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Notification No. B 38 — The Goods and Services Tax (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 31st day of October 2002.

Goods and Services Tax (Amendment) Bill

Bill No. 38/2002.

Read the first time on 31st October 2002.

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 2001 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 may be cited as the Goods and Services Tax (Amendment) Act 2002 and shall come into operation on 1st January 2003.

Amendment of section 2

- 5 2. Section 2(1) of the Goods and Services Tax Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “computer”, the following definition:

“ “computer output” has the same meaning as in the Computer Misuse Act;”.

Amendment of section 16

10 3. Section 16 of the principal Act is amended by deleting “3%” in the 1st line and substituting “5%”.

Amendment of section 21

4. Section 21 of the principal Act is amended —

- 15 (a) by deleting the word “or” at the end of subsection (3)(q)(iii);
 (b) by deleting the full-stop at the end of paragraph (r) of subsection (3) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

20 “(s) services supplied for and to a person who belongs in a country other than Singapore relating to the co-location in Singapore of computer server equipment belonging to that person.”; and

- (c) by inserting, immediately after the definition of “aircraft” in subsection (4)(a), the following definition:

25 “ “co-location”, in relation to computer server equipment, means the provision of a physical environment for the operation of the computer server equipment;”.

Amendment of section 39

5. Section 39 of the principal Act is amended —

- (a) by deleting the word “Where” in the 1st line of subsection (2) and substituting the words “Subject to subsections (2A) and (2E), where”;
- (b) by inserting, immediately after subsection (2), the following subsections:

“(2A) Where, in relation to a tax invoice issued before the date an increase in tax rate comes into operation —

(a) no payment or part payment is received before that date; or

(b) no supply or part of the supply of goods or services is treated under section 11(2) or (3) as having been made before that date,

the rate at which tax is chargeable on the supply shall be as follows:

(i) tax shall be charged at the old tax rate on the higher of the following amounts:

(A) any part payment received before the date of change; or

(B) the value of any supply of the goods or services treated under section 11(2) or (3) as having been partly made before that date; and

(ii) tax shall be charged at the new tax rate on the amount of the tax invoice less the amount on which tax is charged at the old tax rate under paragraph (i).

(2B) For the purpose of subsection (2A), a tax invoice referred to in that subsection shall, on the date the increase in tax rate comes into operation, cease to have effect to the extent of the amount on which tax is chargeable at the new tax rate under subsection (2A)(ii).

(2C) Where a tax invoice ceases to have effect under subsection (2B), the person making the supply shall issue a new tax invoice specifying —

(a) the new tax rate; and

- (b) the amount on which tax is chargeable at the new tax rate under subsection (2A)(ii),

and tax shall be chargeable on the supply to which the new tax invoice relates as if it were a separate supply.

5 (2D) Nothing in subsection (2), (2A), (2B) or (2C) shall affect any tax which (apart from those subsections) is chargeable on a supply to which an invoice referred to in subsection (2A) relates, and such tax shall be accounted for and paid to the Comptroller as if those subsections had not been
10 enacted.

(2E) Where, in relation to a tax invoice issued before the date a supply ceases to be a zero-rated or an exempt supply —

- (a) no payment or part payment is received before that date; or
- 15 (b) no supply or part of the supply of goods or services is treated under section 11(2) or (3) as having been made before that date,

tax shall be chargeable at the rate applicable on that date on the amount of the tax invoice less the higher of the following
20 amounts:

- (i) any part payment received before that date; or
- (ii) the value of any supply of the goods or services treated under section 11(2) or (3) as having been partly made before that date.

25 (2F) For the purpose of subsection (2E), a tax invoice referred to in that subsection shall, on the date the supply ceases to be a zero-rated or an exempt supply, cease to have effect to the extent of the amount on which tax is chargeable under subsection (2E).

30 (2G) Where a tax invoice ceases to have effect under subsection (2F), the person making the supply shall issue a new tax invoice specifying —

(a) the tax rate applicable on the date the supply ceases to be a zero-rated or an exempt supply; and

(b) the amount on which tax is chargeable at that tax rate under subsection (2E),

5 and tax shall be chargeable on the supply to which the new tax invoice relates as if it were a separate supply.”;

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

10 “(4) Regulations made under section 41 may, in relation to any tax invoice which —

(a) relates to a supply in respect of which an election is made under this section and which was issued before the election was made; or

15 (b) ceases to have effect under subsection (2B) or (2F), provide for the replacement or correction of that invoice (including the issue of a credit note).”; and

(d) by inserting, immediately after subsection (5), the following subsections:

20 “(6) For the purposes of this section, the value of any supply of goods or services treated under section 11(2) or (3) as having been partly made shall be such value as is, in the opinion of the Comptroller, reasonably attributable to the supply partly made.

(7) In this section —

25 “new tax rate” means the tax rate applicable on the date an increase in tax rate comes into operation;

“old tax rate” means the tax rate applicable immediately before the date an increase in tax rate comes into operation.”.

30 **Amendment of section 81**

6. Section 81 of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

“(5) In this section —

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- 5 (c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means;
- (d) any disc, tape, sound-track, or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of
10 some other equipment) of being reproduced therefrom;
- (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of
15 some other equipment) of being reproduced therefrom; and
- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them;

20 “writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.”.

Amendment of section 84

7. Section 84 of the principal Act is amended —

- 25 (a) by deleting subsections (1) and (2) and substituting the following subsection:

“(1) The Comptroller or any officer authorised by him in that behalf —

- 30 (a) shall at all times have full and free access to all buildings, places, documents, computers, computer programs and computer software (whether installed in a computer or otherwise) for any of the purposes of this Act;

(b) shall have access to any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers into readable and comprehensive format or text for any of the purposes of this Act;

(c) shall be entitled —

(i) without fee or reward, to inspect, copy or make extracts from any such document, computer, computer program, computer software or computer output; and

(ii) at any reasonable time to inspect and check the operation of any computer, device, apparatus or material which is or has been in use in connection with anything to which this section applies;

(d) may take possession of any such document, computer, device, apparatus, material, computer program or computer software where in his opinion —

(i) the inspection, checking, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;

(ii) any such items may be interfered with or destroyed unless possession is taken; or

(iii) any such items may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of tax or penalty, or in proceedings by way of an appeal against an assessment; and

(e) shall be entitled to require —

(i) the person by whom or on whose behalf the computer is or has been used, or any person having charge of, or otherwise concerned with the operation of the computer, device, apparatus or material to provide the Comptroller or officer with such reasonable assistance as he may require for the purposes of this section; and

(ii) any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purpose of this section.”;

5 (b) by deleting subsection (5); and

(c) by inserting, immediately after subsection (6), the following subsection:

“(7) In this section, “document” has the same meaning as in section 81.”.

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 amends section 2(1) to define the term “computer output”.

Clause 3 amends section 16 to increase the tax rate from 3% to 5%.

Clause 4 amends section 21 to provide for the zero-rating of the supply of services for and to a person who belongs in a country other than Singapore in relation to computer server equipment belonging to that person which is co-located in Singapore. Such services include ancillary services (such as administrative, monitoring and support services) but do not include services not connected with the provision of an operating environment (such as transport and repairs).

Clause 5 amends section 39 to provide for the circumstances in which and the extent to which a tax invoice issued before the date a change in tax rate comes into operation ceases to have effect for the purpose of section 12. The clause further provides for the requirement of issuing a new tax invoice in respect of that part of the tax invoice which ceases to have effect.

Clause 6 amends section 81 to define the terms “document” and “writing”.

Clause 7 amends section 84 to empower the Comptroller, among other things, to access, inspect, copy, check, make extracts from or take possession of any document, computer, device, computer program, computer software or computer output, or information, code or technology which has the capability of retransforming or unscrambling encrypted data, and to require the assistance of any person concerned with the operation of any computer, device, apparatus or material.

EXPENDITURE OF PUBLIC MONEY

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