officer —

- (a) has reason to believe that there is in that building or place any document or thing, or any thing containing information, that may be relevant to an

investigation of an offence under section 62 or 63 of the Act, or that may be required as evidence in proceedings for such offence;

(b) has reason to believe that the document, thing or information is likely to be concealed, removed, destroyed or deleted by any person; and

(c) cannot gain entry after making a demand.

Lastly, clause 34 amends section 84 to empower the Comptroller and specially authorised officers to search any person found in a building or place for any document or thing that may be relevant to the investigation, or that may be required as evidence in proceedings for an offence under the Act.

Clause 36(a) and (b) make various technical amendments to section 90(1A) and (2). Clause 37(c) deletes and substitutes subsection (3) of section 90, and inserts new subsections (4) and (5). New subsection (3) enables the Comptroller to apply any refund or payment which the Comptroller is required to make to any claimant in reduction of any tax that is or may become due from the claimant, instead of making the refund or payment to the claimant. New subsection (4) permits the Comptroller to deduct, from refunds or payments made, expenses incurred in making the refunds or payments. New subsection (5) re-enacts the current subsection (3) with some technical changes.

#### MISCELLANEOUS AMENDMENT

Clause 21 inserts a new subsection (3) in section 28 to provide that relevant supplies of goods and services made by, and made to, the Government in the course or furtherance of a business, are subject to section 38A.

#### EXPENDITURE OF PUBLIC MONEY

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

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Note 1:LYL/GST (Amdt) Bill 2018/(v01.40)/PSL 270618