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Singapore Tourism (Cess Collection) (Amendment) Bill

Bill No. 25/2018.

Read the first time on 17 May 2018.

A BILL

intituled

An Act to amend the Singapore Tourism (Cess Collection) Act
(Chapter 305C of the 1997 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 Singapore Tourism (Cess Collection) (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 of the Singapore Tourism (Cess Collection) Act (called in this Act the principal Act) is amended by deleting the definitions of “licensed premises” and “liquor licence”, “proprietor”, “tourist food establishment”, “tourist hotel” and “tourist public house” and substituting the following definitions:

“product” means any one or more of the following:

- (a) any travel product within the meaning of the Travel Agents Act (Cap. 334);
- (b) any goods (including any food or beverage intended for human consumption);

“record” means any record of information however recorded, and includes —

- (a) anything on which there is writing or Braille;
- (b) a map, plan, chart, graph, picture or photograph;
- (c) anything from which images, sounds or writing can be reproduced; and
- (d) anything on which information has been stored or recorded;

“service” means any service relating to any one or more of the following:

- (a) arts or entertainment;
- (b) leisure, recreation or sports;
- (c) personal care, wellness or assistance;
- (d) transport, other than transport by use of a regular route service within the meaning of the Bus Services Industry Act 2015 (Act 30 of 2015) or a

train service within the meaning of the Public Transport Council Act (Cap. 259B);

- (e) business meetings, incentive travel, conferences, conventions and exhibitions (commonly known as MICE);

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“taxable transaction connected with a tourism event” has the meaning given by section 5(2);

“tourism event” means any event or series of related activities taking place in Singapore —

- (a) that promotes Singapore as a travel or tourist destination; or

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- (b) that is intended wholly or partly for the benefit of, or for the purpose of attracting, visitors to Singapore;

“tourism event establishment” means a person prescribed in an order made under section 5;

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“tourism event premises” means any premises used or to be used for the conduct of a tourism event by the organiser of that event;

“transaction” means any arrangement made by a person in the course of carrying on a business in Singapore —

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- (a) for the provision, or to facilitate the provision, of the use of any tourism event premises, accommodation, products or services, to another person; or

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- (b) where the use of any tourism event premises, accommodation, products or services in contemplation of which an arrangement in paragraph (a) was made does not take place,

whether or not —

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- (i) the other person is in Singapore;

- (ii) the arrangement is at the request of the other person; or

(iii) any consideration is given for the arrangement.”.

New section 2A

3. The principal Act is amended by inserting, immediately after section 2, the following section:

5 **“Application of Act**

2A. This Act does not apply to any tourism event premises, accommodation, product or service provided or to be provided by the Government, or a body established by or under a public Act for a public purpose.”.

10 **Repeal and re-enactment of sections 5 and 6**

4. Sections 5 and 6 of the principal Act are repealed and the following sections substituted therefor:

“Cess payable

15 **5.—**(1) Cess is payable at the amount prescribed by the Minister by order in the *Gazette* on every taxable transaction connected (in the manner provided in subsection (2)) with a tourism event to which the order relates.

(2) In this Act, a transaction is a taxable transaction connected with a tourism event if —

20 (a) the use of the tourism event premises, accommodation, product or service under the transaction is or is to be provided, or (where paragraph (b) of the definition of “transaction” in section 2 applies) could have been provided, during a period during which the tourism event is held, being a period which may include any time before or after the event is held (called in this section a taxable period); and

25 (b) the transaction, which satisfies paragraph (a), is prescribed in an order under subsection (1) to be a taxable transaction connected with that tourism event.

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(3) A transaction is not to be treated as other than a taxable transaction by reason only that —

- (a) the transaction is made with a person who is not a visitor to Singapore;
- (b) the transaction is made for any purpose other than for purposes of any tourism event; 5
- (c) the transaction is terminated for any reason; or
- (d) the tourism event premises, accommodation, product or service to be provided under the transaction, is not provided or used for any reason. 10

(4) An order under subsection (1) must specify or describe —

- (a) the tourism event to which the order relates;
- (b) the taxable transactions connected with a tourism event on which cess is payable;
- (c) the tourism event establishments making the taxable transactions connected with a tourism event; 15
- (d) the taxable period for the taxable transactions connected with a tourism event; and
- (e) the amount of the cess.

(5) For the purposes of subsection (4)(e), the amount of cess payable on a taxable transaction connected with a tourism event may be prescribed in an order under subsection (1) as a rate based on — 20

- (a) the gross receipts derived from the taxable transaction; or 25
- (b) an amount treated as the gross receipts derived from the taxable transaction —
 - (i) that is terminated; or
 - (ii) for which no or partial consideration is given,

and the order may further provide for the method by which such gross receipts or amount treated as the gross receipts are to be determined. 30

(6) An order under subsection (1) may prescribe different taxable periods, different amounts of cess, or different methods of determining the gross receipts or amounts treated as the gross receipts —

- 5 (a) for different taxable transactions connected with a tourism event;
- (b) for different tourism event premises, accommodation, products or services;
- 10 (c) for different tourism events or tourism event establishments; or
- (d) on any other differential basis.

15 (7) In determining the “gross receipts” or “an amount treated as the gross receipts”, there must be excluded the amount of any goods and services tax chargeable on any supply of goods or services comprised in that taxable transaction connected with a tourism event.

20 (8) No person is relieved from liability to pay cess on a taxable transaction connected with a tourism event by reason of the fact that the person ceases during a taxable period to carry on business in Singapore.

Tourism event establishment liable to pay cess

25 **6.—**(1) Cess payable on a taxable transaction connected with a tourism event is payable by the tourism event establishment making the taxable transaction.

 (2) Cess must be accounted for and paid within the time prescribed by regulations made under this Act.

 (3) Cess must be paid to the Board in the manner required by the Board.”.

Repeal and re-enactment of section 8

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

“Power to enter premises, etc.

8.—(1) The Chief Executive, or an officer or agent of the Board authorised by the Chief Executive, is entitled, at all reasonable times, to full and free access to any premises that the Chief Executive, officer or agent (as the case may be) reasonably believes are relevant premises, to do all or any of the following for relevant purposes:

- (a) to inspect the premises;
- (b) without any fee or reward, to inspect, make copies of, or take extracts from, any record;
- (c) to take possession of any record if, in the opinion of the Chief Executive, officer or agent, as the case may be —
 - (i) the inspection or copy of, or extract from, the record cannot reasonably be performed without taking possession;
 - (ii) the record may be interfered with or destroyed unless possession is taken; or
 - (iii) the record may be required as evidence in proceedings for an offence under this Act or any regulations made under this Act, or in proceedings for the recovery of cess.

(2) In this section —

“relevant premises” means —

- (a) any premises owned or occupied by a person who is, or could be prescribed as, a tourism event establishment; or
- (b) any premises where any record relating to cess payable under this Act is or is likely to be kept;

“relevant purposes” means any one or both of the following purposes:

- (a) to administer or enforce this Act or any order or regulations made under this Act, including to

enable the Board to ascertain the amount of cess payable by any person under this Act;

- (b) to enable the Board to provide its views to the Minister on any matter to be prescribed in an order to be made under section 5.”.

Amendment of section 9

6. Section 9 of the principal Act is amended —

- (a) by deleting the words “of 2 years” in subsection (1);
- (b) by deleting paragraph (a) of subsection (1) and substituting the following paragraphs:

“(a) records provided by the person under section 8(1) to the Chief Executive or an officer or agent of the Board authorised by the Chief Executive;

(aa) records of the information provided by the person under section 10(3) to the Chief Executive or an officer or agent of the Board authorised by the Chief Executive; and”;

- (c) by deleting subsection (1A) and substituting the following subsection:

“(1A) Where a machine is used for recording taxable transactions connected with a tourism event, receipts of those transactions may be dispensed with if the Chief Executive, or an officer or agent of the Board authorised by the Chief Executive, is satisfied that —

(a) the machine records all of those transactions;

(b) a record of all of those transactions for each day and (if applicable) the consideration given for each transaction, is made by the end of each day; and

- (c) the record mentioned in paragraph (b) fulfils the requirements of subsection (1)(b).”;
- (d) by inserting, immediately after the words “subsection (1)(a)” in subsection (2)(a), the words “and (aa)”;
- (e) by deleting subsection (4) and substituting the following subsection:
- “(4) In this section, “minimum period”, in relation to the keeping and retention of a record, means —
- (a) subject to paragraph (b), for every record provided or made before the date of commencement of section 6 of the Singapore Tourism (Cess Collection) (Amendment) Act 2018 — 2 years after the record was provided or made, as the case may be; and
- (b) for every record provided (whenever made) or made on or after the date of commencement of section 6 of the Singapore Tourism (Cess Collection) (Amendment) Act 2018 — 5 years (or such longer period as may be prescribed in substitution by regulations made under this Act) after the record was provided or made, as the case may be.”; and
- (f) by deleting the words “books of account” in the section heading and substituting the word “records”.

Amendment of section 10

7. Section 10 of the principal Act is amended —
- (a) by deleting the words “may be levied” in subsection (1) and substituting the words “is payable”; and
- (b) by deleting subsection (3) and substituting the following subsections:

5 “(3) The Chief Executive, or an officer or agent of the Board authorised by the Chief Executive, may, by written notice under subsection (3A), require any person to provide the Chief Executive, officer or agent with information that the Chief Executive, officer or agent (as the case may be) considers necessary for any one or both of the relevant purposes mentioned in section 8(2).

(3A) The written notice may specify —

- 10 (a) the form and manner in which the information must be provided;
- (b) the time by which the information must be provided; and
- 15 (c) the frequency with which the information must be provided during a period specified in the written notice, which period must not exceed 5 years (or such longer period as may be prescribed in substitution by regulations made under this Act) after the date of the written notice.”.
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Amendment of section 11

8. Section 11 of the principal Act is amended by deleting the word “levied” and substituting the word “payable”.

Amendment of section 12

25 9. Section 12(2) of the principal Act is amended by deleting the words “, records or other documents” wherever they appear and substituting in each case the words “or records”.

Repeal and re-enactment of section 15

30 10. Section 15 of the principal Act is repealed and the following section substituted therefor:

“Refund or return of cess or penalty overpaid or erroneously paid

15.—(1) Except as provided in this section, no person is entitled to any refund of any money that was overpaid, or return of any money that was erroneously paid, as cess or penalty under this Act. 5

(2) A person who overpaid or erroneously paid any money as cess or penalty under this Act may make a claim to the Board for the refund of the money overpaid or return of the money erroneously paid. 10

(3) A refund or return to a person of any money that is the subject of a claim under subsection (2) may be made only if —

(a) the person makes the claim within one year after the date of the overpayment or erroneous payment;

(b) the claim is in the form and manner required by the Board; and 15

(c) the Board is satisfied that there was an overpayment or erroneous payment.”.

Repeal and re-enactment of section 16

11. Section 16 of the principal Act is repealed and the following section substituted therefor: 20

“Payment of underpaid cess or penalty, etc.

16.—(1) This section applies where for any reason or owing to any cause, a person underpays any cess or penalty under this Act, or is refunded or returned any money under section 15 despite not being entitled to such refund or return. 25

(2) The person mentioned in subsection (1) must, on demand being made by the Board within one year after the date of the underpayment, or erroneous refund or return, pay the deficiency or repay the money erroneously refunded or returned (as the case may be) to the Board.”. 30

Amendment of section 18

12. Section 18(1) of the principal Act is amended by deleting the words “or records” in paragraph (d) and substituting the words “or other records”.

5 Repeal and re-enactment of section 20

13. Section 20 of the principal Act is repealed and the following section substituted therefor:

“Power to exempt and remit

10 **20.**—(1) The Minister may, by order in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Act, either generally or in a particular case and subject to such conditions as the Minister may impose.

15 (2) The Minister may remit the whole or any part of the cess payable by any person under this Act, if the Minister is satisfied that it is just and equitable to do so.

(3) The Board must, following the Minister’s decision under subsection (2) and if the amount remitted has been paid to the Board by the person mentioned in that subsection, return that amount to the person.”.

20 Validation

25 **14.**—(1) This section applies to cess purportedly collected by the Board, under an order made under section 5 of the principal Act as in force immediately before the date of commencement of section 4, in respect of any occupation of any guest room, suite or dormitory space in a tourist hotel for which no or partial consideration was given to the tourist hotel.

30 (2) Cess mentioned in subsection (1) is, and is taken always to have been, by force of this section, validly levied and collected under the principal Act as amended by this Act; and no legal proceedings may be instituted on or after 17 May 2018 in any court on account of or in respect of any such collection.

(3) In this section, “tourist hotel” has the meaning given by section 2 of the principal Act as in force immediately before the date of commencement of section 2.

EXPLANATORY STATEMENT

This Bill seeks to amend the Singapore Tourism (Cess Collection) Act (Cap. 305C) for the following main purposes:

- (a) to extend the application of the Act in relation to persons liable to pay cess and transactions on which cess is payable, in view of evolving business models;
- (b) to clarify the purposes for which the Chief Executive of the Singapore Tourism Board (the Chief Executive), or an officer or agent of the Singapore Tourism Board (the Board) authorised by the Chief Executive, is entitled to enter any premises or may obtain information;
- (c) to make other miscellaneous and technical amendments.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to delete definitions that are no longer necessary, and inserts new definitions of “product”, “record”, “service”, “taxable transaction connected with a tourism event”, “tourism event”, “tourism event establishment”, “tourism event premises” and “transaction”.

The new definition of “record” harmonises the current use of different terms in the Act to refer to a book, document or record. A “record” means any record of information however recorded (for example, recorded electronically or in a hard copy). A record also includes anything on which information has been recorded (for example, a book of accounts, an invoice, a voucher or a receipt).

The new definition of “service” sets out a list of services that an individual who visits Singapore for a tourism event may conceivably use. The matters to which the services relate (with examples in parentheses) are as follows:

- (a) arts or entertainment (for example, the organisation of an art exhibition or a music concert to be held during the same or similar period as a tourism event);
- (b) leisure, recreation or sports (for example, the organisation of a sporting event to be held during the same or similar period as a tourism event);
- (c) personal care, wellness or assistance (for example, a spa service, or a personal shopper service provided by an operator of a luxury clothing boutique or by a person to run errands for a visitor to Singapore);

- (d) transport, other than transport by use of a regular route service within the meaning of the Bus Services Industry Act 2015 (Act 30 of 2015) or a train service within the meaning of the Public Transport Council Act (Cap. 259B) (for example, a taxi service or a third-party taxi booking service within the meaning of the Third-Party Taxi Booking Service Providers Act 2015 (Act 17 of 2015), or a tourist bus service within the meaning of the Bus Services Industry Act 2015);
- (e) business meetings, incentive travel, conferences, conventions and exhibitions (commonly known as MICE) (for example, the organisation of a trade conference to be held over the same or similar period as a tourism event, where a networking activity during the conference is to attend the tourism event).

The new definition of “transaction” will cover existing transactions on which cess is payable (namely, sales made and charges levied or collected) and other transactions that fall within that definition.

A “transaction” means any arrangement made by a person in the course of carrying on a business in Singapore —

- (a) for the provision, or to facilitate the provision, of the use of any tourism event premises, accommodation, products or services, to another person; or
- (b) where the use of any tourism event premises, accommodation, products or services in contemplation of which an arrangement in paragraph (a) was made does not take place.

There is a transaction —

- (a) whether or not the other person is in Singapore;
- (b) whether or not the arrangement is at the request of the other person (for example, an operator of a hotel provides an individual with complimentary accommodation at the hotel, without any request from the individual, so as to cultivate a business relationship with the individual); and
- (c) whether or not any consideration is given for the arrangement (for example, a couple may redeem a complimentary room at a hotel during a tourism event, and the right to redeem the complimentary room was given by an operator of the hotel due to the couple’s purchase of a wedding package from the hotel).

Clause 3 inserts a new section 2A. The new section 2A provides that the Act does not apply to any tourism event premises, accommodation, product or service provided or to be provided by the Government, or a body established by or under a public Act for a public purpose.

Clause 4 repeals and re-enacts section 5.

The new section 5 expands on the current section 5 (which only provides for the Minister to make an order in the *Gazette* to levy cess on a tourist food establishment, tourist hotel or tourist public house during the declared period of a tourist event). Under the new section 5(1), cess is payable at the amount prescribed by the Minister by order in the *Gazette* on every taxable transaction connected (in the manner provided in the new section 5(2)) with a tourism event to which the order relates.

Under the new section 5(2), a transaction is a taxable transaction connected with a tourism event if —

- (a) the use of the tourism event premises, accommodation, product or service under the transaction is or is to be provided, or (where paragraph (b) of the definition of “transaction” in section 2 applies) could have been provided, during a period during which the tourism event is held, being a period which may include any time before or after the event is held; and
- (b) the transaction, which satisfies paragraph (a), is prescribed in an order under the new section 5(1) to be a taxable transaction connected with that tourism event.

The new section 5 provides that a transaction is not to be treated as other than a taxable transaction by reason only that —

- (a) the transaction is made with a person who is not a visitor to Singapore (for example, a Singaporean having a staycation in a hotel);
- (b) the transaction is made for any purpose other than for purposes of any tourism event (for example, the purpose is for a tourist who visits Singapore to sightsee rather than to attend the tourism event);
- (c) the transaction is terminated for any reason (for example, an individual cancels an order for catered food); or
- (d) the tourism event premises, accommodation, product or service to be provided under the transaction, is not provided or used for any reason (for example, an operator of a hotel receives full payment for a hotel room but does not provide the accommodation to the payer, because the payer does not show up at the hotel).

The new section 5 provides that the amount of cess payable may be prescribed as a rate based on an amount of gross receipts or an amount treated as the gross receipts derived from a taxable transaction connected with a tourism event. An amount could be treated as the gross receipts where no or partial consideration is given for the taxable transaction. For example, an operator of a hotel may provide accommodation to an individual, whose consideration for the accommodation may

be partly money and partly redemption of points, credits or rewards. Such points, credits or rewards could be from the individual's participation in any membership or loyalty programme of the hotel in question or a chain of hotels, any credit card redemption programme or otherwise.

Clause 4 also repeals and re-enacts section 6 with editorial changes, primarily to take into account the new concept of a tourism event establishment.

Clause 5 repeals and re-enacts section 8, to clarify the purposes for which the Chief Executive, or an officer or agent of the Board authorised by the Chief Executive, is entitled (at all reasonable times) to have full and free access to any relevant premises. The relevant premises are premises that the Chief Executive, officer or agent (as the case may be) reasonably believes are owned or occupied by a person who is, or could be prescribed as, a tourism event establishment, or where any record relating to cess payable under the Act is or is likely to be kept.

The purposes for such entry, called relevant purposes, are to administer or enforce the Act or any order or regulations made under the Act, or to enable the Board to provide its views to the Minister on any matter to be prescribed in an order to be made under the new section 5.

Clause 6 amends section 9 to extend the minimum retention period for records from 2 years to 5 years, for records provided (whenever made) or made on or after the date of commencement of section 6 of the Singapore Tourism (Cess Collection) (Amendment) Act 2018. The clause also makes consequential amendments to section 9 due to the other amendments in the Bill.

Clause 7 makes a consequential amendment to section 10(1) as the term "levied" is not used in the new section 5.

Clause 7 also deletes and substitutes section 10(3) to allow an officer or agent of the Board authorised by the Chief Executive to require any person to provide information to the officer or agent. At present, only the Chief Executive is empowered under the Act to require the provision of information. The purposes for obtaining information are the same relevant purposes mentioned in the new section 8(2). A new section 10(3A) provides for the form of a written notice for information that may be given by the Chief Executive, officer or agent.

Clause 8 makes a consequential amendment to section 11 as the term "levied" is not used in the new section 5.

Clause 9 makes a consequential amendment to section 12(2) due to the new definition of "record" in section 2.

Clause 10 repeals and re-enacts section 15 to clarify that there is only a statutory scheme for any refund of any money that was overpaid, or return of any money that was erroneously paid, as cess or penalty under the Act. This precludes any claim in restitution for such money overpaid or erroneously paid. This also means that a person is entitled to such refund or return only if the person makes a claim within

the one-year claim period under the Act, the claim is in the form and manner required by the Board and the Board is satisfied of such overpayment or erroneous payment.

Clause 11 repeals and re-enacts section 16 to clarify that section 16 concerns the underpayment of cess or penalty under the Act, and to make consequential amendments due to the new section 15.

Clause 12 makes a consequential amendment to section 18(1)(d) due to the new definition of “record” in section 2.

Clause 13 repeals and re-enacts section 20 to expand the scope of an exemption that the Minister may grant (from an exemption from payment of cess, to an exemption from all or any of the provisions of the Act). The clause also sets out the criteria for the Minister’s power to remit the whole or any part of the cess payable by any person under the Act.

Clause 14 validates certain cess purportedly collected by the Board, under an order made under section 5 of the principal Act as in force immediately before the date of commencement of section 4 of the Singapore Tourism (Cess Collection) (Amendment) Act 2018. However, this validation clause does not affect, or apply in relation to, any legal proceedings instituted on account of or in respect of any such collection before the date of introduction of the Bill.

EXPENDITURE OF PUBLIC MONEY

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