



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

BILLS SUPPLEMENT

Published by Authority

NO. 34]

MONDAY, SEPTEMBER 11

[2017

First published in the *Government Gazette*, Electronic Edition, on 11 September 2017 at 5 pm.

Notification No. B 34 — The Goods and Services Tax (Amendment) Bill is published for general information. It was introduced in Parliament on 11 September 2017.

Goods and Services Tax (Amendment) Bill

Bill No. 34/2017.

Read the first time on 11 September 2017.

A BILL

i n t i t u l e d

An Act to amend the Goods and Services Tax Act (Chapter 117A of the 2005 Revised Edition).

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

Short title and commencement

1.—(1) This Act is the Goods and Services Tax (Amendment) Act 2017.

(2) Sections 2 to 7, 9, 10 and 11 come into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 12

2. Section 12(2) of the Goods and Services Tax Act (called in this Act the principal Act) is amended by deleting the words “and 38” in paragraph (a)(iii) and substituting the words “, 38 and 38A”.

Amendment of section 38

3. Section 38 of the principal Act is amended —

(a) by deleting the words “it shall be for the person supplied, on the supplier’s behalf, to account for and pay tax on the prescribed supply, and not for the supplier” in subsection (2) and substituting the words “then, it is for the person supplied to account for and pay tax on the prescribed supply as if the person supplied were the supplier; and the supplier must not require payment from the person supplied, of the tax on the prescribed supply or an amount as being attributable to the tax”;

(b) by inserting, immediately after subsection (2), the following subsection:

“(2A) Nothing in subsection (2) prevents section 78(2) from applying to the person making the prescribed supply of goods or services if, despite that subsection, the person issues an invoice for the prescribed supply of goods or services showing it as taking place with tax chargeable on it.”; and

(c) by deleting the comma at the end of paragraph (c) of subsection (5) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(d) goods consisting in furniture, furnishings, fittings, appliances or effects that are supplied together with any goods or services mentioned in paragraph (c),”.

New section 38A

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4. The principal Act is amended by inserting, immediately after section 38, the following section:

“Customers to account for tax on relevant supplies of goods or services

38A.—(1) This section applies in circumstances where a taxable person (called in this section the supplier) makes a relevant supply of goods or services to a person (called in this section the customer) who is registered under this Act at the time when the relevant supply is made.

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(2) Where the relevant supply of goods or services is made by the supplier in connection with the carrying on by the customer of any business, then, it is for the customer to account for and pay tax on the relevant supply as if the customer were the supplier; and the supplier must not require payment from the customer, of the tax on the relevant supply or an amount as being attributable to the tax.

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(3) Nothing in subsection (2) prevents section 78(2) from applying to the supplier if, despite that subsection, the supplier issues an invoice for the relevant supply of goods or services showing it as taking place with tax chargeable on it.

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(4) So much of this Act and of any written law as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay goods and services tax apply for the purposes of this section in relation to the customer, as if the tax were tax on a supply made by the customer.

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(5) If the relevant supply of goods or services is not made by the supplier to the customer in connection with the carrying on by the customer of any business, the customer must notify the

supplier of that fact; and if the customer fails to do so, the customer must, unless otherwise allowed by the Comptroller —

(a) pay to the Comptroller without demand the amount of tax chargeable on the relevant supply to which the failure relates; and

(b) include the amount of tax mentioned in paragraph (a) as output tax in the customer's return.

(6) The Minister may make regulations under this section for any of the following:

(a) to prescribe a supply of goods or services for the purposes of the definition of "relevant supply of goods or services" in subsection (10), by reference to one or both of the following:

(i) any use which is made of the goods or services;

(ii) any other matter whether or not related to a description or characteristic of the goods or services;

(b) to provide for the application (with such modification as may be prescribed) of this section to a case where —

(i) the value of a relevant supply of goods or services is increased by an amount (I) after the supply is made; or

(ii) the value of a supply of goods or services is increased by an amount (I) after the supply is made, such that it becomes a relevant supply of goods or services,

including by treating a separate supply of goods or services as having taken place with a value equal to I ;

(c) to require, in a case where —

(i) the value of a relevant supply of goods or services is adjusted after the supply is made; or

(ii) the value of a supply of goods or services is increased after the supply is made, such that it becomes a relevant supply of goods or services,

the supplier or customer, or both, to make corresponding adjustments to the tax accounted for or paid, or to be accounted for or paid, in the form and manner required by the Comptroller;

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(d) generally for the purpose of carrying out the provisions of this section.

(7) The regulations made under subsection (6) may make different provisions for different circumstances (including the circumstances under which paragraph (c) of the definition of “relevant supply of goods or services” in subsection (10) does not apply).

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(8) This section does not apply to any supply of goods or services prescribed as a prescribed supply under section 38.

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(9) To avoid doubt, relevant supplies of goods or services are not taxable supplies of the customer for the purposes of the First Schedule.

(10) In this section —

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“excepted supply” means any supply of goods or services that is prescribed as an excepted supply;

“relevant supply of goods or services” means any taxable supply of goods or services that is prescribed for the purpose of this definition, but not if —

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(a) the supply is a zero-rated supply;

(b) the supply is an excepted supply; or

(c) the value of the supply does not exceed the threshold that is prescribed for the purpose of this definition for that supply (where applicable).”

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Amendment of section 41

5. Section 41 of the principal Act is amended —

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

5 “(b) require any taxable person supplying goods
or services to any other person to provide
the other person with an invoice (called in
this section a tax invoice if it is required by
the regulations to be provided to a taxable
10 person) containing statements of such
particulars as may be specified in the
regulations, including but not limited to
any of the following:

(i) the particulars of the supply;

15 (ii) the tax chargeable on it;

(iii) the person by whom the goods or
services are supplied;

(iv) the person to whom the goods or
services are supplied;”;

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

25 “(1A) Without affecting paragraph (b) of
subsection (1), regulations made under that
paragraph may provide that the Comptroller may,
for the protection of revenue, direct any taxable person
in writing to include in any invoice (whether or not a
tax invoice) provided by the taxable person,
statements of particulars that are required by the
Comptroller.”; and

30 (c) by deleting the words “a tax invoice” in subsection (2) and
substituting the words “an invoice”.

Amendment of section 42

6. Section 42 of the principal Act is amended —

- (a) by deleting subsection (7) and substituting the following subsection:

“(7) Subject to section 87, where regulations made under subsection (13) permit the Comptroller to serve through the electronic service any notice, direction, order, permit, receipt or other document on a person who has been assigned an account with the electronic service, the Comptroller may serve it on the person by transmitting an electronic record of it to that account.”; 5 10

- (b) by inserting, immediately after the words “electronic service” in subsection (8)(a), the words “in accordance with regulations made under subsections (13) and (13A), and with section 87”; 15

- (c) by deleting paragraph (c) of subsection (13) and substituting the following paragraphs:

“(ba) the circumstances in which the Comptroller may serve any notice, direction, order, permit, receipt or other document through the electronic service on a person assigned an account with the electronic service; 20

(c) the manner in which a person who has been served through the electronic service with any notice, direction, order, permit, receipt or other document is to be notified of the transmission of an electronic record of it to the person’s account with the electronic service;” and 25

- (d) by inserting, immediately after subsection (13), the following subsection: 30

“(13A) Regulations made for the purpose of subsection (13)(ba) —

(a) may permit the service of any notice, direction, order, permit, receipt or other document through the electronic service in circumstances where —

(i) the person consents to such service; or

(ii) the Comptroller gives the person notice of the Comptroller's intention of such service and the person does not refuse such service;

(b) may provide for the giving of any notice of the Comptroller's intention, or the person's consent or refusal, mentioned in paragraph (a), including —

(i) the matters that must be contained in the notice; and

(ii) the time within which, and the form and manner in which, the consent or refusal must be received by the Comptroller;

(c) may provide when the consent or refusal of the person takes effect, and as to when the Comptroller must give effect to such consent or refusal; and

(d) may provide for any other matter necessary or incidental to the purposes in subsection (13)(ba) and paragraphs (a), (b) and (c).”.

Amendment of section 46

7. Section 46 of the principal Act is amended —

(a) by deleting the words “tax invoices” in subsection (1)(c) and (d) and substituting in each case the word “invoices”;

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

“(1A) Without affecting subsection (1), the Comptroller may, for the protection of revenue, direct in writing any taxable person to keep records of the models and serial numbers of any goods supplied to or by the taxable person; and the taxable person must comply with the direction.”;

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

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“(3AA) Without affecting subsection (3), the Comptroller may direct in writing any taxable person to keep or preserve, or both keep and preserve, by any electronic means specified in the direction, any records under subsection (1) or (1A) of the taxable person as the Minister may prescribe; and the taxable person must comply with the direction.”; and

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(d) by deleting the words “so preserved” in subsection (3A) and substituting the words “preserved in accordance with subsection (3) or (3AA)”.

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Amendment of section 53

8. Section 53(1) of the principal Act is amended —

(a) by inserting, immediately after the words “any member of the Board hearing the appeal”, the words “resigns or”;

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(b) by deleting the word “absence” and substituting the word “resignation”.

Amendment of section 60

9. Section 60 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

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“(2) If any return is not made by a taxable person before the expiry of the period prescribed in regulations made under section 41 for the return, the taxable person must pay a penalty

that is the sum total of the following amounts, not exceeding in any case \$10,000:

(a) \$200;

(b) \$200 for each completed month that the taxable person continues not to make the return, commencing from the expiry of the period prescribed.”.

Amendment of section 87

10. Section 87 of the principal Act is amended —

(a) by deleting the words “or document” in subsection (1) and substituting the words “, permit, receipt or other document”;

(b) by deleting the words “where the person has given his consent for it to be served on him through the electronic service” in subsection (1)(d) and substituting the words “through the electronic service in accordance with regulations made under section 42(13) and (13A)”;

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

“(3A) Where any notice, direction, order, permit, receipt or other document is served on any person through the electronic service under subsection (1)(d), the notice, direction, order, permit, receipt or other document is taken to have been served at the time when an electronic record of it enters the person’s account with the electronic service.”;

(d) by deleting the words “Where a person has given his consent for any notice referred to in subsection (4) or (6) to be served on him through the electronic service” in subsection (7) and substituting the words “Where any notice mentioned in subsection (4) or (6) is served on any person through the electronic service under subsection (1)(d)”;

(e) by inserting, immediately after the word “notices” in the section heading, the word “, etc.”.

Amendment of Fourth Schedule

11. The Fourth Schedule to the principal Act is amended —

(a) by deleting the words “or “Rural Centre and Settlement” ” in paragraph 2(a) of Part I;

(b) by deleting sub-paragraphs (b) and (c) of paragraph 2 of Part I and substituting the following sub-paragraphs: 5

“(b) any land where the supply is made by the Government or such public authority as may be approved by the Minister or such other person as the Minister may appoint, and the land — 10

(i) is approved exclusively for residential or condominium development; and

(ii) is vacant, or has any building on it that is required by the Government or the public authority to be demolished; 15

(c) any land or part of any land with any building on the land or part, being a building which is used or to be used principally for residential purposes, but not if —

(i) the land or part is supplied by the Government or such public authority as may be approved by the Minister or such other person as the Minister may appoint; 20

(ii) the building on the land or part is required by the Government or the public authority to be demolished; and 25

(iii) the land or part (with the building demolished) is not approved exclusively for residential or condominium development.”; and

(c) by inserting, immediately after the definition of “non-residential property” in paragraph 1 of Part III, the following definition: 30

““public authority” means a body established or constituted by or under a public Act to perform or discharge a public function;”.

Saving and transitional provisions

12.—(1) Section 53(1) of the principal Act, as amended by section 8 of this Act, applies to any appeal to the Goods and Services Tax Board of Review the hearing of which has begun before, or which begins on or after, the date of commencement of section 8 of this Act.

(2) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

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

Clause 1 relates to the short title and commencement.

Clause 2 makes a consequential amendment to section 12(2)(a)(iii) in light of the new section 38A inserted by clause 4.

Clause 3 amends section 38(2) to clarify, in the case mentioned in that provision, that the customer is to account for and pay the tax as if the customer were the supplier, and that the supplier must not require payment of the tax from the person to whom the supply is made. The clause also amends section 38 to enable the supply of furniture, furnishings, fittings, appliances or effects supplied together with any land or interest in or right over the land, to be a prescribed supply to which customer accounting under section 38 applies.

Clause 4 inserts a new section 38A to provide for customer accounting on relevant supplies of goods or services made to a customer in connection with the carrying on of any business of the customer. Where relevant supplies of goods or services are subject to such customer accounting —

- (a) the customer (and not the supplier) accounts for and pays the tax on the relevant supply;
- (b) the normal time of supply rules, *viz.*, sections 11, 11A, 11B and 12 apply, unless regulations are made under section 12(2)(a)(iii) to change those time of supply rules (see clause 2);
- (c) the supplier must issue a tax invoice to the customer for the supply with the details prescribed under section 41(1)(b) for the tax invoice; and

- (d) if the customer fails to notify the supplier that the supply is not made in connection with the carrying on of any business by the customer, the customer is still required to account for the output tax on the supply, even if the customer may not be entitled to claim input tax in relation to such supply.

Clause 5 amends section 41 to clarify that regulations may be made to provide for the contents of invoices issued by taxable persons even to persons who are not taxable persons. The clause further inserts a new subsection (1A) to enable regulations to be made to provide that the Comptroller of Goods and Services Tax (the Comptroller) may direct that certain statements of particulars be included in an invoice, for the protection of revenue.

Clause 6 amends section 42 to enable regulations to be made to provide for matters relating to the service by the Comptroller on a person of any notice, direction, order, permit, receipt or other document through the electronic service. In particular, the amendments to section 42 permit regulations to be made to provide for an “opt-out” scheme for such service under which a person who is notified by the Comptroller that any document will be served on the person through the electronic service will be so served unless the person notifies the Comptroller that the person does not wish to be so served.

Clause 7 amends section 46 to clarify that a taxable person is to keep records of all invoices (and not only tax invoices) issued or received by the taxable person, and to enable the Comptroller to direct any taxable person to keep or preserve any records mentioned in section 46(1) or (1A) by electronic means.

Clause 8 amends section 53(1) to provide for the continued hearing or determination of appeals by the Goods and Services Tax Board of Review in cases where a member of the same resigns in the course of the hearing or before delivery of the judgment.

Clause 9 amends section 60(2) to enable a penalty of \$200 to be imposed on a taxable person so long as the taxable person has not made a return by the due date for the making of the return (the new section 60(2)(a)). The current \$200 penalty for each completed month in which the taxable person continues not to make the return, remains (under the new section 60(2)(b)) and is payable in addition to the amount under the new section 60(2)(a).

Clause 10 makes consequential amendments to section 87 as a result of the amendments to section 42 by clause 6.

Clause 11 amends the Fourth Schedule by —

- (a) removing the reference to the zone “Rural Centre and Settlement” in paragraph 2(a) of Part I, as this zone is no longer in use;
- (b) extending the exemption for vacant land approved exclusively for residential or condominium development in paragraph 2(b) of Part I, to

land so approved on which there is a building that is required by the Government or public authority making the supply, to be demolished;

- (c) excluding from the exemption in paragraph 2(c) of Part I, land with any building that is supplied by the Government or public authority in circumstances where the building is to be demolished and the resulting vacant land is not approved exclusively for residential or condominium development; and
- (d) inserting the definition of “public authority” in paragraph 1 of Part III.

Clause 12 provides for saving and transitional matters. Clause 12(1) provides that the amendments to section 53(1) will apply even to hearings on appeals to the Goods and Services Tax Board of Review that have begun before the amendments come into operation. Clause 12(2) confers on the Minister for Finance the power to make regulations of a saving or transitional nature for any provision in the 2 years after the date of commencement of that provision.

EXPENDITURE OF PUBLIC MONEY

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