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First published in the *Government Gazette*, Electronic Edition, on 18th December 2000 at 5:00 pm.

**No. S 576**

**GOODS AND SERVICES TAX ACT  
(CHAPTER 117A)**

**GOODS AND SERVICES TAX (GENERAL)  
(AMENDMENT NO. 3) REGULATIONS 2000**

In exercise of the powers conferred by sections 21 (3) (*r*), 34A (3) and 86 (1) of the Goods and Services Tax Act, the Minister for Finance hereby makes the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Goods and Services Tax (General) (Amendment No. 3) Regulations 2000 and shall come into operation on 18th December 2000.

**Amendment of regulation 37**

**2.** Regulation 37 of the Goods and Services Tax (General) Regulations (Rg 1) (referred to in these Regulations as the principal Regulations) is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) This regulation shall apply where a taxable person has deducted an amount of input tax which has been attributed to taxable supplies because he intended to use the goods or services in making either —

(a) taxable supplies; or

(b) both taxable and exempt supplies,

and during a period of 6 years commencing on the first day of the prescribed accounting period which the attribution was determined and before that intention is fulfilled, he uses or forms an intention to use the goods or services concerned —

(i) in making exempt supplies or both taxable and exempt supplies, instead of taxable supplies;

(ii) in making exempt supplies, instead of both taxable and exempt supplies; or

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- (iii) in continuing to make both taxable and exempt supplies, but reducing the proportion of taxable supplies to exempt supplies.”.

### **New regulation 37A**

3. The principal Regulations are amended by inserting, immediately after regulation 37, the following regulation:

#### **“Adjustment of input tax deemed deducted**

**37A.**—(1) This regulation shall apply to a transferee referred to in section 34A of the Act where the assets transferred to him are to be used in carrying on the same kind of business as that carried on by the transferor of the assets in making either —

- (a) taxable supplies; or
- (b) both taxable and exempt supplies,

and during a period of 6 years commencing on the day of the supply to him of the assets, the transferee uses or forms an intention to use the assets —

- (i) in making exempt supplies or both taxable and exempt supplies, instead of taxable supplies;
- (ii) in making exempt supplies, instead of both taxable and exempt supplies; or
- (iii) in continuing to make both taxable and exempt supplies, but reducing the proportion of taxable supplies to exempt supplies.

(2) Except as the Comptroller otherwise allows, where this regulation applies, the transferee shall on the return for the prescribed accounting period in which the use occurs or the intention is formed, as the case may be, account of an amount of the input tax deemed to have been deducted in respect of the supplies which have ceased or are intended to cease to be taxable supplies, in accordance with such method as the Comptroller may determine, and he shall repay the said amount to the Comptroller.

(3) For the purposes of this regulation, any question as to the nature of any supply shall be determined in accordance with the provisions of the Act and any regulations or orders made thereunder in force at the time the input tax was deemed to have been deducted.

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(4) Subject to paragraph (5), paragraph (2) shall not apply where the input tax was deemed to have been deducted in respect of land supplied to the transferee which is no longer to be used to make to a taxable supply of land because the land has been rezoned as “Residential” or “Rural Centre and Settlement” in the Master Plan under the Planning Act (Cap. 232).

(5) Where any land is supplied to the transferee with any building thereon which is used or to be used for making exempt supplies, the transferee shall, for the purposes of paragraph (2), repay to the Comptroller input tax deemed to have been deducted in respect of only the building in accordance with such method as the Comptroller may determine.”.

#### **Amendment of regulation 38**

4. Regulation 38 of the principal Regulations is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) This regulation shall apply where a taxable person has incurred an amount of input tax which has not been attributed to taxable supplies because he intended to use the goods or services in making either —

(a) exempt supplies; or

(b) both taxable and exempt supplies,

and during a period of 6 years commencing on the first day of the prescribed accounting period in which the attribution was determined and before that intention is fulfilled, he uses or forms an intention to use the goods or services concerned —

(i) in making taxable supplies or both taxable and exempt supplies, instead of exempt supplies;

(ii) in making taxable supplies, instead of both taxable and exempt supplies; or

(iii) in continuing to make both taxable and exempt supplies, but increasing the proportion of taxable supplies to exempt supplies.”.

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**New regulation 94B**

5. The principal Regulations are amended by inserting, immediately after regulation 94A, the following regulation:

**“Zero-rating of services supplied by trustee**

**94B.**—(1) For the purpose of section 21 (3) (*r*) of the Act, services supplied by a trustee shall be zero-rated if such services are supplied in respect of a trust in which —

- (a) not less than 80% of the settlors and not less than 80% of the beneficiaries consist of either or both of the following:
  - (i) individuals who are foreign persons; and
  - (ii) companies which are neither incorporated nor belong in Singapore, and the whole of whose issued capital is beneficially owned, directly or indirectly, by foreign persons; and
- (b) not less than 80% of the value of the trust property (whether in Singapore or elsewhere) is contributed by settlors who belong in a country other than Singapore.

(2) For the purposes of paragraph (1) —

- (a) a settlor or a foreign person who beneficially owns (directly or indirectly) issued capital in a settlor company shall be treated as belonging in a country if —
  - (i) he has in that country a business establishment or some other fixed establishment and no such establishment elsewhere;
  - (ii) he has no such establishment in any country but his usual place of residence is in that country; or
  - (iii) he has such establishments both in that country and elsewhere and the establishment of his which is most directly concerned with the trust is in that country;
- (b) a beneficiary or a foreign person who beneficially owns (directly or indirectly) issued capital in a beneficiary company, being in either case an individual, shall be treated as belonging in whatever country he has his usual place of residence if his beneficial interest does not relate to any business carried on by him; and

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(c) where sub-paragraph (b) does not apply, a beneficiary or a foreign person who beneficially owns (directly or indirectly) issued capital in a beneficiary company shall be treated as belonging in a country if —

- (i) either of the conditions mentioned in sub-paragraph (a) (i) or (ii) is satisfied; or
- (ii) he has such establishments as are mentioned in sub-paragraph (a) both in that country and elsewhere and the establishment of his at which, or for the purposes of which, his beneficial interest is most directly concerned is in that country.

(3) Where a trustee is unable by any reasonable means to ascertain the value of any trust property under paragraph (1) (b), the value to be ascribed to such property shall be such amount as the Comptroller may determine.

(4) Notwithstanding paragraph (1), the services supplied by a trustee to which this regulation applies shall not include —

- (a) services provided directly in connection with land or goods situated in Singapore, whether by the trustee personally or otherwise;
- (b) services provided by any agent to execute or administer the trust on behalf of the trustee; and
- (c) such other services as the Comptroller may determine.

(5) Every trustee shall keep and maintain in respect of the trust such records of the particulars of every settlor and beneficiary of the trust as the Comptroller may determine.

(6) Every trustee shall comply with such other conditions as the Comptroller may impose for the protection of the revenue.

(7) In this regulation, unless the context otherwise requires —

- (a) “foreign person” means a person who —
  - (i) in the case of an individual, is not a citizen of Singapore; and
  - (ii) in the case of a company, is neither incorporated in Singapore nor belongs in Singapore;

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- (b) “trustee” includes a trust corporation supplying the trust services but whose employee is named as the trustee in the trust deed;
  - (c) “usual place of residence”, in relation to a company, means the place where it is incorporated or otherwise legally constituted; and
  - (d) a person carrying on a business through a branch or agency in any country shall be treated as having a business establishment in that country.”.

### **Amendment of regulation 96**

6. Regulation 96 of the principal Regulations is amended by deleting the words “or 91” in the 3rd line and substituting the words “, 91 or 94B”.

*[G.N. Nos. S 108/94; S 244/94; S 174/95; S 491/95; S 400/98;  
S 361/99; S 371/99; S 461/99; S 7/2000; S 160/2000]*

Made this 14th day of December 2000.

**EDDIE TEO**  
*Permanent Secretary,  
Ministry of Finance,  
Singapore.*

[MF(R) R60.1.0013 Vol. 15; AG/LEG/SL/117A/97/4 Vol. 2]

(To be presented to Parliament under section 86 (2) of the Goods and Services Tax Act).